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DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 1210

[Document Number AMS–FV–11–0031]

Watermelon Research and Promotion Plan; Importer Membership Requirements

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This rule amends the Watermelon Research and Promotion Plan's (Plan) importer membership requirements to serve on the National Watermelon Promotion Board (Board). The Board recommended eliminating the requirement that an importer import more than 50 percent of the total volume handled and imported in order to qualify as an importer member. This change allows for additional parties to qualify as an importer member. The U.S. Department of Agriculture (USDA or Department) conducted a referendum among eligible producers, handlers, and importers of watermelons from January 13 through 27, 2014. Seventy-four percent of those voting in the referendum favored amendment of the Plan. Additional revisions are made to remove unnecessary language in the Plan and regulations. Also, a section of the regulations is clarified and revised accordingly.

DATES: *Effective Date:* April 1, 2014.

FOR FURTHER INFORMATION CONTACT: Jeanette Palmer, Marketing Specialist, Promotion and Economics Division, Fruit and Vegetable Program, AMS, USDA, Stop 0244, 1400 Independence Avenue SW., Room 1406–S, Washington, DC 20250–0244; telephone: (888) 720–9917 (toll free); Direct line: 202–720–9915; facsimile: (202) 205–2800; or electronic mail: *Jeanette.Palmer@ams.usda.gov*.

SUPPLEMENTARY INFORMATION: This rule is issued under the Watermelon Research and Promotion Plan [7 CFR part 1210]. The Plan is authorized under the Watermelon Research and Promotion Act (Act) [7 U.S.C. 4901–4916].

As part of this rulemaking process, a proposed rule was published in the **Federal Register** on February 13, 2013 [78 FR 10104], with a thirty-day comment period, which closed on March 15, 2013. Sixteen comments were received by the March 15, 2013, deadline. These comments were discussed in a second proposed rule and referendum order that was published in the **Federal Register** on October 29, 2013 [78 FR 64408].

Pursuant to section 1655 of the Act, a referendum was conducted among watermelon producers, handlers, and importers to determine whether they favor amending the Plan to eliminate the requirement that an importer import more than 50 percent of the total volume handled and imported in order to qualify as an importer member.

The representative period for establishing voter eligibility for the referendum was the period January 1 through December 31, 2012. Section 1653(b) of the Act requires that the amendment be approved by a majority of watermelon producers, handlers, and importers voting in the referendum. Producers of 10 acres or more of watermelons, watermelon handlers, importers of 150,000 or more pounds of watermelons annually, and importers of less than 150,000 pounds of watermelons annually who did not apply for and receive reimbursements of assessments during the representative period were eligible to vote in the referendum. Additionally, eligible voters had to currently be engaged in the business of producing, handling or importing watermelons. The referendum was conducted by mail ballot from January 13, 2014, through January 27, 2014. Seventy-four percent of those voting in the referendum favored amendment of the Plan.

Additional revisions are made to remove unnecessary language in section 1210.363(b) of the Plan and section 1210.602(a) of the regulations. The language pertains to the conduct of referenda and is no longer applicable as a result of the Watermelon Research and Promotion Improvement Act of 1993, amendments to the Watermelon Research and Promotion Act.

Lastly, section 1210.404(g) of the regulations, which references importer eligibility requirements, is amended to conform to language amending section 1210.363(b) of the Plan that has been approved in referendum.

Executive Order 12866 and Executive Order 13563

Executive Orders 12866 and 13563 direct agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). Executive Order 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. This rule has been designated as a ''non-significant regulatory action'' under section 3(f) of Executive Order 12866. Accordingly, the Office of Management and Budget (OMB) has waived the review process.

Executive Order 13175

This action has been reviewed in accordance with the requirements of Executive Order 13175, Consultation and Coordination with Indian Tribal Governments. The review revealed that this regulation will not have substantial and direct effects on Tribal governments and will not have significant Tribal implications.

Executive Order 12988

In addition, this rule has been reviewed under Executive Order 12988, Civil Justice Reform. The rule is not intended to have retroactive effect.

The Act allows producers, producer-packers, handlers, and importers to file a written petition with the Secretary of Agriculture (Secretary) if they believe that the Plan, any provision of the Plan, or any obligation imposed in connection with the Plan, is not established in accordance with the law. In any petition, the person may request a modification of the Plan or an exemption from the Plan. The petitioner will have the opportunity for a hearing on the petition. Afterwards, an Administrative Law Judge (ALJ) will issue a decision. If the petitioner

disagrees with the ALJ's ruling, the petitioner has 30 days to appeal to the Judicial Officer, who will issue a ruling on behalf of the Secretary. If the petitioner disagrees with the Secretary's ruling, the petitioner may file, within 20 days, an appeal in the U.S. District Court for the district where the petitioner resides or conducts business.

Regulatory Flexibility Act and Paperwork Reduction Act

In accordance with the Regulatory Flexibility Act (RFA) [5 U.S.C. 601–612], AMS has examined the economic impact of this rule on the small producers, handlers, and importers affected by this rule. 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.

The Small Business Administration defines, in 13 CFR part 121, small agricultural producers as those having annual receipts of no more than $750,000 and small agricultural service firms (handlers and importers) as those having annual receipts of no more than $7 million. Under these definitions, the majority of the producers, handlers, and importers affected by this rule would be considered small entities. Producers of fewer than 10 acres of watermelons are exempt from this program. Importers of less than 150,000 pounds of watermelons per year are also exempt.

USDA's National Agricultural Statistics Service (NASS) data for the 2012 crop year indicates that about 306 hundredweight (cwt.) of watermelons were produced per acre within the United States. The 2012 grower price published by NASS was $13.30 per hundredweight. Thus, the value of watermelon production per acre in 2012 averaged about $4,070 (306 cwt. × $13.30). At that average price, a producer would have to farm more than 184 acres to receive an annual income from watermelons of $750,000 ($750,000 divided by $4,070 per acre equals 184). Accordingly, as previously noted, a majority of the watermelon producers would be classified as small businesses.

Based on the Board's data, using an average of the freight on board (f.o.b.) price of $.181 per pound and the number of pounds handled in 2012, none of the watermelon handlers had receipts greater than the $7 million threshold. Therefore, the watermelon handlers would all be considered small businesses. A handler would have to ship more than 38 million pounds of watermelons to be considered a large entity (38,674,033 times $.181 f.o.b. equals $7 million).

According to the Board, there are approximately 950 producers, 230 handlers, and 137 importers who are required to pay assessments under the program.

Based on the watermelon import assessments received for the year 2012, the United States imported watermelons worth over $237 million. The largest volume of watermelon imports came from Mexico, which accounted for 86 percent of the total volume in 2012. Other suppliers of imported watermelons are Guatemala—at 9 percent, and Honduras—at 2 percent. The remaining 3 percent of imported watermelons came from Costa Rica, Nicaragua, Canada, Dominican Republic, and Panama.

Based on U.S. Customs and Border Protection (Customs) and Board data, it is estimated that there are about 201 importers of watermelon. Not all of these importers are required to pay assessments under the program. Using 2012 Customs data, all of the importers import less than $7.0 million worth of watermelon annually. Therefore, all of the watermelon importers would be considered small entities.

The Board's audit records show import assessments for the calendar years 2010, 2011, and 2012 at $746,043, $855,890, and $824,897, respectively. Based on this data, the three-year average of import assessments for watermelon totals $808,943 ($2,426,830 divided by 3). This represents approximately 30 percent of the total assessments paid to the Board. Currently, the Board membership distribution consists of 14 producers, 14 handlers, 8 importers, and 1 public member. A final rule that increased the number of importers on the Board was published in the July 18, 2011, **Federal Register** [76 FR 42009].

The Watermelon Research and Promotion Improvement Act of 1993 amended the Watermelon Research and Promotion Act by adding importer members to the Board, among other things. At that time the industry recommended that an individual who both handles and imports watermelons may vote for importer members and serve as an importer member if that person imports 50 percent or more of the combined total volume of watermelons handled and imported by that person. A final rule was published in the **Federal Register** on February 28, 1995 [60 FR 10795] containing this and other amendments to the program.

At the time of this amendment there was a more clear division of roles among producers, handlers, and importers. In other words, those individuals who imported watermelons did not cross over into handling or producing watermelons as much as they do now. Since then, the industry has become more consolidated. Of the 137 importers required to pay assessments, 42 also handle domestically produced watermelons and would be eligible to serve as either a handler or importer member.

At its February 26, 2011, meeting, the Board voted unanimously to modify the importer eligibility requirements to serve on the Board. The Board is having difficulty finding eligible importers to serve on the Board because of the requirement in the Plan that a person who both imports and handles watermelons be counted as an importer only if that person imports 50 percent or more of the combined total volume of watermelons handled and imported by that person. The Board voted to eliminate the 50 percent or more requirement of the combined total volume of watermelons handled and imported by a person to allow more individuals to become eligible to serve on the Board as importer members. Individuals who both handle and import will be allowed to choose which part of the industry they wish to represent, regardless of the volume handled or imported. The industry believes that this change will increase importer representation on the Board by allowing more individuals to be eligible to serve. This action may also increase diversity on the Board.

The Board considered a second alternative, which was to change the 50 percent or more of the combined total volume of watermelons handled and imported by the person to 25 percent or more of the combined total volume of watermelons handled and imported by the person. However, the Board did not choose this option because they wanted to allow more importers to be eligible for nomination on the Board and found this purpose better served if they eliminated the percentage requirement altogether. Eliminating the percentage requirement for the importer member will allow for smaller importer businesses to become eligible to serve as importer members on the Board.

Additional revisions are made to remove unnecessary language in section 1210.363(b) of the Plan and section 1210.602(a) of the regulations. The language pertains to the conduct of referenda and is no longer applicable as a result of the Watermelon Research and Promotion Improvement Act of 1993 amendments to the Watermelon Research and Promotion Act.

As well, section 1210.404(g) of the regulations, which references importer eligibility requirements, is amended to conform to language amending section 1210.363(b) of the Plan that has been approved in referendum.

In accordance with the Office of Management and Budget (OMB) regulation [5 CFR part 1320] that implements the Paperwork Reduction Act of 1995 [44 U.S.C. Chapter 35], the information collection and recordkeeping requirements that are imposed by the Plan have been approved previously and assigned OMB number 0581–0093, except that the Board member background questionnaire has been approved under OMB number 0505–0001.

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

USDA has not identified any relevant Federal rules that duplicate, overlap, or conflict with this rule.

Additionally, the estimated numbers in the RFA represent the total universe of watermelon producers, handlers, and importers—not only those who were eligible to vote in the referendum.

Background

Under the Plan, the Board administers a nationally coordinated program of research, development, advertising, and promotion designed to strengthen the watermelon's position in the market place and to establish, maintain, and expand markets for watermelons. This program is financed by assessments on producers growing 10 acres or more of watermelons, handlers of watermelons, and importers of 150,000 pounds of watermelons or more per year. The Plan specifies that handlers are responsible for collecting and submitting both the producer and handler assessments to the Board, reporting their handling of watermelons, and maintaining records necessary to verify their reports. Importers are responsible for payment of assessments to the Board on watermelons imported into the United States through the U.S. Customs and Border Protection. This action has no impact on the assessment rates paid by producers, handlers, and importers.

Membership on the Board consists of two producers and two handlers for each of the seven districts established by the Plan, at least one importer, and one public member. The Board currently consists of 37 members: 14 producers, 14 handlers, 8 importers, and 1 public member. A final rule to increase the number of importers on the Board was published in the July 18, 2011, **Federal Register** [76 FR 42009].

The Watermelon Research and Promotion Improvement Act of 1993 amended the Watermelon Research and Promotion Act by adding importer members to the Board, among other things. At that time the industry recommended that an individual who both handles and imports watermelons may vote for importer members and serve as an importer member only if that person imports 50 percent or more of the combined total volume of watermelons handled and imported by that person. A final rule was published in the **Federal Register** on February 28, 1995 [60 FR 10795], containing this and other amendments to the program. At the time of this amendment there was a more clear division of roles among producers, handlers, and importers. In other words, those individuals who imported watermelons did not cross over into handling or producing watermelons as much as they do now. Since then, the industry has become more consolidated. Of the 137 importers required to pay assessments, 42 also handle watermelons and would be eligible to serve as either a handler or importer member.

At its February 26, 2011, meeting, the Board voted unanimously to modify the importer eligibility requirements to serve on the Board. The Board is having difficulty finding eligible importers to serve on the Board because of the requirement in the Plan that a person who both imports and handles watermelon is counted as an importer only if that person imports 50 percent or more of the combined total volume of watermelons handled and imported by that person. The Board voted to eliminate the 50 percent or more requirement of the combined total volume of watermelons handled and imported by a person to allow more individuals to become eligible to serve on the Board as importers. Individuals who both handle and import will be allowed to choose which part of the industry they wish to represent, regardless of the volume handled or imported. The Board believes that this change will increase the importer representation on the Board by allowing more individuals to be eligible to serve. This action may also increase diversity on the Board.

Accordingly, this rule amends section 1210.321(d) of the Plan to specify that a person who both imports and handles watermelons may participate in the nomination process and serve on the Board as either an importer or handler, but not both. The change to this section was the only section voted on and approved in the referendum.

Notwithstanding the discussion that appeared in the proposed rule published at 78 FR 64408, a conforming change is made to section 1210.404(g) in Subpart B—Nominating Procedures of Part 1210. This section also pertains to importer eligibility requirements for Board representation.

Pursuant to Section 1654 of the Act, section 1210.363(b) is amended to remove language that no longer effectuates the purpose of the Act. Specifically, the sentences concerning counting votes as producer, handler, or importer votes based on volume are terminated in accordance with section 1654(a) of the Act. Section 1210.363(b) pertains to referenda to suspend or terminate the Plan or any provision thereof. The language removed did not affect the way the amendatory referendum was conducted or how the results were determined.

A conforming change is made to section 1210.602(a) of Subpart D—Referendum Procedures of the Plan to remove similar language. This also no longer effectuates the purpose of the Act.

The Department published the proposal for public comment in the February 13, 2013, **Federal Register** [78 FR 10104]. The comment period ended March 15, 2013. Sixteen comments were received by the deadline. These comments were discussed in the October 29, 2013, proposed rule published in the **Federal Register** [78 FR 64408], which included a referendum order.

General Findings

As previously mentioned, the Department conducted a referendum among eligible watermelon producers, handlers, and importers from January 13, 2014, through January 27, 2014, to determine whether they favor amending the Plan's importer member requirements to serve on the Board. The representative period for establishing voter eligibility was January 1, 2012, through December 31, 2012. Producers of 10 or more acres of watermelon, watermelon handlers, importers of 150,000 or more pounds of watermelons annually, and importers who import less than 150,000 pounds of watermelons annually and did not apply for and receive assessment reimbursements during the representative period were eligible to vote in the referendum. Additionally, eligible voters had to be currently engaged in the business of producing, handling or importing watermelons.

Seventy-four percent of those voting favored the amendment to the Plan.

After consideration of all relevant matters presented, including the Board's recommendation, the comments received, and the referendum results, it is hereby found that amending section 1210.321(d) of the Plan and section 1210.404 of the regulations will tend to effectuate the declared policy of the Act. It is further found that the sentences concerning counting votes as producer, handler, or importer votes in section 1210.363(b) of the Plan and in section 1210.602(a) of the regulations in Subpart D—Referendum Procedures, do not effectuate the declared policy of the Act, and they are hereby terminated.

Additional Finding

Pursuant to 5 U.S.C. 553, it is also found that good cause exists for not postponing the effective date of this action until 30 days after publication in the **Federal Register** because this action needs to be in effect as soon as possible to allow sufficient time for completion of the nomination process and appointments for the term of office beginning January 1, 2015. Further, the amendment was approved in a referendum of producers, handlers, and importers.

List of Subjects in 7 CFR Part 1210

Administrative practice and procedure, Advertising, Consumer information, Marketing agreements, Reporting and recordkeeping requirements, Watermelon promotion.

For the reasons set forth in the preamble, part 1210, Chapter XI of Title 7 is amended as follows:

PART 1210—WATERMELON RESEARCH AND PROMOTION PLAN

■ 1. The authority citation for 7 CFR part 1210 continues to read as follows:

Authority: 7 U.S.C. 4901–4916 and 7 U.S.C. 7401.

■ 2. In § 1210.321, paragraph (d) is revised to read as follows:

§ 1210.321 Nomination and selection.

* * * * *

(d) Nominations for importer positions that become vacant may be made by mail ballot, nomination conventions, or by other means prescribed by the Secretary. The Board shall provide notice of such vacancies and the nomination process to all importers through press releases and any other available means as well as direct mailing to known importers. All importers may participate in the nomination process. A person who both imports and handles watermelons may participate in the nomination process and serve on the Board as either an importer or handler, but not both.

* * * * *

■ 3. In § 1210.363, paragraph (b) is revised to read as follows:

§ 1210.363 Suspension or termination.

* * * * *

(b) The Secretary may conduct a referendum at any time and shall hold a referendum on request of the Board or at least 10 percent of the combined total of the watermelon producers, handlers, and importers to determine if watermelon producers, handlers, and importers favor termination or suspension of this Plan. The Secretary shall suspend or terminate this Plan at the end of the marketing year whenever the Secretary determines that the suspension or termination is favored by a majority of the watermelon producers, handlers, and importers voting in such referendum who, during a representative period determined by the Secretary, have been engaged in the production, handling, or importing of watermelons and who produced, handled, or imported more than 50 percent of the combined total of the volume of watermelons produced, handled, or imported by those producers, handlers, and importers voting in the referendum. Any such referendum shall be conducted by mail ballot.

■ 4. In § 1210.404, revise paragraph (g) to read as follows:

§ 1210.404 Importer member nomination and selection.

* * * * *

(g) A person who both imports and handles watermelons may participate in the nomination process and serve on the Board as either an importer or handler, but not both.

■ 5. In § 1210.602, paragraph (a) is revised to read as follows:

§ 1210.602 Voting.

(a) Each person who is an eligible producer, handler, or importer as defined in this subpart, at the time of the referendum and who also was a producer, handler, or importer during the representative period, shall be entitled to one vote in the referendum: *Provided,* That each producer in a landlord-tenant relationship or a divided ownership arrangement involving totally independent entities cooperating only to produce watermelons in which more than one of the parties is a producer, shall be entitled to one vote in the referendum covering only that producer's share of the ownership.

* * * * *

Dated: March 11, 2014.

Rex A. Barnes,

Associate Administrator.

[FR Doc. 2014–07024 Filed 3–28–14; 8:45 am]

BILLING CODE 3410–02–P

DEPARTMENT OF HOMELAND SECURITY

8 CFR Part 217

RIN 1601–AA70

Designation of Chile for the Visa Waiver Program

AGENCY: Office of the Secretary; DHS.

ACTION: Final rule; technical amendment.

SUMMARY: Eligible citizens, nationals and passport holders from designated Visa Waiver Program countries may apply for admission to the United States at U.S. ports of entry as nonimmigrant aliens for a period of ninety days or less for business or pleasure without first obtaining a nonimmigrant visa, provided that they are otherwise eligible for admission under applicable statutory and regulatory requirements. On February 28, 2014, the Secretary of Homeland Security, in consultation with the Secretary of State designated Chile as a country that is eligible to participate in the Visa Waiver Program. Accordingly, this rule updates the list of countries designated for participation in the Visa Waiver Program by adding Chile.

DATES: This final rule is effective on March 31, 2014.

FOR FURTHER INFORMATION CONTACT: Gianfranco Corti, Department of Homeland Security, Visa Waiver Program Office, (202) 282–8732.

SUPPLEMENTARY INFORMATION:

I. Background

A. The Visa Waiver Program

Pursuant to section 217 of the Immigration and Nationality Act (INA), 8 U.S.C. 1187, the Secretary of Homeland Security (the Secretary), in consultation with the Secretary of State, may designate certain countries as Visa Waiver Program (VWP) countries [1] if

[1] All references to ''country'' or ''countries'' in the laws authorizing the Visa Waiver Program are read to include Taiwan. *See* Taiwan Relations Act of 1979, Public Law 96–8, section 4(b)(1) (codified at 22 U.S.C. 3303(b)(1)) (providing that ''[w]henever the laws of the United States refer or relate to foreign countries, nations, states, governments, or

certain requirements are met. Those requirements include, without limitation: (1) A U.S. Government determination that the country meets the applicable statutory requirement with respect to nonimmigrant visitor visa refusals for nationals of the country; (2) an official certification that it issues machine-readable passports that comply with internationally accepted standards; (3) a U.S. Government determination that the country's designation would not negatively affect U.S. law enforcement and security interests; (4) an agreement with the United States to report, or make available through other designated means, to the U.S. Government information about the theft or loss of passports; (5) a U.S. Government determination that the government accepts for repatriation any citizen, former citizen, or national not later than three weeks after the issuance of a final executable order of removal; and (6) an agreement with the United States to share information regarding whether citizens or nationals of the country represent a threat to the security or welfare of the United States or its citizens.

The INA also sets forth requirements for continued eligibility and, where appropriate, probation and/or termination of program countries.

Prior to this final rule, the designated countries in the VWP were Andorra, Australia, Austria, Belgium, Brunei, Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Iceland, Ireland, Italy, Japan, Latvia, Liechtenstein, Lithuania, Luxembourg, Malta, Monaco, the Netherlands, New Zealand, Norway, Portugal, Republic of Korea, San Marino, Singapore, Slovak Republic, Slovenia, Spain, Sweden, Switzerland, Taiwan, and the United Kingdom.[2] *See* 8 CFR 217.2(a).

Citizens and eligible nationals of VWP countries may apply for admission to the United States at U.S. ports of entry as nonimmigrant visitors for a period of ninety days or less for business or pleasure without first obtaining a nonimmigrant visa, provided that they are otherwise eligible for admission under applicable statutory and regulatory requirements. To travel to the United States under the VWP, an alien must satisfy the following:

(1) Be seeking admission as a nonimmigrant visitor for business or pleasure for ninety days or less;

(2) be a national of a program country;

(3) present an electronic passport or a machine-readable passport issued by a designated VWP participant country to the air or vessel carrier before departure;[3]

(4) execute the required immigration forms;

(5) if arriving by air or sea, arrive on an authorized carrier;

(6) not represent a threat to the welfare, health, safety or security of the United States;

(7) have not violated U.S. immigration law during any previous admission under the VWP;

(8) possess a round-trip ticket, unless exempted by statute or federal regulation;

(9) waive the right to review or appeal a decision regarding admissibility or to contest, other than on the basis of an application for asylum, any action for removal; and

(10) obtain an approved travel authorization via the Electronic System for Travel Authorization (ESTA). For more information about the ESTA, please see the interim final rule at 73 FR 32440 (June 9, 2008), and implementing notice at 73 FR 67354 (Nov. 13, 2008).

See sections 217(a) and 217(b) of the Immigration and Nationality Act (INA), 8 U.S.C. 1187(a)–(b); *see also* 8 CFR part 217.

B. Designation of Chile

The Department of Homeland Security, in consultation with the Department of State, has evaluated Chile for VWP designation to ensure that it meets the requirements set forth in section 217 of the INA, as amended by section 711 of the Implementing Recommendations of the 9/11 Commission Act of 2007, Public Law 110–53. The Secretary has determined that Chile has satisfied the statutory requirements for initial VWP designation; therefore, the Secretary, in consultation with the Secretary of State, has designated Chile as a program country.[4]

This final rule adds Chile to the list of countries authorized to participate in the VWP. Accordingly, beginning March 31, 2014, eligible citizens and nationals of Chile may apply for admission to the United States at U.S. ports of entry as nonimmigrant visitors for business or pleasure for a period of ninety days or less without first obtaining a nonimmigrant visa, provided that they are otherwise eligible for admission under applicable statutory and regulatory requirements.

C. Technical Corrections

This final rule also deletes from the regulatory text outdated language regarding Belgium and unnecessary language regarding Tawian. First, the regulatory text includes a specific requirement for Belgian citizens traveling under the VWP after May 15, 2003 to present a machine readable passport. This requirement for a machine readable passport has been extended to all VWP countries. See INA section 217(a)(3), 8 U.S.C. 1187(a)(3). Therefore, the specific reference to Belgium has been removed. Second, the regulatory text referencing the Secretary's authority to designate Tawain to the VWP is unnecessary and has been removed for clarity.

III. Statutory And Regulatory Requirements

A. Administrative Procedure Act

Under the Administrative Procedure Act (5 U.S.C. 553(b)), an agency may waive the normal notice and comment requirements if it finds, for good cause, that they are impracticable, unnecessary, or contrary to the public interest. The final rule merely lists a country that the Secretary of Homeland Security, in consultation with the Secretary of State, has designated as a VWP eligible country in accordance with section 217(c) of the INA, 8 U.S.C. 1187(c). This amendment is a technical change to merely update the list of VWP countries. Therefore, notice and comment for this rule is unnecessary and contrary to the public interest because the rule has no substantive impact, is technical in nature, and relates only to management, organization, procedure, and practice. For the same reasons, pursuant to 5 U.S.C. 553(d)(3), a delayed effective date is not required.

This final rule is also excluded from the rulemaking provisions of 5 U.S.C.

similar entities, such terms shall include and such laws shall apply with respect to Taiwan''). This is consistent with the United States' one-China policy, under which the United States has maintained unofficial relations with Taiwan since 1979.

[2] The United Kingdom refers only to British citizens who have the unrestricted right of permanent abode in the United Kingdom (England, Scotland, Wales, Northern Ireland, the Channel Islands and the Isle of Man); it does not refer to British overseas citizens, British dependent territories' citizens, or citizens of British Commonwealth countries.

[3] For countries designated as VWP countries on or after November 17, 2008, including Chile, only passports containing an electronic chip that includes the biographic and biometric information of the passport holder are authorized for VWP travel. However, for countries designated as VWP countries prior to November 17, 2008, passports issued before October 26, 2006 need not contain an electronic chip with the holder's biographic and biometric information, provided that such passports comply with International Civil Aviation Organization machine readable standards. *See* 8 U.S.C. 1732(c)(2).

[4] The Secretary of State nominated Chile for participation in the VWP on June 3, 2013.

553 as a foreign affairs function of the United States because it advances the President's foreign policy goals and directly involves relationships between the United States and its alien visitors. Accordingly, DHS is not required to provide public notice and an opportunity to comment before implementing the requirements under this final rule.

B. Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA) (5 U.S.C. 603(b)), as amended by the Small Business Regulatory Enforcement and Fairness Act of 1996 (SBREFA), requires an agency to prepare and make available to the public a regulatory flexibility analysis that describes the effect of a proposed rule on small entities (i.e., small businesses, small organizations, and small governmental jurisdictions) when the agency is required ''to publish a general notice of proposed rulemaking for any proposed rule.'' Because this rule is being issued as a final rule, on the grounds set forth above, a regulatory flexibility analysis is not required under the RFA.

DHS has considered the impact of this rule on small entities and has determined that this rule will not have a significant economic impact on a substantial number of small entities. The individual aliens to whom this rule applies are not small entities as that term is defined in 5 U.S.C. 601(6). Accordingly, there is no change expected in any process as a result of this rule that would have a direct effect, either positive or negative, on a small entity.

C. Unfunded Mandates Reform Act of 1995

This rule will not result in the expenditure by State, local, and tribal governments, in the aggregate, or by the private sector, of $100 million or more in any one year, and it will not significantly or uniquely affect small governments. Therefore, no actions were deemed necessary under the provisions of the Unfunded Mandates Reform Act of 1995.

D. Executive Order 12866

This amendment does not meet the criteria for a ''significant regulatory action'' as specified in Executive Order 12866.

E. Executive Order 13132

The rule will not have substantial direct effects on the States, on the relationship between the National Government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with section 6 of Executive Order 13132, DHS has determined that this final rule does not have sufficient federalism implications to warrant the preparation of a federalism summary impact statement.

F. Executive Order 12988 Civil Justice Reform

This rule meets the applicable standards set forth in sections 3(a) and 3(b)(2) of Executive Order 12988.

G. Paperwork Reduction Act

The Department of Homeland Security is modifying OMB Control Number 1651–0111, Arrival and Departure Record, to allow eligible Chilean passport holders to use the Electronic System for Travel Authorization (ESTA) to apply for authorization to travel under the VWP prior to departing for the United States. CBP uses the information to assist in determining if an applicant is eligible for travel under the VWP. The Department is requesting emergency processing of this change to 1651–0111 as the information is essential to the mission of the agency and is needed prior to the expiration of time periods established under the PRA. Because of the designation of Chile for participation in the VWP, the Department is requesting OMB approval of this information collection in accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3507).

The addition of Chile to the Visa Waiver Program will result in an estimated annual increase to information collection 1651–0111 of 180,000 responses and 45,000 burden hours. The total burden hours for ESTA, including Chile, is as follows:

Estimated annual reporting burden: 4,830,000 hours.

Estimated number of respondents: 19,320,000 respondents.

Estimated average annual burden per respondent: 15 minutes.

List of Subjects in 8 CFR Part 217

Air carriers, Aliens, Maritime carriers, Passports and visas.

Amendments to the Regulations

For the reasons stated in the preamble, DHS amends part 217 of title 8 of the Code of Federal Regulations (8 CFR part 217), as set forth below.

PART 217—VISA WAIVER PROGRAM

■ 1. The authority citation for part 217 continues to read as follows:

Authority: 8 U.S.C. 1103, 1187; 8 CFR part 2.

■ 2. In § 217.2 the definition of the term ''Designated country'' in paragraph (a) is revised to read as follows:

§ 217.2 Eligibility.

(a) * * *

Designated country refers to Andorra, Australia, Austria, Belgium, Brunei, Chile, Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Iceland, Ireland, Italy, Japan, Latvia, Liechtenstein, Lithuania, Luxembourg, Malta, Monaco, the Netherlands, New Zealand, Norway, Portugal, Republic of Korea, San Marino, Singapore, Slovak Republic, Slovenia, Spain, Sweden, Switzerland, Taiwan, and the United Kingdom. The United Kingdom refers only to British citizens who have the unrestricted right of permanent abode in the United Kingdom (England, Scotland, Wales, Northern Ireland, the Channel Islands and the Isle of Man); it does not refer to British overseas citizens, British dependent territories' citizens, or citizens of British Commonwealth countries. Taiwan refers only to individuals who have unrestricted right of permanent abode on Taiwan and are in possession of an electronic passport bearing a personal identification (household registration) number.

* * * * *

Jeh Charles Johnson,

Secretary.

[FR Doc. 2014–07254 Filed 3–28–14; 8:45 am]

BILLING CODE P

FARM CREDIT ADMINISTRATION

12 CFR Parts 611, 620, and 630

RIN 3052–AD00

Organization; Disclosure to Shareholders; Disclosure to Investors in System-wide and Consolidated Bank Debt Obligations of the Farm Credit System; Advisory Vote

AGENCY: Farm Credit Administration.

ACTION: Interim final rule.

SUMMARY: The Farm Credit Administration (FCA, we, or our) issues this interim final rule amending its regulations to remove all requirements for non-binding, advisory votes at Farm Credit System (System) banks and associations. This rule is in response to recent legislation wherein Congress provided that no funds available to the FCA may be used to ''implement or enforce'' regulations requiring non-binding, advisory votes on senior officer compensation, and directed the FCA to review its rules to ensure they reflect

Congressional intent that a primary responsibility of the boards of directors of System institutions is to oversee compensation practices.

DATES: This interim final rule 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 notice of the effective date in the **Federal Register**. Comments, if any, are due within April 30, 2014.

ADDRESSES: Interested parties may submit written comments by any of the following methods:

- Email: Send an email to *reg-comm@fca.gov.*
- FCA Web site: *http://www.fca.gov.* Select ''Public Commenters,'' then ''Public Comments,'' and follow the directions for ''Submitting a Comment.''
- Mail: Barry F. Mardock, Deputy Director, Office of Regulatory Policy, Farm Credit Administration, 1501 Farm Credit Drive, McLean, VA 22102–5090.

You may review copies of all comments we receive at our office in McLean, Virginia or on our Web site at *http://www.fca.gov.* Once you are in the Web site, select ''Public Commenters,'' then ''Public Comments,'' and follow the directions for ''Reading Submitted Public Comments.'' We will show your comments as submitted, including any supporting data provided, but for technical reasons we may omit items such as logos and special characters. Identifying information that you provide, such as phone numbers and addresses, will be publicly available. However, we will attempt to remove email addresses to help reduce Internet spam.

FOR FURTHER INFORMATION CONTACT:

Deborah Wilson, Associate Director, Office of Regulatory Policy, Farm Credit Administration, McLean, VA 22102–5090, (703) 883–4224, TTY (703) 883–4056, or

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

SUPPLEMENTARY INFORMATION:

I. Objective

Our objective in this interim final rule is to ensure the provisions of Title VI of the Consolidated Appropriations Act, 2014 (Appropriations Act) [1] are fulfilled by ensuring our rules on non-binding, advisory votes on senior officer compensation are neither implemented nor enforced.

II. Background

On October 3, 2012, the FCA [2] issued a final rule regarding senior officer compensation disclosures and related topics that amended parts 611, 612, 619, 620, and 630.[3] Section 611.410 of the rule requires Farm Credit banks and associations to hold non-binding, advisory votes on senior officer compensation in certain circumstances.[4] On January 17, 2014, the President of the United States signed into law the Appropriations Act. The Appropriations Act is the vehicle for making consolidated appropriations for Federal agencies in the fiscal year ending September 30, 2014, and for other purposes.[5] A provision in Title VI of the Appropriations Act limits the FCA from using fiscal year 2014 funds to ''implement or enforce those portions of the final regulation published in the **Federal Register** on October 3, 2012 (77 FR 60582), establishing a requirement that Farm Credit System institutions hold an advisory vote on officer compensation.''

Also, in February 2014, the Agricultural Act of 2014 (Farm Bill) was signed into law.[6] Section 5404 of the Farm Bill contained ''Findings by Congress'' that emphasized the benefit to System stockholders' understanding of the operations of their institution through disclosure of the institution's senior officer compensation, and explained that transparent disclosure regarding compensation practices reinforces the cooperative nature of System institutions.[7] Also, the findings in Section 5404 of the Farm Bill placed primary responsibility, and therefore accountability, for the establishment and oversight of System institution compensation practices with each institution's board of directors,[8] and clearly linked the boards' oversight responsibility for compensation to the overall safe and sound operations of the respective institutions. Congress explained in the Farm Bill that any regulation should strengthen the ability of System institutions' boards of directors to oversee compensation practices. Consistent with the aforementioned Congressional findings, the FCA will continue to emphasize, through its regulatory and supervisory authorities, the importance of providing comprehensive, transparent and beneficial disclosures to stockholders on senior officer compensation. We also intend to reinforce the responsibility and accountability of System institutions' boards of directors in establishing and overseeing compensation practices to ensure the safe and sound operation of the institutions they serve.

III. Interim Final Rulemaking and Non-Binding, Advisory Votes on Compensation

With the promulgation of this rule, the FCA is using the ''Interim Final'' rule procedure for rulemaking, which permits agencies to adopt certain rules on an expedited basis, without going through the usual proposal and final stages of notice-and-comment rulemaking. The Administrative Procedure Act (APA) generally requires an agency to publish notice of a proposed and final rulemaking in the **Federal Register**. This requirement does not apply, however, when the agency ''for good cause finds . . . that notice and public procedure thereon are impracticable, unnecessary, or contrary to the public interest.'' [9]

The FCA believes that the amendments contained in this rulemaking fit the category of rules appropriate for interim final rulemaking. We believe the provision in

[1] 113 Public Law 76, 128 Stat. 5 (H.R. 3547).

[2] As an independent agency within the Executive branch of the Federal Government, FCA is responsible for the safety, soundness, regulation and supervision of the banks, associations, and related entities in the System, as well as the Federal Agricultural Mortgage Corporation (Farmer Mac). The System and Farmer Mac are Government-sponsored enterprises with public service missions.

[3] *See* 77 FR 60582. The rule was effective December 17, 2012, but non-binding, advisory votes on compensation increases of 15 percent or more are not required until 2015 (77 FR 76215, December 27, 2012).

[4] On December 4, 2012, the Farm Credit Council, on behalf of the System banks and associations, filed a petition requesting that we repeal those provisions of the final rule that require a non-binding, advisory vote on senior officer compensation. Interested parties have the right to petition a Federal agency to issue, amend, or repeal regulations under 5 U.S.C. 553(e). We published the petition in the **Federal Register** on February 19, 2013 (78 FR 11551), and invited comments.

[5] The FCA does not receive a Federal appropriation and is primarily funded through assessments paid by System institutions. In its appropriations Acts, Congress limits the amount of funds that the FCA can assess and collect from System institutions for our administrative expenses.

[6] 113 Public Law 79, 128 Stat. 649 (H.R. 2642), signed by the President on February 7, 2014.

[7] As cooperatives, the System banks and associations are borrower-owned financial institutions. Only those borrowers who are farmers, ranchers, or producers or harvesters of aquatic products, and cooperatives eligible to borrow from System institutions under the Farm Credit Act of 1971, as amended, hold voting stock. Also, System associations are voting stockholders of their affiliated Farm Credit bank.

[8] The voting stockholders of each System bank and association elect a majority of its directors. The stockholder-elected directors must constitute at least 60 percent of the members of each institution's board.

[9] *See* 5 U.S.C. 553(b). The APA, 5 U.S.C. 551–59, *et seq.*, supports this streamlined technique of rulemaking.

Title VI of the Appropriations Act supports an interim final rulemaking as the limitation arguably makes formal proposed and final rulemaking procedures ''impracticable, unnecessary, or contrary to the public interest.'' Further, we believe amending the rule to remove the requirements for non-binding, advisory votes will ensure compliance with the Appropriations Act. Consistent with the Appropriations Act, as well as the Farm Bill, this interim final rulemaking is limited to the advisory vote provisions of the October 3, 2012, (77 FR 60582) rulemaking.

Specifically, we are removing the following rule provisions:

- § 611.100(a), defining the term ''advisory vote'';
- § 611.360, requiring policies and procedures for non-binding, advisory votes on senior officer compensation;
- § 611.410, addressing non-binding, advisory votes on senior officer compensation;
- § 620.5(a)(11), requiring disclosure of any advisory votes held during the reporting year at the institution;
- § 620.6(c)(6), requiring disclosure (adjacent to the compensation table) in the annual report of a stockholder's right to petition for a non-binding, advisory vote on senior officer compensation; and
- § 630.20(i)(last sentence), requiring disclosure of any advisory votes held during the reporting year within the System.

All other regulatory provisions and changes resulting from the October 3, 2012 (77 FR 60582) rulemaking remain in effect.

IV. Regulatory Flexibility Act

Pursuant to section 605(b) of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), the FCA hereby certifies that this interim final rule will not have a significant economic impact on a substantial number of small entities. Each of the banks in the 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, System institutions are not ''small entities'' as defined in the Regulatory Flexibility Act.

List of Subjects

12 CFR Part 611

Agriculture, Banks, banking, Rural areas.

12 CFR Part 620

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

12 CFR Part 630

Accounting, Agriculture, Banks, banking, Organization and functions (Government agencies), Reporting and recordkeeping requirements, Rural areas.

For the reasons stated in the preamble, parts 611, 620, and 630 of chapter VI, title 12 of the Code of Federal Regulations are amended as follows:

PART 611—ORGANIZATION

■ 1. The authority citation for part 611 continues to read as follows:

Authority: Secs. 1.2, 1.3, 1.4, 1.5, 1.12, 1.13, 2.0, 2.1, 2.2, 2.10, 2.11, 2.12, 3.0, 3.1, 3.2, 3.3, 3.7, 3.8, 3.9, 3.21, 4.3A, 4.12, 4.12A, 4.15, 4.20, 4.21, 4.25, 4.26, 4.27, 4.28A, 5.9, 5.17, 5.25, 7.0–7.13, 8.5(e) of the Farm Credit Act (12 U.S.C. 2002, 2011, 2012, 2013, 2020, 2021, 2071, 2072, 2073, 2091, 2092, 2093, 2121, 2122, 2123, 2124, 2128, 2129, 2130, 2142, 2154a, 2183, 2184, 2203, 2208, 2209, 2211, 2212, 2213, 2214, 2243, 2252, 2261, 2279a–2279f–1, 2279aa–5(e)); secs. 411 and 412 of Pub. L. 100–233, 101 Stat. 1568, 1638; sec. 414 of Pub. L. 100–399, 102 Stat. 989, 1004.

§ 611.100 [Amended]

■ 2. Section 611.100 is amended by removing paragraph (a) and redesignating paragraphs (b) through (h) as new paragraphs (a) through (g), respectively.

§ 611.360 [Removed and reserved]

■ 3. Section 611.360 is removed and reserved.

§ 611.410 [Removed and reserved]

■ 4. Section 611.410 is removed and reserved.

PART 620—DISCLOSURE TO SHAREHOLDERS

■ 5. The authority citation for part 620 continues to read as follows:

Authority: Secs. 4.3, 4.3A, 4.19, 5.9, 5.17, 5.19 of the Farm Credit Act (12 U.S.C. 2154, 2154a, 2207, 2243, 2252, 2254); sec. 424 of Pub. L. 100–233, 101 Stat. 1568, 1656; sec. 514 of Pub. L. 102–552, 106 Stat. 4102.

§ 620.5 [Amended]

■ 6. Section 620.5 is amended by removing paragraph (a)(11) and redesignating paragraph (a)(12) as new paragraph (a)(11).

§ 620.6 [Amended]

■ 7. Section 620.6 is amended by removing paragraph (c)(6) and redesignating paragraph (c)(7) as new paragraph (c)(6).

PART 630—DISCLOSURE TO INVESTORS IN SYSTEM-WIDE AND CONSOLIDATED BANK DEBT OBLIGATIONS OF THE FARM CREDIT SYSTEM

■ 8. The authority citation for part 630 continues to read as follows:

Authority: Secs. 4.2, 4.9, 5.9, 5.17, 5.19 of the Farm Credit Act (12 U.S.C. 2153, 2160, 2243, 2252, 2254); sec. 424 of Pub. L. 100–233, 101 Stat. 1568, 1656; sec. 514 of Pub. L. 102–552, 106 Stat. 4102.

§ 630.20 [Amended]

■ 9. Section 630.20 is amended by removing the last sentence of paragraph (i).

Dated: March 21, 2014.

Dale L. Aultman,

Secretary, Farm Credit Administration Board.

[FR Doc. 2014–06783 Filed 3–28–14; 8:45 a.m.]

BILLING CODE 6705–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2013–0740; Directorate Identifier 2013–NE–24–AD; Amendment 39–17804; AD 2014–05–32]

RIN 2120–AA64

Airworthiness Directives; Pratt & Whitney Turbofan Engines

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: We are adopting a new airworthiness directive (AD) for all Pratt & Whitney (PW) PW2037, PW2037D, PW2037M, PW2040, PW2040D, PW2043, PW2146, PW2240, PW2337, PW2643, and F117–PW–100 turbofan engines. This AD was prompted by a rupture of the diffuser-to-high-pressure turbine (HPT) case flange. This AD requires a one-time eddy current inspection (ECI) of affected engines with certain diffuser and HPT cases installed. This AD also requires a fluorescent-penetrant inspection (FPI) of the diffuser case rear flange and HPT case front flange. We are issuing this AD to prevent failure of the diffuser-to-HPT case flange, which could lead to uncontained engine failure and damage to the airplane.

DATES: This AD is effective May 5, 2014.

The Director of the Federal Register approved the incorporation by reference of a certain publication listed in this AD as of May 5, 2014.

ADDRESSES: For service information identified in this AD, contact Pratt & Whitney, 400 Main St., East Hartford, CT 06108; phone: 860–565–8770; fax: 860–565–4503. 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–2013–0740; or in person at the Docket Management Facility between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this AD, the regulatory evaluation, any comments received, and other information. The address for the Docket Office (phone: 800–647–5527) is Document Management Facility, U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590.

FOR FURTHER INFORMATION CONTACT: Mark Riley, Aerospace Engineer, Engine Certification Office, FAA, Engine & Propeller Directorate, 12 New England Executive Park, Burlington, MA 01803; phone: 781–238–7758; fax: 781–238–7199; email: *mark.riley@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 all PW PW2037, PW2037D, PW2037M, PW2040, PW2040D, PW2043, PW2146, PW2240, PW2337, PW2643, and F117–PW–100 turbofan engines. The NPRM published in the **Federal Register** on October 29, 2013 (78 FR 64419). The NPRM was prompted by a rupture of the diffuser-to-HPT case flange. The NPRM proposed to require a one-time ECI of affected engines with certain diffuser and HPT cases installed and an FPI of the diffuser case rear flange and HPT case front flange. We are issuing this AD to prevent failure of the diffuser-to-HPT case flange, which could lead to uncontained engine failure and damage to the airplane.

Comments

We gave the public the opportunity to participate in developing this AD. The following presents the comments received on the proposal and the FAA's response to each comment.

Request Credit for FPI at Piece Part Level

Delta Air Lines (DAL), PW, Federal Express, and United Parcel Service (UPS) requested that previous FPI of cases at the piece part level be allowed for AD compliance in lieu of ECI. The justification for this request is that FPI of diffuser/HPT cases at the piece part level performed after January 1, 2010 are equivalent to the ECI procedures.

We agree. We changed the AD to allow credit for FPI of diffuser and HPT cases performed after January 1, 2010.

Request to Eliminate Initial Inspection and Mandated Repetitive Inspections

DAL and PW requested elimination of inspection for diffuser/HPT cases identified in Table 1 to paragraph (e) of this AD because the inspections have already been completed. DAL and PW also requested that mandated repetitive inspections of the diffuser and HPT case be eliminated since this requirement is already in the engine manual and part of DAL's PW2000 maintenance program. Mandated inspection results in a quality records burden. The AD is requested to be withdrawn based on these requested actions.

We partially agree. We agree that many of the diffuser/HPT case inspections have been completed. PW reports that all diffuser and HPT cases have been inspected except for three. Those three cases are installed on engines not currently in service. We changed the AD to eliminate Table 1 to paragraph (e) of this AD. We added the remaining diffuser cases and HPT cases requiring inspection to paragraph (e) of this AD.

We do not agree that mandated inspections for the diffuser and HPT cases are not required as diffuser or HPT case failure may result in a catastrophic aircraft event. We did not change the AD requirement for repetitive inspections. This AD will not be withdrawn.

Request to Exclude F117–PW–100 Requirements

PW requested that F117–PW–100 requirements not be included in this AD as the inspections will be completed by December 2013.

We partially agree. We received confirmation that the diffuser and HPT cases that are applicable to F117–PW–100 engines have been inspected. However, since the F117–PW–100 engine model has been certified by the FAA and is on the type certificate data sheet, we will require repetitive FPI of the diffuser and HPT cases at piece part opportunity. We changed this AD by deleting diffuser and HPT cases that have been inspected.

Request Definition for Piece Part Exposure

DAL, UPS, and an individual commenter requested that a definition be provided for ''piece part exposure'' as it applies to repetitive inspections of diffuser and HPT cases. The reason for this request was to clarify when inspections are required.

We agree. We added a definition for ''piece part exposure'' in this AD.

Request for New Compliance Method

DAL requested that the compliance requirement for repetitive inspections direct operator's to revise their approved maintenance programs with an FPI of the diffuser and HPT cases and not require documenting AD compliance for each individual case. This change would help to eliminate undue burden on operator/maintenance facility for AD tracking requirements.

We partially agree. We agree that changing the continuous airworthiness maintenance program (CAMP) to require diffuser and HPT case inspections adequately addresses our safety concerns.

We do not agree that tracking repetitive inspections to show AD compliance is an undue burden. We changed the AD by adding an Optional Terminating Action allowing diffuser and HPT case inspections to be added to the CAMP to satisfy repetitive inspection requirements of this AD.

Request FAA Standard Practices, Processes, Consumables, and Standard Tooling be Allowed to Perform ECI

One individual commenter requested that only Non-destructive Inspection Procedure sections IX through XVIII be mandated as these sections contain the only items that have an actual effect on the unsafe condition of the AD.

We disagree. The specific ECI inspection equipment and procedures developed by PW have been verified as being able to detect cracks in the diffuser case and HPT case M-flange. The specific equipment and procedures must be used to ensure proper inspection results. However, operators and maintenance facilities can propose use of other equipment and/or procedures as an alternative method of compliance if they can validate equivalent results. We did not change this AD.

Request Clarification for Applicability

The same individual commenter requested clarification that the Compliance paragraph apply to all HPT

and diffuser cases regardless of whether they are listed in Table 1 to paragraph (e) or not. The reason for this request is that it is unclear if the repetitive inspections are required only for those cases specified in Table 1.

We agree. We deleted Table 1 to paragraph (e) of this AD and added the remaining diffuser cases and HPT cases requiring inspection to paragraph (e) of this AD.

Conclusion

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

- Are consistent with the intent that was proposed in the NPRM (78 FR 64419, October 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 64419, October 29, 2013).

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

Costs of Compliance

We estimate that this AD will affect 638 engines installed on airplanes of U.S. registry. Of the 638 engines, we estimate that about 3 engines will be subject to ECI and all engines will be subject to the FPI. We also estimate that it will take about 5 hours to perform the ECI and 3 hours to perform the FPI required by this AD. Materials cost for the FPI will be about $20 per engine. The average labor rate is $85 per hour. Based on these figures, we estimate the total cost of this AD to U.S. operators is $176,725.

Authority for this Rulemaking

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

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

Regulatory Findings

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

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

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

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

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

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

List of Subjects in 14 CFR Part 39

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

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):

2014–05–32 Pratt & Whitney: Amendment 39–17804 Docket No. FAA–2013–0740; Directorate Identifier 2013–NE–24–AD.

(a) Effective Date

This AD is effective May 5, 2014.

(b) Affected ADs

None.

(c) Applicability

This AD applies to all Pratt & Whitney (PW) PW2037, PW2037D, PW2037M, PW2040, PW2040D, PW2043, PW2146, PW2240, PW2337, PW2643, and F117–PW–100 turbofan engines.

(d) Unsafe Condition

This AD was prompted by a rupture of the diffuser-to-high-pressure turbine (HPT) case flange. We are issuing this AD to prevent failure of the diffuser-to-HPT case flange, which could lead to uncontained engine failure and damage to the airplane.

(e) Compliance

Unless already done, comply with this AD within the compliance times specified.

(1) For diffuser case part number (P/N) 1B7461, serial numbers (S/Ns) DGGUAK1306 and DGGUAK1308, and HPT case P/N 1B2440, S/N DKLBCS1032:

(i) Within 100 flight cycles or 30 days after the effective date of this AD, whichever is later, eddy current inspect (ECI) the diffuser case and the HPT case M-flange. Use PW Service Bulletin (SB) No. PW2000 72–763, Revision 1, dated August 30, 2013, to do the inspection.

(ii) Reserved.

(2) For all diffuser and HPT cases at the next piece part opportunity and every piece part opportunity thereafter, perform a high sensitivity fluorescent-penetrant inspection (FPI) of the entire diffuser case rear flange (M-flange) and bolt holes, and the entire HPT case forward flange (M-flange) and bolt holes.

(f) Optional Terminating Action

As a terminating action to the repetitive inspection requirements of this AD, you may insert the repetitive inspection requirement identified in paragraph (e)(2) of this AD into the required inspection portion of your continuous airworthiness maintenance program.

(g) Definition

For the purpose of this AD, piece part opportunity is defined as when the part is completely disassembled.

(h) Prohibition Statement

After the effective date of this AD, do not install any engine with a diffuser or HPT case onto any airplane that was not inspected using paragraph (e) of this AD.

(i) Credit for Previous Actions

If you performed an ECI of the diffuser case and HPT case M-flange using the Accomplishment Instructions of PW SB No. PW2000 72–763, dated March 22, 2013, or you performed a high sensitivity FPI of the diffuser case and HPT case at the piece part opportunity after January 1, 2010, you met the requirements of paragraph (e)(1) of this AD.

(j) Alternative Methods of Compliance (AMOCs)

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

(k) Related Information

(1) For more information about this AD, contact Mark Riley, Aerospace Engineer, Engine Certification Office, FAA, Engine & Propeller Directorate, 12 New England Executive Park, Burlington, MA 01803; phone: 781–238–7758; fax: 781–238–7199; email: *mark.riley@faa.gov*.

(2) Pratt & Whitney Engine Manual, P/N 1A6231, (PW2000) and P/N 1B2412 (F117), Chapter 72–41–00, Inspection/Check-02, (Task 72–41–00–230–002) and Chapter 72–52–00, Inspection/Check-02 (Task 72–52–00–230–000), which are not incorporated by reference in this AD, can be obtained from Pratt & Whitney, using the contact information in paragraph (l)(3) of this AD.

(l) Material Incorporated by Reference

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

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

(i) Pratt & Whitney Service Bulletin No. PW2000 72–763, Revision 1, dated August 30, 2013.

(ii) Reserved

(3) For PW service information identified in this AD, contact Pratt & Whitney, 400 Main St., East Hartford, CT 06108; phone: 860–565–8770; fax: 860–565–4503.

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

(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 March 6, 2014.

Colleen M. D'Alessandro,

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

[FR Doc. 2014–06953 Filed 3–28–14; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2013–0079; Airspace Docket No. 09–AWA–4]

RIN 2120–AA66

Amendment to Class B Airspace Area; Detroit, MI

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule; correction.

SUMMARY: This action corrects a final rule published in the **Federal Register** January 21, 2014. In that rule, the shared boundary between the Detroit Class B airspace Area A and Area B subareas did not match, as originally intended, in the regulatory text descriptions. This correction is necessary to close the unintended gap between subareas created by the boundary error and to ensure the accuracy of the charted Detroit Class B airspace area.

DATES: Effective Date: 0901 UTC, April 3, 2014. The Director of the Federal Register approves this incorporation by reference action under 3 CFR part 51, subject to the annual revision of FAA Order 7400.9 and publication of conforming amendments.

FOR FURTHER INFORMATION CONTACT: Colby Abbott, Airspace Policy and Regulations Group, Office of Airspace Services, Mission Support, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591; telephone: (202) 267–8783.

SUPPLEMENTARY INFORMATION:

History

On January 21, 2014, a final rule for FAA Docket No. FAA–2012–0661, Airspace Docket No. 09–AWA–4, was published in the **Federal Register** (79 FR 3305) to amend the Detroit Class B airspace area. The Detroit Class B airspace area was modified to contain aircraft conducting published instrument procedures at Detroit Metropolitan Wayne County Airport (DTW) within Class B airspace, enhance safety, improve the flow of air traffic, and reduce the potential for midair collisions in the DTW terminal area, while accommodating the concerns of all airspace users.

Subsequent to publication of the rule, the FAA determined the boundary segment described in Area A, from lat. 42°17′18″ N., long. 83°27′27″ W. on the 4.4-mile radius of the Detroit Willow Run Airport to lat. 42°20′47″ N., long. 83°22′12″ W. on the 8-mile arc of the DXO VOR/DME, and the boundary segment described in Area B, from the intersection of the DXO VOR/DME 354° radial and the Detroit Willow Run Airport 047° bearing to lat. 42°20′47″ N., long. 83°22′12″ W., did not align as intended and contained a gap between the two adjacent subareas. The FAA is correcting this minor error by adding the geographic point defined by the intersection of the DXO VOR/DME 354° radial and the Detroit Willow Run Airport 047° bearing in the Area A description to remove the gap.

Correction to Final Rule

Accordingly, pursuant to the authority delegated to me, in the **Federal Register** of January 21, 2014, the text on page 3312, column 2, line 47, is corrected to read:

§ 71.1 [Amended]

AGL MI B Detroit, MI [Corrected]

For Area A, between the words ''Airport;'' and ''thence'', add the following: ''thence northeast to the intersection of the DXO VOR/DME 354° radial and the Detroit Willow Run Airport 047° bearing:''.

Issued in Washington, DC, on March 24, 2014.

Ellen Crum,

Acting Manager, Airspace Policy and Regulations Group.

[FR Doc. 2014–06959 Filed 3–28–14; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 558

[Docket No. FDA–2014–N–0002]

Zoetis Inc., et al.; Withdrawal of Approval of New Animal Drug Applications for Combination Drug Medicated Feeds Containing an Arsenical Drug; Correction

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule; correcting amendments.

SUMMARY: The Food and Drug Administration (FDA) is correcting a document amending the animal drug regulations to reflect the withdrawal of approval of new animal drug applications (NADAs) that appeared in the **Federal Register** of February 27, 2014 (79 FR 10976). That document listed an NADA for which a withdrawal of approval (WOA) was not intended and failed to remove all conditions of use associated with the withdrawn NADAs. This correction is being made to improve the accuracy of the animal drug regulations.

DATES: This correction is effective March 31, 2014.

FOR FURTHER INFORMATION CONTACT: George K. Haibel, Center for Veterinary Medicine (HFV–6), Food and Drug Administration, 7519 Standish Pl., Rockville, MD 20855, 240–276–9019, *george.haibel@fda.hhs.gov.*

SUPPLEMENTARY INFORMATION: FDA is correcting a document amending the animal drug regulations to reflect the WOA of NADAs that appeared in the **Federal Register** of February 27, 2014 (79 FR 10976). That document listed an NADA for which a WOA was not intended and failed to remove all

conditions of use associated with the withdrawn NADAs. This correction is being made to improve the accuracy of the animal drug regulations.

In the preamble in rule FR Doc. 2014–02617 published on February 27, 2014 (79 FR 10976), make the following corrections:

On page 10976, in the second column, in the 4th line of the ''SUMMARY'' section, remove ''69'' and replace with ''68''.

On page 10977, appearing near the end of the page, ''Huvepharma AD, 5th Floor, 3A Nikolay Haitov Str., 1113 Sofia, Bulgaria, has requested that FDA withdraw approval of the following 16 NADAs and 8 ANADAs'', is corrected to read ''Huvepharma AD, 5th Floor, 3A Nikolay Haitov Str., 1113 Sofia, Bulgaria, has requested that FDA withdraw approval of the following 15 NADAs and 8 ANADAs''; and on the same page in the table, the entry ''013–461 3–NITRO (roxarsone)/AMPROL Plus (amprolium and ethopabate).'' is removed. This rule does not meet the definition of ''rule'' in 5 U.S.C. 804(3)(A) because it is a rule of ''particular applicability.'' Therefore, it is not subject to the congressional review requirements in 5 U.S.C. 801–808.

List of Subjects in 21 CFR Part 558

Animal drugs, Animal feeds.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs and redelegated to the Center for Veterinary Medicine, 21 CFR part 558 is corrected by making the following correcting amendments.

PART 558—NEW ANIMAL DRUGS FOR USE IN ANIMAL FEEDS

■ 1. The authority citation for 21 CFR part 558 continues to read as follows:

Authority: 21 U.S.C. 360b, 371.

§ 558.195 [Amended]

■ 2. In § 558.195, remove paragraph (e)(1)(vii).

§ 558.355 [Amended]

■ 3. In § 558.355, remove and reserve paragraph (b)(3).

■ 4. In § 558.635, revise paragraphs (d)(4)(v), (d)(4)(vi), and (d)(4)(vii) to read as follows:

§ 558.635 Virginiamycin.

* * * * *

(d) * * *

(4) * * *

(v) Monensin as in § 558.355.

(vi) Salinomycin as in § 558.550.

(vii) Semduramicin as in § 558.555.

Dated: March 25, 2014.

Bernadette Dunham,

Director, Center for Veterinary Medicine.

[FR Doc. 2014–06994 Filed 3–28–14; 8:45 am]

BILLING CODE 4160–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 31

[TD 9662]

RIN 1545–BJ31

Designation of Payor To Perform Acts Required of an Employer

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Final regulations.

SUMMARY: This document contains final regulations under section 3504 of the Internal Revenue Code (Code) providing circumstances under which a person (payor) is designated to perform the acts required of an employer and is liable for employment taxes with respect to wages or compensation paid by the payor to individuals performing services for the payor's client pursuant to a service agreement between the payor and the client.

DATES: *Effective date:* These final regulations are effective on March 31, 2014.

Applicability date: For dates of applicability, see § 31.3504–2(f) of these regulations.

FOR FURTHER INFORMATION CONTACT: Jeanne Royal Singley at (202) 317–6798 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Background

This document contains amendments to 26 CFR part 31 under section 3504 of the Code. On January 29, 2013, Treasury and the IRS published a notice of proposed rulemaking (REG–102966–10, 78 FR 6056) (the proposed regulations) in the **Federal Register** under section 3504 of the Code. Treasury and the IRS received written and electronic comments responding to the proposed regulations. All comments were considered and are available for public inspection at *http://www.regulations.gov* or upon request. After consideration of all the public comments, the proposed regulations are adopted as amended by this Treasury decision. The public comments and revisions are discussed in this preamble.

Explanation of Provisions

Under section 3504, if a payor pays wages or compensation to employees who are employed by one or more employers, the Secretary is authorized, in accordance with regulations prescribed by the Secretary, to designate such payor to perform acts required of employers under the Code. Section 3504 further provides that, except as otherwise prescribed by the Secretary, all provisions of law (including penalties) applicable with respect to an employer are applicable to the payor so designated, but the employer for whom the payor acts remains subject to the provisions of law (including penalties) applicable with respect to employers. Accordingly, both an employer and the payor designated in accordance with regulations under section 3504 are liable for the employment taxes on wages or compensation paid by the payor.

The IRS has established administrative procedures under which a payor may request authorization on Form 2678, *Employer/Payer Appointment of Agent,* to file employment tax returns and perform other acts for the employer. The proposed regulations provide rules regarding the employment tax obligations under certain three-party arrangements in which a payor enters into an agreement with the employer (client) to perform the employment tax obligations of the client with regard to wages or compensation paid by the payor to individuals performing services for the client, but the payor does not use the established IRS administrative procedures to request authorization to file employment tax returns and performs other acts for the client.

Under the proposed regulations, a payor is designated under section 3504 to perform the acts of an employer in any case in which the payor enters into a service agreement with a client. For this purpose, the term *service agreement* means a written or oral agreement pursuant to which the payor (1) asserts it is the employer (or ''co-employer'') of individuals performing services for the client, (2) pays wages or compensation to the individuals for services the individuals perform for the client, and (3) assumes responsibility to collect, report, and pay, or assumes liability for, any employment taxes with respect to the wages or compensation paid by the payor to the individuals who perform services for the client.

The proposed regulations also provide exceptions to when a payor is designated under section 3504 to perform the acts of an employer even if the payor has entered into an agreement

that includes all of the components of a service agreement. The proposed regulations also include numerous examples to illustrate the rules regarding designation.

Summary of Comments and Explanation of Revisions

The IRS received comments in response to the proposed regulations. The majority of the comments expressed support for the regulations and had no suggested changes. Other comments were outside the scope of section 3504 and these regulations.

One commenter suggested deleting the term ''agent'' when describing the third party payor that is designated to perform the acts of an employer. The commenter indicated that many three-party arrangements are not structured as common law agency relationships and that designating the payor as an agent for purposes of these regulations may raise implications for other unrelated issues. While the proposed regulations state that the designation of a payor under the proposed regulations has no impact in determining the payor's status for other purposes of the Code, Treasury and the IRS agree that describing the payor designated to perform the acts of an employer as an ''agent'' may be unnecessary, given that section 3504 grants the Secretary authority to designate a ''fiduciary, agent, or other person'' to perform such acts. Accordingly, the final regulations adopt this change.

Another commenter asked for clarification of the application of section 3504 to payors of group disability income benefits under an administrative service contract (commonly referred to as an administrative service only agreement or an ''ASO agreement'') with an employer. The comment was in response to a specific request in the notice of proposed rule-making asking whether the proposed definition of service agreement inappropriately designates or fails to designate a payor to perform acts of an employer. The commenter explained that under an ASO agreement, an insurer that administers employee disability claims may agree to withhold employment taxes on the taxable disability payments and report and pay the employment taxes to the IRS under the insurer's employer identification number. The commenter stated that in recent years, some insurance companies have required that the employer designate the insurer as an agent on Form 2678 when entering into new ASO agreements. The commenter asked whether performing services under an ASO agreement makes the insurer an agent under section 3504 that is required to file Form 2678. The commenter also asked for an example to be included in these final regulations to clarify whether filing Form 2678 is required to perform employment tax obligations under an ASO agreement.

These regulations address the designation of a payor to perform the acts of an employer when the formal IRS administrative procedures to designate an agent (i.e., filing Form 2678) are not followed. Accordingly, it is beyond the scope of these regulations to address whether a Form 2678 must be filed in order to report and pay employment taxes in any particular situation.

However, § 32.1 of the Employment Tax Regulations provides specific rules for reporting employment taxes with respect to payments made by a third party on account of sickness or accident disability (often called ''sick pay''). While those rules are unaffected by section 3504 or these regulations, Treasury and the IRS agree a clarification of the interaction of those rules and these regulations would be helpful.

Specifically, under § 32.1, a third-party payor of sick pay may be treated as an employer or as an agent of the employer with regard to the employment tax obligations, depending on the circumstances of the arrangement. The proposed regulations contain an exception at § 31.3504–2(d)(3) that a payor is not designated to perform the acts required of an employer for any wages or compensation paid by the payor to the individual(s) performing services for a client if the payor is the employer. However, the proposed regulations are not clear whether the § 31.3504–2(d)(3) exception for payors that are employers applies if the third-party payor of the sick pay is *treated as* an employer under § 32.1. To clarify that a third-party payor of sick pay that is treated as an employer under § 32.1 will not be designated under these regulations to perform the acts of an employer with regard to the sick pay, these final regulations add an additional exception at § 31.3504–2(d)(4) for payors treated as employers under section 3121(a)(2)(A).

No changes were needed, however, to address situations where the third-party payor of the sick pay is the agent of the employer under § 32.1. Under those circumstances, these regulations do not apply because the payments are not made pursuant to a service agreement within the meaning of these regulations. The first component of a service agreement is that the payor asserts that it is the employer of the individuals performing services for its client, such as by filing employment tax returns using its own EIN that include wages paid to the individuals performing services for the client. A third-party payor of sick pay that is treated as an agent of the employer under § 32.1 does not file employment tax returns under its own EIN to report and pay the taxes on the sick pay or otherwise assert that it is the employer. Thus, the arrangement under which the payor pays the sick pay as an agent would not be a service agreement and these regulations would not apply to designate the payor to perform the acts of the employer.

Finally, although no comments were received with regard to the exception at § 31.3504–2(d)(3) for employers, these final regulations revise that provision to clarify that the exception includes a section 3401(d)(1) employer, also commonly referred to as a statutory employer, as discussed in the preamble to the proposed regulations. Section 3401(d)(1) provides that for purposes of federal income tax withholding, the term employer means the person for whom an individual performs or performed any service, of whatever nature, as an employee of such person, except that, if the person for whom the individual performs or performed the services does not have control of the payment of wages for such services, the term employer means the person having control of the payment of such wages. For purposes of section 3401(d)(1), the term control means legal control. See § 31.3401(d)–1(f). Thus, when one person is the common law employer of an individual because it controls the day-to-day performance of services by the individual, another person may be the employer liable to collect, report, and pay employment taxes because it is the entity solely in control of the payment of wages to the individual. See *Winstead v. United States,* 109 F.3d 989 (4th Cir. 1997). An example is added to these regulations at § 31.3504–2(e)(8) to demonstrate the application of the exception to a section 3401(d)(1) employer.

Special Analyses

It has been determined that this final rule 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 also has been determined that section 553(b) of the Administrative Procedure Act (5 U.S.C. chapter 5) does not apply to this regulation, and because the regulation does not impose a collection of information on small entities, the Regulatory Flexibility Act (5 U.S.C. chapter 6) does not apply. Pursuant to

section 7805(f) of the Internal Revenue Code, this regulation has been submitted to the Chief Counsel for Advocacy of the Small Business Administration for comment on its impact on small business, and no comments were received.

Drafting Information

The principal author of these regulations is Jeanne Royal Singley, Office of Division Counsel/Associate Chief Counsel (Tax Exempt and Government Entities). However, personnel from other offices of the IRS and Treasury participated in their development.

List of Subjects in 26 CFR Part 31

Employment taxes, Income taxes, Penalties, Pensions, Railroad retirement, Reporting and recordkeeping requirements, Social security, Unemployment compensation.

Adoption of Amendments to the Regulations

Accordingly, 26 CFR part 31 is amended as follows:

PART 31—EMPLOYMENT TAXES AND COLLECTION OF INCOME TAX AT SOURCE

■ **Paragraph 1.** The authority citation for part 31 continues to read in part as follows:

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

■ **Par. 2.** Section 31.3504–2 is added to read as follows:

§ 31.3504–2 Designation of payor to perform acts of an employer.

(a) *In general.* A person (as defined in section 7701(a)(1)) that pays wages or compensation (''payor'') to the individual(s) performing services for any client pursuant to a service agreement, except as provided in paragraph (d) of this section, is designated to perform the acts required of an employer with respect to the wages or compensation paid. For purposes of this section the term *wages* has the same meaning as the term wages has for purposes of chapters 21, 23, and 24, and the term *compensation* has the same meaning as the term compensation has for purposes of chapter 22. This section is not applicable if the payor has been authorized as an agent of the employer under § 31.3504–1.

(b) *Definitions*—(1) *Client.* The term *client* means an individual or entity that enters into a service agreement with the payor.

(2) *Service agreement.* (i) The term *service agreement* means an agreement pursuant to which the payor—

(A) Asserts it is the employer (or ''co-employer'') of the individual(s) performing services for the client;

(B) Pays wages or compensation to the individual(s) for services the individual(s) perform for the client; and

(C) Assumes responsibility to collect, report, and pay, or assumes liability for, any taxes applicable under subtitle C of the Code with respect to the wages or compensation paid by the payor to the individual(s) performing services for the client.

(ii) For purposes of paragraph (b)(2)(i)(A) of this section, the payor may implicitly or explicitly assert it is the employer (or ''co-employer'') of the individual(s) performing services for the client, including by agreeing to—

(A) Recruit and hire employees for the client or assign employees as permanent or temporary members of the client's work force, or participate with the client in these actions;

(B) Hire the client's employees as its own and then provide them back to the client to perform services for the client; or

(C) File employment tax returns using its own employer identification number that include wages or compensation paid to the individual(s) performing services for the client.

(c) *Effects of designation.* If a payor is designated to perform the acts required of an employer under this section then the following rules apply—

(1) A payor must perform the acts required of an employer under each applicable chapter of the Code and the relevant regulations with respect to the wages or compensation paid by such payor. All provisions of law (including penalties) and the regulations applicable to the employer are applicable to the payor so designated with respect to the wages or compensation paid by the payor; and

(2) Each employer for whom the payor is designated remains subject to all provisions of law (including penalties) and of the regulations applicable to an employer.

(d) *Exceptions.* A payor is not designated to perform the acts required of an employer under this section for any wages or compensation paid by the payor to the individual(s) performing services for a client if—

(1) The wages or compensation are reported on a return filed under the client's employer identification number (as defined in section 6109 and the applicable regulations);

(2) The payor is a common paymaster under sections 3121(s) or 3231(i);

(3) The payor is the employer of the individual(s) (including an employer within the meaning of section 3401(d)(1)); or

(4) The payor is treated as an employer under section 3121(a)(2)(A).

(e) *Examples.* The following examples illustrate the application of this section:

(1) *Example 1.* Corporation P enters into an agreement with Employer, effective January 1, 2015. Under the agreement, Corporation P hires the Employer's employees as its own employees and provides them back to Employer to perform services for Employer. Corporation P also assumes responsibility to make payment of the individuals' wages and for the collection, reporting, and payment of applicable taxes. For all pay periods in 2015, Employer provides Corporation P with an amount equal to the gross payroll (that is, wage and tax amounts) of the individuals, and Corporation P pays wages (less the applicable withholding) to the individuals performing services for Employer. Corporation P also reports the wage and tax amounts on Form 941, *Employer's QUARTERLY Federal Tax Return,* filed for each quarter of 2015 under Corporation P's employer identification number. Corporation P is not a common paymaster, the employer of the individuals (including an employer within the meaning of section 3401(d)(1)), or treated as the employer of the individual under section 3121(a)(2)(A). Corporation P is designated to perform the acts of an employer with respect to all of the wages Corporation P paid to the individuals performing services for Employer for all quarters of 2015. Employer and Corporation P are each subject to all provisions of law (including penalties) applicable in respect of employers for all quarters of 2015 with respect to such wages.

(2) *Example 2.* Same facts as *Example 1,* except that Corporation P only reports the wage and tax amounts on Form 941, *Employer's QUARTERLY Federal Tax Return,* filed for the 1st and 2nd quarters of 2015. Neither Corporation P nor Employer files returns for the 3rd and 4th quarters of 2015. Corporation P is designated to perform the acts of an employer with respect to all of the wages Corporation P paid to the individuals performing services for Employer for all quarters of 2015. Employer and Corporation P are each subject to all provisions of law (including penalties) applicable in respect of employers for all quarters of 2015 with respect to such wages.

(3) *Example 3.* Same facts as *Example 1,* except that neither Corporation P nor Employer reports the wage and tax amounts on Form 941, *Employer's QUARTERLY Federal Tax Return,* for any quarter of 2015. Corporation P is designated to perform the acts of an employer with respect to all of the wages Corporation P paid to the individuals performing services for Employer for all quarters of 2015. Employer and Corporation P are each subject to all provisions of law (including penalties) applicable in respect of employers for all quarters of 2015 with respect to such wages.

(4) *Example 4.* Same facts as *Example 1,* except that Employer provides only net payroll (that is, wages less tax amounts) to Corporation P for each pay period. Corporation P is designated to perform the

acts of an employer with respect to all of the wages Corporation P paid to the individuals performing services for Employer for all quarters of 2015. Employer and Corporation P are each subject to all provisions of law (including penalties) applicable in respect of employers for all quarters of 2015 with respect to such wages.

(5) *Example 5.* Same facts as *Example 1,* except that after Corporation P reports the wage and tax amounts on Form 941, *Employer's QUARTERLY Federal Tax Return,* filed for each quarter of 2015 under Corporation P's employer identification number, Corporation P files a claim for refund of the employment taxes it paid for each quarter of 2015 that are related to wages Corporation P paid to the individuals performing services for Employer. The basis for Corporation P's refund claim is that Corporation P is not the employer of the individuals that performed services for Employer. Corporation P is designated to perform the acts of an employer with respect to all of the wages Corporation P paid to the individuals performing services for Employer for all quarters of 2015. Accordingly, Corporation P is not entitled to a refund. Employer and Corporation P are each subject to all provisions of law (including penalties) applicable in respect of employers for all quarters of 2015 with respect to such wages.

(6) *Example 6.* Corporation S enters into an agreement with Employer, effective January 1, 2015. Under the agreement, Corporation S provides payroll services, including payment of wages to individuals performing services for Employer, and assumes responsibility for the collection, reporting, and payment of applicable taxes. For all pay periods in 2015, Employer provides Corporation S with an amount equal to the gross payroll (that is, wage and tax amounts) of the individuals, and Corporation S pays wages (less the applicable withholding) to the individuals performing services for Employer. Corporation S also reports the wage and tax amounts on Form 941, *Employer's QUARTERLY Federal Tax Return,* filed for each quarter of 2015 under Employer's employer identification number. Corporation S is not designated to perform the acts of an employer with respect to all of the wages Corporation S paid to the individuals performing services for Employer for all quarters of 2015. Corporation S did not assert it was the employer and filed Forms 941 using Employer's employer identification number. Accordingly, Corporation S is not liable for the applicable employment taxes under this section. Employer remains subject to all provisions of law (including penalties) applicable in respect of employers for all quarters of 2015 with respect to such wages.

(7) *Example 7.* Corporation T enters into a consulting agreement with Manufacturer effective January 1, 2015, to provide consulting services to Manufacturer. Corporation T is responsible to pay wages to the individuals providing the consulting services to Manufacturer and to collect, report, and pay the applicable taxes. Corporation T has the right to direct and control the individuals as to when and how to perform the consulting services and, thus, is the common law employer of the individuals providing the consulting services. Corporation T is not designated to perform the acts of an employer with respect to all of the wages Corporation T pays to individuals providing consulting services to Manufacturer. However, as the common law employer of the individuals, Corporation T is subject to all provisions of law (including penalties) applicable in respect of employers with respect to such wages.

(8) *Example 8.* On January 1, 2015, Corporation U enters into an agreement with Employer for Employer to farm Corporation U's property. Under the agreement, Corporation U and Employer agree to split the proceeds of the sale of the products grown on the property. Employer hires workers to assist it with the farming. Employer has the right to direct and control the workers as to when and how to perform the services and, thus, is the common law employer of the workers. However, Employer is unable to pay the workers until after the products are sold. Therefore, Corporation U pays wages to the workers and deducts this amount from Employer's share of the profits. Corporation U controls the payment of wages within the meaning of section 3401(d)(1). Corporation U is not designated to perform the acts of an employer with respect to all of the wages Corporation U paid to workers providing services for Employer. However, as the section 3401(d)(1) employer of the workers performing services for Employer, Corporation U is subject to all provisions of law (including penalties) applicable in respect of employers with respect to such wages.

(9) *Example 9.* Corporation V and Employer execute and submit a Form 2678, *Employer/Payer Appointment of Agent,* to the Service, requesting approval to authorize Corporation U to report, deposit, and pay taxes with respect to wages it pays, as agent of Employer for purposes of Form 941, *Employer's QUARTERLY Federal Tax Return.* The Form 2678 is approved by the Service and effective for all quarters of 2015. Accordingly, Corporation V reports the wages it pays to individuals performing services for Employer and related tax amounts on Form 941 and Schedule R (Form 941), *Allocation Schedule for Aggregate Form 941 Filers,* filed for each quarter of 2015 under Corporation V's employer identification number. Corporation V is not designated under this section to perform the acts of an employer with respect to all of the wages Corporation V paid to the individuals performing services for Employer for all quarters of 2015. However, as an agent authorized under § 31.3504–1(a), Corporation V is subject to all provisions of law (including penalties) applicable in respect of employers for all quarters of 2015 with respect to such wages. Employer also remains subject to all provisions of law (including penalties) applicable in respect of employers for all quarters of 2015 with respect to such wages.

(f) *Effective/applicability date.* These final regulations are effective for wages or compensation paid by a payor in quarters beginning on or after March 31, 2014.

John Dalrymple,

Deputy Commissioner for Services and Enforcement.

Approved: March 20, 2014.

Mark J. Mazur,

Assistant Secretary of the Treasury (Tax Policy).

[FR Doc. 2014–07152 Filed 3–28–14; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 950

[SATS No: WY–044–FOR; Docket ID: OSM–2013–0001; S1D1SSS08011000 SX066A00067F144S180110; S2D2SSS08011000SX066A00033 F14XS501520]

Wyoming Regulatory Program

AGENCY: Office of Surface Mining Reclamation and Enforcement, Interior.

ACTION: Final rule; approval of amendment with certain exceptions.

SUMMARY: We are issuing a final decision on an amendment to the Wyoming regulatory program (the ''Wyoming program'') under the Surface Mining Control and Reclamation Act of 1977 (''SMCRA'' or ''the Act''). Our decision approves in part and disapproves in part the amendment. Wyoming proposes revisions to rules concerning valid existing rights and individual civil penalties. Wyoming revised its program to be consistent with the corresponding Federal regulations and SMCRA, clarify ambiguities, and improve operational efficiency.

DATES: *Effective Date:* March 31, 2014.

FOR FURTHER INFORMATION CONTACT: Jeffrey Fleischman, Chief, Denver Field Division, Telephone: 307–261–6550, Internet address: *jfleischman@OSMRE.gov.*

SUPPLEMENTARY INFORMATION:

I. Background on the Wyoming Program
II. Submission of the Proposed Amendment
III. Office of Surface Mining Reclamation and Enforcement's (OSM's) Findings
IV. Summary and Disposition of Comments
V. OSM's Decision
VI. Procedural Determinations

I. Background on the Wyoming Program

Section 503(a) of the Act permits a State to assume primacy for the regulation of surface coal mining and reclamation operations on non-Federal

and non-Indian lands within its borders by demonstrating that its State program includes, among other things, ''a State law which provides for the regulation of surface coal mining and reclamation operations in accordance with the requirements of this Act . . .; and rules and regulations consistent with regulations issued by the Secretary pursuant to this Act.'' See 30 U.S.C. 1253(a)(1) and (7). On the basis of these criteria, the Secretary of the Interior conditionally approved the Wyoming program on November 26, 1980. You can find background information on the Wyoming program, including the Secretary's findings, the disposition of comments, and the conditions of approval of the Wyoming program in the November 26, 1980, **Federal Register** (45 FR 78637). You can also find later actions concerning Wyoming's program and program amendments at 30 CFR 950.12, 950.15, 950.16, and 950.20.

II. Submission of the Proposed Amendment

By letter dated January 4, 2013, Wyoming sent us a proposed amendment to its approved regulatory program (Administrative Record Docket ID No. OSM–2013–0001) under SMCRA (30 U.S.C. 1201 *et seq.*). Wyoming submitted the amendment in response to a concern letter OSM sent relating to valid existing rights (VER) and a **Federal Register** notice (78 FR 10512) that disapproved several VER rule changes that were required by an April 2, 2001, letter we sent in accordance with 30 CFR 732.17(c) (''732 letter''). That letter required Wyoming to submit amendments to ensure its program remains consistent with the Federal program. This amendment package is intended to address all remaining required rule changes pertaining to VER. Wyoming also proposes changes to its rules for individual civil penalties that were disapproved in the **Federal Register** notice.

We announced receipt of the proposed amendment in the March 14, 2013, **Federal Register** (78 FR 16204). In the same document, we opened the public comment period and provided an opportunity for a public hearing or meeting on the amendment's adequacy (Administrative Record Document ID No. OSM–2013–0001–0001). We did not hold a public hearing or meeting because no one requested one. The public comment period ended on April 15, 2013. We received comments from two Federal agencies (discussed under ''IV. Summary and Disposition of Comments'').

During our review of the amendment, we identified concerns regarding Wyoming's proposed rule changes in response to a November 7, 1988, 732 letter and the **Federal Register** notice (78 FR 10512, 10518) concerning its newly-proposed rules at Chapter 16, Section 4(c)(i)(A) imposing criteria that shall be considered when determining the amount of an individual civil penalty to be assessed, and its proposed revisions at Chapter 12, Section 1(a)(vii)(F) regarding availability of records in response to the April 2, 2001, 732 letter. We notified Wyoming of these concerns by letter dated June 24, 2013 (Administrative Record Document ID No. OSM–2013–0001–0010).

We delayed final rulemaking to afford Wyoming the opportunity to submit new material to address the deficiencies. Wyoming responded in a letter dated August 5, 2013, that it could not currently submit additional formal revisions to the amendment due to the administrative rulemaking requirements for promulgation of revised substantive rules (Administrative Record Document ID No. OSM–2013–0001–0011). Specifically, Wyoming explained that the required changes would be considered substantive in nature and therefore the Land Quality Division (LQD) is required to present the proposed rules to the LQD Advisory Board and then the Wyoming Environmental Quality Council for vetting. Following approval by the Governor, the rules may be submitted to OSM for final review. While it could not submit formal changes, Wyoming did submit informal responses to the noted concerns. Therefore, we are proceeding with the final rule **Federal Register** document. Our concerns and Wyoming's responses thereto are explained in detail below.

III. OSM's Findings

30 CFR 732.17(h)(10) requires that State program amendments meet the criteria for approval of State programs set forth in 30 CFR 732.15, including that the State's laws and regulations are in accordance with the provisions of the Act and consistent with the requirements of 30 CFR Part 700. In 30 CFR 730.5, OSM defines ''consistent with'' and ''in accordance with'' to mean (a) with regard to SMCRA, the State laws and regulations are no less stringent than, meet the minimum requirements of, and include all applicable provisions of the Act and (b) with regard to the Federal regulations, the State laws and regulations are no less effective than the Federal regulations in meeting the requirements of SMCRA.

Following are the findings we made concerning the amendment under SMCRA and the Federal regulations at 30 CFR 732.15 and 732.17. We are approving the amendment with certain exceptions as described below.

A. Revisions to Wyoming's Rules That Have the Same Meaning as the Corresponding Provisions of the Federal Regulations

1. Wyoming proposes additions and revisions to the following rules containing language that are the same as or similar to the corresponding sections of the Federal regulations and/or SMCRA. Therefore we are approving them.

Chapter 12, Section 1(a)(v)(D); VER Permitting Procedures; public road waivers [30 CFR 761.14 (b) and (c)];

Chapter 12, Section 1(a)(vii)(A)(I); VER Submission Requirements and Procedures; requests for VER determinations and property rights demonstrations [30 CFR 761.16(b)(1)];

Chapter 12, Section 1(a)(vii)(A)(IV); VER Submission Requirements and Procedures; requests for VER determinations and standards for mine roads; [30 CFR 761.16(b)(4)];

Chapter 12, Section 1(a)(vii)(B)(I); VER Submission Requirements and Procedures; initial review of VER request; [30 CFR 761.16(c)(1)];

Chapter 12, Section 1(a)(vii)(B)(IV); VER Submission Requirements and Procedures; initial review of VER request; [30 CFR 761.16(c)(4)];

Chapter 12, Section 1(a)(vii)(C)(I)(3.)(a)–(d); VER Submission Requirements and Procedures; VER notice and comment requirements; [30 CFR 761.16(d)(1)(iii)(A)–(C) and (iv)];

Chapter 12, Section 1(a)(vii)(C)(II)(2.); VER Submission Requirements and Procedures; VER notice and comment requirements; [30 CFR 761.16(d)(2)(ii)];

Chapter 12, Section 1(a)(vii)(C)(III); VER Submission Requirements and Procedures; VER notice and comment requirements; [30 CFR 761.16(d)(3)];

Chapter 12, Section 1(a)(vii)(D)(I); VER Submission Requirements and Procedures; how a VER decision will be made; [30 CFR 761.16(e)(1)];

Chapter 12, Section 1(a)(vii)(D)(III)(1.) and (2.); VER Submission Requirements and Procedures; how a VER decision will be made; [30 CFR 761.16(e)(3)(i) and (ii)];

Chapter 12, Section 1(a)(vii)(G)(III)(2.); VER Submission Requirements and Procedures; procedures for joint approval of surface coal mining operations that will adversely affect publicly owned parks or historic places; [30 CFR 761.17(d)(3)(ii)];

Chapter 16, Section 4(a)(iii); Individual Civil Penalties; definition of ''Willfully;'' [30 CFR 701.5]; and

Chapter 16, Section 4(b)(i); Individual Civil Penalties; when an individual civil penalty may be assessed; [30 CFR 846.12(a)].

2. Chapter 1, Section 2(fl)(ii)(B)(IV); Definition of ''Needed for and adjacent standard.''

In a previous rulemaking action (WY–040–FOR), Wyoming proposed a new ''Needed for and adjacent standard'' definition at Chapter 1, Section 2(fl)(ii)(B) in response to Item B–5 of OSM's April 2, 2001, 732 letter. Subsection (IV) of the definition included a requirement that, when evaluating if a person meets that standard, the agency making the decision may consider ''Whether the land lies within the area identified on the life-of-mine map submitted before the land came under the protection of 30 CFR 761.11 (2009).'' OSM subsequently disapproved proposed subsection (IV) in a February 14, 2013, **Federal Register** notice (78 FR 10512, 10514) because the Federal counterpart provision at 30 CFR 761.5(b)(2)(iv) includes specific citation cross-references requiring the submission of a life-of-mine map as part of a permit application. As a result, we required Wyoming to revise the proposed rule language to specify the applicable counterpart permit application reference for requiring the submission of life-of-mine maps.

In response to the February 14, 2013, disapproval, Wyoming now proposes to revise its rule at Chapter 1, Section 2(fl)(ii)(B)(IV) to include specific citation cross-references requiring the submission of a life-of-mine map as part of a permit application. Wyoming's proposed rule change makes its rule consistent with and no less effective than the Federal counterpart provision at 30 CFR 761.5(b)(2)(iv) and satisfies Item B–5 of the April 2, 2001, 732 letter. Accordingly, we approve it.

3. Chapter 1, Section 2(fl)(iii); VER standards for roads.

In a previous rulemaking action (WY–040–FOR), Wyoming proposed a new rule at Chapter 1, Section 2(fl)(iii) to apply the VER standard to all roads in response to Item B–5 of OSM's April 2, 2001, 732 letter. However, the proposed rule language referred to roads included within a ''surface mining operation.'' OSM subsequently disapproved proposed subsection (iii) in a February 14, 2013, **Federal Register** notice (78 FR 10512, 10515) because the Federal counterpart provision at 30 CFR 761.5(c), as well as the remainder of Wyoming's rules refer to ''surface *coal* mining operations.'' As a result, we required Wyoming to revise its proposed rule language at Chapter 1, Section 2(fl)(iii)) to include the term ''coal.''

In response to the February 14, 2013, disapproval, Wyoming now proposes to revise its rule at Chapter 1, Section 2(fl)(iii) to apply the VER standard to roads included within a ''surface coal mining operation.'' It should also be noted that Wyoming's statutory definition of ''surface coal mining operation'' at W.S. § 35–11–103(e)(xx) was approved by OSM on March 31, 1980, and is substantively identical to the Federal definitions found at Section 701(28) of SMCRA and 30 CFR 700.5, respectively. Wyoming's proposed language makes its rule consistent with and no less effective than the Federal counterpart provision at 30 CFR 761.5(c) and satisfies Item B–5 of the April 2, 2001, 732 letter. Accordingly, we approve the proposed rule change.

4. Chapter 12, Section 1(a)(vii)(E); Administrative and judicial review.

In a previous rulemaking action (WY–040–FOR), Wyoming proposed to add requirements to its rules at Chapter 12, Section 1(a)(vii)(E) providing for administrative and judicial review of VER determinations in response to Item G–1 of OSM's April 2, 2001, 732 letter. OSM subsequently disapproved proposed subsection (E) in a February 14, 2013, **Federal Register** notice (78 FR 10512, 10517) because Wyoming did not provide a counterpart reference to the Federal requirements in 30 CFR 761.16(f) regarding the procedures pertaining to administrative and judicial review. As a result, we required Wyoming to revise its proposed rule language at Chapter 12, Section 1(a)(vii)(E) by adding a reference to the Wyoming Administrative Procedure Act.

In response to the February 14, 2013, disapproval, Wyoming now proposes to revise its rules at Chapter 12, Section 1(a)(vii)(E) by including a reference to its statutes at W.S. § 16–3–101 through 16–3–115 of the Wyoming Administrative Procedure Act concerning administrative (contested case) and judicial review. Wyoming's reference to its statutes pertaining to administrative and judicial review in place of the corresponding Federal requirements does not render proposed subsection (E) less effective than the Federal regulations at 30 CFR 761.16(f). For these reasons, Wyoming's proposed rule change satisfies Item G–1 of the April 2, 2001, 732 letter and we approve it.

B. Revisions to Wyoming's Rules That Are Not the Same as the Corresponding Provisions of the Federal Regulations

1. Chapter 1, Section 2(fl); Definition of ''Valid Existing Rights.''

Item B–1 of OSM's April 2, 2001, 732 letter required Wyoming to revise its definition of VER at Chapter 1, Section 2(fl) by adding an explanation of the operation of VER. In response, Wyoming proposed to revise its rules at Chapter 1, Section 2(fl) in a previous rulemaking action (WY–040–FOR) by adding a basic conceptual definition of VER and noting that operations on prohibited or limited areas under VER are still subject to the remainder of SMCRA regulations. OSM subsequently disapproved the revised VER definition at Chapter 1, Section 2(fl) in a February 14, 2013, **Federal Register** notice (78 FR 10512, 10517) because Wyoming did not include Federal counterpart language stating that ''Possession of valid existing rights only confers an exception from the prohibitions of § 761.11 and 30 U.S.C. 1272(e).'' Consequently, we required Wyoming to add the ''exception'' language to its proposed definition of VER.

In response to the February 14, 2013, disapproval, Wyoming proposed to revise its rules at Chapter 1, Section 2(fl) by specifying that ''Possession of valid existing rights only confers an exception from the prohibitions of 30 CFR 761.11 and Section 522(e) of P.L. 98–87.''

Unfortunately, the proposed language referencing SMCRA contains an incorrect citation wherein ''P.L. 98–87'' is referenced rather than ''P.L. 95–87.'' For this reason, we are not approving Wyoming's proposed rule revision.

2. Chapter 12, Section 1(a)(vii)(F); Availability of records.

Item G–4 of OSM's April 2, 2001, 732 letter required Wyoming to submit counterpart provisions to 30 CFR 761.16(g) regarding availability of records requirements. In response, Wyoming proposed to revise its rules at Chapter 12, Section 1(a)(vii)(F) in a previous rulemaking action (WY–040–FOR) by requiring that the Division or agency responsible for processing a VER request shall make a copy of the request and related materials available to the public. OSM subsequently disapproved proposed subsection (F) in a February 14, 2013, **Federal Register** notice (78 FR 10512, 10517) because Wyoming did not specify in the heading that the rule pertains to ''Availability of records'' and did not provide counterpart language to the Federal requirements in 30 CFR 761.16(g) explaining that, in addition to the VER request and related materials, records associated with any subsequent

VER determination shall also be made available to the public. As a result, we required Wyoming to revise its proposed rule language at Chapter 12, Section 1(a)(vii)(F) by making the aforementioned changes.

In response to the February 14, 2013, disapproval, Wyoming proposed to revise its rules at Chapter 12, Section 1(a)(vii)(F) by specifying that the rule pertains to ''Availability of records.'' In addition, Wyoming proposed language explaining that, in addition to the VER request and related materials, records associated with any subsequent VER determination under subsection (D) of its rules shall be made available to the public in accordance with the requirements and procedures of W.S. § 35–11–1101.

OSM replied in a letter dated June 24, 2013, that 30 CFR 761.16(g) requires the agency responsible for processing VER determination requests to make a copy of the request available to the public in the same manner as it makes permit applications available under 30 CFR 773.6(d). The responsible agency must also make records associated with the VER request and any subsequent determination available to the public in accordance with the requirements and procedures of 30 CFR 840.14.

Wyoming's proposed rule language requires the Division to make a copy of a VER request and related materials available to the public in the same manner as public availability of permit applications under its rules and regulations. Wyoming's regulatory counterpart to 30 CFR 773.6(d)(1) regarding public availability of permit applications is found at Chapter 12, Section 1(b) and requires, in pertinent part, that all procedural requirements of the Act and the regulations relating to review, public participation, and approval or disapproval of permit applications, and permit term and conditions shall, unless otherwise provided, apply to permit revisions, amendments, renewals and permit transfer, assignment or sale of permit rights.

Wyoming's statutory provisions regarding availability of records to the public and confidentiality are found at W.S. § 35–11–1101(a) and (b) of the Wyoming Environmental Quality Act. Subsection (a) holds that any records, reports or information obtained under the Wyoming Environmental Quality Act or the rules, regulations and standards promulgated thereunder are available to the public, unless a satisfactory showing is made to the director by any person that his records, reports or information or particular parts thereof would divulge trade secrets if made public. If such a showing is satisfactory, the director and administrators shall consider the records, reports or information or particular portions thereof confidential in the administration of the Act. Subsection (b) states that nothing shall be construed to prevent disclosure of any records, reports or information to Federal, state or local agencies necessary for the purposes of administration of any Federal, state or local air, water or land control measures or regulations or when relevant to any proceedings under the act.

While W.S. § 35–11–1101 meets some of the requirements of 30 CFR 840.14, it fails to satisfy all of them. In particular, 30 CFR 840.14(b) specifies that the regulatory authority shall make copies of all records immediately available to the public in the area of mining until at least five years after the expiration of the period during which the operation is active or is covered by any portion of a reclamation bond. Since W.S. § 35–11–1101 fails to include a similar provision, we found that Wyoming's reference to the statute does not satisfy the requirements of 30 CFR 840.14 as referenced in 30 CFR 761.16(g) and newly-proposed subsection (F) remains less effective than the Federal regulations.

Wyoming responded in a letter dated August 5, 2013, by stating its belief that the current record retention requirements and public records acts for the State may already satisfy the public availability requirements of 30 CFR 840.14(b). As a result, Wyoming stated that the LQD will examine other statutory requirements and records retention requirements for the agency, and will provide the results of that examination to OSM in order to discuss whether the requested revision is still necessary in light of the information provided. Wyoming concluded by noting that if it is determined that the rules are still deficient the LQD will draft rules to address OSM's concern.

For the reasons discussed above, we are not approving Wyoming's newly-proposed rule at Chapter 12, Section 1(a)(vii)(F) concerning requirements for making VER requests and related materials available to the public. We also acknowledge Wyoming's desire to examine other statutory and records retention requirements to determine compliance with 30 CFR 840.14(b), and its commitment to revise its rules and address OSM's concerns in a future rulemaking effort if required as a result of that examination.

3. Chapter 16, Section 4(c)(i); Amount of Civil Penalty.

In a November 7, 1988, 732 letter, OSM notified Wyoming that its rules concerning individual civil penalties were deficient. In a previous rulemaking action (WY–040–FOR), Wyoming proposed new rules at Chapter 16, Section 4(c)(i) imposing criteria that shall be considered when determining the amount of the individual civil penalty to be assessed. Proposed subsection (A) requires the Director to consider the ''individual's history of authorizing, ordering or carrying out previous violations, failures or refusals at the particular surface mining operation.'' OSM subsequently disapproved proposed subsection (A) in a February 14, 2013, **Federal Register** notice (78 FR 10512, 10518) because the Federal counterpart provision at 30 CFR 846.14(a)(1), as well as the remainder of Wyoming's rules refer to ''surface *coal* mining operations.'' As a result, we required Wyoming to revise its proposed rule language at Chapter 16, Section 4(c)(i)(A) to include the term ''coal.''

Unfortunately, Wyoming did not address this disapproval in its January 4, 2013, amendment and we notified Wyoming in a letter dated June 24, 2013, that our original decision remains outstanding.

Wyoming responded in a letter dated August 5, 2013, by stating that it will revise its proposed rule language at Section 4(c)(i)(A) to read ''surface coal mining operations.''

Accordingly, we are not approving Wyoming's newly-proposed rule at Chapter 16, Section 4(c)(i)(A) imposing criteria that shall be considered when determining the amount of an individual civil penalty to be assessed. We also acknowledge Wyoming's commitment to revise the rule to address the required change discussed above in a future rulemaking effort.

IV. Summary and Disposition of Comments

Public Comments

We asked for public comments on the amendment (Administrative Record Document ID No. OSM–2013–0001–0001), but did not receive any.

Federal Agency Comments

Under 30 CFR 732.17(h) (11) (i) and section 503(b) of SMCRA, we requested comments on the amendment from various Federal agencies with an actual or potential interest in the Wyoming program (Administrative Record No. WY–49–03). We received comments from two Federal Agencies.

The United States Forest Service (USFS) commented in a February 27,

2013, email response (Administrative Record Document ID No. OSM–2013–0001–0008), and the Mine Safety and Health Administration (MSHA) commented in a March 1, 2013, letter (Administrative Record Document ID No. OSM–2013–0001–0009).

The USFS responded that its comment is reflective of its role as a Federal land managing agency in the coal permitting process. The USFS then stated its support for the clarification in the formal amendment on using variable topsoil depths to facilitate species diversity during reclamation.

MSHA responded that it reviewed the proposed changes in the formal amendment, concurs with the proposed revisions, and had no further comment.

Environmental Protection Agency (EPA) Concurrence and Comments

Under 30 CFR 732.17(h) (11) (i) and (ii), we are required to get concurrence from EPA for those provisions of the program amendment that relate to air or water quality standards issued under the authority of the Clean Water Act (33 U.S.C. 1251 *et seq.*) or the Clean Air Act (42 U.S.C. 7401 *et seq.*).

Under 30 CFR 732.17(h) (11) (i), OSM requested comments on the amendment from EPA (Administrative Record No. WY–49–03). EPA did not respond to our request.

State Historic Preservation Officer (SHPO) and the Advisory Council on Historic Preservation (ACHP)

Under 30 CFR 732.17(h) (4), we are required to request comments from the SHPO and ACHP on amendments that may have an effect on historic properties. On January 31, 2013, we requested comments on Wyoming's amendment (Administrative Record Nos. WY–49–04 and WY–49–05), but neither responded to our request.

V. OSM's Decision

Based on the above findings, we approve, with certain exceptions, Wyoming's January 4, 2013, amendment. We do not approve the following provisions or parts of provisions.

As discussed in Finding No. III.B.1, we are not approving Wyoming's revised VER definition at Chapter 1, Section 2(fl).

As discussed in Finding No. III.B.2, we are not approving Wyoming's newly-proposed rule at Chapter 12, Section 1(a)(vii)(F) concerning requirements for making VER requests and related materials available to the public.

As discussed in Finding No. III.B.3, we are not approving Wyoming's newly-proposed rule at Chapter 16, Section 4(c)(i)(A) imposing criteria that shall be considered when determining the amount of the individual civil penalty to be assessed.

To implement this decision, we are amending the Federal regulations at 30 CFR Part 950, which codify decisions concerning the Wyoming program. We find that good cause exists under 5 U.S.C. 553(d)(3) to make this final rule effective immediately.

Section 503(a) of SMCRA requires that the State's program demonstrates that the State has the capability of carrying out the provisions of the Act and meeting its purposes. Making this regulation effective immediately will expedite that process. SMCRA requires consistency of State and Federal standards.

Effect of OSM's Decision

Section 503 of SMCRA provides that a State may not exercise jurisdiction under SMCRA unless the State program is approved by the Secretary. Similarly, 30 CFR 732.17(a) requires that any change of an approved State program be submitted to OSM for review as a program amendment. The Federal regulations at 30 CFR 732.17(g) prohibit any changes to approved State programs that are not approved by OSM. In the oversight of the Wyoming program, we will recognize only the statutes, regulations and other materials we have approved, together with any consistent implementing policies, directives and other materials. We will require Wyoming to enforce only approved provisions.

VI. Procedural Determinations

Executive Order 12630—Takings

This rule does not have takings implications. This determination is based on the analysis performed for the counterpart Federal regulation.

Executive Order 12866—Regulatory Planning and Review

This rule is exempted from review by the Office of Management and Budget (OMB) under Executive Order 12866.

Executive Order 12988—Civil Justice Reform

The Department of the Interior has conducted the reviews required by section 3 of Executive Order 12988 and has determined that this rule meets the applicable standards of subsections (a) and (b) of that section. However, these standards are not applicable to the actual language of State regulatory programs and program amendments because each program is drafted and promulgated by a specific State, not by OSM. Under sections 503 and 505 of SMCRA (30 U.S.C. 1253 and 1255) and the Federal regulations at 30 CFR 730.11, 732.15, and 732.17(h)(10), decisions on proposed State regulatory programs and program amendments submitted by the States must be based solely on a determination of whether the submittal is consistent with SMCRA and its implementing Federal regulations and whether the other requirements of 30 CFR Parts 730, 731, and 732 have been met.

Executive Order 13132—Federalism

This rule does not have Federalism implications. SMCRA delineates the roles of the Federal and State governments with regard to the regulation of surface coal mining and reclamation operations. One of the purposes of SMCRA is to ''establish a nationwide program to protect society and the environment from the adverse effects of surface coal mining operations.'' Section 503(a)(1) of SMCRA requires that State laws regulating surface coal mining and reclamation operations be ''in accordance with'' the requirements of SMCRA, and section 503(a)(7) requires that State programs contain rules and regulations ''consistent with'' regulations issued by the Secretary pursuant to SMCRA.

Executive Order 13175—Consultation and Coordination With Indian Tribal Governments

In accordance with Executive Order 13175, we have evaluated the potential effects of this rule on Federally recognized Indian Tribes and have determined that the rule does not have substantial direct effects 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. The rule does not involve or affect Indian Tribes in any way.

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

On May 18, 2001, the President issued Executive Order 13211 which requires agencies to prepare a Statement of Energy Effects for a rule that is (1) considered significant under Executive Order 12866, and (2) likely to have a significant adverse effect on the supply, distribution, or use of energy. Because this rule is exempt from review under Executive Order 12866 and is not expected to have a significant adverse effect on the supply, distribution, or use of energy, a Statement of Energy Effects is not required.

National Environmental Policy Act

This rule does not require an environmental impact statement because section 702(d) of SMCRA (30 CFR U.S.C. 1292(d)) provides that agency decisions on proposed State regulatory program provisions do not constitute major Federal actions within the meaning of section 102(2)(C) of the National Environmental Policy Act (42 U.S.C. 4332(2)(C) *et seq*).

Paperwork Reduction Act

This rule does not contain information collection requirements that require approval by OMB under the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*).

Regulatory Flexibility Act

The Department of the Interior certifies that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). The State submittal, which is the subject of this rule, is based upon counterpart Federal regulations for which an economic analysis was prepared and certification made that such regulations would not have a significant economic effect upon a substantial number of small entities. In making the determination as to whether this rule would have a significant economic impact, the Department relied upon the data and assumptions for the counterpart Federal regulations.

Small Business Regulatory Enforcement Fairness Act

This rule is not a major rule under 5 U.S.C. 804(2), of the Small Business Regulatory Enforcement Fairness Act. This rule:

a. Does not have an annual effect on the economy of $100 million.

b. Will not cause a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions.

c. Does not have significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of U.S. based enterprises to compete with foreign-based enterprises.

This determination is based upon the fact that the State submittal which is the subject of this rule is based upon counterpart Federal regulations for which an analysis was prepared and a determination made that the Federal regulation was not considered a major rule.

Unfunded Mandates

This rule will not impose an unfunded mandate on State, local, or tribal governments or the private sector of $100 million or more in any given year. This determination is based upon the fact that the State submittal, which is the subject of this rule, is based upon counterpart Federal regulations for which an analysis was prepared and a determination made that the Federal regulation did not impose an unfunded mandate.

List of Subjects in 30 CFR Part 950

Intergovernmental relations, Surface mining, Underground mining.

Dated: January 29, 2014.

Allen D. Klein,

Director, Western Region.

For the reasons set out in the preamble, 30 CFR part 950 is amended as set forth below:

PART 950—WYOMING

■ 1. The authority citation for part 950 continues to read as follows:

Authority: 30 U.S.C. 1201 *et seq.*

■ 2. Section 950.15 is amended in the table by adding a new entry in chronological order by ''Date of Final Publication'' to read as follows:

§ 950.15 Approval of Wyoming regulatory program amendments.

* * * * *

Original amendment submission date	Date of final publication	Citation/description
*	*	* * * * *
January 4, 2013	March 31, 2014	Chap. 1, Sec. 2(fl) (ii) (B)(IV); Chap. 1, Sec. 2(fl)(iii); Chap. 12, Sec. 1(a)(v)(D); Chap. 12, Sec. 1(a)(vii)(A)(I); Chap. 12, Sec. 1(a)(vii)(A)(IV); Chap. 12, Sec. 1(a)(vii)(B)(I); Chap. 12, Sec. 1(a)(vii)(B)(IV); Chap. 12, Sec. 1(a)(vii)(C)(I)(3.)(a)–(d); Chap. 12, Sec. 1(a)(vii)(C)(II)(2.); Chap. 12, Sec. 1(a)(vii)(C)(III); Chap. 12, Sec. 1(a)(vii)(D)(I); Chap. 12, Sec. 1(a)(vii)(D)(III)(1.) and (2.); Chap. 12, Sec. 1(a)(vii)(E); Chap. 12, Sec. 1(a)(vii)(G)(III)(2.); Chap. 16, Sec. 4(a)(iii); Chap. 16, Sec. 4(b)(i);

[FR Doc. 2014–07106 Filed 3–28–14; 8:45 am]

BILLING CODE 4310–05–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket No. USCG–2014–0086]

Safety Zone; San Francisco Giants Fireworks, San Francisco Bay, San Francisco, CA

AGENCY: Coast Guard, DHS.

ACTION: Notice of enforcement of regulation.

SUMMARY: The Coast Guard will enforce the safety zone for the San Francisco Giants Fireworks display in the Captain of the Port, San Francisco area of responsibility during the dates and times noted below. This action is necessary to protect life and property of the maritime public from the hazards associated with the fireworks display. During the enforcement period, unauthorized persons or vessels are prohibited from entering into, transiting through, or anchoring in the safety zone, unless authorized by the Patrol Commander (PATCOM).

DATES: The regulations in 33 CFR 165.1191, Table 1, Item number 1 will be enforced from 11 a.m. to 10:30 p.m. on April 11, 2014.

FOR FURTHER INFORMATION CONTACT: If you have questions on this notice, call or email Lieutenant Junior Grade William Hawn, U.S. Coast Guard Sector San Francisco; telephone (415) 399–7442 or email at *D11-PF-MarineEvents@uscg.mil*.

SUPPLEMENTARY INFORMATION: The Coast Guard will enforce the safety zones established in 33 CFR 165.1191, Table 1, Item number 1 on April 11, 2014. From 11 a.m. until 10 p.m. on April 11, 2014 the safety zone applies to the navigable waters around and under the fireworks barge within a radius of 100 feet during the loading, transit, and arrival of the fireworks barge at the launch site and until the start of the fireworks display. From 11 a.m. until 8:30 p.m. on April 11, 2014 the fireworks barge will be

loading pyrotechnics at Pier 50 in San Francisco, CA. From 8:30 p.m. to 8:40 p.m. on April 11, 2014 the loaded fireworks barge will transit from Pier 50 to the launch site near Pier 48 in approximate position 37°46′40″ N, 122°22′58″ W (NAD83). At the conclusion of the baseball game, approximately 10 p.m. on April 11, 2014, the safety zone will increase in size and encompass the navigable waters around and under the fireworks barge within a radius of 700 feet in approximate position 37°46′40″ N, 122°22′58″ W (NAD83) for the San Francisco Giants Fireworks display in 33 CFR 165.1191, Table 1, Item number 1. Upon the conclusion of the fireworks display the safety zone shall terminate. This safety zone will be in effect from 11 a.m. to 10:30 p.m. on April 11, 2014.

Under the provisions of 33 CFR 165.1191, unauthorized persons or vessels are prohibited from entering into, transiting through, or anchoring in the safety zone during all applicable effective dates and times, unless authorized to do so by the PATCOM. Additionally, each person who receives notice of a lawful order or direction issued by an official patrol vessel shall obey the order or direction. The PATCOM is empowered to forbid entry into and control the regulated area. The PATCOM shall be designated by the Commander, Coast Guard Sector San Francisco. The PATCOM may, upon request, allow the transit of commercial vessels through regulated areas when it is safe to do so.

This notice is issued under authority of 33 CFR 165.1191 and 5 U.S.C. 552(a). In addition to this notice in the **Federal Register**, the Coast Guard will provide the maritime community with extensive advance notification of the safety zone and its enforcement period via the Local Notice to Mariners.

If the Captain of the Port determines that the regulated area need not be enforced for the full duration stated in this notice, a Broadcast Notice to Mariners may be used to grant general permission to enter the regulated area.

Dated: March 11, 2014.

Gregory G. Stump,

Captain, U.S. Coast Guard, Captain of the Port San Francisco.

[FR Doc. 2014–07082 Filed 3–28–14; 8:45 am]

BILLING CODE 9110–04–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R09–OAR–2012–0228; FRL–9907–73–Region 9]

Approval and Promulgation of State Implementation Plans; Hawaii; Infrastructure Requirements for the 1997 8-Hour Ozone and the 1997 and 2006 Fine Particulate Matter National Ambient Air Quality Standards

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule; clarification.

SUMMARY: The Environmental Protection Agency (EPA) is clarifying its final action on revisions to the Hawaii State Implementation Plan (SIP), published in the **Federal Register** on August 9, 2012.

DATES: This final rule is effective on March 31, 2014.

ADDRESSES: EPA has established a docket for this action, identified by Docket ID Number EPA–R09–OAR–2012–0228. The index to the docket for this action is available electronically at *http://www.regulations.gov* and in hard copy at EPA Region IX, 75 Hawthorne Street, San Francisco, California. While all documents in the docket are listed in the index, some information may be publicly available only at the hard copy location (e.g., copyrighted material), and some may not be publicly available in either location (e.g., CBI). To inspect the hard copy materials, please schedule an appointment during normal business hours with the contact listed directly below.

FOR FURTHER INFORMATION CONTACT: Dawn Richmond, Air Planning Office (AIR–2), U.S. Environmental Protection Agency, Region IX, (415) 972–3207, *richmond.dawn@epa.gov.*

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

I. EPA's Action

On August 9, 2012 (77 FR 47530), EPA took final action to approve in part and disapprove in part a SIP revision submitted by Hawaii Department of Health (HDOH) on December 14, 2011 to address the infrastructure requirements of CAA section 110(a)(2) for the 1997 national ambient air quality standard (NAAQS) for ozone and the 1997 and 2006 NAAQS for fine particulate matter ($PM_{2.5}$) (''2011 Hawaii Infrastructure SIP'').

In this document, we are making certain corrections to the entries in the table in paragraph (3) of 40 CFR 52.620, clarifying the contents of the applicable plan as approved on August 9, 2012, and specifying the extent to which EPA disapproved the December 14, 2011 SIP submittal. Specifically, we are:

- Correcting the title of the approved plan and the submittal date (the submittal date was December 14, 2011, not December 14, 2012);
- Clarifying that the plan, as approved on August 9, 2012, does not include the public process documentation included in the December 14, 2011 SIP submittal;
- Clarifying the specific statutory provisions approved on August 9, 2012, and the extent to which the approved existing SIP statutory provisions were thereby superseded, by listing all approved statutory provisions (including a few previously approved and not superseded) separately as nonregulatory provisions in the Hawaii SIP; and
- Specifying the extent of our disapproval for the Hawaii Infrastructure SIP for the various elements under CAA section 110(a)(2).

EPA has determined that today's action falls under the ''good cause'' exemption in section 553(b)(3)(B) of the Administrative Procedure Act (APA) which, upon finding ''good cause,'' authorizes agencies to dispense with public participation where public notice and comment procedures are impracticable, unnecessary, or contrary to the public interest. Public notice and comment for this action are unnecessary because today's clarification of EPA's August 9, 2012 final rule approving in part and disapproving in part the 2011 Hawaii Infrastructure SIP has no substantive impact on that approval and the clarification makes no substantive difference to EPA's analysis as set out in that rule. In addition, EPA can identify no particular reason why the public would be interested in being notified of this clarification since the opportunity to comment on the action to approve in part and disapprove in part the 2011 Hawaii Infrastructure SIP was previously provided and no comments were received.

EPA also finds that there is good cause under APA section 553(d)(3) for this clarification to become effective on the date of publication of this action. Section 553(d)(3) of the APA allows an effective date less than 30 days after publication ''as otherwise provided by the agency for good cause found and published with the rule.'' (5 U.S.C. 553(d)(3)). The purpose of the 30-day waiting period prescribed in APA section 553(d)(3), is to give affected parties a reasonable time to adjust their behavior and prepare before the final

rule takes effect. Today's rule, however, does not create any new regulatory requirements such that affected parties would need time to prepare before the rule takes effect. Rather, today's rule simply clarifies the contents of the applicable plan as approved on August 9, 2012, and specifies the extent to which EPA disapproved the December 14, 2011 SIP submittal. For these reasons, EPA finds good cause under APA section 553(d)(3) for this clarification to become effective on the date of publication of this action.

II. Statutory and Executive Order Reviews

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this action is not a ''significant regulatory action'' and therefore is not subject to review by the Office of Management and Budget. For this reason, this action is also not subject to Executive Order 13211, ''Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use'' (66 FR 28355, May 22, 2001). This action merely clarifies the contents of the applicable Hawaii SIP as approved on August 9, 2012, and specifies the extent to which EPA disapproved the 2011 Hawaii Infrastructure SIP in the August 9, 2012 final rule. This clarification has no substantive impact on EPA's August 9, 2012, approval and it imposes no additional requirements beyond those imposed by state law. Accordingly, the Administrator certifies that this action will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). Because this clarification does not impose any additional enforceable duty beyond that required by state law, it does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4).

This clarification also does not have tribal implications because it will not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes, as specified by Executive Order 13175 (65 FR 67249, November 9, 2000). This action also does not have Federalism implications because it does not have substantial direct effects on the states, on the relationship between the national government and the states, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999). This action merely clarifies the contents of a state plan implementing a Federal standard, and does not alter the relationship or the distribution of power and responsibilities established in the CAA. This action also is not subject to Executive Order 13045, ''Protection of Children From Environmental Health Risks and Safety Risks'' (62 FR 19885, April 23, 1997), because it is not economically significant.

In reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the CAA. In this context, in the absence of a prior existing requirement for the State to use voluntary consensus standards (VCS), EPA has no authority to disapprove a SIP submission for failure to use VCS. It would thus be inconsistent with applicable law for EPA, when it reviews a SIP submission, to use VCS in place of a SIP submission that otherwise satisfies the provisions of the CAA. Thus, the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply. This action does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

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

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by May 30, 2014. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements (see section 307(b)(2)).

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Oxides of nitrogen, Ozone, Particulate matter, Reporting and recordkeeping requirements, Volatile organic compounds.

Dated: February 28, 2014.

Jared Blumenfeld,

Regional Administrator, Region IX.

Chapter I, title 40 of the Code of Federal Regulations is amended as follows:

PART 52—[AMENDED]

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

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

Subpart M—Hawaii

■ 2. In § 52.620, the table in paragraph (e) is amended by:

■ a. Removing the entry for ''Section III—Legal Authority'';

■ b. Revising the table section entitled ''State of Hawaii Air Pollution Control Implementation Plan for Lead'';

■ c. Adding a table section entitled ''Hawaii Revised Statutes, Division 1 (Government), Title 7 (Public officers and employees), Chapter 84 (Standards of Conduct)'' at the end of the table;

■ d. Adding a table section entitled ''Hawaii Revised Statutes, Chapter 342, Hawaii Statute on Environmental Quality''; and

■ e. Adding a table section entitled ''Hawaii Revised Statutes, Division 1 (Government), Title 19 (Health), Chapter 342B (Air Pollution Control)''.

The revisions and additions read as follows:

§ 52.620 Identification of plan.

* * * * *

(e) * * *

EPA-APPROVED HAWAII NONREGULATORY PROVISIONS AND QUASI-REGULATORY MEASURES

Name of SIP revision or statutory section number	Applicable geographic area or title	State submittal date	EPA approval date	Explanation
*	*	*	*	*
State of Hawaii Air Pollution Control Implementation Plans for Ozone, $PM_{2.5}$, and Lead			
State of Hawaii Air Pollution Control Implementation Plan for Lead.	Statewide	10/29/82	8/18/83, 48 FR 37402	Excluding section II (''Notice of Public Hearing''); Hawaii Statute on Environmental Quality, Chapter 342, Hawaii Revised Statutes, section 342–7 (see 74 FR 11037 (March 16, 2009); and section IV (''Control Regulations''). The statutory provisions in Section III (''Legal Authority'') superseded statutory provisions approved at 37 FR 10842 (May 31, 1972) and at 38 FR 30876 (November 8, 1973) and were, with few exceptions, superseded by approval of more recent statutory provisions at 77 FR 47530 (August 9, 2012). Statutory provisions that remain in the current applicable SIP are listed separately in the table in paragraph (e).
State Implementation Plan Revision, Clean Air Act Section 110(a)(2), 1997 Ozone National Ambient Air Quality Standard and 1997 and 2006 $PM_{2.5}$ National Ambient Air Quality Standards.	Statewide	12/14/11	8/9/12, 77 FR 47530	Approval excludes appendix A (''Hawaii Revised Statutes, Chapter 84, Standards of Conduct, Chapter 342B, Air Pollution Control''), appendix B, (''Hawaii Administrative Rules, Title 11, Chapter 60.1, Air Pollution Control''), appendix D (''SIP Public Comment Proceedings''), and appendix E (''Public Proceedings for Hawaii Administrative Rules, Chapter 11–60.1''). Approved statutory provisions included in appendix A are listed separately in the table in paragraph (e). In separate rulemakings, EPA has taken action to approve certain regulations included in appendix B. Approved regulations are listed separately in the table in paragraph (c).
Hawaii Revised Statutes, Division 1 (Government), Title 7 (Public officers and employees), Chapter 84 (Standards of Conduct)				
84–1	Construction	12/14/11	8/9/12, 77 FR 47530	Laws 1972, Act 163, pt of § 1. Included in appendix A to the Hawaii SIP revision for the 1997 ozone, and 1997 and 2006 $PM_{2.5}$ national ambient air quality standards.
84–2	Applicability	12/14/11	8/9/12, 77 FR 47530	Most recently amended in Laws 1979, Act 91, § 3. Included in appendix A to the Hawaii SIP revision for the 1997 ozone, and 1997 and 2006 $PM_{2.5}$ national ambient air quality standards.
84–3	Definitions ...	12/14/11	8/9/12, 77 FR 47530	Law as amended through 1984. Included in appendix A to the Hawaii SIP revision for the 1997 ozone, and 1997 and 2006 $PM_{2.5}$ national ambient air quality standards.
84–11	Gifts	12/14/11	8/9/12, 77 FR 47530	Law as amended through 1984. Included in appendix A to the Hawaii SIP revision for the 1997 ozone, and 1997 and 2006 $PM_{2.5}$ national ambient air quality standards.
84–11.5	Reporting of gifts.	12/14/11	8/9/12, 77 FR 47530	Laws 1992, Act 322, pt of § 1. Included in appendix A to the Hawaii SIP revision for the 1997 ozone, and 1997 and 2006 $PM_{2.5}$ national ambient air quality standards.
84–12	Confidential information.	12/14/11	8/9/12, 77 FR 47530	Law as amended through 1984. Included in appendix A to the Hawaii SIP revision for the 1997 ozone, and 1997 and 2006 $PM_{2.5}$ national ambient air quality standards.
84–14	Conflicts of interests.	12/14/11	8/9/12, 77 FR 47530	Most recently amended in Laws 1978, Act 245, § 2. Included in appendix A to the Hawaii SIP revision for the 1997 ozone, and 1997 and 2006 $PM_{2.5}$ national ambient air quality standards.
84–17	Requirements of disclosure.	12/14/11	8/9/12, 77 FR 47530	Most recently amended in Laws 2007, Act 9, § 4. Included in appendix A to the Hawaii SIP revision for the 1997 ozone, and 1997 and 2006 $PM_{2.5}$ national ambient air quality standards.

EPA-APPROVED HAWAII NONREGULATORY PROVISIONS AND QUASI-REGULATORY MEASURES—Continued

Name of SIP revision or statutory section number	Applicable geographic area or title	State submittal date	EPA approval date	Explanation
Hawaii Revised Statutes, Chapter 342, Hawaii Statute on Environmental Quality				
342–14	Technical defect.	10/29/82	8/18/83, 48 FR 37402	Laws 1972, Act 100, pt of § 1. Included in Section III (''Legal Authority'') in the State of Hawaii Air Pollution Control Implementation Plan for Lead.
342–18	Other powers of department not affected.	10/29/82	8/18/83, 48 FR 37402	Laws 1972, Act 100, pt of § 1. Included in Section III (''Legal Authority'') in the State of Hawaii Air Pollution Control Implementation Plan for Lead.
342–19	Effect of laws, ordinances, rules, and regulations.	10/29/82	8/18/83, 48 FR 37402	Most recently amended in Laws 1977, Act 115, § 6. Included in Section III (''Legal Authority'') in the State of Hawaii Air Pollution Control Implementation Plan for Lead.
Hawaii Revised Statutes, Division 1 (Government), Title 19 (Health), Chapter 342B (Air Pollution Control)				
342B–1	Definitions	12/14/11	8/9/12, 77 FR 47530	Most recently amended in Laws 1993, Act 208, §§ 2, 11. Included in appendix A to the Hawaii SIP revision for the 1997 ozone, and 1997 and 2006 $PM_{2.5}$ national ambient air quality standards.
342B–2	Administration.	12/14/11	8/9/12, 77 FR 47530	Most recently amended in Laws 1992, Act 240, pt of § 1. Included in appendix A to the Hawaii SIP revision for the 1997 ozone, and 1997 and 2006 $PM_{2.5}$ national ambient air quality standards.
342B–3	General functions, duties, and powers of the director.	12/14/11	8/9/12, 77 FR 47530	Most recently amended in Laws 2000, Act 253, § 150. Included in appendix A to the Hawaii SIP revision for the 1997 ozone, and 1997 and 2006 $PM_{2.5}$ national ambient air quality standards.
342B–7	Annual reports.	12/14/11	8/9/12, 77 FR 47530	Most recently amended in Laws 1993, Act 208, § 3. Most recently amended in Laws 1993, c 208, § 3. Included in appendix A to the Hawaii SIP revision for the 1997 ozone, and 1997 and 2006 $PM_{2.5}$ national ambient air quality standards.
342B–11	Prohibition	12/14/11	8/9/12, 77 FR 47530	Laws 1992, Act 240, pt of § 1. Included in appendix A to the Hawaii SIP revision for the 1997 ozone, and 1997 and 2006 $PM_{2.5}$ national ambient air quality standards.
342B–12	Specific powers of the director.	12/14/11	8/9/12, 77 FR 47530	Most recently amended in Laws 1994, Act 268, § 1. Included in appendix A to the Hawaii SIP revision for the 1997 ozone, and 1997 and 2006 $PM_{2.5}$ national ambient air quality standards.
342B–13	Public participation.	12/14/11	8/9/12, 77 FR 47530	Most recently amended in Laws 2000, Act 150, § 2. Included in appendix A to the Hawaii SIP revision for the 1997 ozone, and 1997 and 2006 $PM_{2.5}$ national ambient air quality standards.
342B–15	Complaints; hearings; appointment of masters.	12/14/11	8/9/12, 77 FR 47530	Laws 1992, Act 240, pt of § 1. Included in appendix A to the Hawaii SIP revision for the 1997 ozone, and 1997 and 2006 $PM_{2.5}$ national ambient air quality standards.
342B–16	Research, educational, and training programs.	12/14/11	8/9/12, 77 FR 47530	Laws 1992, Act 240, pt of § 1. Included in appendix A to the Hawaii SIP revision for the 1997 ozone, and 1997 and 2006 $PM_{2.5}$ national ambient air quality standards.
342B–17	Air quality modelers.	12/14/11	8/9/12, 77 FR 47530	Most recently amended in Laws 2000, Act 253, § 150. Included in appendix A to the Hawaii SIP revision for the 1997 ozone, and 1997 and 2006 $PM_{2.5}$ national ambient air quality standards.
342B–21	Specific functions, duties, and powers of the director.	12/14/11	8/9/12, 77 FR 47530	Most recently amended in Laws 1994, Act 268, § 2. Included in appendix A to the Hawaii SIP revision for the 1997 ozone, and 1997 and 2006 $PM_{2.5}$ national ambient air quality standards.

EPA-APPROVED HAWAII NONREGULATORY PROVISIONS AND QUASI-REGULATORY MEASURES—Continued

Name of SIP revision or statutory section number	Applicable geographic area or title	State submittal date	EPA approval date	Explanation
342B–22	Permit and permit renewal; requirements.	12/14/11	8/9/12, 77 FR 47530	Laws 1992, Act 240, pt of § 1. Included in appendix A to the Hawaii SIP revision for the 1997 ozone, and 1997 and 2006 $PM_{2.5}$ national ambient air quality standards.
342B–23	Application for permit.	12/14/11	8/9/12, 77 FR 47530	Laws 1992, Act 240, pt of § 1. Included in appendix A to the Hawaii SIP revision for the 1997 ozone, and 1997 and 2006 $PM_{2.5}$ national ambient air quality standards.
342B–24	Action on a permit application.	12/14/11	8/9/12, 77 FR 47530	Most recently amended in Laws 1993, Act 208, § 5. Included in appendix A to the Hawaii SIP revision for the 1997 ozone, and 1997 and 2006 $PM_{2.5}$ national ambient air quality standards.
342B–25	Approval of permit.	12/14/11	8/9/12, 77 FR 47530	Laws 1992, Act 240, pt of § 1. Included in appendix A to the Hawaii SIP revision for the 1997 ozone, and 1997 and 2006 $PM_{2.5}$ national ambient air quality standards.
342B–26	General and temporary permits; single permit.	12/14/11	8/9/12, 77 FR 47530	Most recently amended in Laws 1993, Act 208, § 6. Included in appendix A to the Hawaii SIP revision for the 1997 ozone, and 1997 and 2006 $PM_{2.5}$ national ambient air quality standards.
342B–27	Other permit action.	12/14/11	8/9/12, 77 FR 47530	Laws 1992, Act 240, pt of § 1. Included in appendix A to the Hawaii SIP revision for the 1997 ozone, and 1997 and 2006 $PM_{2.5}$ national ambient air quality standards.
342B–28	Record-keeping and monitoring requirements.	12/14/11	8/9/12, 77 FR 47530	Laws 1992, Act 240, pt of § 1. Included in appendix A to the Hawaii SIP revision for the 1997 ozone, and 1997 and 2006 $PM_{2.5}$ national ambient air quality standards.
342B–29	Fees	12/14/11	8/9/12, 77 FR 47530	Most recently amended in Laws 2009, Act 42, § 2. Included in appendix A to the Hawaii SIP revision for the 1997 ozone, and 1997 and 2006 $PM_{2.5}$ national ambient air quality standards.
342B–30	Judicial review.	12/14/11	8/9/12, 77 FR 47530	Laws 1992, Act 240, pt of § 1. Included in appendix A to the Hawaii SIP revision for the 1997 ozone, and 1997 and 2006 $PM_{2.5}$ national ambient air quality standards.
342B–31	Government records; confidential information.	12/14/11	8/9/12, 77 FR 47530	Laws 1992, Act 240, pt of § 1. Included in appendix A to the Hawaii SIP revision for the 1997 ozone, and 1997 and 2006 $PM_{2.5}$ national ambient air quality standards.
342B–32	Clean air special fund.	12/14/11	8/9/12, 77 FR 47530	Laws 1992, Act 240, pt of § 1. Included in appendix A to the Hawaii SIP revision for the 1997 ozone, and 1997 and 2006 $PM_{2.5}$ national ambient air quality standards.
342B–33	Minimum permit conditions.	12/14/11	8/9/12, 77 FR 47530	Most recently amended in Laws 1994, Act 268, § 3. Included in appendix A to the Hawaii SIP revision for the 1997 ozone, and 1997 and 2006 $PM_{2.5}$ national ambient air quality standards.
342B–34	Exceptions	12/14/11	8/9/12, 77 FR 47530	Laws 1992, Act 240, pt of § 1. Included in appendix A to the Hawaii SIP revision for the 1997 ozone, and 1997 and 2006 $PM_{2.5}$ national ambient air quality standards.
342B–41	Inspection of premises.	12/14/11	8/9/12, 77 FR 47530	Laws 1992, Act 240, pt of § 1. Included in appendix A to the Hawaii SIP revision for the 1997 ozone, and 1997 and 2006 $PM_{2.5}$ national ambient air quality standards.
342B–42	Enforcement	12/14/11	8/9/12, 77 FR 47530	Most recently amended in Laws 1995, Act 180, § 2. Included in appendix A to the Hawaii SIP revision for the 1997 ozone, and 1997 and 2006 $PM_{2.5}$ national ambient air quality standards.
342B–43	Emergency powers; procedures.	12/14/11	8/9/12, 77 FR 47530	Most recently amended in Laws 1995, Act 201, § 1. Included in appendix A to the Hawaii SIP revision for the 1997 ozone, and 1997 and 2006 $PM_{2.5}$ national ambient air quality standards.

EPA-APPROVED HAWAII NONREGULATORY PROVISIONS AND QUASI-REGULATORY MEASURES—Continued

Name of SIP revision or statutory section number	Applicable geographic area or title	State submittal date	EPA approval date	Explanation
342B–44	Injunctive and other relief.	12/14/11	8/9/12, 77 FR 47530	Most recently amended in Laws 1995, Act 180, § 3. Included in appendix A to the Hawaii SIP revision for the 1997 ozone, and 1997 and 2006 $PM_{2.5}$ national ambient air quality standards.
342B–45	Citation	12/14/11	8/9/12, 77 FR 47530	Most recently amended in Laws 1997, Act 27, § 1. Included in appendix A to the Hawaii SIP revision for the 1997 ozone, and 1997 and 2006 $PM_{2.5}$ national ambient air quality standards.
342B–46	Appeal	12/14/11	8/9/12, 77 FR 47530	Laws 1992, Act 240, pt of § 1. Included in appendix A to the Hawaii SIP revision for the 1997 ozone, and 1997 and 2006 $PM_{2.5}$ national ambient air quality standards.
342B–47	Civil penalties.	12/14/11	8/9/12, 77 FR 47530	Most recently amended in Laws 1993, Act 208, § 8. Included in appendix A to the Hawaii SIP revision for the 1997 ozone, and 1997 and 2006 $PM_{2.5}$ national ambient air quality standards.
342B–48	Administrative penalties.	12/14/11	8/9/12, 77 FR 47530	Most recently amended in Laws 1994, Act 268, § 4. Included in appendix A to the Hawaii SIP revision for the 1997 ozone, and 1997 and 2006 $PM_{2.5}$ national ambient air quality standards.
342B–49	Criminal penalties.	12/14/11	8/9/12, 77 FR 47530	Most recently amended in Laws 1993, Act 208, § 9. Included in appendix A to the Hawaii SIP revision for the 1997 ozone, and 1997 and 2006 $PM_{2.5}$ national ambient air quality standards.
342B–50	Disposition of collected fines and penalties.	12/14/11	8/9/12, 77 FR 47530	Laws 1992, Act 240, pt of § 1. Included in appendix A to the Hawaii SIP revision for the 1997 ozone, and 1997 and 2006 $PM_{2.5}$ national ambient air quality standards.
342B–51	Enforcement by state and county authorities.	12/14/11	8/9/12, 77 FR 47530	Laws 1992, Act 240, pt of § 1. Included in appendix A to the Hawaii SIP revision for the 1997 ozone, and 1997 and 2006 $PM_{2.5}$ national ambient air quality standards.
342B–52	Nonliability of department personnel.	12/14/11	8/9/12, 77 FR 47530	Laws 1992, Act 240, pt of § 1. Included in appendix A to the Hawaii SIP revision for the 1997 ozone, and 1997 and 2006 $PM_{2.5}$ national ambient air quality standards.
342B–53	Other action not barred.	12/14/11	8/9/12, 77 FR 47530	Laws 1992, Act 240, pt of § 1. Included in appendix A to the Hawaii SIP revision for the 1997 ozone, and 1997 and 2006 $PM_{2.5}$ national ambient air quality standards.
342B–54	Priority in courts.	12/14/11	8/9/12, 77 FR 47530	Laws 1992, Act 240, pt of § 1. Included in appendix A to the Hawaii SIP revision for the 1997 ozone, and 1997 and 2006 $PM_{2.5}$ national ambient air quality standards.
342B–55	Consent orders; settlement agreements.	12/14/11	8/9/12, 77 FR 47530	Most recently amended in Laws 1993, Act 208, § 10. Included in appendix A to the Hawaii SIP revision for the 1997 ozone, and 1997 and 2006 $PM_{2.5}$ national ambient air quality standards.

■ 3. Section 52.623 is revised to read as follows:

§ 52.623 Approval status.

(a) With the exceptions set forth in this subpart, the Administrator approves Hawaii's plan for attainment and maintenance of the national standards. The State included various provisions in its plan to provide for the attainment of the State ambient air quality standards. As described in the Governor's letters of January 28, May 8, and May 22, 1972, these provisions were included for information purposes only and were not to be considered a part of the plan to implement national standards. Accordingly, these additional provisions are not considered a part of the applicable plan.

(b) *1997 8-hour ozone NAAQS:* The SIP submitted on December 14, 2011 is partially disapproved for Clean Air Act (CAA) elements 110(a)(2)(C) and (J), and is disapproved for CAA elements 110(a)(2)(D)(i)(II) and (D)(ii).

(c) *1997 $PM_{2.5}$ NAAQS:* The SIP submitted on December 14, 2011 is partially disapproved for Clean Air Act (CAA) elements 110(a)(2)(C) and (J), and is disapproved for CAA elements 110(a)(2)(D)(i)(II) and (D)(ii).

(d) *2006 $PM_{2.5}$ NAAQS:* The SIP submitted on December 14, 2011 is partially disapproved for Clean Air Act (CAA) elements 110(a)(2)(C) and (J), and is disapproved for CAA elements 110(a)(2)(D)(i)(II) and (D)(ii).

[FR Doc. 2014–05526 Filed 3–28–14; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R03–OAR–2013–0589; FRL–9908–50–Region 3]

Approval and Promulgation of Air Quality Implementation Plans; Pennsylvania; Update of the Motor Vehicle Emissions Budgets for the Reading 1997 Eight-Hour Ozone National Ambient Air Quality Standard Maintenance Area

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: The Environmental Protection Agency (EPA) is taking direct final action to approve revisions to the Commonwealth of Pennsylvania's (Pennsylvania) State Implementation Plan (SIP). The revisions consist of an update to the SIP-approved Motor Vehicle Emissions Budgets (MVEBs) for nitrogen oxides (NO_X) for the 1997 Eight-Hour Ozone National Ambient Air Quality Standard (NAAQS) SIP for Berks County (Reading Maintenance Area). The SIP revision also includes updated point and area source inventories for NO_X. This rulemaking action proposes to approve the updated MVEBs and thereby make them available for transportation conformity purposes. EPA is approving these revisions to the MVEBs and point and area source inventories in accordance with the requirements of the Clean Air Act (CAA).

DATES: This rule is effective on May 30, 2014 without further notice, unless EPA receives adverse written comment by April 30, 2014. If EPA receives such comments, it will publish a timely withdrawal of the direct final rule in the **Federal Register** and inform the public that the rule will not take effect.

ADDRESSES: Submit your comments, identified by Docket ID Number EPA–R03–OAR–2013–0589 by one of the following methods:

A. *www.regulations.gov*. Follow the on-line instructions for submitting comments.

B. Email: *fernandez.cristina@epa.gov*.

C. Mail: EPA–R03–OAR–2013–0589, Cristina Fernandez, Associate Director, Office of Air Program Planning, Mailcode 3AP30, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103.

D. Hand Delivery: At the previously-listed EPA Region III address. 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–R03–OAR–2013–0589. 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 information that you consider to be CBI or otherwise protected through *www.regulations.gov* or email. 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 during normal business hours at the Air Protection Division, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103. Copies of the State submittal are available at the Pennsylvania Department of Environmental Protection, Bureau of Air Quality Control, P.O. Box 8468, 400 Market Street, Harrisburg, Pennsylvania 17105.

FOR FURTHER INFORMATION CONTACT: Asrah Khadr, (215) 814–2071, or by email at *khadr.asrah@epa.gov*.

SUPPLEMENTARY INFORMATION:

I. Background

On July 22, 2013, Pennsylvania submitted a formal revision to its SIP. The SIP revision consists of updated MVEBs for NO_X for the 1997 Eight-Hour Ozone NAAQS. The SIP revision also includes updated point and area source inventories for NO_X.

On July 18, 1997 (62 FR 38856), EPA established the 1997 Eight-Hour Ozone NAAQS. On April 30, 2004 (69 FR 23858), Berks County was designated as nonattainment for the 1997 Eight-Hour Ozone NAAQS. On January 25, 2007, the Pennsylvania Department of Environmental Protection (PADEP) submitted a SIP revision which consisted of a maintenance plan, a 2002 base year inventory and MVEBs for transportation conformity purposes. On August 24, 2007 (72 FR 48559), EPA approved the SIP revision as well as the redesignation request made by PADEP. Berks County was redesignated as a maintenance area.

The currently SIP-approved MVEBs for the Reading Maintenance Area were developed using the Highway Mobile Source Emission Factor Model (MOBILE6.2). On March 2, 2010 (75 FR 9411), EPA published a notice of availability for the Motor Vehicle Emissions Simulator (MOVES2010) model for use in developing MVEBs for SIPs and for conducting transportation conformity analyses. EPA commenced a two year grace period after which time the MOVES2010 model would have to be used for transportation conformity purposes. The two year grace period was scheduled to end on March 2, 2012. On February 27, 2012 (77 FR 11394), EPA published a final rule extending the grace period for one more year to March 2, 2013 to ensure adequate time for affected parties to have the capacity to use the MOVES model to develop or update the applicable MVEBs in SIPs and to conduct conformity analyses. On September 8, 2010, EPA released MOVES2010a, which is a minor update to MOVES2010 and which is used by Pennsylvania in this SIP revision.

II. Summary of SIP Revision

This SIP revision includes an update to the MVEBs for NO_X for the years 2009 (interim year) and 2018 (maintenance year) that were produced using the MOVES2010a model. This SIP revision also includes an update to the point and area source inventories for NO_X. The MVEBs, as well as the point and area source inventories, were not updated for

volatile organic compounds (VOCs), therefore providing information about VOCs in the tables below is not applicable (N/A). A comparison between the previous point source inventory and the updated point source inventory is provided in Table 1. (Summary of Point Source Inventory). A comparison between the previous area source inventory and the updated area source inventory is provided in Table 2. (Summary of Area Source Inventory). The previously approved MVEBs were produced using the Mobile Source Emission Factor Model (MOBILE6.2). A summary of the updated MOVES-based emissions and previously approved MOBILE6.2-based emissions for the years 2004, 2009, and 2018 is provided in Table 3. (Summary of Motor Vehicle Emissions). Even though there is an emissions increase in the MOVES-based MVEBs, the increase is not due to an increase in emissions from mobile sources. The increase is due to the fact that the MOVES model provides more accurate emissions estimates than MOBILE6.2, rather than growth that had not been anticipated in the maintenance plan. Also, part of the update of the MVEBs is the addition of a 2 ton per day (tpd) safety margin for NO_X. The MVEBs that will be utilized for transportation conformity purposes and include the safety margins are presented in Table 4. (Updated MVEBs). These safety margins were added because emissions in the interim (2009) and maintenance (2018) years are significantly less than the attainment year emissions, which is the year that the Reading Maintenance Area attained the standard. A detailed summary of EPA's review and rationale for proposing to approve this SIP revision may be found in the Technical Support Documents (TSDs) prepared in support of this proposed rulemaking action and are available on line at *http://www.regulations.gov,* Docket number EPA–R03–OAR–2013–0589.

TABLE 1—SUMMARY OF POINT SOURCE INVENTORY IN TPD

Year	Current		Updated	
	2009	2018	2009	2018
NO_X	16.8	19.2	11.5	12.6

TABLE 2—SUMMARY OF AREA SOURCE INVENTORY IN TPD

Year	Current		Updated	
	2009	2018	2009	2018
NO_X	2.2	2.3	2.3	2.1

TABLE 3—SUMMARY OF MOTOR VEHICLE EMISSIONS IN TPD

Model	MOBILE6.2			MOVES2010a		
Year	2004	2009	2018	2004	2009	2018
VOCs	17.0	12.1	6.5	N/A	N/A	N/A
NO_X	29.8	20.7	8.4	34.4	27.0	12.9

TABLE 4—UPDATED MVEBS IN TPD

Year	2009	2018
VOCs	N/A	N/A
NO_X	29.0	14.9

III. Final Action

EPA is approving Pennsylvania's SIP revision request from July 22, 2013 to update the SIP-approved MVEBs for the Reading Maintenance Area to reflect the use of the MOVES model. EPA is also proposing to approve the update to the SIP-approved point and area source inventories. EPA is approving this SIP revision because it will allow the Reading Maintenance Area to continue to be in attainment of the 1997 Eight-Hour Ozone NAAQS, and our in depth review of the SIP revision leads EPA to conclude that the updated MVEBs meet the adequacy requirements set forth in 40 CFR 93.118(e)(4)(i)–(vi), and the updated MVEBs have been correctly calculated to reflect the use of the MOVES model. As a result of EPA's approval, these updated MVEBs will be both adequate and SIP-approved for purposes of transportation conformity. EPA is publishing this rule without prior proposal because EPA views this as a noncontroversial amendment and anticipates no adverse comment. However, in the ''Proposed Rules'' section of today's **Federal Register**, EPA is publishing a separate document that will serve as the proposal to approve the SIP revision if adverse comments are filed. This rule will be effective on May 30, 2014 without further notice unless EPA receives adverse comment by April 30, 2014. If EPA receives adverse comment, EPA will publish a timely withdrawal in the **Federal Register** informing the public that the rule will not take effect. EPA will address all public comments in a subsequent final rule based on the proposed rule. EPA will not institute a second comment period on this action. Any parties interested in commenting must do so at this time. Please note that if EPA receives adverse comment on an amendment, paragraph, or section of this rule and if that provision may be severed from the remainder of the rule, EPA may adopt as final those provisions of the rule that are not the subject of an adverse comment.

IV. Statutory and Executive Order Reviews

A. General Requirements

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.

B. Submission to Congress and the Comptroller General

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).

C. Petitions for Judicial Review

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by May 30, 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 action. This rulemaking action pertaining to the update of the SIP-approved MVEBs and point and area source inventories for the Reading Maintenance Area 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, Nitrogen dioxide, Ozone, Volatile organic compounds.

Dated: March 7, 2014.

W.C. Early,

Acting, Regional Administrator, Region III.

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.*

Subpart NN—Pennsylvania

■ 2. In § 52.2020, the table in paragraph (e)(1) is amended by revising the entry for the 8-Hour Ozone Maintenance Plan and 2002 Base Year Emissions Inventory for Reading Area (Berks County). The revised text reads as follows:

§ 52.2020 Identification of plan.

* * * * *

(e) * * *

(1) * * *

Name of non-regulatory SIP revision	Applicable geographic area	State submittal date	EPA approval date	Additional explanation
*	*	*	*	*
8-Hour Ozone Maintenance Plan and 2002 Base Year Emissions Inventory.	Reading Area (Berks County)	1/25/07	8/24/07 ..... 72 FR 41906	Correction Notice published 1/14/08, 73 FR 2162.
		7/22/13	3/31/14 [*Insert page number where the document begins*].	Revised 2009 and 2018 Motor Vehicle Emission Budgets. Revised 2009 and 2018 point and area source inventories. See sections 52.2043 and 52.2052.
*	*	*	*	*

* * * * *

■ 3. Section 52.2043 is amended by designating the existing paragraph as (a) and adding paragraph (b) to read as follows:

§ 52.2043 Control strategy for maintenance plans: ozone.

* * * * *

(b)(1) As of March 31, 2014, EPA approves the following revised 2009 and 2018 point source inventory for nitrogen oxides (NO_X) for the Reading 1997 8-Hour Ozone Maintenance Area submitted by the Secretary of the Pennsylvania Department of Environmental Protection:

Applicable geographic area	Year	Tons per day NO_X
Reading 1997 8-Hour Ozone Maintenance Area	2009	11.5
Reading 1997 8-Hour Ozone Maintenance Area	2018	12.6

(2) As of March 31, 2014, EPA approves the following revised 2009 and 2018 area source inventory for nitrogen oxides (NO_X) for the Reading 1997 8-Hour Ozone Maintenance Area submitted by the Secretary of the Pennsylvania Department of Environmental Protection:

Applicable geographic area	Year	Tons per day NO_X
Reading 1997 8-Hour Ozone Maintenance Area	2009	2.3
Reading 1997 8-Hour Ozone Maintenance Area	2018	2.1

■ 4. Section 52.2052 is amended by designating the existing paragraph as (a) and adding paragraph (b) to read as follows:

§ 52.2052 Motor vehicle emissions budgets for Pennsylvania ozone areas.

* * * * *

As of March 31, 2014, EPA approves the following revised 2009 and 2018 Motor Vehicle Emissions Budgets (MVEBs) for nitrogen oxides (NO_X) for the Reading 1997 8-Hour Ozone Maintenance Area submitted by the Secretary of the Pennsylvania Department of Environmental Protection:

Applicable geographic area	Year	Tons per day NO_X
Reading 1997 8-Hour Ozone Maintenance Area	2009	29.0
Reading 1997 8-Hour Ozone Maintenance Area	2018	14.9

[FR Doc. 2014–06671 Filed 3–28–14; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R09–OAR–2013–0576; FRL–9904–75–Region 9]

Revisions to the Arizona State Implementation Plan, Maricopa County Area

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is finalizing approval of revisions to the Maricopa County Area portion of the Arizona State Implementation Plan (SIP). This action was proposed in the **Federal Register** on August 23, 2013 and concerns particulate matter (PM) emissions from fugitive dust sources. We are approving local statutes that regulate these emission sources under the Clean Air Act (CAA or the Act).

DATES: This rule is effective on April 30, 2014.

ADDRESSES: EPA has established docket number EPA–OAR–2013–0576 for this action. Generally, documents in the docket for this action are available electronically at *http://www.regulations.gov* or in hard copy at EPA Region IX, 75 Hawthorne Street, San Francisco, California 94105–3901. While all documents in the docket are listed at *http://www.regulations.gov,* some information may be publicly available only at the hard copy location (e.g., copyrighted material, large maps, multi-volume reports), and some may not be available in either location (e.g., confidential business information (CBI)). To inspect the hard copy materials, please schedule an appointment during normal business hours with the contact listed in the **FOR FURTHER INFORMATION CONTACT** section.

FOR FURTHER INFORMATION CONTACT: Christine Vineyard, EPA Region IX, (415) 947–4125, *vineyard.christine@epa.gov.*

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

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I. Proposed Action
II. Public Comments and EPA Responses
III. EPA Action
IV. Statutory and Executive Order Reviews

I. Proposed Action

On August 23, 2013 (78 FR 52485), EPA proposed to approve the following statutes into the Arizona SIP.

TABLE 1—SUBMITTED STATUTES

Arizona statute	Statute title	Signed	Submitted	Revised submittal
9–500.27	Off-road vehicle ordinance; applicability; violation; classification (A, B, and C only).	July 2, 2007	May 25, 2012	May 21, 2013.
11–871	Emissions control; no burn; exemptions; penalty (A and B only)	July 2, 2007	May 25, 2012	May 21, 2013.
28–1098	Vehicle loads; restrictions; civil penalties (A.1–3)	July 2, 2007	May 25, 2012	May 21, 2013.
49–457.03	Off-road vehicles; pollution advisory days; applicability; penalties (A and B only).	July 2, 2007	May 25, 2012	May 21, 2013.
49–457.04	Off-highway vehicle and all-terrain vehicle dealers; informational material; outreach; applicability.	July 2, 2007	May 25, 2012	May 21, 2013.
49–501	Unlawful open burning; exceptions; fine; definition (A.2, B.1, C, and F only).	July 2, 2007	May 25, 2012	May 21, 2013.

We proposed to approve these statutes because we determined that they complied with the relevant CAA requirements. Our proposed action contains more information on the statutes and our evaluation.

II. Public Comments and EPA Responses

EPA's proposed action provided a 30-day public comment period. During this period, we received no comments.

III. EPA Action

No comments were submitted. Therefore, as authorized in section 110(k)(3) of the Act, EPA is fully approving these statutes into the Arizona SIP.

IV. 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 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 Clean Air Act; and

• does not provide EPA with the discretionary authority to address disproportionate human health or environmental effects with practical, appropriate, and legally permissible methods under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, this 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 Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by May 30, 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. 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, Particulate matter, Reporting and recordkeeping requirements.

Dated: December 16, 2013.

Jared Blumenfeld,

Regional Administrator, Region IX.

Part 52, Chapter I, Title 40 of the Code of Federal Regulations 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.*

Subpart D—Arizona

■ 2. Section 52.120 is amended by adding paragraphs (c)(157)(i)(A)(*6*) through (*9*) to read as follows:

§ 52.120 Identification of plan.

* * * * *

(c) * * *

(157) * * *

(i) * * *

(A) * * *

(*6*) Arizona Revised Statutes (Thomson/West, 2008): Title 9 (cities and towns), chapter 4 (general powers), article 8 (miscellaneous), section 9–500.27 (''Off-road vehicle ordinance; applicability; violation; classification''), excluding paragraphs D and E.

(*7*) Arizona Revised Statutes (West, 2012): Title 11 (counties), chapter 6 (county planning and zoning), article 6 (air quality), section 11–871 (''Emissions control; no burn; exemptions; penalty''), excluding paragraphs C through E.

(*8*) Arizona Revised Statutes (West, 2012): Title 28 (transportation), chapter 3 (traffic and vehicle regulation), article 18 (vehicle size, weight and load), section 28–1098 (''Vehicle loads; restrictions; civil penalties''), excluding paragraphs B and C.

(*9*) Arizona Revised Statutes (West, 2012 Cumulative Pocket Part):

(*i*) Title 49 (the environment), chapter 3 (air quality), article 2 (state air pollution control), sections 49–457.03 (''Off-road vehicles; pollution advisory days; applicability; penalties''), excluding paragraphs C and D; and 49–457.04 (''Off-highway vehicle and all-terrain vehicle dealers; informational material; outreach; applicability''); and

(*ii*) Title 49 (the environment), chapter 3 (air quality), article 3 (county air pollution control), section 49–501 (''Unlawful open burning; exceptions; civil penalty; definition''), excluding paragraph A.1, paragraphs B.2 through B.6, and paragraphs D, E, G, and H.

* * * * *

[FR Doc. 2014–07122 Filed 3–28–14; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R09–OAR–2012–0984; FRL–9904–83–Region 9]

Revisions to the Arizona State Implementation Plan

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: The Environmental Protection Agency (EPA) is taking direct final action under the Clean Air Act to approve a revision to the Arizona State Implementation Plan (SIP). This revision concerns particulate matter emissions from dust generating operations that do not already have a permit within the Phoenix planning area. We are approving a state statute that requires the Arizona Department of Environmental Quality to develop and adopt a general permit that specifies episodic best management practices that are to be implemented by certain dust-generating activities.

DATES: This rule is effective on May 30, 2014 without further notice, unless EPA receives adverse comments by April 30, 2014. If we receive such comments, we will publish a timely withdrawal in the **Federal Register** to notify the public that this direct final rule will not take effect.

ADDRESSES: Submit comments, identified by docket number EPA–R09–OAR–2012–0984, by one of the following methods:

1. *Federal eRulemaking Portal: www.regulations.gov.* Follow the on-line instructions.

2. *Email: steckel.andrew@epa.gov.*

3. *Mail or deliver:* Andrew Steckel (Air-4), U.S. Environmental Protection Agency Region IX, 75 Hawthorne Street, San Francisco, CA 94105–3901.

Instructions: All comments will be included in the public docket without change and may be made available online at *www.regulations.gov,* including any personal information

provided, unless the comment includes Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Information that you consider CBI or otherwise protected should be clearly identified as such and should not be submitted through *www.regulations.gov* or email. *www.regulations.gov* is an ''anonymous access'' system, and EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send email directly to EPA, your email address will be automatically captured and included as part of the public comment. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses.

Docket: Generally, documents in the docket for this action are available electronically at *www.regulations.gov* and in hard copy at EPA Region IX, 75 Hawthorne Street, San Francisco, California 94105–3901. While all documents in the docket are listed at *www.regulations.gov,* some information may be publicly available only at the hard copy location (e.g., copyrighted material, large maps), and some may not be publicly available in either location (e.g., CBI). To inspect the hard copy materials, please schedule an appointment during normal business hours with the contact listed in the **FOR FURTHER INFORMATION CONTACT** section.

FOR FURTHER INFORMATION CONTACT: Christine Vineyard, EPA Region IX, (415) 947–4125, *vineyard.christine@epa.gov*.

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

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I. The State's Submittal

A. What statute did the State submit?

Table 1 lists the Arizona statute we are approving along with the date that it came into effect and the date it was submitted by the Arizona Department of Environmental Quality (ADEQ) as a revision to the Arizona SIP.

TABLE 1—ARIZONA STATUTE

Statute No.	Statute title	Effective date	Submitted
Arizona Revised Statutes (ARS) section 49–457.05 (only A, B, D, and I).	Dust action general permit; best management practices; applicability; definitions.	07/20/11	05/25/12

ADEQ included the statute addressed in this document in the submittal of Maricopa Association of Government's (MAG's) *MAG 2012 Five Percent Plan for PM–10 for the Maricopa County Nonattainment Area (May 2012)* (''MAG Five Percent Plan''). On July 13, 2012, EPA determined that the submittal of Arizona Revised Statutes (ARS) section 49–457.05 (only A, B, C, D, and I) met the completeness criteria in 40 CFR Part 51 Appendix V, which must be met before formal EPA review. On September 26, 2013, ADEQ withdrew paragraph C of ARS 49–457.05 from further consideration as part of the Arizona SIP.

B. Are there other versions of this statute?

There is no previous version of 49–457.05 in the SIP.

C. What is the purpose of the submitted statute?

Particulate matter (PM) contributes to effects that are harmful to human health and the environment, including premature mortality, aggravation of respiratory and cardiovascular disease, decreased lung function, visibility impairment, and damage to vegetation and ecosystems. Section 110(a) of the CAA requires States to submit regulations that control PM emissions. The new statute obligates ADEQ to develop and issue a dust action general permit for certain regulated activities within the Phoenix planning area, which is designated as a ''serious'' nonattainment area for the national ambient air quality standard (NAAQS) for particulate matter with an aerodynamic diameter less than or equal to a nominal ten micrometers (PM_{10}). Under the statute, the general permit must specify the Best Management Practices (BMPs) necessary to reduce or to prevent PM_{10} emissions as soon as practicable before and during a day that is forecast by ADEQ to be at high risk of dust generation. The statute applies to the Phoenix planning area PM_{10} nonattainment area, which is classified as ''serious''. The specific BMPs and other requirements are contained in the dust action general permit itself, which ADEQ adopted and included as appendix C, exhibit 3 of the MAG Five Percent Plan. EPA will take action on the dust action general permit in a separate rulemaking. EPA's technical support document (TSD) has more information about this statute.

II. EPA's Evaluation and Action

A. How is EPA evaluating the statute?

Generally, SIP requirements must be enforceable (see section 110(a) of the Act) and must not modify the SIP inconsistent with sections 110(l) and 193.

Guidance and policy documents that we use to evaluate enforceability requirements consistently include the following:

1. ''Issues Relating to VOC Regulation Cutpoints, Deficiencies, and Deviations; Clarification to Appendix D of November 24, 1987 **Federal Register** Notice,'' (Blue Book), notice of availability published in the May 25, 1988 **Federal Register**.
2. ''Guidance Document for Correcting Common VOC & Other Rule Deficiencies,'' EPA Region 9, August 21, 2001 (the Little Bluebook).
3. ''State Implementation Plans; General Preamble for the Implementation of Title I of the Clean Air Act Amendments of 1990,'' 57 FR 13498 (April 16, 1992); 57 FR 18070 (April 28, 1992).
4. ''State Implementation Plans for Serious PM–10 Nonattainment Areas, and Attainment Date Waivers for PM–10 Nonattainment Areas Generally; Addendum to the General Preamble for the Implementation of Title I of the Clean Air Act Amendments of 1990,'' 59 FR 41998 (August 16, 1994).
5. ''PM–10 Guideline Document,'' EPA 452/R–93–008, April 1993.

B. Does the statute meet the evaluation criteria?

We believe this statute is consistent with the relevant policy and guidance regarding enforceability and SIP

relaxations. The TSD has more information on our evaluation.

C. Public Comment and Final Action

As authorized in section 110(k)(3) of the Act, EPA is fully approving the submitted statute because we believe it fulfills all relevant requirements. We do not think anyone will object to this approval, so we are finalizing it without proposing it in advance. However, in the Proposed Rules section of this **Federal Register**, we are simultaneously proposing approval of the same submitted statute. If we receive adverse comments by April 30, 2014, we will publish a timely withdrawal in the **Federal Register** to notify the public that the direct final approval will not take effect and we will address the comments in a subsequent final action based on the proposal. If we do not receive timely adverse comments, the direct final approval will be effective without further notice on May 30, 2014. This will incorporate this statute into the federally enforceable SIP.

III. 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 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 Clean Air Act; and
- does not provide EPA with the discretionary authority to address disproportionate human health or environmental effects with practical, appropriate, and legally permissible methods under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, this 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 Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by May 30, 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, Particulate matter, Reporting and recordkeeping requirements.

Dated: December 16, 2013.

Jared Blumenfeld,

Regional Administrator, Region IX.

Part 52, Chapter I, Title 40 of the Code of Federal Regulations 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.*

Subpart D—Arizona

■ 2. Section 52.120 is amended by adding paragraph (c)(157)(i)(A)(*10*) to read as follows:

§ 52.120 Identification of plan.

* * * * *

(c) * * *

(157) * * *

(i) * * *

(A) * * *

(*10*) Arizona Revised Statutes (West, 2012 Cumulative Pocket Part): Title 49 (the environment), chapter 3 (air quality), article 2 (state air pollution control), section 49–457.05 (''Dust action general permit; best management practices; applicability; definitions''), excluding paragraph C and paragraphs E, F, G, and H.

* * * * *

[FR Doc. 2014–07115 Filed 3–28–14; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R09–OAR–2014–0171; FRL–9908–25–Region 9]

Revisions to the Arizona State Implementation Plan

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: The Environmental Protection Agency (EPA) is taking direct final action to approve a revision to the Arizona Statutes portion of the Arizona State Implementation Plan (SIP). This revision concerns particulate matter (PM) emissions from dust generating operations that do not already have a permit. We are approving a state requirement, in accordance with Arizona Revised Statute section 49–457.05, that identifies a series of Best Management Practices (BMP) for these emission sources under the Clean Air Act (CAA or the Act).

DATES: This rule is effective on May 30, 2014 without further notice, unless EPA receives adverse comments by April 30, 2014. If we receive such comments, we will publish a timely withdrawal in the **Federal Register** to notify the public that this direct final rule will not take effect.

ADDRESSES: Submit comments, identified by docket number EPA–R09–OAR–2014–0171, by one of the following methods:

1. *Federal eRulemaking Portal: www.regulations.gov*. Follow the on-line instructions.

2. *Email: steckel.andrew@epa.gov.*

3. *Mail or deliver:* Andrew Steckel (Air-4), U.S. Environmental Protection Agency Region IX, 75 Hawthorne Street, San Francisco, CA 94105–3901.

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

Docket: Generally, documents in the docket for this action are available electronically at *www.regulations.gov* and in hard copy at EPA Region IX, 75 Hawthorne Street, San Francisco, California 94105–3901. While all documents in the docket are listed at *www.regulations.gov,* some information may be publicly available only at the hard copy location (e.g., copyrighted material, large maps), and some may not be publicly available in either location (e.g., CBI). To inspect the hard copy materials, please schedule an appointment during normal business hours with the contact listed in the **FOR FURTHER INFORMATION CONTACT** section.

FOR FURTHER INFORMATION CONTACT: Christine Vineyard, EPA Region IX, (415) 947–4125, *vineyard.christine@epa.gov*.

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

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I. The State's Submittal

A. What requirement did the State submit?

Table 1 lists the Arizona requirement we are approving with the date that it was issued by the State of Arizona and submitted by the Arizona Department of Environmental Quality (ADEQ).

TABLE 1—ARIZONA REQUIREMENT

Agency	Requirement	Issued	Submitted
ADEQ	Dust Action General Permit (DAGP)	12/30/11	05/25/12

ADEQ included the requirement addressed in this document in the submittal of Maricopa Association of Government's (MAG's) *MAG 2012 Five Percent Plan for PM–10 for the Maricopa County Nonattainment Area (May 2012)* (''MAG Five Percent Plan''). On July 20, 2012, EPA determined that the submittal of MAG Five Percent Plan incorporating the DAGP met the completeness criteria in 40 CFR Part 51 Appendix V, which must be met before formal EPA review.

B. Are there other versions of this requirement?

There is no previous version of the Dust Action General Permit in the SIP.

C. What is the purpose of the submitted requirement?

PM contributes to effects that are harmful to human health and the environment, including premature mortality, aggravation of respiratory and cardiovascular disease, decreased lung function, visibility impairment, and damage to vegetation and ecosystems. Section 110(a) of the CAA requires States to submit regulations that control PM emissions.

D. What is the submitted requirement?

The Dust Action General Permit (DAGP), at Attachment C, ''Best Management Practice Examples,'' identifies several Best Management Practices (BMPs) for different types of dust generating operations. When ADEQ's Maricopa County Dust Control Forecast predicts that a day is at high risk for dust generation, operations that generate dust, and which are not already required to control dust pursuant to a permit issued by ADEQ or the Maricopa County Air Quality Department, are expected to choose and implement at least one BMP to reduce or prevent PM–10 emissions.

Attachment A, Section V of the DAGP provides that the Director of ADEQ may require the owner or operator to obtain a Requirement to Operate (RTO) under the DAGP if the Director finds that the owner or operator of a dust-generating operation has not implemented an applicable BMP as soon as is practicable before and during a day that is forecast to be at high risk of dust generation. Attachment A, Section IV of the DAGP requires compliance with all conditions of the DAGP.

EPA's technical support document (TSD) has more information about this requirement.

II. EPA's Evaluation and Action

A. How is EPA evaluating the requirement?

Generally, SIP requirements must be enforceable (see section 110(a) of the Act) and must not modify the SIP inconsistent with sections 110(l) and 193.

Guidance and policy documents that we use to evaluate enforceability requirements consistently include the following:

1. ''Issues Relating to VOC Regulation Cutpoints, Deficiencies, and Deviations; Clarification to Appendix D of November 24, 1987 **Federal Register** Notice,'' (Blue Book), notice of availability published in the May 25, 1988 **Federal Register**.
2. ''Guidance Document for Correcting Common VOC & Other Rule Deficiencies,'' EPA Region 9, August 21, 2001 (the Little Bluebook).
3. ''State Implementation Plans; General Preamble for the Implementation of Title I of the Clean Air Act Amendments of 1990,'' 57 FR 13498 (April 16, 1992); 57 FR 18070 (April 28, 1992).
4. ''State Implementation Plans for Serious PM–10 Nonattainment Areas, and Attainment Date Waivers for PM–10 Nonattainment Areas Generally; Addendum to the General Preamble for the Implementation of Title I of the Clean Air Act Amendments of 1990,'' 59 FR 41998 (August 16, 1994).
5. ''PM–10 Guideline Document,'' EPA 452/R–93–008, April 1993.
6. ''Fugitive Dust Background Document and Technical Information Document for Best Available Control Measures,''
EPA 450/2–92–004, September 1992.
7. ''Incorporating Emerging and Voluntary Measures in a State Implementation Plan (SIP),''Office of Air and Radiation, September 2004.

B. Does the requirement meet the evaluation criteria?

We believe this requirement is consistent with the relevant policy and guidance regarding enforceability and SIP relaxations. The TSD has more information on our evaluation.

C. Public Comment and Final Action

As authorized in section 110(k)(3) of the Act, EPA is fully approving the submitted statute because we believe it fulfills all relevant requirements. We do not think anyone will object to this approval, so we are finalizing it without proposing it in advance. However, in the Proposed Rules section of this **Federal Register**, we are simultaneously proposing approval of the same submitted statute. If we receive adverse comments by April 30, 2014, we will publish a timely withdrawal in the **Federal Register** to notify the public that the direct final approval will not take effect and we will address the comments in a subsequent final action based on the proposal. If we do not receive timely adverse comments, the direct final approval will be effective without further notice on May 30, 2014. This will incorporate this statute into the federally enforceable SIP.

III. 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 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. Law.fied in Executive Order 13132 (64 FR 43255, August 10, 1999);
- is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the Clean Air Act; and
- does not provide EPA with the discretionary authority to address disproportionate human health or environmental effects with practical, appropriate, and legally permissible methods under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, this 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 Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by May 30, 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, Particulate matter, Reporting and recordkeeping requirements.

Dated: March 7, 2014.

Jared Blumenfeld,

Regional Administrator, Region IX.

Part 52, Chapter I, Title 40 of the Code of Federal Regulations 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.*

Subpart D—Arizona

■ 2. Section 52.120 is amended by adding paragraph (c)(157)(i)(A)(*11*) to read as follows:

§ 52.120 Identification of plan.

* * * * *

(c) * * *

(157) * * *

(i) * * *

(A) * * *

(*11*) Arizona Department of Environmental Quality, Air Quality Division, Dust Action General Permit, including attachments A, B, and C, issued December 30, 2011.

* * * * *

[FR Doc. 2014–07118 Filed 3–28–14; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 52 and 81

[EPA–R03–OAR–2013–0090; FRL–9908–88–Region–3]

Approval and Promulgation of Air Quality Implementation Plans; West Virginia; Approval of the Redesignation Requests and the Associated Maintenance Plans of the Charleston Nonattainment Area for the 1997 Annual and the 2006 24-Hour Fine Particulate Matter Standards

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is approving the State of West Virginia's requests to redesignate to attainment the Charleston nonattainment area (hereafter ''the Charleston Area'' or ''the Area'') for both the 1997 annual and the 2006 24-hour fine particulate matter ($PM_{2.5}$) National Ambient Air Quality Standards (NAAQS or standards). EPA is also approving as a revision to the West Virginia State Implementation Plan (SIP), the associated maintenance plans to show maintenance of the 1997 annual and the 2006 24-hour $PM_{2.5}$ NAAQS through 2025 for the Area. West Virginia's maintenance plans include insignificance findings for the mobile source contribution of $PM_{2.5}$ and nitrogen oxides (NO_X) emissions to the Area for both the 1997 annual and 2006 24-hour $PM_{2.5}$ standards, which EPA agrees with and is approving for transportation conformity purposes. In addition, EPA is approving the 2008 emissions inventory for the Area for the 2006 24-hour $PM_{2.5}$ NAAQS. These actions are being taken under the Clean Air Act (CAA).

DATES: This final rule is effective on April 30, 2014.

ADDRESSES: EPA has established a docket for this action under Docket ID Number EPA–R03–OAR–2013–0090. All documents in the docket are listed in the *www.regulations.gov* Web site. Although listed in the electronic docket, some information is not publicly available, i.e., confidential business information (CBI) or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically through *www.regulations.gov* or in hard copy for public inspection during normal business hours at the Air Protection Division, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103. Copies of the State submittal are available at the West Virginia Department of Environmental Protection, Division of Air Quality, 601 57th Street SE., Charleston, West Virginia 25304.

FOR FURTHER INFORMATION CONTACT: Rose Quinto, (215) 814–2182, or by email at *quinto.rose@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

On December 6, 2012, the West Virginia Department of Environmental Protection (WVDEP) formally submitted a request to redesignate the Charleston Area from nonattainment to attainment for the 1997 annual and the 2006 24-hour $PM_{2.5}$ NAAQS. Concurrently, WVDEP submitted maintenance plans as SIP revisions to ensure continued attainment of the standards throughout the Area over the next 10 years. The December 6, 2012 submittal also includes a 2008 comprehensive emissions inventory for $PM_{2.5}$, sulfur dioxide (SO_2) and NO_X for the 2006 24-hour $PM_{2.5}$ NAAQS, which WVDEP supplemented on June 24, 2013 to include emissions of volatile organic compounds (VOC) and ammonia (NH_3). The Charleston Area is comprised of Kanawha and Putnam Counties.

On January 24, 2014 (79 FR 4121), EPA published a notice of proposed rulemaking (NPR) for the State of West Virginia. In the NPR, EPA proposed approval of West Virginia's redesignation requests for the Charleston Area for the 1997 annual and 2006 24-hour $PM_{2.5}$ NAAQS. EPA also proposed approval of the associated maintenance plans as SIP revisions for the 1997 annual and 2006 24-hour $PM_{2.5}$ standards, which included insignificance determinations for $PM_{2.5}$ and NO_X for both standards for purposes of transportation conformity. Also, EPA proposed approval of the 2008 comprehensive emissions inventory for the 2006 24-hour $PM_{2.5}$ standard to meet the requirement of section 172(c)(3) of the CAA. EPA proposed to find that the Area continues to attain both standards.

In the NPR, EPA addressed the effects of two decisions of the United States Court of Appeals for the District of Columbia (D.C. Circuit Court): The D.C. Circuit Court's August 21, 2012 decision to vacate and remand to EPA the Cross-State Air Pollution Control Rule (CSAPR); and the D.C. Circuit Court's January 4, 2013 decision to remand to EPA two final rules implementing the 1997 annual $PM_{2.5}$ standard. Specific details of West Virginia's submittals and the rationale for EPA's proposed actions are explained in the NPR and will not be restated here. No public comments were received on the NPR.

II. Final Action

EPA is taking final actions on the redesignation requests and SIP revisions for the Charleston Area submitted by the State of West Virginia on December 6, 2012 for the 1997 annual and 2006 24-hour $PM_{2.5}$ NAAQS. First, EPA is approving West Virginia's redesignation requests for the Charleston Area for the 1997 annual and 2006 24-hour $PM_{2.5}$ NAAQS, because EPA has determined that the requests meet the redesignation criteria set forth in section 107(d)(3)(E) of the CAA for these NAAQS. Second, EPA is finding that the Charleston Area is attaining and will continue to attain both the 1997 annual and 2006 24-hour $PM_{2.5}$ NAAQS. Third, EPA is approving the associated maintenance plans for the Area as revisions to the West Virginia SIP for the 1997 annual and 2006 24-hour $PM_{2.5}$ NAAQS because they meet the requirements of section 175A of the CAA. EPA is also approving for both standards West Virginia's transportation conformity insignificant determinations for $PM_{2.5}$ and NO_X emissions for the Area. Finally, EPA is approving the 2008 comprehensive emissions inventory for the Area for the 2006 24-

hour $PM_{2.5}$ NAAQS as a revision to the West Virginia SIP because it meets the requirements of section 172(c)(3) of the CAA. Approval of these redesignation requests will change the official designations of the Charleston Area from nonattainment to attainment for the 1997 annual and the 2006 24-hour $PM_{2.5}$ NAAQS.

III. Statutory and Executive Order Reviews

A. General Requirements

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.

B. Submission to Congress and the Comptroller General

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).

C. Petitions for Judicial Review

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by May 30, 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. This action approving the redesignation requests, the maintenance plans, the comprehensive emissions inventory and transportation conformity insignificance determination for the Charleston Area for the 1997 annual and the 2006 24-hour $PM_{2.5}$ NAAQS, may not be challenged later in proceedings to enforce its requirements. (*See* section 307(b)(2).)

List of Subjects

40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Nitrogen dioxide, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides, Volatile organic compounds.

40 CFR Part 81

Air pollution control, National parks, Wilderness areas.

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

Dated: March 13, 2014.

W.C. Early,

Acting Regional Administrator, Region III.

40 CFR parts 52 and 81 are amended as follows:

PART 52—APPROVAL AND PROMULGATION OF IMPLEMEMTATION PLANS

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

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

Subpart XX—West Virginia

■ 2. In § 52.2520, the table in paragraph (e) is amended by adding an entry for the 1997 Annual and the 2006 24-Hour $PM_{2.5}$ Maintenance Plan for the Charleston Area at the end of the table to read as follows:

§ 52.2520 Identification of plan.

* * * * *

(e) * * *

Name of non-regulatory SIP revision	Applicable geographic area	State submittal date	EPA approval date	Additional explanation
*	*	*	*	*
1997 Annual and 2006 24-Hour $PM_{2.5}$ Maintenance Plan for the Charleston Area.	Kanawha and Putnam Counties.	12/6/12 6/24/13	*3/31/14 [Insert page number where the document begins].*	See § 52.2526(j) and § 52.2531(g).

■ 3. Section 52.2526 is amended by adding paragraph (j) to read as follows:

§ 52.2526 Control strategy: Particular matter.

* * * * *

(j) EPA approves the maintenance plan for the Charleston $PM_{2.5}$ Nonattainment Area (Kanawha and Putnam Counties). The maintenance plan establishes a determination of insignificance for $PM_{2.5}$ and NO_X for transportation conformity purposes.

■ 4. Section 52.2531 is amended by adding paragraph (g) to read as follows:

§ 52.2531 Base year emissions inventory.

* * * * *

(g) EPA approves as a revision to the West Virginia State Implementation Plan the comprehensive emissions inventory for the Charleston fine particulate matter ($PM_{2.5}$) nonattainment area submitted by the West Virginia Department of Environmental Protection on December 6, 2012 and June 24, 2013. The emissions inventory includes emissions estimates that cover the general source categories of point sources, nonroad mobile sources, area sources, onroad mobile sources and biogenic sources. The pollutants that comprise the inventory are nitrogen oxides (NO_X), volatile organic compounds (VOC), $PM_{2.5}$, ammonia (NH_3), and sulfur dioxide (SO_2).

PART 81—DESIGNATION OF AREAS FOR AIR QUALITY PLANNING PURPOSES

■ 5. The authority citation for Part 81 continues to read as follows:

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

■ 6. In § 81.349, the tables for West Virginia—$PM_{2.5}$ (Annual NAAQS) and West Virginia—$PM_{2.5}$ (24-hour NAAQS) are amended by revising the entries for the Charleston Area to read as follows:

§ 81.349 West Virginia.

* * * * *

WEST VIRGINIA—$PM_{2.5}$

[Annual NAAQS]

Designated area	Designation [a]	
	Date [1]	Type
* * * * *	*	*
Charleston, WV:		
Kanawha County	3/31/14	Attainment
Putnam County	3/31/14	Attainment
* * * * *	*	*

[a] Includes Indian County located in each county or area, except as otherwise specified.
[1] This date is 90 days after January 5, 2005, unless otherwise noted.

WEST VIRGINIA—$PM_{2.5}$

[24-hour NAAQS]

Designated area	Designation for the 1997 NAAQS [a]		Designation for the 2006 NAAQS [a]	
	Date [1]	Type	Date [2]	Type
* * * * *	*	*	*	*
Charleston, WV:				
Kanawha County	Unclassifiable/Attainment		3/31/14	Attainment
Putnam County	Unclassifiable/Attainment		3/31/14	Attainment
* * * * *	*	*	*	*

[a] Includes Indian County located in each county or area, except as otherwise specified.
[1] This date is 90 days after January 5, 2005, unless otherwise noted.
[2] This date is 30 days after November 13, 2009, unless otherwise noted.

* * * * *

[FR Doc. 2014–06955 Filed 3–28–14; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 62

[EPA–R03–OAR–2013–0164; FRL–9908–89–Region–3]

Approval and Promulgation of State Air Quality Plans for Designated Facilities and Pollutants; Commonwealth of Virginia; Control of Emissions From Existing Sewage Sludge Incineration Units

AGENCY: The Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is approving a section 111(d)/129 plan submitted by the Commonwealth of Virginia for sewage sludge incineration (SSI) units. The section 111(d)/129 plan contains a state rule for existing SSI units that was submitted as a result of the March 21, 2011, promulgation of Federal new source performance standards (NSPS) and emission guidelines for SSI units. This action is being taken under sections 111(d) and 129 of the Clean Air Act (CAA).

DATES: This final rule is effective on April 30, 2014.

ADDRESSES: EPA has established a docket for this action under Docket ID Number EPA–R03–OAR–2013–0164. All documents in the docket are listed in the *www.regulations.gov* Web site. Although listed in the electronic docket, some information is not publicly available, i.e., confidential business information (CBI) or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically through *www.regulations.gov* or in hard copy for public inspection during normal business hours at the Air Protection Division, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103. Copies of the State submittal are available at the Virginia Department of Environmental Quality, 629 East Main Street, Richmond, Virginia 23219.

FOR FURTHER INFORMATION CONTACT: Mike Gordon, (215) 814–2039, or by email at *gordon.mike@epa.gov*.

SUPPLEMENTARY INFORMATION:

I. Background

Section 129 of the CAA requires EPA to establish performance standards and emission guidelines for various types of new and existing solid waste incineration units. Section 129(b)(2) requires States to submit to EPA for approval section 111(d)/129 plans that implement and enforce the promulgated emission guidelines. State submittals under CAA sections 111(d) and 129 must be consistent with the relevant emission guidelines, in this instance 40 CFR part 60, subpart MMMM, and the requirements of 40 CFR part 60, subpart B and part 62, subpart A.

On December 12, 2012, the Virginia Department of Environmental Quality (VADEQ) submitted to EPA a formal section 111(d)/129 plan for SSI units. The submitted section 111(d)/129 plan was in response to the March 21, 2011 promulgation of Federal NSPS and emission guidelines requirements for SSI units, 40 CFR part 60, subparts LLLL and MMMM, respectively (76 FR 15372).

On December 3, 2013 (78 FR 72609), EPA published a notice of proposed rulemaking (NPR) for the Commonwealth of Virginia. In the NPR, EPA proposed approval of Virginia's section 111(d)/129 plan for existing SSI units. No comments were received on the proposed approval.

II. Summary of Section 111(d)/129 Plan Submittal

EPA has reviewed the Virginia section 111(d)/129 plan submittal in the context of the requirements of 40 CFR part 60, subparts B and MMMM, and part 62, subpart A. In this action, EPA is finalizing its determination that the submitted section 111(d)/129 plan meets the above-cited requirements. EPA is also revising 40 CFR Part 62, Subpart VV to reflect this approval. A detailed explanation of the rationale behind this action is available in the Technical Support Document (TSD) for this rulemaking as well as the December 3, 2013 proposal.

III. General Information Pertaining to Section 111(d)/129 Plan Submittals From the Commonwealth of Virginia

In 1995, Virginia adopted legislation that provides, subject to certain conditions, for an environmental assessment (audit) ''privilege'' for voluntary compliance evaluations performed by a regulated entity. The legislation further addresses the relative burden of proof for parties either asserting the privilege or seeking disclosure of documents for which the privilege is claimed. Virginia's legislation also provides, subject to certain conditions, for a penalty waiver for violations of environmental laws when a regulated entity discovers such violations pursuant to a voluntary compliance evaluation and voluntarily discloses such violations to the Commonwealth and takes prompt and appropriate measures to remedy the violations. Virginia's Voluntary Environmental Assessment Privilege Law, Va. Code Sec. 10.1–1198, provides a privilege that protects from disclosure documents and information about the content of those documents that are the product of a voluntary environmental assessment. The Privilege Law does not extend to documents or information that: (1) Are generated or developed before the commencement of a voluntary environmental assessment; (2) are prepared independently of the assessment process; (3) demonstrate a clear, imminent and substantial danger to the public health or environment; or (4) are required by law.

On January 12, 1998, the Commonwealth of Virginia Office of the Attorney General provided a legal opinion that states that the Privilege law, Va. Code Sec. 10.1–1198, precludes granting a privilege to documents and information ''required by law,'' including documents and information ''required by Federal law to maintain program delegation, authorization or approval,'' since Virginia must ''enforce Federally authorized environmental programs in a manner that is no less stringent than their Federal counterparts. . . .'' The opinion concludes that ''[r]egarding § 10.1–1198, therefore, documents or other information needed for civil or criminal enforcement under one of these programs could not be privileged because such documents and information are essential to pursuing enforcement in a manner required by Federal law to maintain program delegation, authorization or approval.''

Virginia's Immunity law, Va. Code Sec. 10.1–1199, provides that ''[t]o the extent consistent with requirements imposed by Federal law,'' any person making a voluntary disclosure of information to a state agency regarding a violation of an environmental statute, regulation, permit, or administrative order is granted immunity from administrative or civil penalty. The Attorney General's January 12, 1998 opinion states that the quoted language renders this statute inapplicable to enforcement of any Federally authorized programs, since ''no immunity could be afforded from administrative, civil, or criminal penalties because granting such immunity would not be consistent with Federal law, which is one of the criteria for immunity.''

Therefore, EPA has determined that Virginia's Privilege and Immunity statutes will not preclude the Commonwealth from enforcing its program consistent with the Federal requirements. In any event, because EPA has also determined that a state audit privilege and immunity law can affect only state enforcement and cannot have any impact on Federal enforcement authorities, EPA may at any time invoke its authority under the CAA, including, for example, sections 113, 167, 205, 211 or 213, to enforce the requirements or prohibitions of the state plan, independently of any state enforcement effort. In addition, citizen enforcement under section 304 of the CAA is likewise unaffected by this, or any, state audit privilege or immunity law.

Other specific requirements of Virginia's section 111(d)/129 plan for existing SSI units and the rationale for EPA's proposed action are explained in the NPR and associated TSD, and will not be restated here. No public comments were received on the NPR.

III. Final Action

EPA is approving Virginia's section 111(d)/129 plan for existing sewage sludge incineration units. Therefore, EPA is amending 40 CFR part 62,

subpart VV to reflect this final action. This approval is based on the rationale discussed above and in further detail in the TSD associated with this action.

The EPA Administrator continues to retain authority for several tasks, as provided in 40 CFR 60.5050 and in Plan Provisions—section J of the submittal.

IV. Statutory and Executive Order Reviews

A. General Requirements

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this action is not a ''significant regulatory action'' and therefore is not subject to review by the Office of Management and Budget. For this reason, this action is also not subject to Executive Order 13211, ''Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use'' (66 FR 28355 (May 22, 2001)). This action merely approves state law as meeting Federal requirements and imposes no additional requirements beyond those imposed by state law. Accordingly, the Administrator certifies that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). Because this rule approves pre-existing requirements under state law and does not impose any additional enforceable duty beyond that required by state law, it does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4). This rule also 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, as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), nor will it have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999), because it merely approves a state rule implementing a Federal requirement, and does not alter the relationship or the distribution of power and responsibilities established in the CAA. This rule also is not subject to Executive Order 13045 (62 FR 19885, April 23, 1997), because it approves a state rule implementing a Federal standard.

In reviewing VADEQ's submissions, EPA's role is to approve state choices, provided that they meet the criteria of the CAA. In this context, in the absence of a prior existing requirement for the State to use voluntary consensus standards (VCS), EPA has no authority to disapprove a VADEQ submission for failure to use VCS. It would thus be inconsistent with applicable law for EPA, when it reviews a VADEQ submission, to use VCS in place of a VADEQ submission that otherwise satisfies the provisions of the CAA. Thus, the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply. As required by section 3 of Executive Order 12988 (61 FR 4729, February 7, 1996), in issuing this rule, EPA has taken the necessary steps to eliminate drafting errors and ambiguity, minimize potential litigation, and provide a clear legal standard for affected conduct. EPA has complied with Executive Order 12630 (53 FR 8859, March 15, 1988) by examining the takings implications of the rule in accordance with the Attorney General's ''Supplemental Guidelines for the Evaluation of Risk and Avoidance of Unanticipated Takings'' issued under the executive order. This rule for the approval of VADEQ's section 111(d)/129 plan for SSI units does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

B. Submission to Congress and the Comptroller General

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).

C. Petitions for Judicial Review

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by May 30, 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. This action approving Virginia's Section 111(d)/129 plan for existing sewage sludge incineration units may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 62

Environmental protection, Air pollution control, Incorporation by reference, Administrative practice and procedure, Aluminum, Fertilizers, Flouride, Intergovernmental relations, Paper and products industry, Phosphate, Reporting and recordkeeping requirements, Sulfur oxides, Sulfuric acid plants, Waste treatment and disposal.

Dated: March 13, 2014.

W.C. Early,

Acting Regional Administrator, Region III.

40 CFR part 62 is amended as follows:

PART 62—APPROVAL AND PROMULGATION OF STATE PLANS FOR DESIGNATED FACILITIES AND POLLUTANTS

■ 1. The authority citation for part 62 continues to read as follows:

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

Subpart VV—Virginia

■ 2. Subpart VV is amended by adding an undesignated center heading after § 62.11642 and by adding §§ 62.11650, 62.11651, and 62.11652 to read as follows:

Emissions From Existing Sewage Sludge Incineration Units—Section 111(d)/129 Plan

§ 62.11650 Identification of plan.

Section 111(d)/129 plan for existing sewage sludge incineration and the associated Virginia Administrative Code (VAC), specifically Article 55 of 9VAC5 Chapter 40, submitted to EPA on December 12, 2012.

§ 62.11651 Identification of sources.

The affected facility to which the plan applies is each sewage sludge incineration unit within the Commonwealth of Virginia that commenced construction on or before October 14, 2010.

§ 62.11652 Effective date.

The effective date of the plan for existing sewage sludge incineration units is April 30, 2014.

[FR Doc. 2014–06963 Filed 3–28–14; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 80

[EPA–HQ–OAR–2013–0787; FRL–9908–13–OAR]

Approval of States' Requests To Relax the Federal Reid Vapor Pressure Volatility Standard in Florida, and the Raleigh-Durham-Chapel Hill and Greensboro/Winston-Salem/High Point Areas in North Carolina

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: The Environmental Protection Agency (EPA) is taking direct final action to approve requests from Florida and North Carolina for the EPA to relax the Reid Vapor Pressure (RVP) Standard applicable to gasoline introduced into commerce from June 1 to September 15 of each year in six counties in Florida, and in counties in the Raleigh-Durham-Chapel Hill Area (also referred to as the ''Triangle Area'') and the Greensboro/Winston-Salem/High Point Area (also referred to as the ''Triad Area'') in North Carolina. Specifically, the EPA is approving amendments to the regulations to change the RVP standard for six counties in Florida, and for the counties in the Triangle and Triad Areas from 7.8 pounds per square inch (psi) to 9.0 psi for gasoline. The EPA has determined that these changes to the federal RVP regulation are consistent with the applicable provisions of the Clean Air Act (CAA or Act). This action is being taken without prior proposal because the EPA believes that this final rulemaking is noncontroversial, for the reasons set forth in this preamble, and due to the limited scope of this action.

DATES: This direct final rule will become effective May 30, 2014 without further notice, unless the EPA receives adverse comment by April 30, 2014. If the EPA receives such comments, the Agency will publish a timely withdrawal of the direct final rule in the **Federal Register** and inform the public that the rule will not take effect.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–HQ–OAR–2013–0787, by one of the following methods:

1. *www.regulations.gov*: Follow the on-line instructions for submitting comments.
2. *Email: a-and-r-docket@epa.gov.*
3. *Fax:* 202–566–9744.
4. *Mail:* Environmental Protection Agency, Mail Code: 2822T, 1200 Pennsylvania Avenue NW., Washington, DC 20460. Please include two copies.
5. *Hand Delivery or Courier:* U.S. Environmental Protection Agency, EPA Headquarters Library, EPA West Building, Room 3334, 1301 Constitution Avenue NW., 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–2013–0787. The 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 the 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 the 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, the 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 the EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, the Agency 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 the EPA's public docket visit the EPA Docket Center homepage at *http://www.epa.gov/epahome/dockets.htm.*

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 through *www.regulations.gov* or in hard copy at the Air Docket, EPA/DC, EPA West, Room 3334, 1301 Constitution Ave. NW., Washington, DC. The Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566–1744, and the telephone number for the Air Docket is (202) 566–1742.

FOR FURTHER INFORMATION CONTACT: Rudolph Kapichak, Office of Transportation and Air Quality, Environmental Protection Agency, 2000 Traverwood Drive, Ann Arbor, MI 48105; telephone number: 734–214–4574; fax number 734–214–4052; email address: *kapichak.rudolph@epa.gov.*

SUPPLEMENTARY INFORMATION: Organization of this document. The following outline is provided to aid in locating information in this preamble.

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I. General Information
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VI. EPA's Analysis of North Carolina's Requests To Relax the Federal RVP Requirements in the Triangle and Triad Areas
VII. Final Actions
VIII. Statutory and Executive Order Reviews
IX. Legal Authority and Statutory Provisions

I. General Information

Throughout this document, ''the Agency'' is used to mean the EPA.

A. Why is the EPA using a direct final rule?

The EPA is making these revisions as a direct final rule without prior proposal because the EPA views these revisions as noncontroversial and anticipates no adverse comment. The rationale for this rulemaking is described in detail below. If the EPA receives no adverse comment, the Agency will not take further action on the proposed rule. If the EPA receives adverse comment on the rule or any portion of the rule, the Agency will withdraw the direct final

rule or the portion of the rule that received adverse comment. All public comments received will then be addressed in a subsequent final rule based on this proposed rule. The EPA will not institute a second comment period on this rulemaking. Any parties interested in commenting must do so at this time.

B. Does this action apply to me?

Entities potentially affected by this rule are fuel producers and distributors who do business in Florida and in North Carolina. Regulated entities include:

Examples of potentially regulated entities	NAICS codes [a]
Petroleum refineries	324110
Gasoline Marketers and Distributors	424710 424720
Gasoline Retail Stations	447110
Gasoline Transporters	484220 484230

[a] North American Industry Classification System (NAICS).

This table provides only a guide for readers regarding entities likely to be regulated by this action. You should carefully examine the regulations in 40 CFR 80.27 to determine whether your facility is impacted. If you have further questions, call the person listed in the **FOR FURTHER INFORMATION CONTACT** section of this preamble.

C. What should I consider as I prepare my comments for EPA?

1. *Submitting CBI.* Do not submit this information to the EPA through *www.regulations.gov* or email. Clearly mark the part or all of the information that you claim to be CBI. For CBI information in a disk or CD ROM that you mail to the 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. Actions Being Taken

This final rule approves a request from Florida to change the summertime RVP standard for Broward, Dade, Duval, Hillsborough, Palm Beach and Pinellas counties in Florida from 7.8 psi to 9.0 psi by amending the EPA's regulations at 40 CFR 80.27(a)(2). Additionally, this final rule approves a request from North Carolina to change the summertime RVP standard for the Triangle and Triad Areas from 7.8 psi to 9.0 psi by amending the EPA's regulations at 40 CFR 80.27(a)(2). The Triangle Area is comprised of Durham and Wake Counties, and the Dutchville Township portion of Granville County. The Triad Area is comprised of the counties of Davidson, Forsyth and Guilford in their entirety, and the portion of Davie County bounded by the Yadkin River, Dutchmans Creek, North Carolina Highway 801, Fulton Creek and back to Yadkin River.

In previous rulemakings, the EPA approved state implementation plan (SIP) revisions from Florida and North Carolina which provided technical analyses that demonstrated that removal of the Federal RVP requirements of 7.8 psi for gasoline sold between June 1 and September 15 of each year in the six counties in Florida, and the North Carolina Triangle and Triad Areas would not interfere with maintenance of the national ambient air quality standards (NAAQS) in these areas. For more information on Florida's SIP revision for the six Florida counties and the EPA's analysis of Florida's SIP revision refer to the January 6, 2014, final rule at 79 FR 573; on North Carolina's SIP revision for the Triangle Area refer to the January 2, 2014 final rule at 79 FR 47; and on North Carolina's SIP revision for the Triad Area refer to the January 24, 2014 final rule at 79 FR 4082.

As mentioned above, this final rule approves requests from Florida and North Carolina to change the summertime RVP standard for six Florida counties, and for the Triangle and Triad Areas from 7.8 psi to 9.0 psi by amending the EPA's regulations at 40 CFR 80.27(a)(2). The preamble for this rulemaking is organized as follows. Section III provides the history of federal gasoline volatility regulation. Section IV describes the policy regarding relaxation of volatility standards in ozone nonattainment areas that are redesignated as attainment areas. Section V provides information specific to Florida's request for the six counties currently subject to the 7.8 psi summertime RVP requirements. Section VI provides information specific to North Carolina's requests for the counties in the Triangle and Triad Areas that are currently subject to the 7.8 psi summertime RVP requirements. Finally, Section VII presents the final actions in response to the requests from Florida and North Carolina.

III. History of the Gasoline Volatility Requirement

On August 19, 1987 (52 FR 31274), the EPA determined that gasoline nationwide was becoming increasingly volatile, causing an increase in evaporative emissions from gasoline-powered vehicles and equipment. Evaporative emissions from gasoline, referred to as volatile organic compounds (VOC), are precursors to the formation of tropospheric ozone and contribute to the nation's ground-level ozone problem. Exposure to ground-level ozone can reduce lung function (thereby aggravating asthma or other respiratory conditions), increase susceptibility to respiratory infection, and may contribute to premature death in people with heart and lung disease.

The most common measure of fuel volatility that is useful in evaluating gasoline evaporative emissions is RVP. Under section 211(c) of the CAA, the EPA promulgated regulations on March 22, 1989 (54 FR 11868) that set maximum limits for the RVP of gasoline sold during the regulatory control periods that were established on a state-by-state basis in the final rule. The regulatory control periods addressed the portion of the year when peak ozone concentrations were expected. These regulations constituted Phase I of a two-phase nationwide program, which was designed to reduce the volatility of commercial gasoline during the high ozone season. On June 11, 1990 (55 FR

23658), the EPA promulgated more stringent volatility controls as Phase II of the volatility control program. These requirements established maximum RVP standards of 9.0 psi or 7.8 psi (depending on the state, the month, and the area's initial ozone attainment designation with respect to the 1-hour ozone NAAQS).

The 1990 CAA Amendments established a new section, 211(h), to address fuel volatility. Section 211(h) requires the EPA to promulgate regulations making it unlawful to sell, offer for sale, dispense, supply, offer for supply, transport, or introduce into commerce gasoline with an RVP level in excess of 9.0 psi during the high ozone season. Section 211(h) prohibits the EPA from establishing a volatility standard more stringent than 9.0 psi in an attainment area, except that the Agency may impose a lower (more stringent) standard in any former ozone nonattainment area redesignated to attainment.

On December 12, 1991 (56 FR 64704), the EPA modified the Phase II volatility regulations to be consistent with section 211(h) of the CAA. The modified regulations prohibited the sale of gasoline with an RVP above 9.0 psi in all areas designated attainment for ozone, beginning in 1992. For areas designated as nonattainment, the regulations retained the original Phase II standards published on June 11, 1990 (55 FR 23658), which included the 7.8 psi ozone season limitation for certain areas. As stated in the preamble to the Phase II volatility controls and reiterated in the proposed change to the volatility standards published in 1991, the EPA will rely on states to initiate changes to the volatility program. The EPA's policy for approving such changes is described in Section IV of this notice.

Florida and North Carolina have initiated these changes by requesting that the EPA relax the 7.8 psi RVP standard for counties that are in ozone maintenance areas. Accordingly, the States revised their original modeling and maintenance demonstrations for these areas to reflect continued attainment under the relaxed 9.0 psi RVP standard that the states have requested. See Section V of this action for information specific to Florida's request for the six counties currently subject to the 7.8 psi summertime RVP requirements. See Section VI of this action for information specific to North Carolina's requests for the counties in the Triangle and Triad Areas that are currently subject to the 7.8 psi summertime RVP requirements.

IV. EPA's Policy Regarding Relaxation of Volatility Standards in Ozone Nonattainment Areas That Are Redesignated as Attainment Areas

As stated in the preamble for the EPA's amended Phase II volatility standards (56 FR 64706), any change in the volatility standard for a nonattainment area that was subsequently redesignated as an attainment area must be accomplished through a separate rulemaking that revises the applicable standard for that area. Thus, for former 1-hour ozone nonattainment areas where the EPA mandated a Phase II volatility standard of 7.8 psi RVP in the December 12, 1991 rulemaking, the 7.8 psi RVP will remain in effect, even after such an area is redesignated to attainment, until a separate rulemaking is completed that revises the RVP standard in that area from 7.8 psi to 9.0 psi.

As explained in the December 12, 1991, rulemaking, the EPA believes that relaxation of an applicable RVP standard is best accomplished in conjunction with the redesignation process. In order for an ozone nonattainment area to be redesignated as an attainment area, section 107(d)(3) of the Act requires the state to make a showing, pursuant to section 175A of the Act, that the area is capable of maintaining attainment for the ozone NAAQS for ten years. Depending on the area's circumstances, this maintenance plan will either demonstrate that the area is capable of maintaining attainment for ten years without the more stringent volatility standard or that the more stringent volatility standard may be necessary for the area to maintain its attainment with the ozone NAAQS. Therefore, in the context of a request for redesignation, the EPA will not relax the volatility standard unless the state requests a relaxation and the maintenance plan demonstrates, to the satisfaction of the EPA, that the area will maintain attainment for ten years without the need for the more stringent volatility standard.

V. EPA's Analysis of Florida's Request To Relax the Federal RVP Requirements in the State

On November 6, 1991, the EPA designated and classified the Southeast Florida area (i.e., Broward, Dade and Palm Beach counties) as Moderate; the Jacksonville area (i.e., Duval County) as Transitional; and the Tampa area (i.e., Hillsborough and Pinellas counties) as Marginal nonattainment areas for the 1-hour ozone NAAQS. *See* 56 FR 56694 (November 6, 1991). Among the requirements applicable to nonattainment areas for the 1-hour ozone NAAQS was the requirement to meet certain RVP standards for gasoline sold commercially during the high ozone season. *See* 55 FR 23658 (June 11, 1990). Thus, the RVP requirements for gasoline sold in these three 1-hour ozone nonattainment areas was 7.8 psi from June 1 through September 15 of each year. Subsequently, each area was redesignated to attainment for the 1-hour ozone NAAQS.[1] Florida's redesignation requests did not include a request for relaxation of the gasoline volatility standard.[2] [3]

On August 15, 2013, the State of Florida, through the Florida Department of Environmental Protection (FDEP), submitted a request for the EPA to relax the Federal RVP requirement of 7.8 psi in Broward, Dade, Duval, Hillsborough, Palm Beach and Pinellas Counties in Florida. The State also submitted a technical analysis which demonstrated that the less-stringent RVP in these counties would not interfere with continued maintenance of the 1997 8-hour ozone NAAQS or any other applicable standard.[4] Specifically, the State updated the 10-year maintenance plans that were submitted for the three 1-hour ozone maintenance areas under section 110(a)(1) of the CAA for the 1997 ozone NAAQS.[5] As required, these section 110(a)(1) maintenance plans provided for continued attainment and maintenance of the 1997 8-hour ozone NAAQS for at least 10 years from the effective date of these areas' designation as attainment for the 1997 8-hour ozone NAAQS. These plans also included components demonstrating how each area will continue to attain the 1997 8-hour ozone NAAQS, and provided contingency measures should an area violate the NAAQS. Florida's previous ozone redesignation requests and maintenance plans for these areas did

[1] 60 FR 41, (January 3, 1995); 60 FR 10326 (February 24, 1995); and 60 FR 62748 (December 7, 1995), respectively).

[2] Effective on June 15, 2004, Broward, Dade, Duval, Hillsborough, Palm Beach and Pinellas Counties were designated unclassifiable/attainment for the 1997 8-hour ozone NAAQS. *See* 69 FR 23857.

[3] Effective on July 20, 2012, the same counties were designated as unclassifiable/attainment for the 2008 8-hour ozone NAAQS. *See* 77 FR 30088.

[4] Maintenance areas for the 1-hour ozone standard designated attainment/unclassifiable for the 1997 8-hour ozone standard are required to submit a maintenance plan under section 110(a)(1) of the CAA demonstrating maintenance out to 10 years after designation. *See* 69 FR 23996 (April 30, 2004).

[5] The EPA has determined that redesignated 1-hour ozone attainment areas that are designated 8-hour ozone attainment areas may rely on the section 110(a)(1) maintenance plan for purposes of requesting relaxation of the more stringent volatility standard. *See* 73 FR 8202, 8205 (February 13, 2008).

not remove the 7.8 psi RVP standard. *See* 75 FR 29671 (May 27, 2010).

As mentioned above, on August 15, 2013, FDEP submitted changes to the three section 110(a)(1) maintenance plans that collectively cover Broward, Dade, Duval, Hillsborough, Palm Beach and Pinellas Counties in Florida. Florida's August 15, 2013, SIP revision modifies the existing section 110(a)(1) maintenance plans to account for a less stringent applicable RVP gasoline requirement of 9.0 psi for these areas. Specifically, Florida's August 15, 2013, SIP revision included an evaluation of the impact that the removal of the 7.8 psi RVP requirement would have on maintenance of the 1997 and 2008 ozone standards, and on other applicable NAAQS. The EPA evaluated Florida's August 15, 2013, SIP revision in a previous rulemaking that was subject to public notice-and-comment and no comments were received. The EPA approved Florida's August 15, 2013, SIP revision on January 6, 2014. *See* 79 FR 573 In this action, based on the previous approval of Florida's August 15, 2013, SIP revision, and the fact that the areas are currently attaining all ozone NAAQS, the EPA is approving Florida's request to relax the high ozone season RVP standard for Broward, Dade, Duval, Hillsborough, Palm Beach and Pinellas counties from 7.8 psi to 9.0 psi.

VI. EPA's Analysis of North Carolina's Requests To Relax the Federal RVP Requirements in the Triangle and Triad Areas

The following two sections provide the EPA's analysis of North Carolina's requests to relax the Federal RVP requirements in the Triangle and Triad Areas.

A. EPA's Analysis of North Carolina's Requests To Relax the Federal RVP Requirement in the Triangle Area

On November 6, 1991, the EPA designated and classified Durham and Wake Counties, and the Dutchville Township portion of Granville County (also known as the Triangle Area at the time) as a Moderate nonattainment area for the 1-hour ozone NAAQS. *See* 56 FR 56694 (November 6, 1991). Among the requirements applicable to nonattainment areas for the 1-hour ozone NAAQS was the requirement to meet certain RVP standards for gasoline sold commercially during the high ozone season. *See* 55 FR 23658 (June 11, 1990). Thus, the RVP requirement for gasoline sold in the Triangle Area was 7.8 psi from June 1 through September 15 of each year. On April 18, 1994, the Triangle Area was redesignated to attainment for the 1-hour ozone standard. *See* 59 FR 18300. North Carolina's redesignation request for the Triangle Area did not include a request for relaxation of the gasoline volatility standard.[6] [7] [8]

On March 27, 2013, the State of North Carolina, through the North Carolina Department of Environment, and Natural Resources (NC DENR), submitted a request for the EPA to relax the Federal RVP requirement of 7.8 psi in Wake and Durham Counties, and the Dutchville Township portion of Granville County that was originally included in the 1-hour ozone nonattainment area. The State also submitted a technical analysis which demonstrated that the less-stringent RVP in these counties would not interfere with continued maintenance of the 1997 8-hour ozone NAAQS or any other applicable standard. Specifically, the State updated the 10-year maintenance plan that was submitted for the Triangle 1997 8-hour ozone maintenance area under section 175A of the CAA. As required, this section 175A maintenance plan provided for continued attainment and maintenance of the 1997 8-hour ozone NAAQS for at least 10 years from the EPA's redesignation of the area from nonattainment to attainment for the 1997 8-hour ozone NAAQS. This plan also included components demonstrating how the area will continue to attain the 1997 8-hour ozone NAAQS, and provided contingency measures should the area violate the NAAQS. North Carolina's previous ozone redesignation requests and maintenance plans for this area did not remove the 7.8 psi RVP standard. *See* 72 FR 72948 (December 26, 2007).

As mentioned above, on March 27, 2013, NC DENR submitted changes to the 175A maintenance plan for the Triangle Area. North Carolina's March 27, 2013, SIP revision modifies the existing section 175A maintenance plan to account for a less stringent applicable RVP gasoline requirement of 9.0 psi for the Triangle Area. Specifically, North Carolina's March 27, 2013, SIP revision included an evaluation of the impact that the removal of the 7.8 psi RVP requirement would have on maintenance of the 1997 and 2008 ozone standards, and on other applicable NAAQS. The EPA evaluated North Carolina's March 27, 2013, SIP revision in a previous rulemaking that was subject to public notice-and-comment, and no adverse comments and one supportive comment were received on that proposed action. The EPA approved North Carolina's March 27, 2013, SIP revision on January 2, 2014. *See* 79 FR 47. In this action, based on the EPA's previous approval of North Carolina's March 27, 2013, SIP revision, and the fact that the Triangle Area is currently attaining all ozone NAAQS, the EPA is approving North Carolina's request to relax the RVP standard for Wake and Durham Counties, and a portion of Granville County in North Carolina from 7.8 psi to 9.0 psi from June 1 through September 15 of each year.

B. EPA's Analysis of North Carolina's Requests To Relax the Federal RVP Requirement in the Triad Area

On November 6, 1991, the EPA designated Davidson, Forsyth and Guilford counties in their entirety and the portion of Davie County bounded by the Yadkin River, Dutchmans Creek, North Carolina Highway 801, Fulton Creek and back to Yadkin River in the Triad Area as a Moderate nonattainment area for the 1-hour ozone NAAQS. *See* 56 FR 56694 (November 6, 1991). Among the requirements applicable to nonattainment areas for the 1-hour ozone NAAQS was the requirement to meet certain RVP standards for gasoline sold commercially during the ozone season. *See* 55 FR 23658 (June 11, 1990). Thus, the RVP requirement for gasoline sold in the Triad Area was 7.8 psi from June 1 through September 15 of each year. On April 18, 1994, the Triad Area was redesignated to attainment for the 1-hour ozone standard. *See* 59 FR 18300. North Carolina's redesignation request for the Triad Area did not include a request for the relaxation of the gasoline volatility standard.[9] [10] [11] [12]

[6] Effective on June 15, 2004, the nonattainment area for the Triangle Area for the 1997 ozone NAAQS was expanded from Durham and Wake Counties, and the Dutchville Township portion of Granville County, to also include Franklin, Johnston, Orange, and Person Counties, and the remainder of Granville County and Baldwin, Center, New Hope and Williams Townships in Chatham County. *See* 69 FR 23857.

[7] On December 26, 2007 the Triangle Area was redesignated to attainment for the 1997 8-hour ozone NAAQS. *See* 72 FR 72948.

[8] Effective on July 20, 2012, the same counties were designated as unclassifiable/attainment for the 2008 8-hour ozone NAAQS. *See* 77 FR 30088.

[9] Effective June 15, 2004 for the 1997 ozone NAAQS, the Triad Area was designated as nonattainment with a deferred effective date as part of the Early Action Compact (EAC) program. As part of this action the Triad Area was expanded to include the entire county of Davie, and Alamance, Caswell, Randolph, and Rockingham Counties in their entirety. *See* 69 FR 23857.

[10] For more information on the EAC program, see, *http://www.epa.gov/airquality/eac/fs20080331_eac.html.*

[11] The Triad Area attained the 1997 ozone NAAQS and on February 2, 2008, the EPA finalized an action for 13 nonattainment areas with deferred effective dates, including the Triad Area,

On April 12, 2013, the State of North Carolina, through NC DENR, submitted a request for the EPA to relax the Federal RVP requirement of 7.8 psi in Davidson, Forsyth and Guilford Counties and the relevant portion of Davie County. The State also submitted a technical analysis which demonstrated that the less-stringent RVP in the aforementioned counties would not interfere with continued maintenance of the 1997 8-hour ozone NAAQS or any other applicable standard. Specifically, the State updated the 10-year maintenance plan that was submitted for the Triad 1-hour ozone maintenance area under section 110(a)(1) of the CAA for the 1997 ozone NAAQS.[13] As required, this section 110(a)(1) maintenance plan provided for continued attainment and maintenance of the 1997 8-hour ozone NAAQS for at least 10 years from the effective date of the area's designation as attainment for the 1997 8-hour ozone NAAQS. This plan also included components demonstrating how the area will continue to attain the 1997 8-hour ozone NAAQS, and provided contingency measures should the area violate the NAAQS. North Carolina's previous ozone redesignation request and maintenance plan for this area did not remove the 7.8 psi RVP standard. *See* 77 FR 3611 (January 25, 2012).

As mentioned above, on April 12, 2013, NC DENR submitted changes to the section 110(a)(1) maintenance plan for the Triad Area. North Carolina's April 12, 2013, SIP revision modifies the existing section 110(a)(1) maintenance plan to account for a less stringent applicable RVP gasoline requirement of 9.0 psi for the area. Specifically, North Carolina's April 12, 2013, SIP revision included an evaluation of the impact that the removal of the 7.8 psi RVP requirement would have on maintenance of the 1997 and 2008 ozone standards, and on other applicable NAAQS. The EPA evaluated North Carolina's April 12, 2013, SIP revision in a previous rulemaking that was subject to public notice-and-comment and no adverse comments and one supportive comment were received on that proposed action. The EPA approved North Carolina's April 12, 2013, SIP revision on January 24, 2014. *See* 79 FR 4082. In this action, based on the previous approval of North Carolina's April 12, 2013, SIP revision, and the fact that the Triad Area is currently attaining all ozone NAAQS, the EPA is approving North Carolina's request to relax the high ozone season RVP standard for Davidson, Forsyth and Guilford Counties and a portion of Davie County from 7.8 psi to 9.0 psi.

VII. Final Action

The EPA is taking direct final action to approve requests from Florida and North Carolina for the EPA to relax the RVP applicable to gasoline introduced into commerce from June 1 to September 15 of each year in six counties in Florida, and in the counties of the Triangle and Triad Areas in North Carolina. Specifically, this action amends the applicable RVP standard from 7.8 psi to 9.0 psi provided at 40 CFR 80.27(a)(2) for Broward, Dade, Duval, Hillsborough, Palm Beach and Pinellas counties in Florida; Wake and Durham Counties, and a portion of Dutchville Township in Granville County in the Triangle Area in North Carolina; and Davidson, Forsyth and Guilford Counties and a portion of Davie County in the Triad Area.

The EPA is making these revisions without prior proposal because the Agency views these revisions as noncontroversial and anticipates no adverse comment. However, in the Proposed Rules section of this **Federal Register** publication, the EPA is publishing a separate document that will serve as the proposal to approve these revisions to the RVP standards that apply in Florida and in the North Carolina Triangle and Triad Areas should adverse comments be filed. This rule will become effective May 30, 2014 without further notice unless the Agency receives adverse comments by April 30, 2014.

If the EPA receives adverse comment on the rule or any portion of the rule, the Agency will withdraw the direct final rule or the portion of the rule that received adverse comment. The EPA will publish a timely withdrawal in the **Federal Register** indicating which provisions will become effective and which provisions are being withdrawn. All public comments received will then be addressed in a subsequent final rule based on the proposed rule. The EPA will not institute a second comment period on the subsequent final action. Any parties interested in commenting must do so at this time. If no such comments are received, the public is advised that this rule will become effective on May 30, 2014 and no further action will be taken on the proposed rule.

VIII. Statutory and Executive Order Reviews

A. Executive Order 12866: Regulatory Planning and Review

As of January 24, 2014, the Office of Management and Budget (OMB), determined that this action is not a ''significant regulatory action'' under the terms of Executive Order 12866 (58 FR 51735, October 4, 1993) and is therefore not subject to review under Executive Orders 12866 and 13563 (76 FR 3821, January 21, 2011).

B. Paperwork Reduction Act

This action does not impose any new information collection burden under the provisions of the Paperwork Reduction Act, 44 U.S.C. 3501 et seq., and therefore is not subject to these requirements.

C. Regulatory Flexibility Act

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

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

After considering the economic impacts of today's final rule on small entities, I certify that this action will not have a significant economic impact on a substantial number of small entities. The small entities directly regulated by this final rule are refiners, importers or blenders of gasoline that choose to produce or import low RVP gasoline for sale in the Florida and North Carolina areas and gasoline distributors and retail stations in those areas.

designating these areas attainment for the 1997 8-hour ozone NAAQS. However, as a former 1-hour ozone maintenance area the Triad Area was required to submit a 10-year maintenance plan under section 110(a)(1) of the CAA. *See* 73 FR 17897.

[12] Effective July 20, 2012, the Triad Area counties were designated as unclassifiable/attainment for the 2008 8-hour ozone NAAQS. *See* 77 FR 30088.

[13] The EPA has determined that redesignated 1-hour ozone attainment areas that are designated 8-hour ozone attainment areas may rely on the section 110(a)(1) maintenance plan for purposes of requesting relaxation of the more stringent volatility standard. 73 FR 8202, 8205 (February 13, 2008).

This action will relax the federal RVP standard for gasoline sold in portions of Florida and North Carolina, during the ozone control season (June 1 to September 15), from 7.8 psi to 9.0 psi, and is therefore expected not to have a significant economic impact on a substantial number of small entities. The rule does not impose any requirements or create impacts on small entities beyond those, if any, already required by or resulting from the CAA Section 211(h) Volatility Control program.

D. Unfunded Mandates Reform Act

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), Public Law 104–4, establishes requirements for Federal agencies to assess the effects of their regulatory actions on State, local, and tribal governments and the private sector. Under section 202 of the UMRA, the EPA generally must prepare a written statement, including a cost-benefit analysis, for proposed and final rules with ''Federal mandates'' that may result in expenditures to State, local, and tribal governments, in the aggregate, or to the private sector of $100 million or more in any one year. Before promulgating an EPA rule for which a written statement is needed, section 205 of the UMRA generally requires EPA to identify and consider a reasonable number of regulatory alternatives and adopt the least costly, most cost effective or least burdensome alternative that achieves the objectives of the rule. The provisions of section 205 do not apply when they are inconsistent with applicable law. Moreover, section 205 allows the EPA to adopt an alternative other than the least costly, most cost-effective or least burdensome alternative if the Administrator publishes with the final rule an explanation why that alternative was not adopted. Before the EPA establishes any regulatory requirements that may significantly or uniquely affect small governments, including tribal governments, it must have developed under section 203 of the UMRA a small government agency plan. The plan must provide for notifying affected small governments, enabling officials of affected small governments to have meaningful and timely input in the development of EPA regulatory proposals with significant Federal intergovernmental mandates, and informing, educating, and advising small governments on compliance with the regulatory requirements.

The EPA has determined that this rule does not contain a Federal mandate that may result in expenditures of $100 million or more for State, local, and tribal governments, in the aggregate, or the private sector in any one year. Today's final rule affects portions of Florida and North Carolina of which the EPA estimates lower fuel costs as a result of this action, therefore reducing cost on businesses and consumers. Today's final rule, therefore, is not subject to the requirements of sections 202 and 205 of the UMRA. The EPA has determined that this rule contains no regulatory requirements that might significantly or uniquely affect small governments. As discussed above, the rule relaxes an existing standard and affects only the gasoline industry.

E. Executive Order 13132: Federalism

Executive Order 13132, entitled ''Federalism'' (64 FR 43255 August 10, 1999), requires the EPA to develop an accountable process to ensure ''meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications.''

''Policies that have federalism implications'' is defined in the Executive Order to include regulations that have ''substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government.''

This final rule does not have federalism implications. It will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132. Thus, Executive Order 13132 does not apply to this rule.

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

Executive Order 13175, entitled ''Consultation and Coordination with Indian Tribal Governments'' (65 FR 67249, November 9, 2000), requires the EPA to develop an accountable process to ensure ''meaningful and timely input by tribal officials in the development of regulatory policies that have tribal implications.'' This rule does not have tribal implications, as specified in Executive Order 13175.

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

Executive Order 13045, ''Protection of Children from Environmental Health Risks and Safety Risks'' (62 FR 19885, Apr. 23, 1997) applies to any rule that: (1) Is determined to be ''economically significant'' as defined under Executive Order 12866, and (2) concerns an environmental health or safety risk that the EPA has reason to believe may have a disproportionate effect on children. If the regulatory action meets both criteria, the Agency must evaluate the environmental health or safety effects of the planned rule on children, and explain why the planned regulation is preferable to other potentially effective and reasonably feasible alternatives considered by the Agency.

This rule is not subject to the Executive Order because it is not economically significant as defined in Executive Order 12866, and because the Agency does not have reason to believe the environmental health or safety risks addressed by this action present a disproportionate risk to children.

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

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

I. National Technology Transfer and Advancement Act

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

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

Executive Order (EO) 12898 (59 FR 7629, Feb. 16, 1994) establishes federal executive policy on environmental justice. Its main provision directs Federal agencies, to the greatest extent practicable and permitted by law, to make environmental justice part of their mission by identifying and addressing, as appropriate, disproportionately high

and adverse human health or environmental effects of their programs, policies, and activities on minority populations and low-income populations in the United States.

The EPA has determined that this rule will not have disproportionately high and adverse human health or environmental effects on minority or low-income populations because it does not affect the applicable 8-hour ozone NAAQS which establish the level of protection provided to human health or the environment. This rule will relax the applicable volatility standard of gasoline during the summer possibly resulting in slightly higher mobile source emissions. However, Florida and North Carolina have demonstrated in maintenance plans that this action will not interfere with attainment of the 8-hour ozone NAAQS and therefore disproportionately high and adverse human health or environmental effects on minority or low-income populations are not an anticipated result.

K. Congressional Review Act

The Congressional Review Act, 5 U.S.C. section 801 et seq., as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the Agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. The EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a major rule as defined by 5 U.S.C. section 804(2). This rule will become effective May 30, 2014 unless the EPA receives adverse written comments by April 30, 2014.

L. Petitions for Judicial Review

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by May 30, 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 the 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).

IX. Legal Authority and Statutory Provisions

Authority for this final action is in sections 211(h) and 301(a) of the CAA, 42 U.S.C. 7545(h) and 7601(a).

List of Subjects in 40 CFR Part 80

Environmental protection, Administrative practice and procedures, Air pollution control, Fuel additives, Gasoline, Motor vehicle and motor vehicle engines, Motor vehicle pollution, Penalties, Reporting and recordkeeping requirements.

Dated: March 19, 2014.

Gina McCarthy,

Administrator.

Title 40, chapter I, part 80 of the Code of Federal Regulations is amended as follows:

PART 80—REGULATION OF FUELS AND FUEL ADDITIVES

■ 1. The authority citation for part 80 continues to read as follows:

Authority: 42 U.S.C. 7414, 7545 and 7601(a).

■ 2. In § 80.27(a)(2)(ii), the table is amended by:

■ a. Revising the entry for Florida;

■ b. Revising the entry for North Carolina; and

■ c. Adding footnotes 5, 6, and 7.

The revisions and additions read as follows:

§ 80.27 Controls and prohibitions on gasoline volatility.

(a) * * *

(2) * * *

(ii) * * *

APPLICABLE STANDARDS [1] 1992 AND SUBSEQUENT YEARS

State	May	June	July	August	September
* * *	*	*	*	*	
Florida	9.0	9.0	9.0	9.0	9.0
Southeast Florida, Tampa Bay and Jacksonville [5]	9.0	9.0	9.0	9.0	9.0
* * *	*	*	*	*	
North Carolina:					
Triad [6]	9.0	9.0	9.0	9.0	9.0
Triangle [7]	9.0	9.0	9.0	9.0	9.0
All other volatility nonattainment areas	9.0	7.8	7.8	7.8	7.8
* * *	*	*	*	*	

* * * * *

[5] The standard for Broward, Dade, Duval, Hillsborough, Palm Beach and Pinellas Counties from June 1 until September 15 in 1992 through 2013 was 7.8 psi.

[6] The standard for Davidson, Forsyth and Guilford Counties and a portion of Davie County from June 1 until September 15 in 1992 through 2013 was 7.8 psi.

[7] The standard for Durham and Wake Counties, and a portion of Dutchville Township in Granville County from June 1 until September 15 in 1992 through 2013 was 7.8 psi.

* * * * *

[FR Doc. 2014–06863 Filed 3–28–14; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

45 CFR Part 147

Health Insurance Reform Requirements for the Group and Individual Health Insurance Markets

CFR Correction

■ In Title 45 of the Code of Federal Regulations, Parts 1 to 199, revised as of October 1, 2013, on page 700, in § 147.130, paragraphs (a)(1)(iv)(A) and (B) are removed.

[FR Doc. 2014–07217 Filed 3–28–14; 8:45 am]

BILLING CODE 1505–01–D

DEPARTMENT OF TRANSPORTATION

Maritime Administration

46 CFR Part 308

RIN 2133–AB82

Retrospective Review Under E.O. 13563: War Risk Insurance

AGENCY: Maritime Administration, Department of Transportation.

ACTION: Final rule.

SUMMARY: In accordance with Executive Order 13563, ''Improving Regulation and Regulatory Review,'' the Maritime Administration (MARAD) is evaluating the continued accuracy of its rules and determining whether they effectively address current issues and provide the regulated public with necessary guidance. As part of this review, MARAD is issuing this final rule to correct numerous citations in accordance with the codification of Title 46 of the United States Code, update relevant agency contact and underwriting agent information, and remove obsolete references to lighter aboard ship barges in Part 308. This rulemaking will have no substantive effect on the regulated public.

DATES: This rule is effective April 30, 2014.

FOR FURTHER INFORMATION CONTACT: You may contact Jeff R. Vogel, Attorney-Advisor, Office of Chief Counsel, at (202) 493–0307. You may send mail to Mr. Vogel at Office of Chief Counsel, MAR–222, Maritime Administration, 1200 New Jersey Avenue SE., Washington, DC 20590–0001. You may send electronic mail to *jeff.vogel@dot.gov*.

SUPPLEMENTARY INFORMATION: On January 18, 2011, President Obama issued Executive Order 13563, which outlined a plan to improve regulation and regulatory review (76 FR 3821, January 21, 2011). Executive Order 13563 reaffirms and builds upon governing principles of contemporary regulatory review, including Executive Order 12866, ''Regulatory Planning and Review,'' (58 FR 51735, October 4, 1993), by requiring Federal agencies to design cost-effective, evidence-based regulations that are compatible with economic growth, job creation and competitiveness. The President's plan recognizes that these principles should not only guide the Federal government's approach to new regulations, but to existing ones as well. To that end, Executive Order 13563 requires agencies to promote retrospective analysis of rules that may be outmoded, ineffective, insufficient or excessively burdensome.

Accordingly, MARAD identified its regulations governing its war risk insurance program for improvement consistent with the President's order. The regulations were deemed inconsistent with current agency practices and provided out-of-date information for those participating in, or potentially interested in, the war risk insurance program.

As authorized by 46 U.S.C. 53902, and delegated under 46 CFR 1.93, MARAD may provide war risk insurance adequate for the needs of the waterborne commerce of the United States, if such insurance coverage cannot be obtained on reasonable terms and conditions from companies authorized to conduct an insurance business in a State of the United States. MARAD's authority to issue marine war risk insurance, as provided by 46 U.S.C. 53912, currently expires on December 31, 2020, subject to a further extension of the program by Congress. This U.S. Government war risk insurance program is a standby emergency program and becomes effective simultaneously with the automatic termination of ocean marine commercial war risk insurance policies. This program makes it possible for applicants to obtain war risk insurance from the U.S. Government when such insurance is unavailable on reasonable terms and conditions in the commercial market. The program is mutually-beneficial to the United States and to the shipowner in that it assures continued flow of essential U.S. trade and protection of the shipowner from loss by risks of war.

The war risk insurance statutory provisions were codified at 46 U.S.C. Chapter 539 pursuant to Public Law 109–304 on October 6, 2006. In order to alleviate any confusion caused by the current war risk insurance regulations, all statutory references have been amended to reflect the correct sections of Title 46 of the United States Code. In addition, all contact information contained in 46 CFR Part 308 has been updated to ensure that program participants and the general public have access to all current information. In their current form, the regulations also make repeated reference to the ''American War Risk Agency'' as MARAD's underwriter. The American War Risk Agency was operated by the American Hull Insurance Syndicate, as successor to the American Marine Insurance Syndicate ''C'', which was created at the insistence of the House Subcommittee on Merchant Marine and Fisheries and was approved by such Committee and the United States Shipping Board on June 28, 1920. The American War Risk Agency served as MARAD's underwriter until December 2012 when it ceased operation. All references to the American War Risk Agency have been replaced in Part 308, and subsequent underwriters will be contracted for in accordance with the Federal Acquisition Regulations. Finally, this final rule removes references to lighter aboard ship (LASH) barges in sections 308.102 and 308.202. The regulations now make general reference to binder fees for all barges in lieu of specifically referencing LASH barges.

Rulemaking Analysis and Notices

Executive Orders 12866 (Regulatory Planning and Review), 13563 (Improving Regulation and Regulatory Review) and DOT Regulatory Policies and Procedures

Under E.O. 12866 (58 FR 51735, October 4, 1993), supplemented by E.O. 13563 (76 FR 3821, January 18, 2011) and DOT policies and procedures, MARAD must determine whether a regulatory action is ''significant,'' and therefore subject to Office of Management and Budget (OMB) review and the requirements of the Executive Order. The Order defines ''significant regulatory action'' as one likely to result in a rule that may: (1) Have an annual effect on the economy of $100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal government or communities. (2) Create

a serious inconsistency or otherwise interfere with an action taken or planned by another Agency. (3) Materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof. (4) Raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in the Executive Order.

MARAD has determined that this final rule is not considered a significant regulatory action under section 3(f) of Executive Order 12866 and, therefore, it was not reviewed by OMB. This final rule will not result in an annual effect on the economy of $100 million or more. It also is not considered a major rule for purposes of Congressional review under Public Law 104–121. The rule is also not significant under the Regulatory Policies and Procedures of the Department of Transportation (44 FR 11034, February 26, 1979). The costs and overall economic impact of this rulemaking do not require further analysis.

Executive Order 13132 (Federalism)

MARAD analyzed this rulemaking in accordance with the principles and criteria contained in Executive Order 13132 (''Federalism'') and determined that it does not have sufficient Federalism implications to warrant the preparation of a Federalism summary impact statement. This rule has no substantial effect on the States, or on the current Federal-State relationship, or on the current distribution of power and responsibilities among the various local officials. Nothing in this document preempts any State law or regulation. Therefore, MARAD did not consult with State and local officials because it was not necessary.

Executive Order 13175 (Consultation and Coordination With Indian Tribal Governments)

MARAD does not believe that this final rule will significantly or uniquely affect the communities of Indian tribal governments when analyzed under the principles and criteria contained in Executive Order 13175 (Consultation and Coordination with Indian Tribal Governments). Therefore, the funding and consultation requirements of this Executive Order do not apply.

Executive Order 12372 (Intergovernmental Review)

The regulations implementing Executive Order 12372 regarding intergovernmental consultation on Federal programs and activities do not apply to this rule.

Regulatory Flexibility Act

The Regulatory Flexibility Act of 1980 requires MARAD to assess whether this rule would have a significant economic impact on a substantial number of small entities and to minimize any adverse impact. MARAD certifies that this rule will not have a significant economic impact on a substantial number of small entities.

Environmental Assessment

We have analyzed this final rule for purposes of compliance with the National Environmental Policy Act of 1969 (42 U.S.C. 4321 *et seq.*) and have concluded that under the categorical exclusions provision in section 4.05 of Maritime Administrative Order (MAO) 600–1, ''Procedures for Considering Environmental Impacts,'' 50 FR 11606 (March 22, 1985), neither the preparation of an Environmental Assessment, an Environmental Impact Statement, nor a Finding of No Significant Impact for this rulemaking is required. This rulemaking has no environmental impact.

Executive Order 13211 (Energy Supply, Distribution, or Use)

MARAD has determined that the final rule would not significantly affect energy supply, distribution or use. Therefore, no Statement of Energy Effects is required.

Executive Order 13045 (Protection of Children)

Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks, requires agencies issuing ''economically significant'' rules that involve an environmental health or safety risk that may disproportionately affect children, to include an evaluation of the regulation's environmental health and safety effects on children. As discussed previously, this final rule is not economically significant, and it would cause no environmental or health risk that disproportionately affects children.

Executive Order 12988 (Civil Justice Reform)

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

Executive Order 12630 (Taking of Private Property)

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

National Technology Transfer and Advancement Act

The National Technology Transfer and Advancement Act (15 U.S.C. 272 note) requires Federal agencies proposing to adopt Government technical standards to consider whether voluntary consensus standards are available. If the Agency chooses to adopt its own standards in place of existing voluntary consensus standards, it must explain its decision in a separate statement to OMB. MARAD determined that there are no voluntary national consensus standards related to the war risk insurance program addressed by this regulation.

International Trade Impact Assessment

This rule is not expected to contain standards-related activities that create unnecessary obstacles to the foreign commerce of the United States.

Privacy Impact Assessment

Section 522(a)(5) of the Transportation, Treasury, Independent Agencies, and General Government Appropriations Act, 2005 (Pub. L. 108–447, div. H, 118 Stat. 2809 at 3268) requires the Department of Transportation and certain other Federal agencies to conduct a privacy impact assessment of each final rule that will affect the privacy of individuals. Claims submitted under this rule will be treated the same as all legal claims received by MARAD. The processing and treatment of any claim within the scope of this rulemaking by MARAD shall comply with all legal, regulatory and policy requirements regarding privacy.

Paperwork Reduction Act

Under the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3501 et seq.), Federal agencies must obtain approval from OMB for each collection of information they conduct, sponsor or require through regulations. This final rule proposes regulatory clarification to MARAD's war risk insurance program. This rulemaking contains no new or amended information collection or recordkeeping requirements that have been approved or require approval by the OMB.

Unfunded Mandates Reform Act of 1995

The Unfunded Mandates Reform Act of 1995 requires Agencies to evaluate whether an Agency action would result in the expenditure by State, local and tribal governments, in the aggregate, or by the private sector, of $141.3 million or more (as adjusted for inflation) in any

one year, and if so, to take steps to minimize these unfunded mandates. This final rule does not impose unfunded mandates under the Unfunded Mandates Reform Act of 1995. It does not result in costs of $141.3 million or more to either State, local or tribal governments, in the aggregate, or to the private sector, and is the least burdensome alternative that achieves the objectives of the rule.

Regulation Identifier Number (RIN)

A regulation identifier number (RIN) is assigned to each regulatory action listed in the Unified Agenda of Federal Regulations. The Regulatory Information Service Center publishes the Unified Agenda in April and October of each year. The RIN number contained in the heading of this document can be used to cross-reference this action with the Unified Agenda.

List of Subjects in 46 CFR Part 308

Disability benefits, Freight, Maritime carriers, Reporting and recordkeeping requirements, Seamen, Vessels, War risk insurance.

For the reasons stated in the preamble, the Maritime Administration revises 46 CFR Part 308 to read as follows:

PART 308—WAR RISK INSURANCE

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Subpart A—General

§ 308.1 Eligibility for vessel insurance.

Any vessel within one of the following categories shall be eligible for insurance, but shall remain eligible only while meeting the qualifications criteria in one of said categories. An eligible vessel is not insured unless and until an application is submitted as required in subpart B, C, or D of this part 308 and the Maritime Administrator, Department

of Transportation, (Maritime Administrator) Maritime Administration (MARAD), approves said application.

(a) A vessel registered, enrolled, or licensed under the laws of the United States of America (United States); any undocumented vessel owned or chartered by or made available to the United States or any department or agency thereof; any tug or barge or other watercraft (documented under the laws of the United States, or undocumented) owned by a citizen of the United States and used in essential water transportation; and United States citizen-owned watercraft used in the fishing trade or industry, except when used exclusively in or for sport fishing.

(b) Any vessel, other than a vessel described in paragraph (a) of this section determined by the Maritime Administrator to be engaged in the national defense or the national economy of the United States and subject to an unqualified Contract of Commitment with the United States in a form required by the Maritime Administrator, and which is:

(1) Owned by a United States corporation, or a foreign corporation in which a majority of the stock is owned and controlled by a citizen or citizens of the United States, whether direct or through intervening corporations, foreign or domestic. Where such intervening corporations are foreign, the ultimate majority ownership and control of the stock of such corporations must be vested in a citizen or citizens of the United States as defined 46 U.S.C. 50501(a);

(2) Owned by a foreign corporation which is not directly or beneficially owned by a citizen or citizens of the United States, but which vessel is under a long-term charter or other long-term contract covering the use of the vessel on terms deemed by the Maritime Administrator to subject the vessel to United States control in the event of an emergency. The charterer of such vessel must be either a citizen or citizens of the United States or a foreign corporation in which a majority of the stock is owned and controlled by a citizen or citizens of the United States, whether direct or indirect through intervening corporations, foreign or domestic. Where such intervening corporations are foreign, ultimate majority ownership and control of the stock of such corporations must be vested in a citizen or citizens of the United States, as defined in 46 U.S.C. 50501(a).

(c) Any other vessel, at the sole discretion of the Maritime Administrator, but only while engaged in a service which has been determined by the Maritime Administrator to be in the interest of the national defense or the national economy of the United States. Vessels in this category are not eligible for war risk insurance interim binders.

§ 308.2 Requirements for eligible vessels.

(a) *Restrictions—foreign-flag vessels.* Interim insurance is available on any vessel described in § 308.1(a) and (b), provided application for interim insurance is submitted as required in subparts B, C, or D of this part 308, and the Maritime Administrator approves said application: Provided, that only vessels of Panamanian, Honduran, Bahamian, Republic of the Marshall Islands or Liberian registry not more than 20 years old will be considered eligible under § 308.1 (b) for interim insurance, subject at all times to the determination specified in paragraph (b) of this section.

(b) *Special rules—foreign-flag vessels.* For the purpose of providing interim insurance on vessels described in § 308.1(b), the Maritime Administrator shall consider the characteristics, employment, and general management of the vessel. The Maritime Administrator formally determines that the following vessels are engaged in a service in the interest of the national defense or the national economy of the United States and qualify for an interim binder:

(1) Vessels substantially engaged in the foreign commerce of the United States or which would be required in the event of war or national emergency;

(2) Tankers of not less than 2,000 deadweight tons;

(3) Dry cargo vessels, including containerships, break-bulk, and dry bulk vessels;

(4) Heavy lift vessels;

(5) Refrigerated vessels and other classes of ships in short supply in the United States-flag fleet;

(6) Passenger vessels; and

(7) Other vessels with special capabilities, as determined by the Maritime Administrator.

(c) *Vessel Position Reports.* All vessels for which war risk insurance interim binders have been issued shall file a Vessel Position Report. The purpose of this report is to inform U.S. agencies of vessel arrivals, departures, and at-sea locations. Failure to make required regular reports will cause MARAD to issue a one-time notice of default. If failure to report continues, MARAD shall cancel the interim binder for the subject vessel and any insurance attaching thereunder. MARAD will issue reporting instructions and formats with the binders.

(d) *Notice of change in status of vessel after binder issued.* Any breach of the warranty prescribed hereunder as to vessels in all categories with respect to Department of Commerce Transportation Order T–1 (44 CFR Parts 401 and 402), as well as the additional warranties as to vessels in categories (b)(1) and (b)(2) of this section, with respect to maintenance of eligibility for insurance and availability of the insured vessels to the U.S. Government in time of emergency, shall terminate the binders and any insurance attaching thereunder. In the event of the sale, demise charter, requisition, confiscation, change of flag, total loss, or any other change in status which, by the terms of the binder causes the binder to terminate, prompt notice shall be given in writing to MARAD's underwriting agent and to MARAD at: Division of Marine Insurance, Maritime Administration, Department of Transportation, 1200 New Jersey Avenue SE., MAR–712, Washington, DC 20950.

(e) *Nature of change in status of other vessels.* It is the intention of the parties that any breach of the warranty as to operation in the approved service of vessels described in § 308.1(c) shall terminate the insurance. In the event of the sale, demise charter, requisition, confiscation, change of flag, total loss, any other change in status or change in operation of the vessel in the approved service prompt notice shall be given to MARAD's underwriting agent MARAD's underwriting agent and to MARAD at the address in paragraph (d) of this section.

§ 308.3 Applications for insurance; warranties; supporting documents; payment of binder fees.

(a) Application, binder forms. A single application for War Risk Insurance shall be filed on Form MA–528, specifying the types of insurance coverages for which the applicant is applying. A single application may be submitted for several vessels, if the application identifies each vessel to be insured and the coverage(s) required, by completing appendices A and B to that form. An interim binder for war risk insurance coverage, of the types described in subparts B, C and D of this part, shall be on Form MA–942, which may be obtained from the MARAD's underwriting agent or from MARAD.

(b) *Warranties*—

(1) *In general.* Applications for war risk hull and protection and indemnity insurance in any eligible category of this Part 308 shall include a warranty that, at all times during the effective period of the binder and any insurance

attaching thereunder, the insured vessel, regardless of its nation of registry, will comply with Department of Commerce Transportation Order T–1 (44 CFR Parts 401 and 402), or any modifications thereof so long as it remains in force and that the vessel will not be chartered, unless in accordance with the provisions of §§ 221.11 and 221.13 of this chapter, which requirement is applicable to any charter in existence at the time the applicant applies for insurance.

(2) Vessels described in § 308.1(a). Applications for war risk insurance on a vessel described in § 308.1(a) shall contain the warranty that at, and from the date of issuance of the interim binder, and for and during the term of any insurance attaching thereunder, such vessel will remain eligible within its category.

(3) Vessels described in § 308.1(b). Applications for war risk insurance on a vessel described in § 308.1(b) shall contain the warranties that at all times the vessel will remain eligible within its applicable category; that the vessel will be made available for use by the United States pursuant to the signed Contract of Commitment submitted with the insurance applications, as required by MARAD; that the vessel will remain in the approved service; and that no controlling interest in the vessel shall be transferred by a subsequent sale or long-term charter, except on the condition that the successor in interest agrees to be bound by the terms of the applicant's Contract of Commitment. All instruments transferring any controlling interest in the vessel, including long-term charter or merger agreements, shall be submitted to MARAD for prior approval.

(4) Vessels described in § 308.1(c). Applications for war risk insurance on a vessel described in § 308.1(c) shall contain warranties that the vessel will remain in the approved service and that any change in flag or service will be reported in advance to MARAD for a new determination as to whether the vessel's service is in the interest of the national defense or the national economy of the United States. Vessels in this category are not eligible for war risk insurance interim binders.

(5) Vessel locator filing requirements. Applications for insurance on vessels in all categories, except tugs and barges and vessels used exclusively in the fishing trade or industry, described in § 308.1(a), shall contain a warranty that at all times the vessel will file reports as required under the U.S. Coast Guard's Automated Mutual-Assistance Vessel Rescue System (AMVER) as prescribed in § 308.2(c) of this section.

(c) *Filing applications for insurance.* All applications for insurance on a vessel shall be made to MARAD's underwriting agent and to MARAD at the address in § 308.2(d).

(d) *Required submissions with*—

(1) *In general.* An application for insurance on a vessel described in § 308.1(b) shall be accompanied by:

(i) A contract of commitment, in the form prescribed in § 308.5. In the event the vessel is determined to be ineligible under the terms of this part 308, the applicant will be so advised and the executed contract of commitment and any official foreign government action or approval will be returned to the applicant by MARAD.

(ii) An executed agreement contained in the application for insurance that any charter or other contract covering the use of the vessel during the period of the binder or any insurance attaching thereunder shall be subject to termination or suspension without notice in the event the United States requires the use of the vessel under the voluntary contract of commitment submitted by the applicant.

(2) *Certification of citizenship.* An application for insurance on such a vessel shall be supported by execution of the citizenship certification, in the format set out in appendix C to Form MA–528, as described in paragraph (a) of this section. That certification shall be required to establish the U.S. citizenship of the majority ownership and control of the vessel-owning corporation, whether that ownership is direct or through intervening corporations.

(3) *Existing long-term charters.* An application for a vessel in this category which is at the time of application under long-term charter or other long-term contract, either to the applicant or from the applicant to a third party, shall be jointly submitted by the owner and the charterer, and in addition to the other materials required under this paragraph, shall be accompanied by a copy of the long-term contract covering the use of the vessel and all addenda thereto, certified to be full and complete copies (except as to rate of hire or freight) and a completed appendix C to Form MA–528, establishing the U.S. citizenship of the majority of the shareholders and control of the charterer. The charterer shall also furnish to MARAD a certified copy of any amendment to such charter which may be issued subsequent to the issuance of any binder of insurance under this part 308.

(4) *Foreign government action or approval.* An application for a vessel in this category also shall be accompanied by a certified copy of the evidence of any official action or approval required by the government of the country of registry as a prerequisite to the execution of a contract of commitment with the United States.

(5) *Additional materials.* With respect to a vessel in this category, the applicant shall submit the following additional materials:

(i) A statement describing the service in which the vessel is engaged, including a listing of the vessel's voyages and ports of call during the immediately preceding six (6) month period, indicating the tonnage and type of cargo carried on such voyages and the reasons why such service should be deemed to be in the interest of the national defense or the national economy of the United States;

(ii) Material demonstrating the management and financial capabilities of the applicant; and

(iii) In the case of a new vessel or a vessel which has not for the six (6) months immediately prior to the date of the application been engaged in the foreign commerce of the United States, a statement, signed by a responsible company official, certifying the extent to which the vessel will be engaged in the foreign commerce of the United States for the six (6) months immediately following the issuance of any interim binder of insurance under this part 308.

(e) *Requests for changes in binders.* All requests for changes in binders and inquiries relative to the insurance after the interim binders have been issued shall be directed to MARAD's underwriting agent or MARAD at the address in § 308.2(d).

(f) *Fees.* A check payable in U.S. funds to the ''Maritime Administration, Department of Transportation'' for the total amount of all binder fees payable by such applicant shall accompany each application. Binder fees are not returnable.

(g) *Availability of Application Forms.* Form MA–528 may be obtained from either MARAD's underwriting agent or MARAD at the address in § 308.2 (d).

§ 308.4 [Reserved]

§ 308.5 Voluntary contract of commitment.

Applications for insurance on vessels described in § 308.1(b) shall be accompanied by a contract of commitment, in triplicate originals, executed by the owner (or by the owner and the charterer where required by § 308.3). Contracts of commitment to make the vessel available to the United States during any period in which vessels may be requisitioned under 46 U.S.C. Chapter 563 shall be submitted

on standard contract form which may be obtained from MARAD's underwriting agent or MARAD. The effective date of the contract of commitment will be the effective date of the binder and will be inserted in the contract of commitment by MARAD.

§ 308.6 Period of interim binders, updating application information and new applications.

(a) All existing interim binders remain in full force and effect without the necessity of re-application or the payment of additional fees so long as the Secretary of Transportation's authority to provide such insurance has been extended and is continuous.

(b) Assureds under interim binders are required to notify MARAD's underwriting agent annually, by June 30th, of any change in the information provided in their original binder applications including, but not limited to, change of address, vessel name or vessel characteristics.

(c) New applications for interim binders on American vessels, with necessary attachments (as specified in § 308.3), as well as checks for the binder fees prescribed made payable to ''Maritime Administration, Department of Transportation,'' shall be filed with the MARAD's underwriting agent. All interim binders on American vessels shall become effective as of the date of determination of eligibility by MARAD.

(d) New applications for interim binders on U.S. citizen-owned or controlled foreign-flag vessels, with necessary attachments (as specified in § 308.3), as well as checks for the binder fees prescribed made payable to ''Maritime Administration, Department of Transportation,'' shall be filed for review in accordance with eligibility requirements specified in § 308.2, and mailed to MARAD's underwriting agent. All interim binders on foreign-flag vessels will become effective on the date the owner's contract of commitment is executed by MARAD.

§ 308.7 Premiums and payment thereof.

Rate to be fixed promptly upon the happening of the event causing the American Institute Hull War Risks and Strikes Clauses dated December 1, 1977 (including Automatic Termination and Cancellation Provisions) for attachment to American Institute Hull Clauses dated June 2, 1977 of any war risk policies to become operative and premium shall be payable within ten (10) days after receipt of notice of the amount thereof by the assured. Premiums shall be paid to the Underwriting Agent that issued the binders by check payable to the order of ''Maritime Administration, Department of Transportation.'' In the event that it is subsequently determined that insurance under interim binders did not attach, premiums paid will be refunded by the Maritime Administrator.

§ 308.8 War risk insurance underwriting agency agreement.

Standard form MA–355, Underwriting Agency Agreement, shall be executed by the Maritime Administrator and domestic insurance companies or groups of domestic insurance companies authorized to do a marine insurance business in any States of the United States, appointing such companies or groups of companies as Underwriting Agents to issue binders and policies covering hull, protection and indemnity, and Second Seamen's war risk insurance under subparts B, C, and D of this part. It shall contain provisions including, but not limited to the appointment of the agent, duties of the agent, books and records, compensation, standard of performance, indemnification effective date, amendment and termination, and nondiscrimination.

Subpart B—War Risk Hull and Disbursements Insurance

§ 308.100 Insured amount.

An applicant for war risk hull insurance shall state the amount of insurance desired but any payment of claim for damage to or actual or constructive total loss of the vessel insured shall be made as provided in § 308.103(a). An applicant desiring disbursements insurance may at his option obtain such additional insurance but any claim for loss of disbursements as a consequence of the actual or constructive total loss of the vessel insured shall be made as provided in § 308.103(c).

§ 308.101 [Reserved]

§ 308.102 Issuance of interim binder; terms and conditions; fees.

Upon acceptance of an application, an interim binder in the form set forth in § 308.106, will be issued and there shall be deemed to be incorporated therein by references all the terms, conditions, and warranties contained in the application for war risk hull and disbursements insurance and the standard war risk hull insurance policy (set forth in § 308.107), to the same extent as if such application and policy were made a part of the binder. The binder fee (not refundable) for American vessels shall be $25 per application for vessels under 500 gross tons; $100 per application for vessels 500 gross tons or over; and $100 per barge application. The binder fee (not refundable) for foreign-flag vessels shall be $50 per application for vessels under 500 gross tons; $200 per application for vessels 500 tons or over; and $200 per barge application. All fees are payable in U.S. funds by check to order of ''Maritime Administration, Department of Transportation.''

§ 308.103 Insured amounts under interim binder.

(a) *Valuation.* The valuation in the policy for damage to, or actual or constructive total loss of the vessel insured shall be a stated valuation (exclusive of National Defense features paid for by the Government) determined by the Maritime Administrator which shall not exceed the amount that would be payable if the vessel had been requisitioned for title under 46 U.S.C. Chapter 563 at the time of the attachment of the insurance under said policy: Provided, however, that in the case of a construction subsidized vessel, for the period of insurance prior to requisition for title or use, the valuation so determined shall be reduced by such proportion as the amount of construction subsidy paid with respect to the vessel bears to the entire construction cost and capital improvements thereof (excluding the cost of national defense features), and for the period of insurance after requisition for use the valuation so determined shall not exceed the amount which would be payable under 46 U.S.C. 56303 in the case of requisition for title or use: Provided, further, that the insured shall have the right within sixty (60) days after the attachment of the insurance under said policy, or within sixty (60) days after determination of such valuation by the Maritime Administrator, whichever is later, to reject such valuation, and shall pay, at the rate provided for in said policy, premiums upon such asserted valuation as the insured shall specify at the time of rejection, but such asserted valuation shall not operate to the prejudice of the Government in any subsequent action on the policy. In the event of the actual or constructive total loss of the vessel, if the insured has not rejected such valuation the amount of any claim therefor which is adjusted, compromised, settled, adjudged, or paid shall not exceed such stated amount, but if the insured has so rejected such valuation, the insured shall be paid as a tentative advance only, 75 per centum of such valuation so determined by the Maritime Administrator and shall be entitled to sue the United States in a court having jurisdiction of such claims to recover such valuation as would be

equal to the just compensation which such court determines would have been payable if the vessel had been requisitioned for title under 46 U.S.C. Chapter 563 at the time of the attachment of the insurance under said policy: Provided, however, that in the case of a construction-subsidized vessel, the valuation determined by the court as such just compensation for any period of insurance prior to actual requisition for title or use of the vessel shall be reduced by such proportion as the amount of construction subsidy paid with respect to the vessel bears to the entire construction cost and capital improvements thereof (excluding the cost of national defense features), and for any period of insurance after actual requisition for use, the valuation determined by the court shall be the amount which would have been payable under 46 U.S.C. 56303 in the case of requisition for title: And provided further, that in the event of an election by the insured to reject the stated valuation fixed by the Maritime Administrator and to sue in the courts, the amount of the judgment will be payable without regard to any limitations provided by statute, although the excess of any amounts advanced on account of just compensation that is over the amount of the court judgment shall be required to be refunded by the insured. In the event of such court determination, premiums under the policy shall be adjusted on the basis of the valuation as finally determined and of the rate provided for in said policy. The ''stated valuation'' of the vessel insured refers to the vessel as described in § 309.5 of this chapter.

(b) *Insurance risks.* Insurance risks covered by the terms of the standard form of war risk hull insurance policy (§ 308.107), except damage to or actual or constructive total loss of the vessel insured as set forth in paragraph (a) of this section and loss of disbursements (limited to consumable and subsistence stores, slop chests, bar stock and bunker fuel lost as a consequence of the actual or constructive total loss of the vessel insured) as set forth in paragraph (c) of this section and identified as disbursements, shall be insured for an amount not in excess of the ''sum insured'' as referred to in said policy.

(c) *Disbursements.* Disbursements shall be insured as authorized under 46 U.S.C. 53903(a)(4) and shall be limited to consumable and subsistence stores, slop chests, bar stock and bunker fuel. Disbursements insurance shall be optional and is insurance additional to the war risk hull insurance provided under this subpart, and payment of claim shall be limited to the actual value of the disbursements lost as a consequence of the actual or constructive total loss of the vessel insured.

§ 308.104 Additional war risk insurance.

Owners or charterers may obtain, on an excess basis, additional war risk insurance in such amounts as desired and such insurance shall not inure to the benefit of the Maritime Administrator as underwriter.

§ 308.105 Reporting casualties and filing claims.

All casualties occurring after insurance under a binder has attached shall be reported promptly to the underwriting agent that issued the binder and all claim documents shall likewise be filed with such underwriting agent, but payment of the amounts due in settlement of claims will be made by the Maritime Administrator.

§ 308.106 [Reserved]

§ 308.107 War risk hull insurance policy.

Standard Form MA–240, issued by the Maritime Administrator, acting for the United States, through authority delegated by the Secretary of Transportation, may be obtained from MARAD's underwriting agent or MARAD.

Subpart C—War Risk Protection and Indemnity Insurance

§ 308.200 Insured amount—application.

An applicant for war risk protection and indemnity insurance shall state the amount of insurance desired but such amount shall not exceed $750 per gross ton of the Vessel.

§ 308.201 [Reserved]

§ 308.202 Issuance of interim binder; terms and conditions.

Upon acceptance of an application, an interim binder in form as set forth in § 308.3 will be issued and there shall be deemed to be incorporated therein by reference all the terms, conditions, and warranties contained in the application for war risk protection and indemnity insurance (set forth in § 308.3) and the standard war risk protection and indemnity insurance policy (set forth in § 308.207) to the same extent as if such application and policy were made a part of the binder. The binder fee (not refundable) shall be $100 per application for American barges; $25 per application for all other American vessels; $200 per application for foreign-flag barges; and $50 per application for all other foreign-flag vessels. All fees are payable in U.S. funds by check to the order of ''Maritime Administration, Department of Transportation.''

§ 308.203 Amount insured under interim binder.

The amount insured shall be the amount stated in the application, but not in excess of $750 per gross ton of the vessel.

§ 308.204 Additional war risk protection and indemnity insurance.

Owners or charterers may obtain, on an excess basis, additional war risk protection and indemnity insurance in such amounts as desired and such insurance shall not inure to the benefit of the Maritime Administrator, as underwriter.

§ 308.205 Reporting casualties and filing claims.

All casualties occurring after insurance under a binder has attached shall be reported promptly to, and all claim documents filed with ''Office of Marine Insurance, Maritime Administration, Department of Transportation.''

§ 308.206 [Reserved]

§ 308.207 War risk protection and indemnity insurance policy.

The standard form of war risk protection and indemnity insurance policy, Form MA–241, may be obtained from MARAD's underwriting agent or MARAD.

Subpart D—Second Seamen's War Risk Insurance

§ 308.300 Insured amount—application.

An applicant for Second Seamen's war risk insurance shall not state the amount of insurance desired, which shall be as provided in § 308.303.

§ 308.301 [Reserved]

§ 308.302 Issuance of interim binder; terms and conditions.

Upon acceptance of an application, an interim binder in form as set forth in § 308.3 will be issued and there shall be deemed to be incorporated therein by reference all the terms, conditions, and warranties contained in the application for Second Seamen's war risk insurance (set forth in § 308.3) and the Second Seamen's War Risk Policy (1955) (set forth in § 308.306) to the same extent as if such application and policy were made a part of the binder. The binder fee (not refundable) shall be $75 per application for American vessels and $150 per application for foreign-flag vessels. All fees are payable in U.S. funds by check to the order of ''Maritime Administration, Department of Transportation.''

§ 308.303 Amounts insured under interim binder.

The amounts insured are the amounts specified in the Second Seamen's War Risk Policy (1955) or as modified by shipping articles, collective bargaining agreements or other applicable employment agreements which are in effect as of the date of a casualty involving the subject vessel. Upon the attachment of this binder, the number of crew members and modified benefits payable as of that date shall be declared immediately to the Underwriting Agent that issued the binder. Any subsequent changes shall be likewise declared.

§ 308.304 Reporting casualties and filing claims.

All casualties occurring after insurance under a binder has attached shall be reported promptly to, and all claim documents filed with, ''Maritime Administration, Attention: Chief, Office of Marine Insurance.''

§ 308.305 [Reserved]

§ 308.306 Second Seamen's War Risk Policy, Form MA–242.

The standard form of Second Seamen's War Risk Policy Form MA–242, may be obtained from MARAD's underwriting agent or MARAD.

Subpart E—War Risk Builder's Risk Insurance

§ 308.400 Authority.

The Secretary of Transportation has delegated authority to the Maritime Administrator to perform the functions vested in the Secretary of Transportation by 46 U.S.C. Chapter 539. The Maritime Administrator, pursuant to a finding by the Secretary under 46 U.S.C. 53902(a) has authorized the issuance of war risk insurance on American vessels under construction in shipyards in the United States.

§ 308.401 Eligibility for insurance.

A vessel is eligible for insurance if it is an American vessel, as defined in 46 U.S.C. 53901, being constructed in a shipyard within the United States.

§ 308.402 Insurance during vessel construction period.

(a) *Prelaunching period.* This period is from the date and time the first material destined for inclusion as part of the vessel becomes at risk at the shipyard of the builder to the date and time the vessel first becomes water-borne after launching.

(b) *Postlaunching period.* This period is from the date and time the vessel first becomes water-borne after launching to the date and time of delivery of the vessel by the builder.

(c) *Portions of periods.* A vessel may be insured for a portion of either period as cited in paragraph (a) or (b) of this section at the sole discretion of the Maritime Administrator.

§ 308.403 Insured amounts.

(a) *Prelaunching period.* The amount insured during this period will be the cost of material destined for inclusion as a part of the vessel at risk at the shipyard of the builder, plus the cost of labor, other direct charges, overhead, and profit not exceeding 10 percent, all as determined from the builder's records.

(b) *Postlaunching period.* The amount insured during this period will be:

(1) An amount not in excess of the difference in amount between the total amount of war risk insurance obtainable from companies authorized to do an insurance business in a State of the United States and the contract price of the vessel plus the cost of the materials and equipment furnished by the owner and not included in such contract price, or

(2) An amount not in excess of the contract price of the vessel plus the cost of materials and equipment furnished by the owner and not included in the contract price: Provided, that no war risk insurance is obtainable from companies authorized to do an insurance business in a State of the United States.

(c) *Maximum liability.* The amount of any claim for damage to or the total or constructive total loss of the vessel adjusted, compromised, settled, adjudged or paid shall not exceed the amount insured: Provided, that the amount payable hereunder shall not exceed the maximum sum which the Maritime Administrator, as Underwriter, is authorized to pay under any applicable Acts of Congress: Provided, further, that where MARAD is an Excess Underwriter, the amount payable under this insurance for damage to or the total or constructive total loss of the vessel, after all sums due and payable under primary and excess insurance written by commercial Underwriters have been exhausted, shall be the balance, if any, of said claims.

§ 308.404 Application for insurance.

Application for insurance shall be made to ''Maritime Administration, Attention: Chief, Division of Marine Insurance'' at the address in § 308.2(d). The applications shall be signed by all parties to be named as assureds, unless they have filed with the Chief, Division of Marine Insurance, written designations of a broker or brokers to act for them, in which case the applications may be signed by such broker or brokers.

§ 308.405 Form of application.

Applications shall be submitted in duplicate and may be obtained from MARAD's underwriting agent or MARAD.

§ 308.406 Issuance of policies; terms and conditions.

Upon acceptance of an application, a policy in the form specified in § 308.409 will be issued with endorsements MA–283(A) and MA–283(D), or MA–283(B) and MA–283(D), or MA–283(C), and MA–283(D), as appropriate.

§ 308.407 Premiums and payment.

For the prelaunching period premium will be charged on the average value at risk during each calendar month or the daily pro rata part thereof for periods of less than one calendar month. For the postlaunching period premium will be charged on the amount insured for the full period. Premiums shall be due and payable within thirty days after receipt by the Assured of notice of the amount thereof and if not paid within that period the insurance shall become null and void and of no effect from the beginning of the period for which the premium charge is made unless the Maritime Administrator agrees otherwise. Payment shall be made to MARAD at the address in § 308.2(d), by check payable to the order of ''Maritime Administration, Department of Transportation.''

§ 308.408 Right of Maritime Administrator to change rate of premium.

The Maritime Administrator, acting for the Secretary of Transportation, shall have the right to change the rate of premium at any time, and unless the revised rate of premium is accepted in writing by the Assured within fifteen (15) days after receipt by the Assured of notice of the revised rate, the policy shall become null and void and of no effect as of midnight, Standard Time, at the location of the shipyard on the fifteenth (15th) day after receipt of said notice. Premium at the revised rate shall be payable for the fifteen (15) day period during which the insurance remained in force unless the Assured, within such period, dispatches notice to MARAD by fax, certified mail or courier of his refusal to accept such revised rate of premium, in which event premium at the revised rate shall be payable for that portion of the fifteen (15) day period prior to dispatch of such notice. Upon the dispatch of such notice of non-acceptance the insurance shall terminate.

§ 308.409 Standard form of War Risk Builder's Risk Insurance Policy, Form MA–283.

The standard form of War Risk Builder's Risk Insurance Policy, Form MA–283 may be obtained from MARAD's underwriting agent or MARAD.

§ 308.410 Reporting casualties and filing claims.

Casualties shall be reported promptly to, and all claims documents filed with MARAD, Attention: Chief, Division of Marine Insurance, at the address in § 308.2(d).

Subpart F—War Risk Cargo Insurance

Introduction

§ 308.500 Authority.

The Secretary of Transportation has delegated authority to the Maritime Administrator to perform the functions vested in the Secretary by 46 U.S.C. Chapter 539, which authority includes the insurance set forth in this Subpart, as provided under 46 U.S.C. 53903(a)(3). For the purposes of this Subpart F—War Risk Cargo Insurance, the terms ''cargo'' and ''cargoes'' as used herein shall include loaded or empty containers located aboard American and foreign-flag vessels insured under 46 U.S.C. Chapter 539. Cargo war risk insurance will be written under either an open policy or a facultative policy in accordance with the provisions of this subpart.

§ 308.501 Cargoes on which coverage is available.

The Maritime Administrator will be prepared to provide marine insurance against loss or damage by the risks of war under approved clauses on shipments of cargoes coming within one or more of the following categories:

(a) Shipped or to be shipped on any American vessel, as defined in 46 U.S.C. 53901;

(b) Shipped or to be shipped on any foreign flag vessels owned by citizens of the United States;

(c) Owned by citizens or residents of the United States, its Territories or possessions;

(d) Imported to, or exported from, the United States, its Territories or possessions, under contracts of sale or purchase by the terms of which the risk of loss by war risks or the obligation to provide insurance against such risks is assumed by or falls upon a citizen or resident of the United States, its Territories or possessions;

(e) Sold or purchased by citizens or residents of the United States, its Territories or possessions, under contracts of sale or purchase by the terms of which the risk of loss by war risks or the obligation to provide insurance against such risks is assumed by or falls upon a citizen or resident of the United States, its Territories or possessions;

(f) Shipped between ports in the United States, or between ports in the United States and its Territories and possessions, or between ports in such Territories or possessions; and

(g) Shipped or to be shipped on any foreign flag vessels, whether or not owned by citizens of the United States, if such vessels are engaged in transportation in the water-borne commerce of the United States or in such other transportation by water or such other services as may be deemed by the Maritime Administrator to be in the interest of the national defense or the national economy of the United States, when so engaged.

§ 308.502 Additional insurance.

The assured may place increased value or additional insurance in other markets beyond the amount of insurance provided by the Maritime Administrator, but such insurance must be non-participating with the Maritime Administrator's coverage, and without benefit of salvage or right of contribution.

§ 308.503 Rate schedules.

Rate schedules published by the Maritime Administrator may be obtained from an underwriting agent. All rate schedules are subject to change by the Maritime Administrator at any time without notice. If no rate is published for a voyage on which war risk coverage is available, the Maritime Administrator will name a rate through an underwriting agent upon application.

§ 308.504 Definition of territories and possessions.

Whenever reference is made to the territories and possessions of the United States in this subpart or in any supplement thereto or any policy of insurance issued pursuant to the provisions thereof, said territories and possessions shall be deemed to include only the Virgin Islands of the United States, the Commonwealth of Puerto Rico, American Samoa, Commonwealth of the Northern Mariana Islands, Guam, Wake Island, Midway Islands, Baker Island, Howland Island, Jarvis Island, Johnston Atoll, Kingman Reef, Navassa Island, and Wake Island.

Open Policy War Risk Cargo Insurance

§ 308.505 General.

The Maritime Administrator is prepared to provide an open cargo war risk insurance policy covering any cargoes described in § 308.501. The policy will be in the standard form of War Risk Open Cargo Policy, Form MA–300, prescribed in § 308.517. All policies will be issued by underwriting agents appointed by the Maritime Administrator. All underwriting agents will be domestic insurance companies authorized to do a marine insurance business in a State of the United States.

§ 308.506 Application for an Open Cargo Policy.

Application for an Open Cargo Policy shall be made by filing Form MA–301, prescribed in § 308.521, with the underwriting agent of MARAD. The application shall state the applicant's name and address; the person or persons to whom loss shall be payable; the nature and geographic scope of the shipments to be covered under the policy which shall not be broader than the coverage authorized in § 308.501; the requested effective date, which shall not be earlier than the date of the completion of the requirements for the issuance of the policy; and the basis of valuation to be incorporated in the policy. An applicant may specify one basis of valuation for imports and another for exports, and he may specify different bases of valuation for different commodities or voyages, provided that each basis of valuation specified by the applicant shall define the value by the use of facts which existed prior to the date of the shipment and which are readily ascertainable by either party after the safe arrival or loss of the shipment.

§ 308.507 Security for payment of premiums.

Clause 21 of the policy requires the assured to maintain with the Maritime Administrator a collateral deposit fund or a surety bond, to secure the payment of the premiums, in an amount which shall at all times exceed the unpaid premiums on all risks which have attached under the policy. The minimum amount of the fund or of the surety bond shall be $1,000. Clause 21 also provides that, within seven (7) days from the time knowledge comes to the assured that the amount of the deposit or the surety bond is insufficient to meet the requirements of Clause 21, the assured shall deposit additional collateral or increase the surety bond in an amount not less than double the amount of such insufficiency, and for a

sum which shall be a multiple of $500. If the assured fails to increase the deposit or the surety bond within the seven (7) day period, the policy automatically becomes void at the end of the seven (7) day period except as to risks which have attached prior to that date. The procedure for establishing a collateral deposit fund is prescribed in § 308.509, and the procedure for posting and maintaining a surety bond is prescribed in § 308.510. An application for the issuance of an open cargo policy shall be ineffective unless a collateral deposit fund is established and maintained, or a surety bond is posted and maintained, in accordance with the provisions of this section and § 308.510.

§ 308.508 Issuance of an Open Cargo Policy.

(a) *Time.* The underwriting agent will issue an Open Cargo Policy within fifteen (15) days after the completion by the applicant of the requirements set forth in §§ 308.506 and 308.507 unless the time for issuance is extended by the Maritime Administrator in writing. The underwriting agent may not make any Open Cargo Policy effective with respect to shipments attaching on a date earlier than the date when the application was completed, but he may make it effective on the date of the completion of the application or any date thereafter requested by the applicant.

(b) *Numbering.* Each Open Cargo Policy supplied to the underwriting agent by the Maritime Administrator shall be numbered by MARAD before it is supplied to the underwriting agent. No two numbers shall be the same. The underwriting agent when issuing the policy shall add at the end of the policy number the agency number assigned to that underwriting agent, and where policies are issued by more than one office of an underwriting agent, the issuing office shall also be identified in the policy number. For example, policies issued by an office in New York will be designated by ''NY'' and policies issued in San Francisco will be designated by ''SF'' prefixed to the underwriting agent's agency number.

§ 308.509 Collateral deposit fund.

(a) *Requirements.* An assured electing to use a cash collateral deposit fund pursuant to § 308.507 shall comply with the provisions of this section and Clause 21 of the Open Cargo Policy, Form MA–300, prescribed in § 308.517.

(b) *Cash or Government bonds.* To establish a collateral deposit fund the applicant shall deposit with the underwriting agent a check payable to the order of the ''Maritime Administration, Department of Transportation'' for the amount of the fund, or United States Government bonds having a par value at the time of deposit of the amount of the fund, which shall be a multiple of $500 but not less than $1,000, together with a letter of transmittal executed by the applicant on Form MA–302, prescribed in § 308.522. Upon receipt of the deposit, the underwriting agent shall assign it a serial number and transmit it to ''Maritime Administration, Attention: Chief Financial Officer, Maritime Administration''. It is the responsibility of the assured to make sure that this deposit fund is sufficient at all times to cover the premiums payable on all risks which have attached under the policy, so as to prevent the termination of the insurance under the provisions of Clause 21.

(c) *Overdue premiums.* Pursuant to Clause 20, if the assured fails to pay any premium when it becomes due and payable, he thereby breaches the policy and it automatically ceases to insure any shipments which would otherwise have attached after the expiration of fifteen (15) days following the due date of the premium, unless within the fifteen (15) day period the premium has been paid and the assured has otherwise complied with the requirements of the policy, including the filing of the closing report required by Clause 19 and the payment of the reinstatement fee of $25 required by Clause 20. If the assured fails to pay the premium within the fifteen (15) day period, the Maritime Administrator may deduct from the assured's collateral deposit fund all amounts due.

(d) *Increase in amount of collateral as required by Clause 21.* If the assured fails to deposit additional collateral in the fund within seven (7) days from the time knowledge comes to the assured that the amount of collateral is insufficient to meet the requirements of Clause 21, the policy shall be void except as to risks which have attached prior to the expiration of the seven (7) day period.

(e) *Changes in amount of collateral.* The assured may increase or decrease the amount of the collateral deposit fund by amounts of not less than $500 or multiples thereof, provided that the amount of the fund shall not be less than the amount required by Clause 21, or the required minimum of $1,000, whichever is greater. The effect of any change in the amount of the collateral deposit shall be the sole responsibility of the assured, and the permission granted by this paragraph to change the amount of collateral in the fund shall in no manner relieve the assured of the responsibility imposed by Clause 21.

(f) *Increase of collateral.* To increase the amount of the collateral on deposit in the fund, the assured shall transmit to the underwriting agent on Form MA–302, prescribed in § 308.522, a check payable to the order of ''Maritime Administration, Department of Transportation'' or United States Government bonds having a par value at the time of deposit of not less than the amount of the requested increase. The increase shall become effective upon the date of the receipt of the application and check or bonds by the underwriting agent, as shown on Form MA–302.

(g) *Decrease of collateral.* To decrease the collateral deposit fund, the assured shall file with the underwriting agent an application on Form MA–305, prescribed in § 308.525. The decrease shall become effective upon the date of the receipt of the application by the underwriting agent as shown on Form MA–305.

(h) *Refund of collateral.* Whenever the assured becomes entitled to a refund of the collateral deposit, in whole or in part, by reason of a request for a partial return of such collateral, or the cancellation of the policy and the payment in full of all premiums then or thereafter due, or the waiver by the Maritime Administrator of the requirements of maintaining the collateral deposit fund because the assured is a department or agency of the United States or is acting on behalf of such a department or agency, or the substitution of a surety bond in the place and stead of the collateral deposit fund, as provided in § 308.510(j), the Maritime Administrator will refund to the assured the amount of the collateral deposit to which the assured is entitled; provided, however, that the repayment of such collateral shall not be made by the Maritime Administrator until the assured has filed a closing report and paid in full all premiums with respect to all shipments which had attached at the time of the receipt by the underwriting agent of the application for the refund, Form MA–305, and a certificate executed in duplicate on Form MA–306, prescribed in § 308.526, and, in the event of the substitution of a surety bond for the collateral deposit fund, the receipt by the underwriting agent of the surety bond properly executed, in accordance with § 308.510.

§ 308.510 Surety bond.

(a) *Requirements.* An assured electing to post a surety bond pursuant to § 308.507 shall comply with the provisions of this section and Clause 21 of the Open Cargo Policy, Form MA–300, prescribed in § 308.517.

(b) *Amount of bond.* An applicant who wishes to post a surety bond shall deliver to the underwriting agent a surety bond on Form MA–308, prescribed in § 308.528, executed by the assured as principal, and by the surety, in such amount as the assured determines to be necessary to comply with Clause 21. Such amount shall be a multiple of $500 but shall not be less than $1,000. Upon receipt of the surety bond, the underwriting agent shall assign a serial number to it and transmit it to ''Maritime Administration, Attention: Chief, Division of Marine Insurance.'' It shall be the responsibility of the assured to provide that the amount of the bond is sufficient at all times to cover the premium payable on all risks which have attached under the policy, so as to prevent the termination of the insurance under the provisions of Clause 21.

(c) *Surety.* The sufficiency of the surety executing the bond shall be subject to approval by the Maritime Administrator. The underwriting agent may accept on behalf of the Maritime Administrator a surety bond executed by a surety named on the United States Treasury Department's approved list of sureties whose bonds are acceptable to the United States Treasury Department to secure obligations due the United States, provided the bond is within the maximum amount for which the surety is so authorized to write bonds as shown by the approved list.

(d) *Overdue premiums.* Pursuant to Clause 20, if the assured fails to pay any premium when it becomes due and payable, he thereby breaches the policy and it automatically ceases to insure any shipments which would otherwise have attached after the expiration of fifteen (15) days following the due date of the premium, unless within the fifteen (15) day period the premium has been paid and the assured has otherwise complied with the requirements of the policy, including the filing of the closing report required by Clause 19 and the payment of the reinstatement fee of $25 required by Clause 20. If the assured fails to pay the premium within the fifteen (15) day period, all amounts due shall become a liability collectible under the surety bond and from the assured.

(e) *Increase in amount of bond as required by Clause 21.* If the assured fails to increase the amount of the surety bond within seven (7) days from the time knowledge comes to the assured that the amount of the bond is insufficient to meet the requirements of Clause 21, the policy shall be void except as to risks which have attached prior to the expiration of the seven (7) day period.

(f) *Changes in amount of bond.* The assured may increase or decrease the amount of the surety bond by amounts of not less than $500 or multiples thereof, provided that the amount of the bond shall not be less than the amount required by Clause 21, or the required minimum of $1,000, whichever is greater. The effect of any change in the amount of the bond shall be the sole responsibility of the assured, and the permission granted by this paragraph to change the amount of the bond shall in no manner relieve the assured of the responsibility imposed by Clause 21.

(g) *Increase in amount of bond.* To increase the surety bond the assured shall transmit to the underwriting agent, on Form MA–310, prescribed in § 308.530, an endorsement duly executed by the assured and the surety company on Form MA–311, prescribed in § 308.531. The increase shall become effective upon the date of the receipt of the endorsement by the underwriting agent as shown on Form MA–311.

(h) *Decrease in amount of bond.* To decrease the amount of the bond, the assured shall transmit to the underwriting agent, on Form MA–310, prescribed in § 308.530, an endorsement duly executed by the assured and the surety on Form MA–311, prescribed in § 308.531. The decrease shall become effective upon the date of the receipt of the endorsement by the underwriting agent as shown on Form MA–311, except as to shipments which on that date are known or reported to the assured to be in transit and which have attached under the policy and upon which premium has not been paid in full.

(i) *Termination of bond.* Whenever the assured becomes entitled to a termination of a surety bond by reason of the cancellation of the policy and the payment in full of all premiums then or thereafter due, or the waiver by the Maritime Administrator of the requirements of maintaining the surety bond by an assured which is a department or agency of the United States or is acting on behalf of such a department or agency, or the substitution of a collateral deposit fund in the place or stead of the surety bond, the underwriting agent shall execute a release on Form MA–312, prescribed in § 308.532. The release shall be made effective as of:

(1) The effective date of the cancellation of the policy when the bond is terminated for that reason, or

(2) The date of the Maritime Administrator's directive waiving the requirement of a surety bond when the bond is terminated for that reason, or

(3) The effective date of the establishment of a collateral deposit fund when the bond is terminated for that reason.

(j) *Substitution of bond for collateral deposit.* An assured may substitute a surety bond for a collateral deposit fund by delivering to the underwriting agent a surety bond on Form MA–309, prescribed in § 308.529, executed by the assured as principal, and by the surety, in such amount as the assured determines to be necessary to comply with Clause 21. Such amount shall be a multiple of $500, but shall not be less than $1,000. The collateral deposit fund will be refunded to the assured after the bond has been posted, in accordance with the provisions of § 308.509(h).

§ 308.511 Cancellation of Open Cargo Policy.

An assured may cancel an Open Cargo Policy by delivering to the underwriting agent, at least fifteen (15) days prior to the requested date of cancellation, an application for cancellation executed by the assured on Form MA–304, prescribed in § 308.524, together with the original policy. The policy shall be cancelled as of the effective date requested in the application, which, unless otherwise agreed by the Maritime Administrator in writing, shall not be a date earlier than fifteen (15) days following the date of the receipt of the application as acknowledged by the underwriting agent on Form MA–304, with respect to all risks that have not attached prior to said effective date. Such cancellation shall not relieve the assured of the obligation to file closing reports with respect to all risks which attached prior to the effective date of the cancellation and to pay all unpaid premiums. Within four (4) months of the effective date of cancellation, unless otherwise agreed by the Maritime Administrator in writing, the assured must file a closing report in duplicate on Form MA–313, prescribed in § 308.533, of all shipments covered by the policy for which closing reports have not been previously filed. The assured shall mark this closing report ''Final Closing Report on Cancellation of Policy'', and file a certificate on Form MA–313–B, prescribed in § 308.535, executed by the assured in duplicate. Thereafter, when all unpaid premiums have been paid, the assured will become entitled to a refund of the collateral deposit, or cancellation of the surety bond in accordance with §§ 308.509 and 308.510. If the assured has lost or mislaid the original policy and is unable to produce it for cancellation, the assured shall execute a letter of indemnity and such other documents as

may be required by the Maritime Administrator.

§ 308.512 Declaration of shipments under Open Cargo Policy.

(a) *Closing report.* (1) The assured shall file with the underwriting agent, not later than the twenty-fifth (25th) day of each month, a closing report for all inward shipments and a closing report for all outward shipments, and pay the premium and fees, for all shipments covered during the preceding calendar month, as required by Clause 19. Each closing report shall be filed in duplicate on Form MA–313, prescribed in § 308.533, supported by a certificate executed by the assured on Form MA–313–A, prescribed in § 308.534. If the assured has no shipments to report during any calendar month, the closing report, Form MA–313, shall, nevertheless, be filed with one or both of the following statements, depending upon their applicability, noted thereon certifying that:

(i) No inward shipment coming within the scope of this policy arrived at destination during the preceding calendar month, and that during the preceding calendar month no knowledge has come to the assured of an inward shipment covered under the terms of the policy which will not arrive by reason of loss, frustration or other similar cause,

(ii) No outward shipment coming within the scope of this policy was made during the preceding calendar month, and

(iii) Whenever a sea passage is made with respect to cargo covered under the policy by a barge or sailing vessel the assured shall note that fact upon the closing report, unless the Maritime Administrator otherwise agrees.

(2) An assured reporting for one calendar month shall not include therein a report of a shipment due to be reported in the report for the next succeeding calendar month. Thus, the report of January closing shipments filed in February does not include February closings.

(b) *Inward shipments.* The closing report covering inward shipments shall include:

(1) All such shipments which have arrived at the port of destination during the preceding calendar month, and

(2) All such shipments with respect to which inability to so arrive by reason of loss, frustration, or other similar causes has come to the knowledge of the assured during the preceding calendar month.

(c) *Outward shipments.* The closing report covering outward shipments shall include all such shipments which attached under the policy during the preceding calendar month.

(d) *Definition of inward and outward shipments.* A shipment will be classified as an inward shipment or as an outward shipment by reference to the geographical location of the assured with respect to the movement of the shipment. The address of the assured as stated in the application filed by him for the policy shall be deemed to be the assured's geographical location for the purpose of determining whether the shipment is inward or outward. To illustrate, if an assured has stated in his application that his address is in Hawaii, the assured's shipments of goods from the United States to Hawaii would be classified as inward, and his shipments from Hawaii to the United States would be classified as outward. Any shipments that cannot be classified as inward or outward under this definition shall be treated as inward shipments for the purposes of the declaration.

(e) *Supplemental closing report.* If an assured files a closing report and thereafter discovers that one or more additional shipments should have been included in the report, then, even though the assured has executed the certificate on Form MA–313–A, prescribed in § 308.534, or Form MA–313–B, prescribed in § 308.535, in connection with the closing report, the assured must nevertheless amend the closing report by filing a supplemental closing report supported by an appropriate certificate. The supplemental closing report must be accompanied by a statement in writing signed by the assured giving the reasons for the omission of such shipments from the original closing report. If the Maritime Administrator finds that the failure to file the complete closing report was either inadvertent or unintentional or arose by reason of causes beyond the control of the assured, the otherwise automatic termination of the policy by reason of a breach of the warranty embodied in Clause 20 shall be avoided pursuant to the provisions of Clause 23.

§ 308.513 Payment of premiums and fees.

The assured shall pay the premium, when his closing report is filed, for all shipments shown on his closing report for the preceding month, at the rates prescribed by the Maritime Administrator and in effect on the date of the ocean bill of lading, or if an ocean bill of lading was not issued, on the date of the equivalent shipping document, or if no ocean bill of lading or equivalent shipping document was issued, or if such documents were undated, on the date the goods were laden on the overseas vessel, as required by Clause 19. All payments of premium or fees must be made by check or money order payable to the order of ''Maritime Administration, Department of Transportation.''

§ 308.514 Return premium.

No premium will be returned to the assured with respect to a shipment of goods that attached under the policy except where there was a declaration of value at variance with Clause 8, or an error in the application of a rate or in the computation of a premium, or the insured goods were short-shipped. An application for the return of a premium shall be made on Form MA–307, prescribed in § 308.527, filed in duplicate with the Underwriting Agent who will transmit it to the Maritime Administrator for payment.

§ 308.515 Payment in event of loss.

All claims for losses shall be filed by the assured with the Underwriting Agent who issued the policy. Such claims must be supported by the customary documents required in connection with war risk insurance claims, together with appropriate declarations as required by Clause 9, and such further data as may now or hereafter be required by the Maritime Administrator.

§ 308.516 Failure to comply with Clause 21.

(a) If the assured willfully fails to maintain a collateral deposit fund or a surety bond in an amount sufficient to meet the requirements of Clause 21, the policy becomes void from the date the fund or bond was first insufficient, but, if the assured's failure was inadvertent, the policy may be reinstated when the assured complies with Clause 21, and shows to the satisfaction of the Maritime Administrator that his failure was inadvertent and not willful. If the failure was in fact inadvertent, the assured shall file a declaration on Form MA–314, prescribed in § 308.536, executed in duplicate, with the Underwriting Agent within seven (7) days from the time knowledge comes to the assured of the insufficiency of the collateral deposit fund or surety bond unless the time for filing such declaration is extended by permission of the Maritime Administrator. If the space provided in the declaration, Form MA–314, for an explanation of the circumstances whereby the assured first had knowledge that the collateral was not sufficient, the assured shall attach to the declaration a detailed statement and

include the same by reference in the declaration.

(b) If any policy becomes void by reason of the failure of the assured to deposit additional collateral or increase the amount of its surety bond under the provisions of Clause 21, the Maritime Administrator reserves the right to refuse to issue another policy to such assured for a period of ninety (90) days.

§ 308.517 Open Cargo Policy, Form MA–300.

The standard form of War Risk Open Cargo, Form MA–300, may be obtained from MARAD's underwriting agent or MARAD.

§ 308.518 Standard optional endorsement No. 1, Form MA–300–A.

Standard Optional Endorsement No. 1, which may be obtained from MARAD's underwriting agent or MARAD, limits the amount payable for the loss of goods to the actual bona fide pecuniary loss to the Assured, exclusive of any allowance for anticipated or accrued profit arising out of the insured venture. An Assured may elect to have his Open Cargo Policy endorsed with Standard Optional Endorsement No. 1 applicable on all shipments, or on all outward shipments, or on all inward shipments, or on named commodities except goods sold by the Assured prior to loading on board the overseas vessel and shipped for the account and at the risk of third persons other than a branch subsidiary or affiliate of the Assured. When an Assured has elected to have Standard Optional Endorsement No. 1 made applicable to certain named commodities he may not change to a different basis of valuation for those commodities until after he has given ninety (90) days written notice to the Maritime Administrator through the Underwriting Agent of his election to make the change. Application for Standard Optional Endorsement No. 1 may be made to the Underwriting Agent which is authorized to issue the endorsement without prior approval of the Maritime Administrator.

§ 308.519 Standard optional endorsement No. 2, Form MA–300–B.

Standard Optional Endorsement No. 2, which may be obtained from MARAD's underwriting agent or MARAD, amends the policy to cover shipments made to the Assured or shipped by the Assured as agent for the account and risk of a principal. Application for Standard Optional Endorsement No. 2 may be made to the Underwriting Agent, which is authorized to issue the endorsement without prior approval of the Maritime Administrator.

§ 308.520 Standard optional endorsement No. 3, Form MA–300–C.

Standard Optional Endorsement No. 3, which may be obtained from MARAD's underwriting agent or MARAD, amends the policy to include shipments of diamonds for industrial purposes, or rubies or sapphires, natural or synthetic, used for instruments or watch jewels imported to the Continental United States (excluding Alaska). Application for Standard Optional Endorsement No. 3 may be made to the Underwriting Agent, which shall transmit it to the Maritime Administrator for approval or disapproval of the issuance of the endorsement.

§ 308.521 Application for Open Cargo Policy, Form MA–301.

The standard form of application for a War Risk Open Cargo Policy may be obtained from MARAD's underwriting agent or MARAD.

§ 308.522 Collateral deposit fund, letter of transmittal, Form MA–302.

The standard form of letter of transmittal for use in establishing a collateral deposit fund may be obtained from MARAD's underwriting agent or MARAD.

§ 308.523 Application for revision of Open Cargo Policy, Form MA–303.

An application for the revision of an Open Cargo Policy shall be filed in duplicate with the Underwriting Agent on a form which may be obtained from MARAD's underwriting agent or MARAD.

§ 308.524 Application for cancellation of Open Cargo Policy, Form MA–304.

The standard form of application for cancellation of an Open Cargo Policy Form MA–304 may be obtained from MARAD's underwriting agent or MARAD.

§ 308.525 Application for decrease in amount of cash collateral fund, Form MA–305.

Application for decrease in the amount of the cash collateral deposit fund shall be made on Form MA–305, which may be obtained from MARAD's underwriting agent or MARAD.

§ 308.526 Certificate for repayment of decrease of collateral deposit fund, Form MA–306.

The standard form of certificate for repayment of the amount of the decrease of the collateral deposit fund, Form MA–306, may be obtained from MARAD's underwriting agent or MARAD.

§ 308.527 Application for return premium, Form MA–307.

An application for the return of premium, which may be obtained from MARAD's underwriting agent or MARAD, shall be filed in duplicate with the Underwriting Agent on Form MA–307.

§ 308.528 Surety Bond A, Form MA–308.

The Standard Form of Surety Bond A, Form MA–308, which may be obtained from MARAD's underwriting agent or MARAD, shall be used by an Assured who elects to post a surety bond as security for payment of the premiums pursuant to Clause 21 of the policy:

§ 308.529 Surety Bond B, Form MA–309.

An Assured who elects to substitute a surety bond for a collateral deposit fund shall submit Form MA–309, which may be obtained from MARAD's underwriting agent or MARAD.

§ 308.530 Letter requesting increase or decrease in amount of surety bond, Form MA–310.

An endorsement increasing or decreasing the amount of the surety bond, Form MA–310, shall be transmitted to the underwriting agent and may be obtained from MARAD's underwriting agent or MARAD.

§ 308.531 Endorsement of surety bond increasing or decreasing amount of coverage, Form MA–311.

The Standard Form of Endorsement which shall be used in increasing or decreasing the amount of a surety bond, Form MA–311, may be obtained from MARAD's underwriting agent or MARAD.

§ 308.532 Release of surety bond, Form MA–312.

The Standard Form of Release of Surety bond, Form MA–312, may be obtained from MARAD's underwriting agent or MARAD.

§ 308.533 Closing report, Form MA–313.

This form, which may be obtained from MARAD's underwriting agent or MARAD, shall be filed in duplicate with the Underwriting Agent not later than the 25th day of each month.

§ 308.534 Certificate to be attached to closing report, Form MA–313–A.

The standard form of Certificate to be attached to the closing report, Form MA–313–A, may be obtained from MARAD's underwriting agent or MARAD and shall be filed each month.

§ 308.535 Certificate to be attached to final closing report, Form MA–313–B.

The Standard Form of Certificate, Form MA–313–B, shall be attached to

the final closing report after cancellation of the policy, and may be obtained from MARAD's underwriting agent or MARAD.

§ 308.536 Declaration where failure to comply with Clause 21 was inadvertent, Form MA–314.

An Assured that fails inadvertently to maintain a collateral deposit fund or surety bond in an amount sufficient to meet the requirements of Clause 21 of the Policy shall file this Declaration, Form MA–314, which may be obtained from MARAD's underwriting agent or MARAD.

Facultative War Risk Cargo Insurance

§ 308.538 General.

The Maritime Administrator is prepared to provide facultative war risk insurance policies covering any cargoes described in § 308.501 which are designated by an applicant prior to the attachment of risks, if the applicant does not have an Open Cargo Policy issued by the Maritime Administrator, or if he has a shipment which is not covered by his Open Cargo Policy. However, a person with regular shipments is urged to avail himself of the advantages of the automatic coverage of an Open Cargo Policy. The Maritime Administrator reserves the right to decline to quote rates or bind insurance on shipments of cargo that could be covered by an Open Cargo Policy unless the applicant can show to the satisfaction of the Maritime Administrator that the risk is not one of a series of similar risks forming part of a continual flow of business for the applicant. The policy will be in the standard form of War Risk Facultative Cargo Policy, Form MA–316, prescribed in § 308.545. All policies shall be issued by Underwriting Agents appointed by the Maritime Administrator. All Underwriting Agents shall be domestic insurance companies authorized to do a marine insurance business in a State of the United States.

§ 308.539 Application.

(a) *Preliminary request.* Application for a Facultative Cargo Policy shall be made by filing a preliminary request in writing (including telegram) with an Underwriting Agent of MARAD, setting forth the following information:

(1) The name and address of the applicant;

(2) The amount of insurance requested;

(3) The commodity and quantity to be insured;

(4) The voyage to be covered;

(5) The name of the vessel upon which the cargo will be shipped, if known, the name of the steamship line, if known, and the date of shipment, if the applicant is submitting the request to bind war risk in writing; for security reasons, if the applicant is submitting the order to bind war risk insurance by telefax, neither the name of the vessel nor the name of the steamship line nor the anticipated date of sailing, should be mentioned. Mentioning such information in a telefax may result in a denial of insurance to the applicant. Any envelope transmitting a letter containing such information shall be marked ''confidential.''

(b) *Binder.* Before the insurance can be bound, the applicant shall provide the Underwriting Agent with a properly prepared binder on Form MA–315 prescribed in § 308.544. The binder must be submitted in duplicate, accompanied by check or Money Order payable to the order of ''Maritime Administration, Department of Transportation'' for the full amount of the premium computed on the amount to be insured at the rate set by the Maritime Administrator. Any application for facultative cargo war risk insurance received by an Underwriting Agent later than 4 p.m. (Local Time) shall be considered the next day's business.

(c) *Optional loss limits clause.* Clause 9 of the standard form of facultative cargo policy, Form MA–316, prescribed in § 308.545, limits the amount payable for loss to the fair market value at the place and approximate time of the attachment of risk, plus the cost of marine insurance, transportation and expenses incident thereto, and war risk insurance with respect to the lost or damaged goods, or if it is impossible to determine the fair market value at place and time of attachment of risk, the fair market value at the designated port of arrival on the date of the attachment of the risk, plus the cost of marine insurance, transportation and expenses incidental thereto, and war risk insurance with respect to the lost or damaged goods, or if the goods had been purchased prior to loading, the actual amount paid or payable to the seller for the goods less all discounts, plus the cost of marine insurance, transportation and expenses incidental thereto, and war risk insurance with respect to the lost or damaged goods. In lieu of these loss limits, the Assured by so specifying in his application, and the binder may have attached to the policy when issued Standard Optional Endorsement No. 1–A, Form MA–316, prescribed in § 308.546, which limits the amount payable for loss to the actual bona fide pecuniary loss to the Assured, exclusive of any allowance for anticipated or accrued profits arising out of the insured venture.

§ 308.540 Premiums.

(a) *Rates.* Rate Schedules for war risk facultative cargo insurance will be published by the Maritime Administrator from time to time, and may be obtained from an Underwriting Agent. All Rate Schedules are subject to change by the Maritime Administrator without notice. If no rate is published for a voyage on which war risk facultative cargo insurance is available, the Maritime Administrator will name a rate through an Underwriting Agent upon application. Whenever an applicant for war risk facultative cargo insurance receives a definite rate quotation and desires to bind insurance at the quoted rate, an order to bind the insurance in accordance with the procedure set forth in this subpart should be submitted within two business days following the day of quotation accompanied by check or Money Order payable to the order of ''Maritime Administration, Department of Transportation'' for the full amount of the premium thereon computed on the amount to be insured at the rate set by the Maritime Administrator, or the quotation will expire.

(b) *Return premium.* Where goods are short-shipped, the amount of insurance may be reduced by an amount computed by applying to the original amount of insurance the proportion which the quantity of merchandise short-shipped (i.e., bales, barrels, tons, and other designations of quantity) bears to the total quantity of merchandise originally declared for insurance. Where more than one class of merchandise is insured under one policy (e.g., fuel, oil and gasoline) the reduced amount of insurance must be computed separately on each item. Where the amount of insurance is reduced, the Maritime Administrator will give consideration to requests for proportionate returns of premium. An application for the return of a premium must be submitted to the Underwriting Agent in quadruplicate on Form MA–317, prescribed in § 308.547.

§ 308.541 Issuance.

(a) *Binder.* The Underwriting Agent is authorized to issue a facultative policy in Form MA–316, prescribed in § 308.545, when there has been presented to him a properly prepared binder on Form MA–315, prescribed in § 308.544, together with the payment of the premium as required, and such policy shall be issued as soon as possible after the binder form has been presented to the Underwriting Agent.

Prior to the issuance of the policy, the Underwriting Agent is authorized to accept the risk on behalf of the Maritime Administrator by signing the binder. The Maritime Administrator will provide each Underwriting Agent with a supply of facultative policies which shall not be valid until countersigned by the Underwriting Agent. The Underwriting Agent shall keep a permanent record of all such policies and the Assured to whom the policy is issued.

(b) *Numbering.* Each Facultative Cargo Policy supplied to the Underwriting Agent by the Maritime Administrator shall be numbered by MARAD before it is supplied to the Underwriting Agent. No two numbers shall be the same. The Underwriting Agent when issuing the policy shall add at the end of the Policy number the agency number assigned to that Underwriting Agent, and where policies are issued by more than one office of an Underwriting Agent the issuing office shall also be identified in the policy number. For example, the policies issued by an office in New York will be designated ''NY'' and policies issued in San Francisco will be designated by ''SF'' prefixed to the Underwriting Agent's agency number.

§ 308.542 Warranty regarding thirty-day shipments.

If, after an effective binding of war risk insurance on a shipment of cargo, the assured believes that it will be impossible to comply with the warranty requiring the goods to be shipped and in transit within thirty days from the effective date of binding, such an assured may apply to the Maritime Administrator, through the Underwriting Agent, to modify the warranty. If the Maritime Administrator is satisfied that an extension of time within which the goods are warranted to be shipped and in transit should be granted, he will do so, but additional premium may be charged in the discretion of the Maritime Administrator.

§ 308.543 Cancellation.

Facultative war risk insurance is not subject to cancellation by the Assured unless the goods are not shipped within thirty (30) days following the effective date of binding, and then only if the policy is returned for cancellation.

§ 308.544 Facultative binder, Form MA–315.

The standard form of War Risk Facultative Cargo Binder, which may be obtained from MARAD's underwriting agent of MARAD, shall be completed by the applicant and submitted, in duplicate, to an Underwriting Agent before the insurance can be bound.

§ 308.545 Facultative cargo policy, Form MA–316.

The standard form of War Risk Facultative Cargo Policy, Form MA–316, may be obtained from MARAD's underwriting agent or MARAD.

§ 308.546 Standard optional endorsement No. 1–A, Form MA–316–A.

Standard Optional Endorsement No. 1–A limits the amount payable for the loss of goods to the actual bona fide pecuniary loss to the Assured, exclusive of any allowance for anticipated or accrued profit arising out of the insured venture. (Similar provisions for Open Cargo Policies are contained in Standard Optional Endorsement No. 1, Form MA–300–A, prescribed in § 308.518.) Application for Standard Optional Endorsement No. 1–A shall be made to the Underwriting Agent at the time application is made for the policy. The Underwriting Agent is authorized to issue the endorsement without prior approval of the Maritime Administrator. This form may be obtained from MARAD's underwriting agent or MARAD.

§ 308.547 Application for return premium, Form MA–317.

An application for the return of premium must be filed in duplicate with the Underwriting Agent on Form MA–317, which may be obtained from MARAD's underwriting agent or MARAD.

General

§ 308.548 Standard form of underwriting agency agreement for cargo, Form MA–318.

This form, which may be obtained from MARAD's underwriting agent or MARAD, is the standard form of underwriting agency agreement applicable with respect to agreements executed by the Maritime Administrator and domestic insurance companies authorized to do a marine insurance business in any State of the United States, appointing such companies as Underwriting Agents to issue war risk cargo policies in accordance with the provision of the agreement and this subpart.

§ 308.549 Application for appointment of Cargo Underwriting Agent, Form MA–319.

Any domestic insurance company authorized to do a marine insurance business in any State of the United States may apply for appointment as a Cargo Underwriting Agent by submitting to the Maritime Administrator a letter and Form MA–399, which may be obtained from MARAD's underwriting agent or MARAD.

§ 308.550 Certificate, Form MA–320.

Wherever any provision of this subpart, or any amendment thereto, requires the Assured to make a declaration or certification under the penalties of perjury, and the form of the declaration or certificate is not prescribed, the Assured may execute a certificate on Form MA–320–A for an individual, on Form MA–320–B for a partnership, or on Form MA–320–C for a corporation, which forms may be obtained from MARAD's underwriting agent or MARAD.

§ 308.551 War risk insurance clearing agency agreement for cargo, Form MA–321.

The standard form of clearing agency agreement, Form MA–321, shall be executed by the Maritime Administrator and domestic insurance companies, or groups of domestic insurance companies authorized to do a marine insurance business in any State of the United States, appointing such companies or groups of companies as clearing agents, which form may be obtained from MARAD's underwriting agent or MARAD.

§ 308.552 Effective date.

This subpart shall be effective as and when the Maritime Administrator finds that war risk cargo insurance adequate for the needs of the waterborne commerce of the United States cannot be obtained on reasonable terms and conditions from companies authorized to do an insurance business in a State of the United States.

Subpart G—Records Retention

§ 308.600 Records retention requirement.

The records specified in §§ 308.8, 308.517, and 308.548 of this part shall be retained until a release is granted by MARAD, at which time MARAD will take custody of the records.

(Authority: 46 U.S.C. sections 53902, 53910; 49 CFR 1.93)

Dated: March 21, 2014.

By Order of the Maritime Administrator.

Julie P. Agarwal,

Secretary, Maritime Administration.

[FR Doc. 2014–06756 Filed 3–28–14; 8:45 am]

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FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 27

Miscellaneous Wireless Communications Services

CFR Correction

In Title 47 of the Code of Federal Regulations, Parts 20 to 39, revised as of October 1, 2013, on page 351, in § 27.50, the stars following paragraph (d)(1) are removed and paragraphs (d)(1)(A) and (B) and (d)(2)(A) and (B) are reinstated to read as follows:

§ 27.50 Power limits and duty cycle.

* * * * *

(d) * * *

(1) * * *

(A) an equivalent isotropically radiated power (EIRP) of 3280 watts when transmitting with an emission bandwidth of 1 MHz or less;

(B) an EIRP of 3280 watts/MHz when transmitting with an emission bandwidth greater than 1 MHz.

(2) * * *

(A) an equivalent isotropically radiated power (EIRP) of 1640 watts when transmitting with an emission bandwidth of 1 MHz or less;

(B) an EIRP of 1640 watts/MHz when transmitting with an emission bandwidth greater than 1 MHz.

* * * * *

[FR Doc. 2014–07200 Filed 3–28–14; 8:45 am]

BILLING CODE 1505–01–D

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 79

[CG Docket No. 05–231; FCC 14–12]

Closed Captioning of Video Programming; Telecommunications for the Deaf and Hard of Hearing; Petition for Rulemaking

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: In this document, the Commission adopts non-quantitative quality standards for the closed captioning of pre-recorded, live, and near-live programming to ensure that caption viewers have full access to television programming; establishes best practices for the provision of good quality captions; imposes new requirements on broadcasters using Electronic Newsroom Technique (ENT) based on a best practices proposal offered by the National Association of Broadcasters (NAB); and takes various other actions to clarify and improve the Commission's closed captioning rules.

DATES: Effective April 30, 2014, except for 47 CFR 79.1(e)(11)(i) and (ii), which shall be effective June 30, 2014, and 47 CFR 79.1(c)(3), (e)(11)(iii), (iv) and (v), (j), and (k) of the Commission's rules, which contain new information collection requirements that have not been approved by the Office of Management and Budget (OMB). The Commission will publish a separate document in the **Federal Register** announcing the effective date.

FOR FURTHER INFORMATION CONTACT: Eliot Greenwald, Consumer and Governmental Affairs Bureau, Disability Rights Office, at (202) 418–2235 or email *Eliot.Greenwald@fcc.gov*.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's *Closed Captioning of Video Programming; Telecommunications for the Deaf and Hard of Hearing; Petition for Rulemaking Report and Order* (*Order*), document FCC 14–12, adopted on February 20, 2014 and released on February 24, 2014, in CG Docket No. 05–231. In document FCC 14–12, the Commission also seeks comment in an accompanying Further Notice of Proposed Rulemaking (*FNPRM*), which is summarized in a separate **Federal Register** Publication. The full text of document FCC 14–12 will be available for public inspection and copying via ECFS, and during regular business hours at the FCC Reference Information Center, Portals II, 445 12th Street SW., Room CY–A257, Washington, DC 20554. It also may be purchased from the Commission's duplicating contractor, Best Copy and Printing, Inc., Portals II, 445 12th Street SW., Room CY–B402, Washington, DC 20554, telephone: (800) 378–3160, fax: (202) 488–5563, or Internet: *www.bcpiweb.com*.

Document FCC 14–12 can also be downloaded in Word or Portable Document Format (PDF) at: *http://www.fcc.gov/encyclopedia/disability-rights-office-headlines*. To request materials in accessible formats for people with disabilities (Braille, large print, electronic files, audio format), send an email to *fcc504@fcc.gov* or call the Consumer and Governmental Affairs Bureau at 202–418–0530 (voice), 202–418–0432 (TTY).

Final Paperwork Reduction Act of 1995 Analysis

Document FCC 14–12 contains new information collection requirements. The Commission, as part of its continuing effort to reduce paperwork burdens, will invite the general public to comment on the information collection requirements contained in document FCC 14–12 as required by the Paperwork Reduction Act (PRA) of 1995, Public Law 104–13, in a separate notice that will be published in the **Federal Register**.

Synopsis

1. Closed captioning is a technology that provides visual access to the audio content of video programs by displaying this content as printed words on the television screen. In addition to displaying text of verbal dialogue, captions generally identify speakers, sound effects, music, and audience reaction. Because closed captioning is hidden as encoded data transmitted within the television signal, consumers can turn the captions on or off.

2. In 1996, Congress added § 713 to the Communications Act (the Act), directing the Commission to prescribe rules for the closed captioning of televised video programming. 47 U.S.C. 613. Section 713(b) of the Act directs the Commission to prescribe regulations to ensure that ''video programming first published or exhibited after the effective date of such regulations is fully accessible through the provision of closed captions'' and that ''video programming providers or owners maximize the accessibility of video programming first published or exhibited prior to the effective date of such regulations through the provision of closed captions. . . .'' In 1997, the Commission adopted rules that now require captioning on all *new* English and Spanish language programming, both analog and digital, which is not specifically exempt from the Commission's rules. In addition, 75% of all nonexempt *pre-rule* English and Spanish language programming must be closed captioned. *Closed Captioning and Video Description of Video Programming; Implementation of Section 305 of the Telecommunications Act of 1996, Video Programming Accessibility*, MM Docket No. 95–176, Report and Order, (*1997 Closed Captioning Report and Order*); published at 62 FR 48487, September 16, 1997.

3. On July 23, 2004, advocacy groups representing individuals who are deaf and hard of hearing (Petitioners or Consumer Groups) filed a joint petition for rulemaking (*2004 Petition*) seeking amendments to the Commission's captioning rules pertaining to matters of captioning quality, scope, and enforcement. On September 2, 2004, the Commission placed the 2004 Petition on public notice. *Consumer and Governmental Affairs Bureau Reference*

Information Center Petition for Rulemaking Filed, Public Notice, Report No. 2670, RM–11065, September 2, 2004. On July 21, 2005, the Commission released the *2005 Closed Captioning NPRM* granting the *2004 Petition* and initiating a proceeding to examine the Commission's closed captioning rules. *Closed Captioning of Video Programming; Telecommunications for the Deaf, Inc., Petition for Rulemaking*, CG Docket No. 05–231, Notice of Proposed Rulemaking, (*2005 Closed Captioning NPRM*); published at 70 FR 56150, November 25, 2005.

4. On November 7, 2008, the Commission released the *2008 Closed Captioning Decision* that responded in part to the 2004 Petition by amending the captioning complaint process to allow consumers to file complaints directly with the Commission and by specifying new timelines by which such complaints must be addressed. *Closed Captioning and Video Programming, Closed Captioning Requirements for Digital Television Receivers*, CG Docket No. 05–231, ET Docket No. 99–254, Declaratory Ruling, Order and Notice of Proposed Rulemaking, (*2008 Closed Captioning Decision*); published at 74 FR 1594, January 13, 2009. The Commission also adopted rules requiring VPDs to make available contact information for the receipt and handling of immediate closed captioning concerns by consumers, and contact information for written closed captioning complaints. The Commission has since developed a database to collect VPD contact information, *Closed Captioning of Video Programming*, CG Docket No. 05–231, Order, (*Captioning Contact Webform Order*); published at 75 FR 7368, February 19, 2010, and issued public notices to inform VPDs of their obligation to file such contact information. In the *2008 Closed Captioning Decision*, the Commission also clarified that all nonexempt digital programming must be captioned pursuant to the applicable benchmark for that type of programming. The Commission also sought comment on the extent to which the self-implementing exemption in § 79.1(d)(12) of the Commission's rules for video programming channels that produce annual gross revenues of less than $3 million during the previous calendar year should apply to digital broadcasters that multicast.

5. On October 25, 2010, the Consumer and Governmental Affairs Bureau (CGB) issued a Public Notice seeking to refresh the record in this proceeding. *Consumer and Governmental Affairs Bureau Seeks to Refresh the Record on Notices of Proposed Rulemaking Regarding Closed Captioning Rules*, CG Docket No. 05–231, ET Docket No. 99–254, Public Notice, (*2010 Refresh Public Notice*); published at 75 FR 70168, November 17, 2010.

7. *Need for Standards.* Although the record in this proceeding shows that some effective quality control mechanisms for captions have been put into place during this period, hundreds of commenters remain dissatisfied with captioning quality that they claim impairs the accessibility of television programming by viewers who are deaf and hard of hearing. Specifically, commenters report captions that are inaccurate, garbled, incomplete, misspelled and/or misunderstood, incomprehensible, obscure the speaker, or significantly lag behind the spoken words they are intended to convey. This confirms inconsistencies in the quality of closed captioning throughout the industry and supports the Consumer Groups' contention that the marketplace alone has not provided effective incentives for all providers to maintain good quality captioning.

8. Accordingly, based on the instant record, the Commission identifies, in document FCC 14–12, quality standards that are necessary to achieve the Act's requirement for new video programming to be ''fully accessible through the provision of closed captions,'' and for ''video programming providers or owners [to] maximize the accessibility of video programming first published or exhibited prior to the effective date of such regulations through the provision of closed captions. . . .'' 47 U.S.C. 613(b). These standards will help ensure the uniform provision of good quality captions as intended by Congress and will provide a mechanism for addressing consumer complaints about captioning problems. The Commission expects that the quality standards the Commission now adopts will have little impact on the operations of entities that already have quality control systems that provide high quality captioning.

9. Section 202 of the Twenty-First Century Communications and Video Accessibility Act of 2010 (CVAA), Public Law 111–260, 124 Stat. 2751 (October 8, 2010), *technical amendments*, Public Law 111–265, 124 Stat. 2795 (October 8, 2010), requires the Commission to mandate closed captioning on video programming delivered using Internet protocol (''IP'') when such programming is shown on television with captions after the effective date of the Commission rules. In January 2012, the Commission adopted rules to implement section 202, requiring that captioning of IP-delivered programs be of at least the same quality as when such programs are shown on television. *Closed Captioning of Internet Protocol-Delivered Video Programming: Implementation of the Twenty-First Century Communications and Video Accessibility Act of 2010*, MB Docket No. 11–154, Report and Order, (*IP Captioning Report and Order*); published at 77 FR 19480, March 30, 2012. The expanded availability of television programming on the Internet that will result from implementation of this section of the CVAA makes ensuring the quality of captioning on shows aired on television in the first instance all the more important.

10. *Accuracy, Synchronicity, Completeness and Placement.* Document FCC 14–12 amends the Commission's rules, as described below, to require that captions (1) accurately reflect what is in the program's audio track by matching the dialogue, music, and sounds, and identify the speakers; (2) are delivered synchronously with the corresponding dialogue and other sounds at a speed that can be read by viewers; (3) are complete for the entire program; and (4) do not obscure important on-screen information and are not obscured by other information on the screen. Each of these four components is essential to ensure that video programming is fully accessible to people who are deaf and hard of hearing through the provision of closed captions.

11. *Accuracy.* In order to be accurate, captions must match the spoken words in the dialogue, in their original language (English or Spanish), to the fullest extent possible and include full lyrics when provided on the audio track. To accurately convey the dialogue in a program, closed captions need to contain all words in the order spoken, without paraphrasing or substituting words for proper names and places, contain proper spelling (including appropriate homophones, such as ''their,'' not ''there''), and provide, as needed to understand the program, appropriate punctuation and capitalization to reflect natural linguistic breaks and the flow of the dialogue, the proper tense, and the accurate representation of numbers (including currency figures with appropriate symbols or words). Paraphrasing generally should not be used where the entirety of the dialogue can be conveyed through captions. Nevertheless, in certain circumstances, paraphrasing may be necessary to ensure that the intended audience can capture the content of the program. For example, at times, paraphrasing may be needed if time does not permit providing verbatim captions, such as

when the time lag between when the dialogue occurs and the captions appear on live programming would prevent complete captioning of the program's audio content unless summarization occurs.

12. Accurate captions do not rewrite dialogue, or use synonyms to replace actual dialogue. Where necessary to understand a program's content, accurate captions also convey the manner and tone of the speaker's voice. Similarly, where slang or grammatical errors are intentionally used in a program's dialogue, accuracy dictates that captions mirror such slang and errors. Accuracy also requires that utterances (*e.g.*, ''um'') and false starts be captioned if needed for the viewer to understand the program. In addition, except as prohibited by 47 CFR 73.3999 of the Commission's rules, which restricts the broadcast of obscene and indecent material pursuant to 18 U.S.C. 1464, in which case both aural and closed captioned programming must be treated equivalently, aural words and phrases that may appear objectionable to the program owner, provider or VPD or to the captioning agency when put in writing must nevertheless be captioned verbatim if made audible to the general public in a program's dialogue.

13. In order to be accurate, captions must also provide nonverbal information that is not observable, such as who is speaking, the existence of music (even when there are no lyrics to be captioned), sound effects, and audience reaction, to the greatest extent possible, given the nature of the program. If there is more than one speaker, the proper placement of captions dictates that each speaker be identified, through caption identification or caption placement, so that viewers can understand who is speaking at any given time. When a speaker is not on the screen, identification of that individual in the caption text must also be provided if viewers not using captions are able, from the program's audio content, to discern the speaker's identity. Finally, in order to be considered accurate, captions must also be legible, with appropriate spacing between words to allow for readability.

14. *Synchronicity.* In order to be synchronous, captions must coincide with their corresponding spoken words and sounds to the greatest extent possible, given the type of the programming. This means that captions should begin to appear at the time that the corresponding speech or sounds begin and end approximately when the speech or sounds end. In addition, synchronicity requires that captions be displayed on the screen at a speed that can be read by viewers. While the Commission recognizes that everyone reads at a different speed, captions should not blink on and off at a speed that is too quick to read or otherwise be paced at a speed that is difficult to read.

15. *Program Completeness.* In order for a program's captions to be complete, captions must run from the beginning to the end of the program, to the fullest extent possible.

16. *Placement.* To be appropriately placed, captions should not block other important visual content on the screen including, but not limited to, character faces, featured text (*e.g.*, weather or other news updates, graphics and credits), and other information that is essential to understanding a program's content when the closed captioning feature is activated. Appropriate caption placement also dictates that the caption font be sized appropriately for legibility, and that captions be adequately positioned so they do not run off the edge of the video screen. *Application of Standards to Types of Programming.* For purposes of assessing compliance with respect to each of these components, the Commission will consider the type of programming at issue, *i.e.*, pre-recorded, live, or near live programming, and thereby take into account, among other things, the time available to review and edit captions on the particular type of programming prior to its distribution and display to viewers. Although, for purposes of addressing captioning complaints with respect to live and near-live programming, the Commission will take into consideration the lack of an opportunity to review and edit captions on these types of programming, captions must make all types of programming understandable to the fullest extent possible, so that viewers who rely on captions have a comparable viewing experience to those who can hear the audio portion of the programming.

17. *Pre-recorded programming.* Pre-recorded programming is programming that is produced, recorded, and edited in advance of its first airing on television. Generally, captioning done for pre-recorded programming is referred to as offline captioning, which is the process of adding captions to a program after it has been produced, and combining these captions with the program before it airs. Because the period between the time that a captioning agency receives the program and the airing date is sufficient to allow the careful review and editing of captions to ensure accuracy, synchronicity, program completeness, and appropriate placement, captioning will be considered to comply with the Commission's captioning quality standards if it contains no other errors than those we consider *de minimis.* Rather than specifying particular criteria that it will apply for a *de minimis* determination, in determining whether a failure to comply with the captioning quality standards is *de minimis*, the Commission will consider the particular circumstances presented, including the type of failure, the reason for the failure, whether the failure was one-time or continuing, the degree to which the program was understandable despite the errors, and the time frame within which corrective action was taken to prevent such failures from reoccurring.

18. Use of real-time captioning techniques for pre-recorded programming. Although offline captioning techniques are generally used for pre-recorded programming, at times programming providers use real-time captioning techniques, which generate and add captions to their pre-recorded programming as it airs to the public. Although industry indicates that real-time captioning for pre-recorded programming is sometimes necessary, the record reflects that real-time captioning methods can result in a greater number of errors, greater omissions than captions carefully prepared and reviewed in advance, and greater lag time between when the words are spoken and captions appear, making it difficult to follow who is speaking during a program. The National Cable and Telecommunications Association (NCTA) has proposed Best Practices that state that a programmer will ensure that pre-recorded programs generally are captioned offline before airing except when, ''in the exercise of a programmer's commercially reasonable judgment,'' circumstances require real-time or live display techniques for pre-recorded programming. Accordingly, the Commission expects that as a general matter, the use of real-time captioning methods for pre-recorded programming will be limited to only those situations when it is necessary to do so. After the captioning quality standards have been in effect for one year, the Commission will review the extent to which the circumstances permitting the continued use of real-time captioning techniques for pre-recorded programming have been successful in improving captioning quality on this type of programming as part of an overall review of the Best Practices (discussed below). Depending on the outcome of this review, the Commission will consider additional

action to further limit the use of real-time techniques on pre-recorded programming, if necessary.

19. *Live Programming.* Document FCC 14–12 defines live programming as video programming that is shown on television substantially simultaneously with its performance. Captioning for live programming, referred to as ''real-time'' captioning, is generated and combined with programming while it is being aired, and there is little or no opportunity to edit the captioning for accuracy, synchronicity, program completeness, and placement prior to airing.

20. *Accuracy.* The Commission recognizes the greater hurdles involved with captioning live programming, given the simultaneous production of captions as the programming is aired, and the lack of time for the review and correction of captions. The Captioning Vendors Best Practices suggest a number of measures that VPDs can specify in their contracts with programmers to be taken to reduce errors and to produce more complete and timely captions, including providing captioners advance notice of vocabulary that the program is likely to use; ensuring that captioners are equipped with reliable, high speed Internet, multiple telephone lines and backup plans to minimize caption interruption due to malfunctions; providing captioning agencies with high quality audio program signals; and requiring appropriate captioner training and skills. The Commission encourages the continued use of these measures and other measures that are technically feasible, to provide live captions provide an accurate presentation of aural content.

21. Nonetheless, the Commission recognizes that it may be impossible, using today's technologies, to always achieve fully accurate captioning on live programming. In considering complaints on captioning quality of live programming, the Commission will take into consideration the nature of this programming and the challenges associated with accurately captioning such programming. The overall objective is to ensure that closed captions convey a program's content so that the program is fully accessible to viewers. The Commission will address complaints by considering, on a case-by-case basis, the overall accuracy or understandability of the programming, the ability of the captions to convey the aural content of the program in a manner equivalent to the aural track, the extent to which the captioning errors prevented viewers from having access to the programming, and whether the VPD made best efforts to receive certification from programmers that the programmer is either in compliance with the Commission's non-technical quality standards or with the Best Practices adopted herein, or is exempt from the captioning obligations.

22. *Synchronicity.* The Commission recognizes that a slight delay in the delivery of live captions is inevitable due to the time it takes for the captioner to hear the program, provide the captions, and have the captions transmitted to the viewer and will consider such technical limitations when reviewing consumer allegations of non-compliance regarding the lack of synchronicity between a live program's audio track and its captions. At the same time, in an effort to eliminate delays that prevent caption viewers from understanding a program's content, there are measures a programmer can take to keep the delay in their presentation of live captions to a minimum, consistent with an accurate presentation of what is said, so that the time between when words are spoken or sounds occur and captions appear does not interfere with the ability of viewers to follow the program. For example, VPDs can specify in their contracts with programmers that the programmers will provide captioners with advance materials that help them to generate caption text as they hear a program's audio, provide high quality audio program signals to reduce caption lag times, and enter into contracts with captioning agencies that require appropriate captioner training and skills to reduce captioning delays while a program is being aired.

23. *Program Completeness.* The Commission recognizes that the delays inherent in sending caption transmissions on live programs to viewers pose particular challenges with respect to ensuring that the entire program is captioned up to its very last second. The preceding paragraphs have noted various measures that programmers and captioners can take to minimize the lag time between a program's audio content and its captions; shortening the lag time for real-time captions will help provide a more complete program. In addition, to the extent technically feasible, the Commission encourages entities that send the audio feed to the live captioner to alert the captioner that a program's end is imminent, so that the captioner can paraphrase or abbreviate the remaining text before the program cuts off. Finally, to the extent available, the Commission encourages use of the following measures to capture as much of a live program as possible through captions: (1) A fade out after the last scene to add a few seconds for the transition to the next program content, (2) advance delivery of the audio to captioners by a few seconds, and (3) allowing captions remaining at the end of a program's audio to be placed in a location on the screen during captions on that advertisement or program.

24. *Placement.* Entities certifying to their compliance with the captioning quality standards will be considered to comply with the Commission's placement standards if they ensure the proper placement of captions on the screen to avoid obscuring on-screen information and graphics to the extent possible. However, the Commission recognizes that placement errors may be more frequent with certain types of live programming than with pre-recorded programming. The Commission will take into consideration the type and nature of the programming when considering complaints regarding violations of the placement standard.

25. *Near-Live Programming.* The Commission defines near-live programming as video programming performed and recorded less than 24 hours prior to the time it was first aired on television. The production schedules for near-live programming often do not afford an opportunity for reviewing and editing captions equivalent to offline captioning processes. Rather, because of the short turnaround time between taping and airing, programmers typically use real time-captioning techniques for this type of programming. For purposes of the caption quality standards discussed above, the Commission will treat near-live programming as if it were live programming. The Commission agrees with Petitioners that editing and synchronization of captions on near-live programming should be performed during the hours between taping and airing to the extent there is sufficient time for such activities.

26. Document FCC 14–12 also encourages the adoption of either of two industry practices to improve the quality of near-live programming. First, in advance of a program's airing, programmers may be able to deliver a complete program script or a near-completed program to a captioning agency, which the agency can then use to create a caption file that is later combined simultaneously with the program when it is aired. The process of synchronizing captions that were originally produced in real-time is known as ''live display,'' and it can serve to reduce errors and long lag times that can occur with real-time captioning. Alternatively, programmers may be able to provide a captioning

agency with access to a live feed of the taping of near-live programming, enabling a captioner to generate captions while the program is being taped. The captioner can then improve the captions for accuracy, synchronicity, program completeness and placement prior to its airing. During these intervening hours, the programming provider also could inform the captioning agency about any edits made to the show prior to airing.

27. *Program Re-feeds of Live and Near-Live Programming.* Captioning vendors have submitted best practices proposals encouraging the use of offline captioning for live and near-live programs that initially have been captioned using real-time captioning techniques, but that are later re-aired on television. The Commission believes that such practice will more effectively match the program's audio content and thereby ensure the full television access through captioning. While offline captioning may not always be possible, the Commission encourages it and other steps to be taken that are necessary to achieve improved accuracy, synchronicity, completeness and placement of captions on such programs prior to their being re-aired. For example, to the extent feasible, the Commission encourages efforts to correct errors inadvertently made and timing lags that occurred when the program first aired with real-time captions.

28. *VPD Obligations.* In the *Closed Captioning Report and Order*, the Commission chose to place exclusive responsibility for compliance with the closed captioning requirements on VPDs because they are ultimately responsible for ensuring the delivery of programming to consumers. Because VPDs are the entities that provide video programming directly to consumers' homes, keeping them in the chain of responsibility will provide consumers an entity to which they can address their complaints, and VPDs can assist in identifying other entities responsible for the captioning quality errors. Accordingly, document FCC 14–12 imposes obligations on VPDs to ensure compliance with the captioning quality standards.

29. For the purposes of document FCC 14–12, all references to VPDs are as defined in § 79.1 of the Commission's rules, unless otherwise noted. To avoid possible ambiguity, the Commission changes the heading for § 79.1 of its rules to now read ''Closed captioning of televised programming.'' Section 79.1(a) of the Commission's rules defines VPD as (1) any television broadcast station licensed by the Commission; (2) any multichannel video programming distributor (MVPD) as defined in § 76.1000(e) of the Commission's rules; and (3) any other distributor of video programming for residential reception that delivers such programming directly to the home and is subject to the jurisdiction of the Commission. A different definition of VPD is used for purposes of programming distributed on the Internet under § 79.4 of the Commission's rules. 47 CFR 79.4(a)(3).

30. In acknowledgment of the critical role that video programmers play in the delivery of captions, each VPD must exercise best efforts to obtain a certification from each of its video programmers, by requesting, in writing, that each programmer that supplies it with programming provide a certification attesting that the programmer either (1) complies with the captioning quality standards adopted herein; (2) adheres to the Best Practices for video programmers set forth below, or (3) is exempt from the closed captioning rules under one or more properly attained exemptions, in which case such certification must identify the specific exemption claimed. In addition, the VPD must request, in writing, that the programmer make such certification widely available within 30 days after receiving a written request from the VPD. VPDs will further have the obligation to check Web sites or other widely available locations used for the purpose of posting widely available certifications, to determine which of their programmers have certified their compliance. VPDs that locate a programmer's certification on the programmer's Web site or other widely available location used for the purpose of posting certifications as of the effective date of these rules will be deemed in compliance with this best efforts obligation even if the VPD did not previously notify such programmer, in writing, of the need for this certification directly to such programmer. VPDs that fail to exercise best efforts to obtain the certification noted above may be subject to enforcement action.

31. If a video programmer does not provide the certification noted above, and if the VPD nevertheless carries the programmer's programming, it must report the non-certifying programmer to the Commission. The Consumer and Governmental Affairs Bureau will issue a Public Notice announcing the proper procedure for submitting such reports to the Commission. The Commission will compile a list of such programmers that will become available in a public database maintained by the Commission. If a VPD uses its best efforts to obtain one of these certifications from each of its programmers, and it reports to the Commission the identity of any programmer whose programming the VPD carries who has refused to provide the requested certification, no sanctions will be imposed on the VPD as a result of any captioning violations that are outside the control of the VPD. MVPDs will not need to obtain the above certifications from broadcast television stations that are carried on the MVPDs' systems because broadcast television stations themselves are VPDs, and the Commission is exercising direct authority over all VPDs with regard to the captioning quality rules adopted herein.

32. These requirements will become effective upon the latter of January 15, 2015 or a date announced in a public notice published in the **Federal Register** following approval by the Office of Management and Budget of the modified information collection requirements under the Paperwork Reduction Act of 1995.

33. *Best Practices.* A number of parties to this proceeding, including VPDs, video programmers, captioning vendors, and consumers, have proposed Best Practices to ensure caption quality. Adherence to the Best Practices will provide the captioning industry with concrete steps it can take to achieve quality captions and ensure that caption quality problems that do arise are quickly resolved. One year after implementation of the rules adopted herein, the Commission will assess the extent to which its prediction about the effectiveness of these Best Practices has been accurate. If the Commission finds that this approach is not effective in ensuring the production and distribution of good quality captions, the Commission will revisit these rules to the extent necessary.

34. *Video Programmer Best Practices.* To satisfy its obligation to exercise its best efforts to obtain certification from its programmers regarding closed caption quality, a VPD may seek certification from its video programmers that they will adhere to the following practices.

- *Agreements with captioning services.* Video programmers complying with the Best Practices will take the following actions to promote the provision of high quality television closed captions through new or renewed agreements with captioning vendors:
  - *Performance requirements.* Include performance requirements designed to promote the creation of high quality closed captions for video programming substantially comparable to the

Captioning Vendors Best Practices set forth below. Some programmers may contract with captioning agencies that employ practices that vary somewhat from the Captioning Vendor Best Practices but nonetheless generate high quality closed captions for video programming. To provide the captioning industry with flexibility, compliance with these Best Practices will include compliance with performance requirements that are comparable to these practices. Such requirements should adhere to the basic tenets of the requirements set forth in document FCC 14–12, and will qualify only if they are designed to achieve captions that are accurate, synchronous, complete and appropriately placed, as required by these new standards.

○ *Verification.* Include a means of verifying compliance with the above performance requirements such as through periodic spot checks of captioned programming.

○ *Training.* Include provisions designed to ensure that captioning vendors' employees and contractors who provide caption services have received appropriate training and that there is oversight of individual captioners' performance.

• *Operational best practices.* Video programmers complying with the Best Practices will take the following actions to promote delivery of high quality television captions through improved operations:

○ *Preparation materials.* To the extent available, provide captioning vendors with advance access to preparation materials such as show scripts, lists of proper names (people and places), and song lyrics used in the program, as well as to any dress rehearsal or rundown that is available and relevant.

○ *Quality audio.* Make commercially reasonable efforts to provide captioning vendors with access to a high quality program audio signal to promote accurate transcription and minimize latency.

○ *Captioning for pre-recorded programming.*

▪ The presumption is that pre-recorded programs, excluding programs that initially aired with real-time captions, will be captioned offline before air except when, in the exercise of a programmer's commercially reasonable judgment, circumstances require real-time or live display captioning. Examples of commercially reasonable exceptions may include instances when (1) a programmer's production is completed too close to initial air time be captioned offline or may require editorial changes up to air time (*e.g.,* news content, reality shows, (2) a program is delivered late, (3) there are technical problems with the caption file, (4) last minute changes must be made to later network feeds (*e.g.,* when shown in a later time zone) due to unforeseen circumstances, (5) there are proprietary or confidentiality considerations, or (6) video programming networks or channels with a high proportion of live or topical time-sensitive programming, but also some pre-recorded programs, use real-time captioning for all content (including pre-recorded programs) to allow for immediate captioning of events or breaking news stories that interrupt scheduled programming.

▪ Make reasonable efforts to employ live display captioning instead of real-time captioning for pre-recorded programs if the complete program can be delivered to the caption service provider in sufficient time prior to airing.

• *Monitoring and remedial best practices.* Video programmers complying with the Best Practices will take the following actions aimed at improving prompt identification and remediation of captioning errors as they occur:

○ *Pre-air monitoring of offline captions.* As part of the overall pre-air quality control process for television programs, conduct periodic checks of offline captions on pre-recorded programs to determine the presence of captions.

○ *Real-time monitoring of captions.* Monitor television program streams at point of origination (*e.g.,* monitors located at the network master control point or electronic monitoring) to determine presence of captions.

○ *Programmer and captioning vendor contacts.* Provide to captioning vendors appropriate staff contacts who can assist in resolving captioning issues. Make captioning vendor contact information readily available in master control or other centralized location, and contact captioning vendor promptly if there is a caption loss or obvious compromise of captions.

○ *Recording of captioning issues.* Maintain a log of reported captioning issues, including date, time of day, program title, and description of the issue. Beginning one year after the effective date of the captioning quality standards, such log shall reflect reported captioning issues from the prior year.

○ *Troubleshooting protocol.* Develop procedures for troubleshooting consumer captioning complaints within the distribution chain, including identifying relevant points of contact, and work to promptly resolve captioning issues, if possible.

○ *Accuracy spot checks.* Within 30 days following notification of a pattern or trend of complaints from the Commission, conduct spot checks of television program captions to assess caption quality and address any ongoing concerns.

• *Certification procedures for video programmers.* Video programmers complying with the Best Practices will certify to video programming distributors that they comply with the quality captioning standards or adhere to Best Practices for video programmers and will make such certifications widely available to VPDs, for example, by posting on affiliate Web sites.

35. *Captioning Vendor Best Practices.* As noted above, as part of their Best Practices, certifying video programmers must have agreements with captioning vendors that include performance requirements that are comparable to the Captioning Vendor Best Practices set forth below. These practices are intended to result in high quality captions and ensure that captioners have adequate training and oversight. The Commission defines ''captioning vendor'' (also sometimes referred to in document FCC 14–12 as a ''captioning service provider'') to mean any entity that is responsible for providing captioning services to a video programmer. Consistent with the Captioning Vendors' proposal, the Commission divides these Best Practices into three sets of practices—first, for captioning vendors, second, for individual captioners who generate real-time captions, and third, for the generation of offline captioning.

36. *Best Practices for Real-time (Live) Captioning Vendors.*

• Create and use metrics to assess accuracy, synchronicity, completeness, and placement of real-time captions;

• Establish minimum acceptable standards based upon those metrics while striving to regularly exceed those minimum standards;

• Perform frequent and regular evaluations and sample audits to ensure those standards are maintained;

• Consider ''accuracy'' of captions to be a measurement of the percentage of correct words out of total words in the program, calculated by subtracting number of errors from total number of words in the program, dividing that number by total number of words in the program and converting that number to a percentage. For example, 7,000 total words in the program minus 70 errors equals 6,930 correct words captioned, divided by 7,000 total words in the program equals 0.99 or 99% accuracy;

- Consider at a minimum mistranslated words, incorrect words, misspelled words, missing words, and incorrect punctuation that impedes comprehension, and misinformation as errors;
  - Captions are written in a near-as-verbatim style as possible, minimizing paraphrasing;
  - The intended message of the spoken dialogue is conveyed in the associated captions in a clear and comprehensive manner;
  - Music lyrics should accompany artist performances;
- Consider synchronicity of captions to be a measurement of lag between the spoken word supplied by the program origination point and when captions are received at the same program origination point;
- Ensure placement of captions on screen to avoid obscuring on-screen information and graphics (*e.g.,* sports coverage);
- Ensure proper screening, training, supervision, and evaluation of captioners by experienced and qualified real-time captioning experts;
- Ensure there is an infrastructure that provides technical and other support to video programmers and captioners at all times;
- Ensure that captioners are qualified for the type and difficulty level of the programs to which they are assigned;
- Utilize a system that verifies captioners are prepared and in position prior to a scheduled assignment;
- Ensure that technical systems are functional and allow for fastest possible delivery of caption data and that failover systems are in place to prevent service interruptions;
- Regularly review discrepancy reports in order to correct issues and avoid future issues;
- Respond in a timely manner to concerns raised by video programmers or viewers;
- Alert video programmers immediately if a technical issue needs to be addressed on their end;
- Inform video programmers of appropriate use of real-time captioning (*i.e.,* for live and near-live programming, and not for pre-recorded programming) and what is necessary to produce quality captions, including technical requirements and the need for preparatory materials;
- For better coordination for ensuring high quality captions and for addressing problems as they arise, understand the roles and responsibilities of other stakeholders in the closed-captioning process, including VPDs, video programmers, producers, equipment manufacturers, regulators, and viewers, and keep abreast of issues and developments in those sectors; and
- Ensure that all contracted captioners adhere to real-time captioner Best Practices.

37. *Best Practices for Real-Time (Live) Captioners.*

- Caption as accurately, synchronously, completely, and appropriately placed as possible;
- Ensure they are equipped with a failover plan to minimize caption interruption due to captioner or equipment malfunction;
- Be equipped with reliable, high speed Internet;
- Be equipped with multiple telephone lines;
- Prepare as thoroughly as possible for each program;
- File thorough discrepancy reports with the captioning vendor in a timely manner;
- To the extent possible given the circumstances of the program, ensure that real-time captions are complete when the program ends;
- Engage the command that allows captions to pass at commercials and conclusion of broadcasts;
- Monitor captions to allow for immediate correction of errors and prevention of similar errors appearing or repeating in captions;
- Perform frequent and regular self-evaluations;
- Perform regular dictionary maintenance;
- Keep captioning equipment in good working order and update software and equipment as needed;
- Possess the technical skills to troubleshoot technical issues; and
- Keep abreast of current events and topics that they caption.

38. *Best Practices for Offline (Pre-recorded) Captioning Vendors and Captioners.*

- Ensure offline captions are verbatim;
- Ensure offline captions are error-free;
- Ensure offline captions are punctuated correctly and in a manner that facilitates comprehension;
- Ensure offline captions are synchronized with the audio of the program;
- Ensure offline captions are displayed with enough time to be read completely and that they do not obscure the visual content;
- Ensure offline captioning is a complete textual representation of the audio, including speaker identification and non-speech information;
- Create or designate a manual of style to be applied in an effort to achieve uniformity in presentation;
- Employ frequent and regular evaluations to ensure standards are maintained;
- Inform video programmers of appropriate uses of real-time and offline captioning, and strive to provide offline captioning for pre-recorded programming;
  - Encourage use of offline captioning for live and near-live programming that originally aired on television and feeds at a later time;
  - Encourage use of offline captioning for all original and library pre-recorded programming completed well in advance of its distribution on television; and
- For better coordination for ensuring high quality captions and for addressing problems as they arise, understand the roles and responsibilities of other stakeholders in the closed-captioning process, including VPDs, video programmers producers, equipment manufacturers, regulators, and viewers, and keep abreast of issues and developments in those sectors.

39. In addition to following the Best Practices listed above, the Commission agrees that an ongoing dialogue among interested parties can help assess the industry's progress in implementing these practices and their impact on caption quality for television programs, as well as promote a better understanding of issues relevant to caption quality. The Commission supports commenters' proposal that trade associations sponsor an annual conference with VPDs, programmers, captioning vendors, representatives of the deaf and hard of hearing communities, the Commission, and other interested parties to review the state of caption quality on television, and to discuss developments in captioning technology and other issues of concern. The Commission also encourages industry and consumers to engage in frequent discussions so that the myriad of issues associated with captioning can be resolved to the mutual satisfaction of industry and consumers on an ongoing basis.

40. *Consumer Complaints.* The Commission will rely on consumers to bring any potential noncompliance with its captioning quality standards to the Commission's attention. The Commission disagrees with NCTA's argument that informal complaints regarding caption quality should be treated as informational filings only, with no requirement for the covered entity to investigate or respond to complaints brought to a company's attention. Commission experience with closed captioning informal complaints filed pursuant to § 79.1(g) of the

Commission's rules has been that they have been useful in bringing to its attention and to the attention of programming entities technical and other problems that these entities generally correct after investigating the problems raised in the informal complaints. However, CGB will forward informal complaints only if they contain the following information: (1) the channel number, channel name, call sign, or network; (2) the name of the MVPD, if applicable; (3) the date and time when the captioning problem occurred; (4) the name of the program with the captioning problem; and (5) a detailed description of the captioning problem, including specifics about the frequency and type of problem (*e.g.,* garbling, captions cut off at certain times or on certain days, and accuracy problems). CGB will undertake efforts to work with consumers to obtain additional information, as needed, to ensure complete information on deficient complaints prior to forwarding these to VPDs in order to ease the burdens on both consumers and industry.

41. *Use of Electronic Newsroom Technique (ENT) for Live Programming. Background.* Electronic Newsroom Technique (ENT) is a technique that can convert the dialogue included on a teleprompter script into captions. In the *1997 Closed Captioning Report and Order,* the Commission allowed the use of ENT for the captioning of newscasts and other live programming—for purposes of meeting the captioning benchmarks—to permit flexibility in the methods used to create closed captions and to address the record's conflicting accounts at that time as to the number of available real-time captioners. On reconsideration, because of the inability of ENT to capture interviews, field reports, and late breaking weather and sports reports, the Commission narrowed the circumstances under which captions created with this technique would be permitted. *Closed Captioning and Video Description of Video Programming; Implementation of Section 305 of the Telecommunications Act of 1996 Video Programming Accessibility,* MM Docket No. 95–196, Order on Reconsideration, (*1998 Closed Captioning Reconsideration Order*); 63 FR 55959, October 20, 1998. The ENT rule now prohibits the four major national broadcast networks, their affiliates in the 25 largest DMAs as defined by the Nielsen ratings, and national non-broadcast networks serving at least 50 percent of all homes subscribing to multichannel video programming services from using ENT to caption live programming. 47 CFR 79.1(e)(3).

42. The Commission remains concerned about the inability of ENT, as it is currently used, to provide full and equal access to news programming for all Americans, no matter where they live. However, while the costs for real-time captioning have dropped significantly and steps have been taken to increase the number of real-time captioners since the Commission's rules was adopted in the *1997 Closed Captioning Report and Order,* the Commission recognizes that many stations continue to have significant concerns about their ability to provide local news if they are denied the opportunity to provide captions through ENT, and agrees that the public interest would not be served were television stations required to cut back on local news programming.

43. In document 14–12, the Commission amends § 79.1(e)(3) of its rules to describe the manner in which broadcast stations not subject to the prohibition on ENT will be deemed in compliance with the captioning rules if they continue to use ENT to provide captioning on their live programming. The record indicates that these enhanced ENT procedures, listed below, offer stations a means to continue using ENT, and a means to improve caption quality for consumers, without requiring all stations to assume the cost of real-time captioning of all news programming. The Commission anticipates that these procedures will ensure that most in-studio programming, such as weather, sports, news and entertainment, as well as breaking news and on-the-scene programming will be made more accessible to viewers who are deaf and hard of hearing.

44. *Effective Date.* The Commission will make these requirements effective 90 days after publication in the **Federal Register**. To the extent it is not technically feasible for a particular station to comply with its new requirements by this time, the station may request additional time by seeking a limited waiver of the effective date, supported by an appropriate good cause showing. Any station may, in lieu of following the enhanced ENT procedures, provide real-time captioning on their live programming.

45. *ENT Best Practices.* Accordingly, based on the proposals submitted by NAB, the Commission requires that to be deemed in compliance with the Commission rules requiring captioning of live programming, broadcast stations that are not subject to the current prohibition on ENT must adhere to the following procedures in the ordinary course of business if they continue to use ENT for live programming:

- In-studio produced programming will be scripted. These scripted elements will include in-studio news, sports, weather, and entertainment programming.
- For weather interstitials where there may be multiple segments within a news program, weather information explaining the visual information on the screen and conveying forecast information will be scripted, although the scripts may not precisely track the words used on air.
- Pre-produced programming will be scripted (to the extent technically feasible).
- If live interviews, live on-the scene and/or breaking news segments are not scripted, stations shall supplement them with crawls, textual information, or other means (to the extent technically feasible).
- These provisions do not relieve stations of their obligations to comply with requirements regarding the accessibility of programming providing emergency information under § 79.2 of the Commission's rules. 47 CFR 79.2.
- Stations will provide training to all news staff on scripting for improving ENT.
- Stations will appoint an ''ENT Coordinator'' accountable for compliance.

46. *One-year ENT Report.* Because the record is not fully developed on how the new ENT procedures will be applied by news programmers across the country, and the extent to which compliance with these procedures will fulfill the Act's requirement for full access to news programming, the Commission will reevaluate the effectiveness of these ENT enhancements in providing people who are deaf and hard of hearing with full access to television news programming one year after the effective date of the rules pertaining to ENT. To begin this process, no later than one year after the implementation of these ENT procedures, document FCC 14–12 requires broadcast stations that have relied on these procedures to prepare and submit to the Commission a report on their experiences with following these new measures, and the extent to which they have been successful in providing full and equal access to news programming. Such report shall be prepared in consultation with Consumer Groups and may be prepared by the NAB on behalf of the affected broadcasters. The Commission encourages, as recommended by Consumer Groups, that such report

include data to demonstrate the extent to which ENT captioning meets the principles of accuracy, completeness, synchronicity, and placement, the percentage and quantity of uncaptioned programming by stations using ENT, the impact of ENT usage on the ability of consumers who are deaf and hard of hearing to access programming, complaints filed about ENT, the state of the market for real-time captioners, the economic need for stations to continue using ENT in lieu of real-time captioning, and technological progress toward achieving improvements with ENT. Such data can assist the Commission in evaluating whether a further proceeding that may include the phase out of ENT for certain DMAs is necessary to ensure full access to televised news programming by people who are deaf and hard of hearing.

47. *Complaints.* The Commission will entertain informal complaints of noncompliance with the Commission's closed captioning rules by those stations using the above procedures for ENT, but will forward a complaint to a station only if it contains the following relevant information, which the Commission deems necessary to effectively respond to such complaint: The television channel number, network and/or call sign, the name of the subscription service, if relevant, the date and time of the alleged captioning problems, the name of the program with the alleged captioning problem, a detailed and specific description of the captioning problem, including the frequency and type of problem.

48. *Compliance Ladder.* The Commission further adopts the following compliance ladder in the event that complaints gathered by the Commission indicate a pattern or trend of noncompliance with the new ENT rules.

- If the Commission notifies a broadcast station that the Commission has identified a pattern or trend of possible noncompliance by the station, the station shall respond to the Commission within 30 days regarding such possible noncompliance, describing corrective measures taken, including those measures the station may have undertaken in response to informal complaints and inquiries from viewers.
- If, after the date for a broadcast station to respond to the above notification, the Commission subsequently notifies the broadcast station that there is further evidence indicating a pattern or trend of noncompliance, the broadcast station shall submit to the Commission, within 30 days of receiving such subsequent notification, an action plan describing specific measures it will take to bring the station's ENT performance into compliance with the Commission's regulations for ENT. Action plans could include, for example, training of station personnel, more prominent reminders of the need for accessibility, and, if appropriate, the use of improved equipment. In addition, the station shall be required to conduct spot checks of its ENT performance and report to the Commission on the results of such action plan and spot checks 180 days after submission of such action plan.
- If, after the date for submission of such report on the results of an action plan, the Commission finds continued evidence of a pattern or trend of noncompliance, the Commission will then consider, through its Enforcement Bureau, appropriate enforcement action including admonishments, forfeitures, and other corrective actions as necessary that may include a requirement to cease using ENT, and instead use real-time captioning for live programming.

49. In determining whether to require a station to implement real-time captioning, the Commission will take into consideration all relevant information regarding the nature of the problem and the station's efforts to correct the problem.

50. *Video Programming Distributor Technical Rules. Equipment Monitoring.* Even when captions delivered to VPDs are complete, accurate, synchronous, and appropriately located on the screen in compliance with the Commission's captioning quality standards, there still remains the possibility that technical problems may prevent these captions from reaching viewers. In the *1997 Closed Captioning Report and Order,* the Commission adopted a ''pass-through requirement'' for VPDs to ''ensure that captioned programming is always delivered to viewers complete and intact.'' The Commission stated that VPDs would ''be responsible for any steps needed to monitor and maintain their equipment and signal transmissions to ensure that the captioning included with the video programming reaches consumers,'' and cautioned that VPDs were to ''take corrective measures necessary to ensure that the captioning is consistently included with the video programming delivered to viewers.'' The Commission further clarified that it is the ''*video programming distributor's responsibility* . . . to ensure that the equipment used to transmit these channels to viewers is capable of passing the captioning through along with the programming [and] is in proper working order.''

51. The record shows that technical problems, which can occur in the delivery of captions from the point of origination to the end user, have been preventing some viewers from being able to fully access video programming as required by the Act and the Commission's captioning rules. Each time the program stream is transcoded or manipulated the captions can become garbled or disappear, or otherwise have their quality impaired. The Commission finds that VPDs could eliminate most technical captioning glitches if they have mechanisms in place to monitor and check their engineering equipment and procedures. In addition, complaints would be reduced if these entities actively monitor and maintain their equipment to eliminate the occurrence of technical problems in the first instance, and to quickly and efficiently repair such problems that do occur.

52. To ensure full technical compliance with the pass-through rule, the Commission reaffirms and codifies in its rules, its 1997 requirements for VPDs to take ''any steps needed to monitor and maintain their equipment and signal transmissions as part of their obligation to ensure that the captioning included with video programming reaches consumers,'' and to take any corrective measures necessary to ensure that such equipment is in proper working order. The Commission also adopts a new rule requiring technical equipment checks to take place in a manner that is sufficient to ensure that captions are passed through to viewers intact. The Commission expects that VPDs that already perform equipment checks and maintain adequate records to ensure that captions are passed through to their viewers should not have to change their practices as a result of these new rules. Others who have failed to perform technical equipment checks or do not currently maintain records will have to revise their practices to comply with the obligation to monitor their equipment for its proper maintenance.

53. As part of their pass-through requirement, the Commission reminds MVPDs that they must also ensure that the customer premises equipment (*e.g.,* set-top boxes) that they provide to consumers transmit all captions pursuant to the standards adopted under the CVAA. Additionally, the Commission encourages MVPDs to provide their installers and other employees who interact with consumers with information necessary to help those consumers effectively access closed captions through their MVPD-installed devices.

54. *Reporting and Recordkeeping.* At this time, the Commission declines to impose a requirement for VPDs to report on their compliance with the captioning rules. However, as explained below, document FCC 14–12 adopts a requirement for VPDs to keep records of their activities related to the maintenance, monitoring and technical checks of their captioning equipment. The Commission believes that the new complaint process, which allows consumers to skip the step of first contacting a VPD about a complaint and allows the initial filing of such complaints with the Commission, has made it easier for consumers to bring to the Commission's attention alleged violations of the captioning requirements, and thus reduces the need for a reporting requirement. However, the Commission continues to believe that each VPD should be required to maintain sufficient data to respond to consumer complaints and provide the Commission with information needed to make a determination as to the VPD's compliance with the closed captioning requirements. Although such requirement already exists, document FCC 14–12 now specifies that such data must include (though it need not be limited to) information about the VPD's efforts to monitor, maintain, and conduct technical checks of its captioning equipment and other related equipment to ensure the pass through of captions to viewers. The Commission further requires each VPD to retain such records and documentation for a period of at least two years, in order to effectively respond to a consumer complaint or Commission inquiry addressing compliance with the Commission's captioning rules. Because the statute of limitations to impose a penalty for captioning violations is one year for some VPDs, and additional time is needed to obtain the records once the proceeding has commenced, the Commission finds that this two-year document retention rule is reasonable. Finally, the Commission directs that VPDs be prepared to submit such data to the Commission upon request, if needed to resolve an enforcement proceeding. A VPD's efforts to dispute noncompliance alleged in a complaint or a Commission inquiry with conclusory or insufficiently supported assertions of compliance will not carry the VPD's burden of proof to show that it is in compliance with the Commission's rules. In the event that the Commission finds that these recordkeeping obligations are insufficient to achieve compliance with the closed captioning obligations, the Commission may revisit whether to impose reporting requirements.

55. The recordkeeping requirements will become effective upon the latter of January 15, 2015 or a date announced in a public notice published in the **Federal Register** following approval by the Office of Management and Budget of the modified information collection requirements under the Paperwork Reduction Act of 1995.

56. *Treatment of Multicast Streams. Background.* In 1997, the Commission adopted a closed captioning exemption for video programming channels that produced annual gross revenues of less than $3 million during the previous calendar year. At that time, the Commission specified that ''[a]nnual gross revenues shall be calculated for *each channel* individually based on revenues received in the preceding calendar year from all sources related to the programming on that channel.'' The Commission did not determine, however, what constituted a ''channel'' for purposes of satisfying this self-implementing exemption. In 1997, broadcasters used their spectrum allocation to provide analog programming on a single channel; with the advent of digital broadcasting, broadcasters may use their digital allotment to provide simultaneously several streams of programming on the same 6 MHz of spectrum. This is known as ''multicasting.'' In the *2008 Closed Captioning Decision,* the Commission sought comment on whether, for purposes of the $3 million exemption, each programming stream on a multicast signal constitutes a separate channel for purposes of the captioning requirements, or whether the broadcaster's entire operations attributable to its digital allotment should be considered one channel for captioning purposes.

57. The Commission concludes that, for purposes of § 79.1(d)(12) of the Commission's rules, each programming stream on a multicast broadcast signal will be considered separately for purposes of determining whether the $3 million annual gross revenue limit has been satisfied. The Commission agrees that applying § 79.1(d)(12) of its rules to each multicast stream separately is consistent with our ruling in 1997, which calculated gross revenues for each channel individually, and in the way it is applied to MVPDs. Accordingly, the Commission amends § 79.1(d)(12) of its rules to ensure application of the $3 million exemption to a channel or stream of programming when multiple streams of programming are offered by a broadcaster. The Commission reminds multicasting television broadcasters, however, that once the annual revenues for a multicasting stream reach $3 million, the captioning exemption will not apply to that stream and, at that point, all applicable captioning requirements will apply to that stream. The Commission will revisit the multicasting issue at a later time to determine whether the approach adopted in document FCC 14–12 is still needed to assure the viability of multicasting, as well as the extent to which any change of policy is needed to ensure the availability of closed captioning on multicast programming for people who are deaf and hard of hearing.

58. *Other Matters. Penalties for Violation of the Closed Captioning Rules.* Petitioners have requested that the Commission use its existing forfeiture guidelines to establish a base forfeiture amount of $8,000 for each captioning violation, with each hour of programming below the applicable benchmark counted as a separate violation. They also have asked the Commission to clarify that to the extent technical problems result in a portion of a program's captioning to be garbled or missing, such program not be counted toward the applicable captioning benchmark. In the *2005 Closed Captioning NPRM,* the Commission sought comment on whether the Commission should establish specific per-violation forfeiture amounts for non-compliance with the captioning rules, and if so, what those amounts should be.

59. The Commission declines to create sanctions or remedies for closed captioning enforcement proceedings that deviate from the Commission's flexible case-by-case approach governed by § 1.80 of its rules. The Commission already has sufficient authority to issue appropriate penalties, and it will adjudicate complaints on the merits and employ the full range of sanctions and remedies available to the Commission under the Act. In order to encourage compliance with its rules, the Commission will consider a wide variety of factors to determine whether enforcement is warranted, such as history of monitoring and maintenance, complaints received from consumers, frequency of captioning errors, and impact of captioning errors on the viewers' understandability of the program. In addition, as provided in § 79.1(g)(8) of the Commission's rules, a forfeiture penalty may be in addition to any other penalty that the Commission may impose.

60. *Electronic Filing of Exemption Requests* Section 713(d)(3) of the Act permits video programming providers or

owners to petition the Commission for an exemption from the closed captioning requirements where it can be shown that such requirements would be ''economically burdensome.'' The Commission has required parties seeking such exemption to file their petitions in paper form. In the *2005 Closed Captioning NPRM,* the Commission sought comment on whether to require or allow the electronic filing of exemption petitions, and asked about the impact electronic filing would have on entities filing such petitions and parties filing comments or oppositions to such petitions.

61. In the *2011 Electronic Filing Report and Order,* the Commission amended certain of its procedural rules to increase the efficiency of Commission decision-making and modernize Commission procedures in the digital age, including adoption of a requirement to use electronic filing whenever technically feasible. Document FCC 14–12 now amends Commission rules to require the electronic filing of individual closed captioning exemption requests in machine readable format, and further revises Commission rules to require that comments on and oppositions to such petitions also be filed electronically in machine readable format. Pursuant to § 79.1(f)(7) of the Commission's rules, however, any comment on or opposition to the petition, and any reply, must also be served on the other party and must include a certification that the filing was served on the other party.

62. *Correction to 47 CFR 79.1(i)(3) of the Commission's rules.* The email address in § 79.1(i)(3) of the Commission's rules that is provided for VPDs to submit contact information for closed captioning concerns and complaints is inaccurate. The correct address is *CLOSEDCAPTIONING_POC@fcc.gov.* The Code of Federal Regulations (CFR) will be amended accordingly.

Declaratory Ruling

63. *Mixed Language Programming—Bilingual English-Spanish Language Programming.* The Commission confirms that bilingual English-Spanish programs are subject to the same obligations with respect to the amount of required captioned programming as programming that is entirely in English or entirely in Spanish. (The Commission notes, however, that it would not consider a program to be bilingual if it has just a few lines of dialogue in the program's less predominant language.) Specifically, all *new* bilingual English-Spanish programming must be closed captioned, and 75 percent of *pre-rule* bilingual English-Spanish programming must be closed captioned in their respective languages at this time.

64. *Other Language Programming.* Section 79.1(d)(3) of the Commission's rules exempts from the closed captioning requirements ''. . . programming for which the audio is in a language other than English or Spanish, except that scripted programming that can be captioned using the 'electronic news room' technique is not exempt.'' The Commission confirms that programs that are in neither English nor Spanish but contain small amounts or ''snippets'' of English or Spanish words that account for only a small percentage of these programs, are also governed by § 79.1(d)(3) of its rules and need not to be captioned. The Commission reminds programmers and distributors, however, that § 79.1(d)(3) of its rules requires the use of ENT for closed captioning in instances where scripted programming would make this possible.

65. *Providing VPD Contact Information Where VPD Is Exempt from Certain Requirements.* The Commission clarifies that § 79.1(i) of its rules require all VPDs, even if they are exempt from certain closed captioning rules, to make contact information available to consumers and the Commission for the handling of immediate concerns and written complaints about closed captioning. Because all VPDs, including those that are exempt from certain captioning rules, are nevertheless required to provide captioning pursuant to the pass-through rule, all VPDs are subject to the obligation to receive and respond to complaints.

66. *Obligation to Caption ''On Demand'' Video Programming.* The Commission confirms that all ''on demand'' programming not subject to an exemption must comply with the relevant captioning requirements for new and pre-rule programming. More specifically, to the extent that ''on demand'' programming that airs today is ''new programming,'' it must be captioned unless it otherwise qualifies for an exemption under its rules. To the extent it is pre-rule programming, it must comply with the Commission's pre-rule 75 percent benchmark.

67. *Application of Closed Captioning Requirements to LPTV Stations.* In the *1997 Closed Captioning Report and Order,* the Commission declined to adopt a specific exemption for low power television (LPTV) stations, and included within the definition of VPD, ''[a]ny broadcast station licensed by the Commission.'' Because the *1997 Closed Captioning Report and Order* makes clear the Commission's intent to require closed captioning of non-exempt programming on all television stations, including LPTV stations, the Commission reminds LPTV stations that they must comply with Part 79 of its rules.

Final Regulatory Flexibility Analysis

68. Initial Regulatory Flexibility Analyses (IRFAs) were incorporated in the Notices of Proposed Rulemaking (*NPRMs*) in the *2005 Closed Captioning NPRM* and the *2008 Closed Captioning Decision* in this proceeding. 5 U.S.C. 603. The Commission sought written public comment on the proposals in the two *NPRMs,* including comment on the two IRFAs. The Commission received one comment on the IRFA incorporated in the *2005 Closed Captioning NPRM,* as discussed below. No comments were received on the IRFA incorporated in the *2008 Closed Captioning Decision.* This Final Regulatory Flexibility Analysis (FRFA) conforms to the RFA. This Report and Order makes certain modifications to the closed captioning rules after consideration of the comments and reply comments received in response *2005 Closed Captioning NPRM,* the *2008 Closed Captioning Decision,* and the 2010 *Refresh Public Notice.*

69. In document FCC 14–12, the Commission adopts rules governing non-technical quality standards for closed captioning; Best Practices for video programmers, captioning vendors and captioners designed to ensure high quality closed captioning; certifications that VPDs must obtain from video programmers attesting to video programmers' compliance with the captioning quality standards or video programmer Best Practices or that the video programmer is exempt from the closed captioning rules; enhanced requirements for the use of ENT and a compliance ladder process for broadcasters that follow these practices; VPD monitoring and maintenance of equipment and signal transmissions and technical equipment checks to ensure greater technical compliance; maintenance of records of such monitoring, maintenance, and technical equipment checks; applicability of the $3 million exemption to multicast program streams; and electronic filing of economically burdensome exemption requests. These modifications to the closed captioning rules will serve the public interest by improving the availability and quality of closed captioning and making it easier for the public to learn whether a petition for exemption from the closed captioning rules has been filed.

70. The Commission notes that VPDs are the entities directly responsible for

compliance with closed captioning rules, and may air programming that is not captioned only if the programming is not subject to a captioning benchmark or is exempt from the rules pursuant to § 79.1(d) or § 79.1(f) of the Commission's rules. Even with regard to programming that is not produced by a VPD, the VPD is responsible for ensuring that the program owner has certified that it or its programming is exempt from the closed captioning rules. Although closed captioning companies play a vital role in the closed captioning regime, they are not the entities that are directly affected by the Commission's requirements that video programming be captioned, because they are not the entities ultimately responsible for compliance with the closed captioning rules. The IRFA included all multichannel video programming distributors (MVPDs) and broadcasters; these are the entities that are ultimately responsible for closed captioning. In addition to captioners, program owners and producers that are not the video programming distributors were also omitted from the IRFA, for the same reason—they are merely indirectly affected by the rules and are not ultimately responsible for compliance with the rules. However, in order to better inform the public about its actions and to create a more complete record, the Commission is including captioners and video programming producers in this FRFA.

71. The RFA directs the Commission to provide a description of and, where feasible, an estimate of the number of small entities that will be affected by the rules. The RFA generally defines the term ''small entity'' as having the same meaning as the terms ''small business,'' ''small organization,'' and ''small governmental jurisdiction.'' In addition, the term ''small business'' has the same meaning as the term ''small business concern'' under the Small Business Act. A small business concern is one which: (1) Is independently owned and operated; (2) is not dominant in its field of operation; and (3) satisfies any additional criteria established by the SBA.

72. *Small Businesses, Small Organizations, and Small Governmental Jurisdictions.* As of 2009, small businesses represented 99.9% of the 27.5 million businesses in the United States, according to the SBA. Additionally, a ''small organization'' is generally ''any not-for-profit enterprise which is independently owned and operated and is not dominant in its field.'' Nationwide, as of 2007, there were approximately 1,621,315 small organizations. Finally, the term ''small governmental jurisdiction'' is defined generally as ''governments of cities, counties, towns, townships, villages, school districts, or special districts, with a population of less than fifty thousand.'' Census Bureau data for 2007 indicate that there were 89,527 governmental jurisdictions in the United States. The Commission estimates that, of this total, as many as 88,761 entities may qualify as ''small governmental jurisdictions.''

73. *Cable Television Distribution Services.* These services have been included within the broad economic census category of Wired Telecommunications Carriers. The SBA has developed a small business size standard for this category, which is all such firms having 1,500 or fewer employees. According to data from the U.S. Census Bureau for the year 2007, there were 3,188 Wired Telecommunications Carrier firms that operated for the entire year in 2007. Of these, 3,144 operated with less than 1,000 employees, and 44 operated with 1,000 or more employees.

74. *Cable Companies and Systems.* Under the Commission's rules, a ''small cable company'' is one serving 400,000 or fewer subscribers, nationwide. 47 CFR 76.901(e) of the Commission's rules. Industry data shows that there are 1,100 cable companies. Of this total, all but 10 incumbent cable companies are small. In addition, under the Commission's rules, a ''small system'' is a cable system serving 15,000 or fewer subscribers. Current Commission records show 4,945 cable systems nationwide. Of this total, 4,380 cable systems have less than 20,000 subscribers, and 565 systems have 20,000 subscribers or more.

75. *Cable System Operators (Telecom Act Standard).* The Communications Act of 1934, as amended, contains a size standard for small cable system operators, which is ''a cable operator that, directly or through an affiliate, serves in the aggregate fewer than 1 percent of all subscribers in the United States and is not affiliated with any entity or entities whose gross annual revenues in the aggregate exceed $250,000,000.'' Based on available data, all but 10 incumbent cable operators are small under this size standard.

76. *Direct Broadcast Satellite (DBS) Service.* DBS service is a nationally distributed subscription service that delivers video and audio programming via satellite to a small parabolic ''dish'' antenna at the subscriber's location. Currently, only two entities, DIRECTV and DISH Network provide DBS service, and neither company is a small business.

77. *Wireless Cable Systems—Broadband Radio Service and Educational Broadband Service.* Wireless cable systems use the Broadband Radio Service (BRS) and Educational Broadband Service (EBS) to transmit video programming to subscribers. In connection with the 1996 BRS auction, the Commission established a small business size standard as an entity that had annual average gross revenues of no more than $40 million in the previous three calendar years. Of the 67 auction winners, 61 met the definition of a small business, and of these 61 winners, 48 remain small business licensees. In addition, there are approximately 392 incumbent BRS licensees that are considered small entities. Accordingly, there are currently approximately 440 BRS licensees that are defined as small businesses under either the SBA or the Commission's rules. In 2009, the Commission conducted Auction 86 for the sale of 78 BRS licenses, and established three categories of small businesses: (i) A bidder with attributed average annual gross revenues that exceed $15 million and do not exceed $40 million for the preceding three years is a small business; (ii) a bidder with attributed average annual gross revenues that exceed $3 million and do not exceed $15 million for the preceding three years is a very small business; and (iii) a bidder with attributed average annual gross revenues that do not exceed $3 million for the preceding three years is an entrepreneur Of the 10 winning bidders, two bidders that claimed small business status won four licenses; one bidder that claimed very small business status won three licenses; and two bidders that claimed entrepreneur status won six licenses.

78. In addition, the SBA's placement of Cable Television Distribution Services in the category of Wired Telecommunications Carriers is applicable to cable-based Educational Broadcasting Services. The SBA has developed a small business size standard for Wired Telecommunication Carriers, which is all such businesses having 1,500 or fewer employees. According to Census Bureau data for 2007, there were 3,188 Wired Telecommunications Carrier firms that operated for the entire year in 2007. Of these, 3,144 operated with less than 1,000 employees, and 44 operated with 1,000 or more employees. In addition to Census Bureau data, the Commission's internal records indicate that as of September 2012, there are 2,239 active EBS licenses. The Commission estimates that of these 2,239 licenses,

the majority are held by non-profit educational institutions and school districts, which are by statute defined as small businesses.

79. *Open Video Services.* Because OVS operators provide subscription services, OVS falls within the SBA small business size standard covering cable services, which is Wired Telecommunications Carriers. The SBA has developed a small business size standard for this category, which is all such firms having 1,500 or fewer employees. According to U.S. Census data for 2007, there were 3,188 firms that in 2007 were Wired Telecommunications Carriers. Of these, 3,144 operated with less than 1,000 employees, and 44 operated with 1,000 or more employees. However, as to the latter 44 there is no data available that shows how many operated with more than 1,500 employees.

80. *Television Broadcasting.* The SBA defines a television broadcasting station as a small business if such station has no more than $35.5 million in annual receipts. The Commission has estimated the number of licensed full power commercial television stations to be 1,388. According to U.S. Census Bureau data for 2007, there were 2,076 television broadcasting establishments in 2007. Of these, 1,515 establishments had receipts under $10 million, and 561 had receipts of $10 million or more. The Commission notes, however, that, in assessing whether a business concern qualifies as small under the above definition, business control affiliations must be included. Because many of these stations may be held by large group owners, and the revenue figures on which the Commission's estimate is based does not include or aggregate revenues from control affiliates, its estimate likely overstates the number of small entities that might be affected by its action.

81. The Commission has estimated the number of licensed noncommercial educational (NCE) full power television stations to be 396. The Commission does not compile and otherwise does not have access to information on the revenue of NCE stations that would permit it to determine how many such stations would qualify as small entities. There are also 428 Class A television stations and 1,986 low power television stations (LPTV). Given the nature of these services, the Commission will presume that all Class A television and LPTV licensees qualify as small entities under the SBA definition.

82. In addition, an element of the definition of ''small business'' is that the entity not be dominant in its field of operation. The Commission is unable at this time to define or quantify the criteria that would establish whether a specific television station is dominant in its field of operation. Accordingly, the estimate of small businesses to which rules may apply do not exclude any television station from the definition of a small business on this basis and is therefore over-inclusive to that extent. Also as noted, an additional element of the definition of ''small business'' is that the entity must be independently owned and operated. The Commission notes that it is difficult at times to assess these criteria in the context of media entities, and its estimates of small businesses to which they apply may be over-inclusive to this extent.

83. *Incumbent Local Exchange Carriers (ILECs).* Neither the Commission nor the SBA has developed a small business size standard specifically for ILECs. The appropriate size standard under SBA rules is for the category Wired Telecommunications Carriers. Under that size standard, such a business is small if it has 1,500 or fewer employees and ''is not dominant in its field of operation.'' The SBA's Office of Advocacy contends that, for RFA purposes, small ILECs are not dominant in their field of operation because any such dominance is not ''national'' in scope. The Commission has therefore included small ILECs in this RFA analysis, although the Commission emphasizes that this RFA action has no effect on Commission analyses and determinations in other, non-RFA contexts.

84. According to Census Bureau data for 2007, there were 3,188 firms in this category that operated for the entire year. Of this total, 3,144 had employment of less than 1000 employees, and 44 firms had had employment of 1,000 or more. According to Commission data, 1,307 carriers have reported that they are engaged in the provision of ILEC services. Of these 1,307 carriers, an estimated 1,006 have 1,500 or fewer employees and 301 have more than 1,500 employees.

85. *Competitive Local Exchange Carriers (CLECs), Competitive Access Providers (CAPs), Shared-Tenant Service Providers, and Other Local Service Providers.* Neither the Commission nor the SBA has developed a small business size standard specifically for these service providers. The appropriate size standard under SBA rules is for the category Wired Telecommunications Carriers. Under that size standard, such a business is small if it has 1,500 or fewer employees. According to Census Bureau data for 2007, there were 3,188 firms in this category that operated for the entire year. Of this total, 3,144 had employment of less than 1000 employees, and 44 firms had had employment of 1,000 employees or more. According to Commission data, 1,442 carriers reported that they were engaged in the provision of either CLEC services or CAP services. Of these 1,442 carriers, an estimated 1,256 have 1,500 or fewer employees and 186 have more than 1,500 employees. In addition, 17 carriers have reported that they are Shared-Tenant Service Providers, and all 17 are estimated to have 1,500 or fewer employees. Seventy-two carriers have reported that they are Other Local Service Providers, and of the 72, 70 have 1,500 or fewer employees and 2 have more than 1,500 employees.

86. *Electric Power Distribution Companies.* These entities can provide video services over power lines (BPL). The SBA has developed a small business size standard for this category, which is all such firms having 1,000 or fewer employees. Census Bureau data for 2007 show that there were 1,174 firms that operated for the entire year in this category. Of these firms, 50 had 1,000 employees or more, and 1,124 had fewer than 1,000 employees.

87. *Cable and Other Subscription Programming.* These entities may be indirectly affected by the Commission's action. The size standard established by the SBA for this business category is that annual receipts of $35.5 million or less determine that a business is small. According to 2007 Census Bureau data there were 396 firms that were engaged in production of Cable and Other Subscription Programming. Of these, 349 had annual receipts below $25 million, 12 had annual receipts ranging from $25 million to $49,999,999, and 35 had annual receipts of $50 million or more.

88. *Motion Picture and Video Production.* These entities may be indirectly affected by its action. The size standard established by the SBA for this business category is that annual receipts of $30 million or less determine that a business is small. According to 2007 Census Bureau data, there were 9,095 firms that were engaged in Motion Picture and Video Production. Of these, 8,995 had annual receipts of less than $25 million, 43 had annual receipts ranging from $25 million to $49,999,999, and 57 had annual receipts of $50 million or more.

89. *Internet Publishing and Broadcasting and Web Search Portals.* These entities may be directly or indirectly affected by the Commission's action. The SBA has deemed an Internet

publisher or Internet broadcaster or the provider of a web search portal on the Internet to be small if it has fewer than 500 employees. Census Bureau data for 2007 show that there were 2,705 such firms that operated that year. Of those 2,705 firms, 2,682 (approximately 99%) had fewer than 500 employees, and 23 had 500 or more employees.

90. *Closed Captioning Services.* These entities may be directly or indirectly affected by the Commission's action. The SBA has developed two small business size standards that may be used for closed captioning services, which track the economic census categories, ''Teleproduction and Other Postproduction Services'' and ''Court Reporting and Stenotype Services.''

91. The relevant size standard for small businesses in Teleproduction and Other Postproduction Services is annual revenue of less than $29.5 million. Census Bureau data for 2007 indicate that there were 1,605 firms that operated in this category for the entire year. Of that number, 1,587 had annual receipts totaling less than $25 million, 9 had annual receipts ranging from $25 million to $49,999,999, and 9 had annual receipts of $50 million or more.

92. The size standard for small businesses in Court Reporting and Stenotype Services is annual revenue of less than $14 million. Census Bureau data for 2007 show that there were 2,706 firms that operated for the entire year. Of this total, 2,687 had annual receipts of under $10 million, 11 firms had annual receipts of $10 million to $24,999,999, and 8 had annual receipts of $25 million or more.

93. In document FCC 14–12, the Commission takes the following actions to improve the quality of closed captions:

(1) Establishes non-technical captioning quality standards (*e.g.,* accuracy, synchronicity, program completeness and placement) to improve the quality of closed captioning, but does not adopt any reporting requirements along these lines.

(2) Adopts Best Practices for video programmers, captioning vendors and captioners.

○ Video programmers that choose to follow the Best Practices must include certain provisions in their agreements with captioning vendors, including performance requirements comparable to the captioning vendor Best Practices adopted in document FCC 14–12; follow certain operational, monitoring, and remedial best practices; and make certifications to VPDs that they comply with the video programmer Best Practices widely available.

○ Captioning vendors and captioners following the Best Practices or performance requirements comparable to the Best Practices must take actions to improve the quality of closed captions, including but not limited to actions regarding evaluation of captioning accuracy, captioner screening, training, and supervision, and technical systems and expertise.

○ There are no reporting requirements associated with the Best Practices adopted in document FCC 14–12.

(3) Requires VPDs to make best efforts obtain certifications from the video programmers from which they receive programming attesting that the video programmers (1) comply with the captioning quality standards, (2) adhere to the video programmer Best Practices, or (3) are exempt from the closed captioning rules under one or more properly attained and specified exemptions.

○ VPDs are not required to report to the Commission regarding their efforts to obtain certifications from video programmers.

○ However, if a video programmer does not provide either of the certifications noted above, the VPD must report the non-certifying programmer to the Commission.

(4) Requires broadcasters that use ENT to follow certain practices in order to be deemed in compliance with the Commission's rules requiring captioning of live programming.

(5) Adopts a compliance ladder that broadcasters following these ENT practices may use in the event of a Commission inquiry or investigation.

○ The compliance ladder calls for broadcasters to respond to notifications of noncompliance within 30 days by describing corrective measures. If a pattern or trend of noncompliance continues, the compliance ladder calls for broadcasters to respond to a subsequent notification of noncompliance within 30 days by setting forth an action plan describing specific measures it will take to bring the station's ENT performance into compliance with the Commission's regulations regarding ENT. In addition, the station shall be required to conduct spot checks of its ENT performance and report to the Commission on the results of such action plan and spot checks 180 days after submission of such action plan. If, after the date for submission of such report on the results of an action plan, the pattern or trend of noncompliance continues, the Commission will then consider, through its Enforcement Bureau, appropriate enforcement action.

(6) Requires broadcasters to create a report on their experiences using these ENT practices within one year of the implementation of these practices.

○ Such report shall be prepared in consultation with Consumer Groups and may be prepared by the National Association of Broadcasters (NAB) on behalf of the affected broadcasters.

(7) Specifies that each multicast program stream of a digital television station be considered separately for the purpose of the captioning exemption for channels producing revenues of less than $3 million, but does not adopt any reporting requirements along these lines.

(8) Requires VPDs to monitor and maintain their equipment and data streams and perform technical equipment checks to ensure greater technical compliance, and to maintain records of such monitoring, maintenance, and technical equipment checks for at least two years, but does not adopt any reporting requirements in this regard.

(9) Requires that petitions for exemption from the closed captioning rules, as well as comments or oppositions to such petitions, be filed electronically rather than on paper.

94. The RFA requires an agency to describe any significant, specifically small business, alternatives that it has considered in reaching its proposed approach, which may include the following four alternatives (among others): ''(1) The establishment of differing compliance or reporting requirements or timetables that take into account the resources available to small entities; (2) the clarification, consolidation, or simplification of compliance and reporting requirements under the rule for such small entities; (3) the use of performance rather than design standards; and (4) an exemption from coverage of the rule, or any part thereof, for such small entities.''

95. In amending its closed captioning rules, the Commission believes that it has minimized the effect on small entities while making video programming more accessible to persons who are deaf and hard of hearing. These efforts are consistent with the Congressional goal of increasing the availability of captioned programming while preserving the diversity of available programming. Consistent with its conclusions in 1997, when the closed captioning rules were first adopted, the Commission has limited the exemptions to the closed captioning rules because it has determined that all VPDs are technically capable of delivering captioning.

96. However, consistent with the RFA, several steps were taken to minimize the impact on small entities. The captioning quality standards adopted in the document FCC 14–12 are performance-orientated and avoid mandating the use of particular technologies. In addition, because the captioning quality standards are qualitative rather than quantitative, they afford the industry, including small entities, flexibility when complying and do not requiring monitoring of every program on every channel at all times. The captioning quality standards also take into consideration the extent to which compliance with the standards can be achieved for various types of programming, further enhancing the flexibility provided to the industry, including small entities, when complying with the standards. Moreover, the record in this proceeding shows that many entities already have undertaken practices to ensure caption quality, thereby minimizing any additional costs imposed by the new captioning quality standards.

97. Additionally, although document FCC 14–12 places the obligation to ensure compliance with the captioning quality standards on VPDs, VPDs can do so by making best efforts to obtain certifications from the video programmers from which they receive programming attesting that the video programmer (1) complies with the captioning quality standards, (2) adheres to the video programmer Best Practices, or (3) is exempt from the closed captioning rules under one or more properly attained and specified exemptions. The certification approach adopted by Document FCC 14–12 imposes only a minimal burden on VPDs, including small entities. The Commission permits the use of widely available certifications for this purpose, to obviate the need for individual contractual certifications, thus greatly reducing the burden on VPDs. Use of widely available certifications generally reduces the burden on small VPDs, who will generally rely upon widely available certifications arranged by the larger VPDs for programming that is nationwide or regional. In addition, VPDs that located a programmer's certification on the programmer's Web site or other widely available location used for the purpose of posting certification will be deemed in compliance with the best efforts obligation even if the VPD did not supply prior notification of the need for this certification to such programmer. While the Order requires VPDs to report to the Commission those video programmers whose programming the VPD carries who do not provide the certification noted above, this requirement is less burdensome to VPDs than alternatives such as having VPDs bear the risk of substandard caption quality of programming from video programmers who refuse to provide the certification.

98. The certification approach and Best Practices adopted by document FCC 14–12 may also impose additional compliance obligations on video programmers, including small entities, that elect to certify to compliance with either the standards or the Best Practices because they may be required to implement practices and incur some additional costs to ensure that the captioning they provide meets the Commission's caption quality standards or Best Practices. The Best Practices may also impose additional compliance obligations on captioning vendors and captioners, including small entities. Nevertheless, the Commission believes the overall burden on video programmers that choose to certify and on captioning vendors and captioners will be minimal for several reasons. First, the Best Practices are voluntary. Document FCC 14–12 allows video programmers the choice between certifying to compliance with the caption quality standards or Best Practices. Video programmers that do not want to follow the video programmer Best Practices can instead certify that they comply with the captioning quality standards. Second, the Best Practices provide video programmers, captioning vendors, and captioners with flexibility in establishing performance requirements designed to promote the creation of high quality closed captions for video programming by requiring practices comparable, but not necessarily identical, to the captioning vendor Best Practices. Third, the overall cost burden on video programmers that choose to certify will be relatively minimal, as demonstrated by the record, which reflects that caption prices have ''fallen dramatically'' since the Commission first implemented its 1997 captioning rules. Fourth, as noted above, document FCC 14–12 permits video programmers to provide widely available certifications, rather than having to provide individual certifications to each requesting VPD, which will substantially minimize the burden on video programmers choosing to certify.

99. Document FCC 14–12 declines to extend the prohibition on ENT to markets beyond the top 25. In declining to extend the prohibition on ENT, the Commission has considered the burden that real-time captioning would impose on broadcast stations in markets beyond the top 25, including small businesses. However, document FCC 14–12 does require broadcast stations that use ENT to follow certain Best Practices designed to improve the quality of captions created using ENT. The ENT Best Practices will impose minimal burdens on broadcasters because they are generally achievable without additional cost and, for those stations with older equipment, software upgrades necessary for compliance with the ENT Best Practices are available for relatively nominal cost. In addition, document FCC 14–12 adopts a compliance ladder for determining compliance with the ENT Best Practices, offering broadcast stations additional flexibility in complying with the Commission's ENT requirements. Document FCC 14–12 does require broadcast stations that rely on the ENT Best Practices to prepare and submit to the Commission, within one year after the effective date of the rules pertaining to ENT, a report on their experiences and the extent to which they have been successful in providing full and equal access to news programming. To minimize the burden on small entities, document FCC 14–12 specifies that the report may be prepared by the NAB jointly on behalf of the affected broadcasters.

100. Document FCC 14–12 reduces the captioning requirements for television stations that multicast by extending the provision in § 79.1(d)(12) of the Commission's rules, which exempts video programming providers from closed captioning where the distributor's annual gross revenues from the channel did not exceed $3 million for the previous calendar year, to each programming stream of a multicast digital television channel. Document FCC 14–12 does not disturb the existing exemption in § 79.1(d)(11) of the Commission's rules, which excuses a video programming provider from spending more than 2 percent of its annual gross revenues received from a channel on closed captioning. Sections 79.1(f), 79.1(d)(11) and 79.1(d)(12) of the Commission's rules are all intended to address the problems of small video programming providers that are not in a position to devote significant resources toward closed captioning by relieving small entities of any burdensome obligation to provide closed captioning. The § 79.1(f) mechanism in particular allows the Commission to address the impact of these rules on individual entities and grant exemptions to the rules to accommodate individual circumstances.

101. Document FCC 14–12 declines to adopt any requirements for VPDs to annually file reports or certifications with the Commission. By declining to adopt reporting requirements, the Commission has taken into consideration the burdens that reporting requirements would impose on VPDs, including small businesses.

102. However, document FCC 14–12 does require VPDs to maintain records of equipment monitoring and maintenance and technical equipment checks. These recordkeeping requirements will impose minimal burdens on VPDs because it is likely that many covered entities already keep such records, and document FCC 14–12 does not mandate any specific format for keeping records, providing covered entities with flexibility to establish their own recordkeeping procedures. Furthermore, the monitoring, maintenance, and technical equipment checks adopted in the Order are performance-orientated and avoid mandating the use of particular technologies or processes.

103. Document FCC 14–12 does modify the procedures for filing exemption petitions with the Commission pursuant to § 79.1(f) of its rules by requiring that such petitions and responsive pleadings be filed electronically rather than on paper. This procedure will make it easier for VPDs to file such petitions and consumers to respond to such petitions. Moreover, in the event any VPD or consumer finds it burdensome to file electronically, such VPD or consumer may ask the Commission for authorization to file on paper at the time it makes the filing.

104. *Federal Rules Which Duplicate, Overlap, or Conflict With, the Commission's Proposals*—None.

105. The Commission will send a copy of document FCC 14–12, including a copy of the Final Regulatory Flexibility Certification, to the Chief Counsel for Advocacy of the SBA.

Congressional Review Act

106. The Commission will send a copy of document FCC 14–12 in a report to be sent to Congress and the Governmental Accountability Office pursuant to the Congressional Review Act, 5 U.S.C. 801(a)(1)(A).

Ordering Clauses

Pursuant to the authority contained in sections 4(i), 303(r) and 713 of the Communications Act of 1934, as amended, 47 U.S.C. 154(i), 303(r) and 613, document FCC 14–12 is *adopted* and the Commission's rules are *amended.*

Document FCC 14–12 *shall be* effective April 30, 2014, pursuant to 5 U.S.C. 553(d) and § 1.427(a) of the Commission's rules, 47 CFR 1.427(a), unless otherwise noted.

The final rules contained in 47 CFR 79.1(c)(3), (j), and (k) *shall be* effective upon publication in the **Federal Register** of a notice announcing the approval by the Office of Management and Budget of the modified information collection requirements under the Paperwork Reduction Act of 1995 and an effective date of the rule amendment, and such effective date shall be no sooner than January 15, 2015.

The final rules contained in 47 CFR 79.1(e)(11)(i) and (ii) *shall be* effective June 30, 2014.

The final rules contained in 47 CFR 79.1(e)(11)(iii), (iv) and (v) *shall be* effective upon publication in the **Federal Register** of a notice announcing the approval by the Office of Management and Budget of the modified information collection requirements under the Paperwork Reduction Act of 1995 and an effective date of the rule amendment.

The Declaratory Ruling adopted herein became effective on February 24, 2014.

The Commission's Consumer and Governmental Affairs Bureau, Reference Information Center, *shall send* a copy of document FCC 14–12, including the Final Regulatory Flexibility Certification, to the Chief Counsel for advocacy of the Small Business Administration.

List of Subjects in 47 CFR Part 79

Individuals with disabilities, Reporting and recordkeeping requirements, Telecommunications.

Federal Communications Commission.

Marlene H. Dortch,

Secretary.

For the reasons discussed in the preamble, the Federal Communications Commission amends 47 CFR part 79 as follows:

PART 79—CLOSED CAPTIONING AND VIDEO DESCRIPTION OF VIDEO PROGRAMMING

■ 1. The authority citation for part 79 continues to read as follows:

Authority: 47 U.S.C. 151, 152(a), 154(i), 303, 307, 309, 310, 330, 544a, 613, 617.

■ 2. Amend § 79.1 by revising the section heading and paragraphs (a), (c), (d)(12), (e)(3), and adding paragraph (e)(11), revising paragraphs (f)(4), (f)(7), and (i)(3), and adding paragraphs (j) and (k), to read as follows:

§ 79.1 Closed captioning of televised video programming.

(a) *Definitions.* For purposes of this section the following definitions shall apply:

(1) *Captioning vendor.* Any entity that is responsible for providing captioning services to a video programmer.

(2) *Closed captioning, or captioning.* The visual display of the audio portion of video programming pursuant to the technical specifications set forth in this part.

(3) *Live programming.* Video programming that is shown on television substantially simultaneously with its performance.

(4) *Near-live programming.* Video programming that is performed and recorded less than 24 hours prior to the time it is first aired on television.

(5) *New programming.* Video programming that is first published or exhibited on or after January 1, 1998.

(i) Analog video programming that is first published or exhibited on or after January 1, 1998.

(ii) Digital video programming that is first published or exhibited on or after July 1, 2002.

(6) *Non-exempt programming.* Video programming that is not exempt under paragraph (d) of this section and, accordingly, is subject to closed captioning requirements set forth in this section.

(7) *Prerecorded programming.* Video programming that is not ''live'' or ''near-live''.

(8) *Pre-rule programming.* (i) Analog video programming that was first published or exhibited before January 1, 1998.

(ii) Digital video programming that was first published or exhibited before July 1, 2002.

(9) *Video programmer.* Any entity that provides video programming that is intended for distribution to residential households including, but not limited to, broadcast or nonbroadcast television networks and the owners of such programming.

(10) *Video programming.* Programming provided by, or generally considered comparable to programming provided by, a television broadcast station that is distributed and exhibited for residential use. Video programming includes advertisements of more than five minutes in duration but does not include advertisements of five minutes' duration or less.

(11) *Video programming distributor.* Any television broadcast station licensed by the Commission and any multichannel video programming distributor as defined in § 76.1000(e) of this chapter, and any other distributor of

video programming for residential reception that delivers such programming directly to the home and is subject to the jurisdiction of the Commission. An entity contracting for program distribution over a video programming distributor that is itself exempt from captioning that programming pursuant to paragraph (e)(9) of this section shall itself be treated as a video programming distributor for purposes of this section To the extent such video programming is not otherwise exempt from captioning, the entity that contracts for its distribution shall be required to comply with the closed captioning requirements of this section.

(12) *Video programming provider.* Any video programming distributor and any other entity that provides video programming that is intended for distribution to residential households including, but not limited to broadcast or nonbroadcast television network and the owners of such programming.

* * * * *

(c) *Obligation to pass through captions of already captioned programs; obligation to maintain equipment and monitor for captions.* (1) All video programming distributors shall deliver all programming received from the video programming owner or other origination source containing closed captioning to receiving television households with the original closed captioning data intact in a format that can be recovered and displayed by decoders meeting the standards of this part unless such programming is recaptioned or the captions are reformatted by the programming distributor.

(2) Video programming distributors shall take any steps needed to monitor and maintain their equipment and signal transmissions associated with the transmission and distribution of closed captioning to ensure that the captioning included with video programming reaches the consumer intact. In any enforcement proceeding involving equipment failure, the Commission will require video programming distributors to demonstrate that they have monitored their equipment and signal transmissions, have performed technical equipment checks, and have promptly undertaken repairs as needed to ensure that equipment is operational and in good working order.

(3) Each video programming distributor shall maintain records of the video programming distributor's monitoring and maintenance activities, which shall include, without limitation, information about the video programming distributor's monitoring and maintenance of equipment and signal transmissions to ensure the pass through and delivery of closed captioning to viewers, and technical equipment checks and other activities to ensure that captioning equipment and other related equipment are maintained in good working order. Each video programming distributor shall maintain such records for a minimum of two years and shall submit such records to the Commission upon request.

(d) * * *

(12) *Channels/Streams producing revenues of under $3,000,000.* No video programming provider shall be required to expend any money to caption any channel or stream of video programming producing annual gross revenues of less than $3,000,000 during the previous calendar year other than the obligation to pass through video programming closed captioned when received pursuant to paragraph (c) of this section. For the purposes of this paragraph, each programming stream on a multicast digital television channel shall be considered separately for purposes of the $3,000,000 revenue limit.

* * * * *

(e) * * *

(3) The major national broadcast television networks (*i.e.,* ABC, CBS, Fox and NBC), affiliates of these networks in the top 25 television markets as defined by Nielsen's Designated Market Areas (DMAs) and national nonbroadcast networks serving at least 50% of all homes subscribing to multichannel video programming services shall not count electronic newsroom captioned programming towards compliance with these rules. The live portions of noncommercial broadcasters' fundraising activities that use automated software to create a continuous captioned message will be considered captioned;

* * * * *

(11) *Use of ''Electronic Newsroom Technique'' (ENT).* (i) A broadcast station that uses ENT to provide closed captioning for live programming or programming originally transmitted live and that is not subject to the current prohibition on the use of ENT in paragraph (e)(3) of this section shall be deemed in compliance with the Commission's rules requiring captioning of live programming or programming originally transmitted live if it adheres to the following procedures in the ordinary course of business:

(A) In-studio produced news, sports, weather, and entertainment programming will be scripted.

(B) For weather interstitials where there may be multiple segments within a news program, weather information explaining the visual information on the screen and conveying forecast information will be scripted, although the scripts may not precisely track the words used on air.

(C) Pre-produced programming will be scripted (to the extent technically feasible).

(D) If live interviews or live on-the scene or breaking news segments are not scripted, stations will supplement them with crawls, textual information, or other means (to the extent technically feasible).

(E) The station will provide training to all news staff on scripting for improving ENT.

(F) The station will appoint an ''ENT Coordinator'' accountable for compliance.

(ii) Nothing in this paragraph (e)(11) shall relieve a broadcast station of its obligations under § 79.2 of this chapter regarding the accessibility of programming providing emergency information.

(iii) *Informal complaints.* The Commission will forward an informal complaint regarding captioning to a broadcast station that utilizes ENT to provide captioning pursuant to the procedures set forth in paragraph (e)(11)(i) of this section only if the informal complaint contains the television channel number, network, or call sign, the name of the subscription service, if relevant, the date and time of the captioning problems, the name of the affected program, and a detailed and specific description of the captioning problems, including the frequency and type of problem.

(iv) *Compliance.* (A) *Initial response to pattern or trend of noncompliance.* If the Commission notifies a broadcast station that the Commission has identified a pattern or trend of possible noncompliance by the station with this paragraph (e)(11), the station shall respond to the Commission within 30 days regarding such possible noncompliance, describing corrective measures taken, including those measures the station may have undertaken in response to informal complaints and inquiries from viewers.

(B) *Corrective action plan.* If, after the date for a broadcast station to respond to a notification under paragraph (e)(11)(iv)(A) of this section, the Commission subsequently notifies the broadcast station that there is further evidence indicating a pattern or trend of noncompliance with this paragraph (e)(11), the broadcast station shall submit to the Commission, within 30

days of receiving such subsequent notification, an action plan describing specific measures it will take to bring the station's ENT performance into compliance with this paragraph (e)(11). In addition, the station shall be required to conduct spot checks of its ENT performance and report to the Commission on the results of such action plan and spot checks 180 days after the submission of such action plan.

(C) *Continued evidence of a pattern or trend of noncompliance.* If, after the date for submission of a report on the results of an action plan and spot checks pursuant to paragraph (e)(11)(iv)(B) of this section, the Commission finds continued evidence of a pattern or trend of noncompliance, additional enforcement actions may be taken, which may include admonishments, forfeitures, and other corrective actions, including, but not limited to, requiring the station to cease using ENT and to use real-time captioning for live programming.

(v) *Progress report.* No later than one year after the effective date of this paragraph (e)(11), broadcast stations that adhere to the procedures set forth in paragraph (e)(11)(i) shall jointly prepare and submit to the Commission, in consultation with individuals who rely on captions to watch television and organizations representing such individuals, a report on their experiences with following such procedures, and the extent to which they have been successful in providing full and equal access to live programming.

(f) * * *

(4) A petition requesting an exemption based on the economically burdensome standard, and all subsequent pleadings, shall be filed electronically in accordance with § 0.401(a)(1)(iii) of this chapter.

* * * * *

(7) Comments or oppositions to the petition shall be filed electronically and served on the petitioner and shall include a certification that the petitioner was served with a copy. Replies to comments or oppositions shall be filed electronically and served on the commenting or opposing party and shall include a certification that the commenting or opposing party was served with a copy. Comments or oppositions and replies may be served upon a party, its attorney, or other duly constituted agent by delivering or mailing a copy to the last known address in accordance with § 1.47 of this chapter or by sending a copy to the email address last provided by the party, its attorney, or other duly constituted agent.

* * * * *

(i) * * *

(3) *Providing contact information to the Commission.* Video programming distributors shall file the contact information described in this section with the Commission in one of the following ways: Through a web form located on the FCC Web site; with the Chief of the Disability Rights Office, Consumer and Governmental Affairs Bureau; or by sending an email to *CLOSEDCAPTIONING_POC@fcc.gov*. Contact information shall be available to consumers on the FCC Web site or by telephone inquiry to the Commission's Consumer Center. Distributors shall notify the Commission each time there is a change in any of this required information within 10 business days.

(j) *Captioning quality obligation; standards.* (1) A video programming distributor shall exercise best efforts to obtain a certification from each video programmer from which the distributor obtains programming stating:

(i) That the video programmer's programming satisfies the caption quality standards of paragraph (j)(2) of this section;

(ii) That in the ordinary course of business, the video programmer has adopted and follows the Best Practices set forth in paragraph (k)(1) of this section; or

(iii) That the video programmer is exempt from the closed captioning rules under one or more properly attained exemptions. For programmers certifying exemption from the closed captioning rules, the video programming distributor must obtain a certification from the programmer that specifies the exact exemption that the programmer is claiming. Video programming distributors may satisfy their best efforts obligation by locating a programmer's certification on the programmer's Web site or other widely available locations used for the purpose of posting widely available certifications. If a video programming distributor is unable to locate such certification on the programmer's Web site or other widely available location used for the purpose of posting such certification, the video programming distributor must inform the video programmer in writing that it must make widely available such certification within 30 days after receiving the written request. If a video programmer does not make such certification widely available within 30 days after receiving a written request, the video programming distributor shall promptly submit a report to the Commission identifying such non-certifying video programmer for the purpose of being placed in a publicly available database. A video programming distributor that meets each of the requirements of this paragraph shall not be liable for violations of paragraphs (j)(2) and (3) of this section to the extent that any such violations are outside the control of the video programming distributor.

(2) *Captioning quality standards.* Closed captioning shall convey the aural content of video programming in the original language (*i.e.* English or Spanish) to individuals who are deaf and hard of hearing to the same extent that the audio track conveys such content to individuals who are able to hear. Captioning shall be accurate, synchronous, complete, and appropriately placed as those terms are defined herein.

(i) *Accuracy.* Captioning shall match the spoken words (or song lyrics when provided on the audio track) in their original language (English or Spanish), in the order spoken, without substituting words for proper names and places, and without paraphrasing, except to the extent that paraphrasing is necessary to resolve any time constraints. Captions shall contain proper spelling (including appropriate homophones), appropriate punctuation and capitalization, correct tense and use of singular or plural forms, and accurate representation of numbers with appropriate symbols or words. If slang or grammatical errors are intentionally used in a program's dialogue, they shall be mirrored in the captions. Captioning shall provide nonverbal information that is not observable, such as the identity of speakers, the existence of music (whether or not there are also lyrics to be captioned), sound effects, and audience reaction, to the greatest extent possible, given the nature of the program. Captions shall be legible, with appropriate spacing between words for readability.

(ii) *Synchronicity.* Captioning shall coincide with the corresponding spoken words and sounds to the greatest extent possible, given the type of the programming. Captions shall begin to appear at the time that the corresponding speech or sounds begin and end approximately when the speech or sounds end. Captions shall be displayed on the screen at a speed that permits them to be read by viewers.

(iii) *Completeness.* Captioning shall run from the beginning to the end of the program, to the fullest extent possible.

(iv) *Placement.* Captioning shall be viewable and shall not block other important visual content on the screen,

including, but not limited to, character faces, featured text (*e.g.,* weather or other news updates, graphics and credits), and other information that is essential to understanding a program's content when the closed captioning feature is activated. Caption font shall be sized appropriately for legibility. Lines of caption shall not overlap one another and captions shall be adequately positioned so that they do not run off the edge of the video screen.

(3) *Application of captioning quality standards.* Captioning shall meet the standards of paragraph (j)(2) of this section for accuracy, synchronicity, completeness and placement, except for *de minimis* captioning errors. In determining whether a captioning error is *de minimis,* the Commission will consider the particular circumstances presented, including the type of failure, the reason for the failure, whether the failure was one-time or continuing, the degree to which the program was understandable despite the errors, and the time frame within which corrective action was taken to prevent such failures from recurring. When applying such standards to live and near-live programming, the Commission will also take into account, on a case-by-case basis, the following factors:

(i) *Accuracy.* The overall accuracy or understandability of the programming, the ability of the captions to convey the aural content of the program in a manner equivalent to the aural track, and the extent to which the captioning errors prevented viewers from having access to the programming.

(ii) *Synchronicity.* The extent to which measures have been taken, to the extent technically feasible, to keep any delay in the presentation of captions to a minimum, consistent with an accurate presentation of what is being said, so that the time between when words are spoken or sounds occur and captions appear does not interfere with the ability of viewers to follow the program.

(iii) *Completeness.* The delays inherent in sending captioning transmissions on live programs, and whether steps have been taken, to the extent technically feasible, to minimize the lag between the time a program's audio is heard and the time that captions appear, so that captions are not cut off when the program transitions to a commercial or a subsequent program.

(iv) *Placement.* The type and nature of the programming and its susceptibility to unintentional blocking by captions.

(4) *Complaints.* The Commission will forward an informal complaint regarding captioning quality to a video programming distributor only if the informal complaint contains the channel number, channel name, network, or call sign; the name of the multichannel video program distributor, if applicable; the date and time when the captioning problem occurred; the name of the program with the captioning problem; and a detailed description of the captioning problem, including specifics about the frequency and type of problem (*e.g.,* garbling, captions cut off at certain times or on certain days, and accuracy problems).

(k) *Captioning Best Practices.* (1) *Video Programmer Best Practices.* Video programmers adopting Best Practices will adhere to the following practices.

(i) *Agreements with captioning services.* Video programmers adopting Best Practices will take the following actions to promote the provision of high quality television closed captions through new or renewed agreements with captioning vendors.

(A) *Performance requirements.* Include performance requirements designed to promote the creation of high quality closed captions for video programming, comparable to those described in paragraphs (k)(2), (k)(3) and (k)(4) of this section.

(B) *Verification.* Include a means of verifying compliance with such performance requirements, such as through periodic spot checks of captioned programming.

(C) *Training.* Include provisions designed to ensure that captioning vendors' employees and contractors who provide caption services have received appropriate training and that there is oversight of individual captioners' performance.

(ii) *Operational Best Practices.* Video programmers adopting Best Practices will take the following actions to promote delivery of high quality television captions through improved operations.

(A) *Preparation materials.* To the extent available, provide captioning vendors with advance access to preparation materials such as show scripts, lists of proper names (people and places), and song lyrics used in the program, as well as to any dress rehearsal or rundown that is available and relevant.

(B) *Quality audio.* Make commercially reasonable efforts to provide captioning vendors with access to a high quality program audio signal to promote accurate transcription and minimize latency.

(C) *Captioning for prerecorded programming.* (*1*) The presumption is that pre-recorded programs, excluding programs that initially aired with real-time captions, will be captioned offline before air except when, in the exercise of a programmer's commercially reasonable judgment, circumstances require real-time or live display captioning. Examples of commercially reasonable exceptions may include instances when:

(*i*) A programmer's production is completed too close to initial air time be captioned offline or may require editorial changes up to air time (*e.g.,* news content, reality shows),

(*ii*) A program is delivered late,

(*iii*) There are technical problems with the caption file,

(*iv*) Last minute changes must be made to later network feeds (*e.g.,* when shown in a later time zone) due to unforeseen circumstances,

(*v*) There are proprietary or confidentiality considerations, or

(*vi*) Video programming networks or channels with a high proportion of live or topical time-sensitive programming, but also some pre-recorded programs, use real-time captioning for all content (including pre-recorded programs) to allow for immediate captioning of events or breaking news stories that interrupt scheduled programming.

(*2*) The video programmer will make reasonable efforts to employ live display captioning instead of real-time captioning for prerecorded programs if the complete program can be delivered to the caption service provider in sufficient time prior to airing.

(iii) *Monitoring and Remedial Best Practices.* Video programmers adopting Best Practices will take the following actions aimed at improving prompt identification and remediation of captioning errors when they occur.

(A) *Pre-air monitoring of offline captions.* As part of the overall pre-air quality control process for television programs, conduct periodic checks of offline captions on prerecorded programs to determine the presence of captions.

(B) *Real-time monitoring of captions.* Monitor television program streams at point of origination (*e.g.,* monitors located at the network master control point or electronic monitoring) to determine presence of captions.

(C) *Programmer and captioning vendor contacts.* Provide to captioning vendors appropriate staff contacts who can assist in resolving captioning issues. Make captioning vendor contact information readily available in master control or other centralized location, and contact captioning vendor promptly if there is a caption loss or obvious compromise of captions.

(D) *Recording of captioning issues.* Maintain a log of reported captioning issues, including date, time of day, program title, and description of the

issue. Beginning one year after the effective date of the captioning quality standards, such log should reflect reported captioning issues from the prior year.

(E) *Troubleshooting protocol.* Develop procedures for troubleshooting consumer captioning complaints within the distribution chain, including identifying relevant points of contact, and work to promptly resolve captioning issues, if possible.

(F) *Accuracy spot checks.* Within 30 days following notification of a pattern or trend of complaints from the Commission, conduct spot checks of television program captions to assess caption quality and address any ongoing concerns.

(iv) *Certification procedures for video programmers.* Video programmers adopting Best Practices will certify to video programming distributors that they adhere to Best Practices for video programmers and will make such certifications widely available to video programming distributors, for example, by posting on affiliate Web sites.

(2) *Real-Time (Live) Captioning Vendors Best Practices.* (i) Create and use metrics to assess accuracy, synchronicity, completeness, and placement of real-time captions.

(ii) Establish minimum acceptable standards based upon those metrics while striving to regularly exceed those minimum standards.

(iii) Perform frequent and regular evaluations and sample audits to ensure those standards are maintained.

(iv) Consider ''accuracy'' of captions to be a measurement of the percentage of correct words out of total words in the program, calculated by subtracting number of errors from total number of words in the program, dividing that number by total number of words in the program and converting that number to a percentage. For example, 7,000 total words in the program minus 70 errors equals 6,930 correct words captioned, divided by 7,000 total words in the program equals 0.99 or 99% accuracy.

(v) Consider, at a minimum, mistranslated words, incorrect words, misspelled words, missing words, and incorrect punctuation that impedes comprehension and misinformation as errors.

(A) Captions are written in a near-as-verbatim style as possible, minimizing paraphrasing.

(B) The intended message of the spoken dialogue is conveyed in the associated captions in a clear and comprehensive manner.

(C) Music lyrics should accompany artist performances.

(vi) Consider synchronicity of captions to be a measurement of lag between the spoken word supplied by the program origination point and when captions are received at the same program origination point.

(vii) Ensure placement of captions on screen to avoid obscuring on-screen information and graphics (*e.g.,* sports coverage).

(viii) Ensure proper screening, training, supervision, and evaluation of captioners by experienced and qualified real-time captioning experts.

(ix) Ensure there is an infrastructure that provides technical and other support to video programmers and captioners at all times.

(x) Ensure that captioners are qualified for the type and difficulty level of the programs to which they are assigned.

(xi) Utilize a system that verifies captioners are prepared and in position prior to a scheduled assignment.

(xii) Ensure that technical systems are functional and allow for fastest possible delivery of caption data and that failover systems are in place to prevent service interruptions.

(xiii) Regularly review discrepancy reports in order to correct issues and avoid future issues.

(xiv) Respond in a timely manner to concerns raised by video programmers or viewers.

(xv) Alert video programmers immediately if a technical issue needs to be addressed on their end.

(xvi) Inform video programmers of appropriate use of real-time captioning (*i.e.,* for live and near-live programming, and not for prerecorded programming) and what is necessary to produce quality captions, including technical requirements and the need for preparatory materials.

(xvii) For better coordination for ensuring high quality captions and for addressing problems as they arise, understand the roles and responsibilities of other stakeholders in the closed-captioning process, including broadcasters, producers, equipment manufacturers, regulators, and viewers, and keep abreast of issues and developments in those sectors.

(xviii) Ensure that all contracted captioners adhere to the Real-Time Captioners Best Practices contained in paragraph (k)(4) of this section.

(3) *Real-Time Captioners Best Practices.* (i) Caption as accurately, synchronously, completely, and appropriately placed as possible, given the nature of the programming.

(ii) Ensure they are equipped with a failover plan to minimize caption interruption due to captioner or equipment malfunction.

(iii) Be equipped with reliable, high speed Internet.

(iv) Be equipped with multiple telephone lines.

(v) Prepare as thoroughly as possible for each program.

(vi) File thorough discrepancy reports with the captioning vendor in a timely manner.

(vii) To the extent possible given the circumstances of the program, ensure that real-time captions are complete when the program ends.

(viii) Engage the command that allows captions to pass at commercials and conclusion of broadcasts.

(ix) Monitor captions to allow for immediate correction of errors and prevention of similar errors appearing or repeating in captions.

(x) Perform frequent and regular self-evaluations.

(xi) Perform regular dictionary maintenance.

(xii) Keep captioning equipment in good working order and update software and equipment as needed.

(xiii) Possess the technical skills to troubleshoot technical issues.

(xiv) Keep abreast of current events and topics that they caption.

(4) *Offline (Prerecorded) Captioning Vendors Best Practices.* (i) Ensure offline captions are verbatim.

(ii) Ensure offline captions are error-free.

(iii) Ensure offline captions are punctuated correctly and in a manner that facilitates comprehension.

(iv) Ensure offline captions are synchronized with the audio of the program.

(v) Ensure offline captions are displayed with enough time to be read completely and that they do not obscure the visual content.

(vii) Ensure offline captioning is a complete textual representation of the audio, including speaker identification and non-speech information.

(viii) Create or designate a manual of style to be applied in an effort to achieve uniformity in presentation.

(ix) Employ frequent and regular evaluations to ensure standards are maintained.

(x) Inform video programmers of appropriate uses of real-time and offline captioning and strive to provide offline captioning for prerecorded programming.

(A) Encourage use of offline captioning for live and near-live programming that originally aired on television and re-feeds at a later time.

(B) Encourage use of offline captioning for all original and library

prerecorded programming completed well in advance of its distribution on television.

(xi) For better coordination for ensuring high quality captions and for addressing problems as they arise, understand the roles and responsibilities of other stakeholders in the closed-captioning process, including video program distributors, video programmers, producers, equipment manufacturers, regulators, and viewers, and keep abreast of issues and developments in those sectors.

[FR Doc. 2014–06754 Filed 3–28–14; 8:45 am]

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DEPARTMENT OF DEFENSE

Defense Acquisition Regulations System

48 CFR Part 219

Small Business Programs

CFR Correction

■ In Title 48 of the Code of Federal Regulations, Chapter 2 (Parts 201 to 299), revised as of October 1, 2013, on page 136, before subpart 219.12, subpart 219.11 is reinstated to read as follows:

Subpart 219.11—Price Evaluation Adjustment for Small Disadvantaged Business Concerns

219.1101 General.

The determination to use or suspend the price evaluation adjustment for DoD acquisitions can be found at *http://www.acq.osd.mil/dpap/dars/classdev/index.htm.*

[72 FR 20763, Apr. 26, 2007]

219.1102 Applicability.

(b) The price evaluation adjustment also shall not be used in acquisitions that are for commissary or exchange resale.

(c) Also, do not use the price evaluation adjustment in acquisitions that use tiered evaluation of offers, until a tier is reached that considers offers from other than small business concerns.

[63 FR 41974, Aug. 6, 1998, as amended at 71 FR 53043, Sept. 8, 2006]

[FR Doc. 2014–07201 Filed 3–28–14; 8:45 am]

BILLING CODE 1505–01–P

DEPARTMENT OF DEFENSE

Defense Acquisition Regulations System

48 CFR Parts 232 and 252

RIN 0750–AH54

Defense Federal Acquisition Regulation Supplement; Performance-Based Payments (DFARS Case 2011–D045)

AGENCY: Defense Acquisition Regulations System, Department of Defense (DoD).

ACTION: Final rule.

SUMMARY: DoD is issuing a final rule amending the Defense Federal Acquisition Regulation Supplement (DFARS) to provide detailed guidance and instructions on the use of the performance-based payments analysis tool.

DATES: Effective March 31, 2014.

FOR FURTHER INFORMATION CONTACT: Mr. Mark Gomersall, 571–372–6099.

SUPPLEMENTARY INFORMATION:

I. Background

DoD published a proposed rule at 77 FR 4638 on January 30, 2012, to provide requirements for the use of the performance-based payments (PBP) analysis tool. The PBP analysis tool is a cash-flow model for evaluating alternative financing arrangements, and is required to be used by all contracting officers contemplating the use of performance-based payments on new fixed-price type contract awards.

II. Discussion and Analysis

DoD reviewed the public comments in the development of the final rule. A discussion of the comments and the changes made to the rule as a result of those comments is provided as follows:

A. Adequate Accounting System

Comment: One respondent requested clarification on whether the proposed rule requires an accounting system deemed adequate by the Government.

DoD Response: FAR 32.1007(c) requires the contracting officer to determine the adequacy of controls established by the contractor for the administration of performance-based payments. Since the contractor will be required to report total cost incurred to date based on its existing accounting system, the contracting officer must consider the adequacy of the contractor's accounting system for providing reliable cost data. DFARS 232.1003–70, Criteria for use, is added to require contracting officers to consider the adequacy of an offeror's or contractor's accounting system prior to agreeing to use performance-based payments.

B. Administratively Burdensome and Costly

Comment: One respondent stated that the proposed rule is administratively burdensome, and that implementation will surpass the one hour average burden per response.

DoD Response: Performance-based payments will be paid for completed events, but not more frequently than monthly. Each request for a PBP will require the contractor to provide two dollar values: Cumulative value of PBP events completed to date and total cost incurred to date. The rule is, therefore, not administratively burdensome since it requires the contractor to provide information that should be readily available in the contractor's accounting system in the ordinary course of business. Accordingly, DoD estimates, on average, it will not take more than one hour per response.

Comment: One respondent requested clarification regarding in what manner contractors will be required to verify, or otherwise state, total costs incurred.

DoD Response: Each request for a PBP will require the contractor to provide two dollar values: Cumulative value of PBPs completed to date and total cost incurred to date. For DoD verification purposes, the final rule includes the requirement for the contractor to provide access, upon request of the contracting officer, to the contractor's books and records, as necessary, for the administration of the clause.

Comment: One respondent expressed concern that since the proposed rule forces contractors to disclose extensive cost information and report incurred costs per milestone, the costs associated with this reporting obligation will increase the cost to the Government.

DoD Response: The cost information to be provided by the contractor takes two forms: A projected expenditure profile of total cost per month which is required once when PBPs are initially proposed (i.e., as part of the contractor's proposed performance-based payments schedule that includes all performance-based payments events, completion criteria, event values, etc.) and cumulative value of PBPs completed to date and total cost incurred to date, which are required during the performance of the contract. The expenditure profile is a key element in determining the expected financing needs over time and is needed by both parties in order to establish appropriate

PBP event values. Based on DoD experience, information without an expenditure profile is expected to be insufficient. On fixed-price contracts, it is in the contractor's best interest to closely track and manage cost during contract performance. The entering of a total cost incurred-to-date value on the PBP form should not result in increased cost to the contractor or the Government as it merely reports the sum total of the accumulation of costs recorded in the contractor's accounting system.

Comment: One respondent stated that the proposed rule adds to administrative costs by requiring two price negotiations, and by requiring systems to support progress payment financing to be reinstituted. By imposing the expense of establishing progress payment capabilities, this rule may drive some businesses out of the Government contracting market.

DoD Response: Every price negotiation involves a discussion of contract cost and profit. The negotiations will be the same regardless of the financing method used (progress payments or PBPs). Although there will be two negotiations of price, there is no need to conduct two negotiations on cost. With regard to requiring systems to support financing payments, FAR 32.1007(c) requires contracting officers to determine the adequacy of controls established by the contractor for the administration of performance-based payments. Therefore, contracting officers must consider the adequacy of the contractor's accounting system for providing reliable cost data to support the performance-based payments. Similarly, FAR 32.503–3(b)2) requires contracting officers to determine the adequacy of the contractor's accounting system and controls for the proper administration of progress payments. However, contractors are not obligated to accept contract financing payments, whether performance-based payments, progress payments, or any other type of contract financing. If the contractor decides not to seek Government-provided contract financing and the associated expense of establishing and maintaining an adequate accounting system to substantiate the costs incurred to support the contract financing payments and to protect the Government's interests, the contractor will not incur the additional costs of those requirements.

Comment: One respondent stated a concern that the proposed rule will result in increased costs for small businesses and prevent them from competing due to the adequate business system requirement.

DoD Response: Small business will not be at a competitive disadvantage whether or not they decide that a performance-based payment funding arrangement is in their best interest. Contractors are not obligated to negotiate or accept a performance-based payment financing arrangement. However, just as with any other form of Government-provided contract financing, there will be some form of requirement for contractor business systems to substantiate the incurrence of the costs to support the contract financing payments and to protect the Government's interests. A decision not to pursue performance-based payments will not be held against any offeror in a competitive source selection.

C. Conversion to Cost-Type Contracts

Comment: One respondent claimed that the rule effectively converts fixed-price contracts into cost-type contracts by focusing on incurred cost as opposed to completion of a subset of fixed price tasks.

DoD Response: This rule does not convert fixed-price contracts with PBPs into cost-type contracts. The rule merely provides a tool for determining a mutually beneficial financial arrangement using performance-based payments. The focus on incurred costs simply provides a check to prevent the contract from being in an advance payment scenario.

D. Commercial Items

Comment: One respondent expressed concern that the proposed rule may be misapplied to commercial items. The respondent recommended an explicit statement stating that PBPs do not apply to commercial items.

DoD Response: FAR 32.1000 already states that FAR subpart 32.10, Performance-Based Payments, applies to performance-based payments under noncommercial purchases pursuant to FAR 32.1.

E. Competition

Comment: One respondent stated that the economic consequences of the rule will add another barrier for non-traditional contractors/businesses from entering the marketplace, stifling competition.

DoD Response: When a contractor accepts Government-provided financing payments, it must accept some form of requirement for the oversight of business systems that substantiate the incurrence of the costs to support the financing payments and to protect the Government's interests. No contractor is under obligation to accept performance-based payments or any other type of contract financing, and thus, avoid any additional economic consequence of the rule for an adequate accounting system. Thus, the rule is not another barrier to keep a non-traditional contractor from entering the Government marketplace if it utilizes its normal private financing, and does not accept Government-provided contract financing, i.e., the rule does not stifle competition.

F. Conflict With DoD's User's Guide to PBPs

Comment: One respondent stated that the proposed rule conflicts with DoD's ''User's Guide to PBP'' which states that payment requests are event driven and contain no financial information that must be prepared according to financial regulations and practices dictated by the Government.

DoD Response: A new PBP User's Guide has been created which is consistent with this rule, and is available on the DPAP Web site.

G. Contractor Risk

Comment: One respondent asserted that the proposed rule's attempt to begin negotiations with the benchmark of a negotiated fixed-price contract based on customary progress payments is misplaced due to higher risk to contractors and additional administrative burden of PBPs.

DoD Response: The use of a negotiated price using customary progress payments as the benchmark for determining a mutually beneficial financial arrangement using PBPs is appropriate. Customary progress payments will be the likely financing method utilized if agreement on a PBP arrangement cannot be reached. In determining the amount of consideration due the Government as a result of the improved cash flow to the contractor provided by PBPs, the parties will use the DoD PBP analysis tool, which is designed to allow users to objectively measure both the benefits and risks of the PBP arrangement.

H. Weighted Guidelines and Profit

Comment: One respondent asserted that an alternative to the rule exists in the weighted guidelines method, which provides a far simpler and fairer profit adjustment for the value of the PBPs, as well as recognizing the added risk to contractors of event-based financing. The weighted guidelines reasonably method recognizes that performance-based payments impose added risk on the contractor by tying financing to performance. Consequently, the DFARS provides that such payments should lead to an increase in the negotiated profit rate.

DoD Response: The weighted guidelines method is not designed to accurately measure the financial benefits and risks associated with a particular PBP arrangement. The DoD PBP analysis tool is a cash flow model that was specifically designed to allow users to objectively measure both the benefits and risks of each PBP arrangement. DoD is therefore amending the DFARS to improve the process of negotiating PBP financing arrangements. Contractors are not obligated to negotiate or accept a PBP financing arrangement. If a contractor determines that the risk of tying financing to performance is too great, the contractor may always choose traditional progress payments and forego the financial benefits of a PBP financing arrangement.

Comment: One respondent expressed concern that the rule further provides unnecessary visibility into the contractor's proprietary profit.

DoD Response: The rule will provide no more insight into a contractor's profitability than is already provided in customary progress payments.

Comment: One respondent stated that the proposed rule establishes the Government's cash outlay under traditional progress payments as the cap for PBPs and does not allow any payment of profit or fee for PBPs until performance is completed.

DoD Response: As previously stated, the use of a negotiated price using customary progress payments as the benchmark for determining a mutually beneficial financial arrangement using PBPs is appropriate. Customary progress payments will be the likely financing method utilized if agreement on a PBP arrangement cannot be reached. In determining the amount of consideration due the Government as a result of the improved financing provided by PBPs, the parties will use the DoD PBP analysis tool which is designed to allow users to objectively measure both the benefits and risks of the PBP financing arrangement. The rule does not establish the Government's cash outlay under customary progress payments as the cap for PBPs. The FAR limitation is that PBPs cannot exceed 90% of the contract price. This limitation does not change under this rule. Further, the rule requires that cumulative PBPs will not exceed the contractor's cumulative cost incurred, in accordance with FAR 32.104(a), which states that PBPs are to be provided only to the extent actually needed for prompt and efficient performance. Therefore, the payment of profit as part of PBPs will not occur.

I. Cost Risk

Comment: One respondent expressed concern that the proposed rule focused on cost risk, which is a disincentive on contracts that carry a greater than average technical performance and schedule risk.

DoD Response: PBPs are a method of contract financing and do not add or detract from the underlying cost, performance or schedule risk on a contract. The purpose of all contract financing is to assist the contractor in paying the contract cost incurred during contract performance. Per FAR 32.104(a), contract financing is intended to be provided ''only to the extent actually needed for prompt and efficient performance.'' Therefore, the rule appropriately links PBPs with cost incurred to ensure that financing is not provided to a greater extent than intended by FAR.

J. Early Performance Disincentive

Comment: One respondent stated that the rule effectively eliminates contractor incentives to perform early and below anticipated costs, and in essence treats PBPs as a form of cost-type, not-to-exceed interim payment because it implements a policy that states: ''At no time will cumulative performance-based payments exceed cumulative cost incurred on this contract.''

DoD Response: PBPs are a form of contract financing and not incentive payments. FAR 32.1004(a)(2)(iv) specifically states: ''Because performance-based payments are contract financing, events or criteria shall not serve as a vehicle to reward the contractor for completion of performance levels over and above what is required for successful completion of the contract.'' PBP financing that provides the contractor the opportunity to receive payments up to 100% of cost incurred, so long as they are less than 90% of the contract price, can be considerably more advantageous than customary progress payments, which cannot exceed 80% of costs incurred (or 85% of costs incurred for small businesses). The DoD PBP analysis tool will enable both sides to determine the financial value of the improved cash flow provided by PBPs on a given contract.

K. Executive Orders 12866 and 13563

Comment: One respondent asserted that the proposed rule has not undergone a comprehensive review of the 5 U.S.C. 804 classification as a ''Major Rule'' as required by Executive Order (E.O.) 12866 and 13563, and as such, should be subject to a thorough assessment of the economic impact, regulatory inconsistencies, and cost-benefit evaluation of other options.

DoD Response: This rule was submitted to the Office of Information and Regulatory Affairs (OIRA). OIRA determined that this rule is not a major rule under 5 U.S.C. 804, but that this is a significant regulatory action and, therefore, the rule was subject to review under section 6(b) of E.O. 12866, Regulatory Planning and Review, dated September 30, 1993. This rule is not a major rule under 5 U.S.C. 804.

L. FAR Preference for PBP Financing

Comment: A number of respondents indicated that the proposed rule is inconsistent with the FAR preference for performance-based payments. One respondent recommended that a statement be added to DFARS 232.1001 that private financing without Government guarantee is preferred.

DoD Response: This rule does not change the FAR stated preference for PBPs when Government financing is determined to be appropriate. The first preference in FAR 32.106(a) is that the contractor should obtain private financing without Government guarantee. Customary contract financing is secondary in preference. As stated in FAR 32.1001(a), PBPs ''are the preferred method of Government contract financing when the contracting officer finds them to be practical and the contractor agrees to their use''.

M. Limitation to PBP Financing Ceiling

Comment: One respondent expressed concern that the proposed rule imposes further constraints to FAR 32.1004(b)(2)(ii) limitation of 90% of price. The respondent questioned why DoD contracts should have less favorable financing terms than other Federal contracts.

DoD Response: This rule is consistent with the existing FAR requirements regarding financing in general and PBPs in particular. It is important to remember that the fundamental purpose of all contract financing is to assist the contractor in paying cost incurred during the performance of the contract. Per FAR 32.1004(b)(2)(i), financing is to be provided ''only to the extent actually needed for prompt and efficient performance''. In other words, the contractor should not be reimbursed more than its actual cost incurred at any point in time. FAR 32.1004(b)(3)(ii) further states that the contracting officer must ensure that PBPs ''are not expected to result in an unreasonably low or negative level of contractor investment in the contract.'' Therefore, the proposed rule appropriately links PBPs

with cost incurred to ensure that financing is not provided to a greater extent than intended by FAR.

N. Foreign Military Sales

Comment: One respondent stated that the application of the proposed rule on FMS contracts has the potential to reduce Federal income tax revenue. Since there is no existing regulatory or statutory requirement to do so, the respondent recommends exempting FMS contracts from performance-based payments.

DoD Response: In accordance with DFARS 225.7303(a) the general rule for the pricing of FMS contracts is that they should be priced using the same principles used in pricing other defense contracts. Therefore, there would be no reason to exempt FMS contracts from the proposed rule. Additionally, the potential for federal income tax revenues is not a factor in contract pricing.

O. Government Benefits for Using PBPs

Comment: One respondent stated that the proposed rule does not account for the benefits that the performance-based financing approach provides for the Government.

DoD Response: PBPs, when properly structured, can provide benefits to both the Government and the contractor. The key benefit to the contractor is improved cash flow. However, there is a cost to the Government of providing improved contract financing to the contractor. Therefore, the PBP analysis tool appropriately calculates a lower profit to ensure that the use of PBPs provides a mutually beneficial financial arrangement for both parties.

P. Incurred Cost Accounting

Comment: One respondent requests clarification on how the Government will treat commitments to subcontractors and/or vendors who have not been paid in determining total cost incurred.

DoD Response: The definition of what constitutes an ''incurred cost'' is not affected by the proposed rule.

Q. Incurred Cost Limitation

Comment: A number of respondents expressed concern with limitation of performance-based payments to only costs incurred. The respondents believe that this limitation reduces or eliminates the incentive to use performance-based payment financing arrangement and therefore shifts favor to progress payments. The incurred cost limitation eliminates the certainty that a contractor has in obtaining an agreed-to PBP milestone price, and concentrates on a contractor's incurred cost profile which shifts focus from performance and delivery to cost incurred in association to a milestone.

DoD Response: PBPs are a form of contract financing and not incentive payments. FAR 32.1004(a)(2)(iv) specifically states: ''Because performance-based payments are contract financing, events or criteria shall not serve as a vehicle to reward the contractor for completion of performance levels over and above what is required for successful completion of the contract.'' Furthermore, FAR 32.1004(b)(3) states that the contracting officer shall ensure that ''Performance-based payment amounts are commensurate with the value of the performance event or performance criterion, and are not expected to result in an unreasonably low or negative level of contractor investment in the contract.'' These requirements limit the PBP payments to only costs incurred. However, PBP financing that provides the contractor the opportunity to receive payments up to 100% of cost incurred (so long as they are less than 90% of the contract price) can be considerably more advantageous than customary progress payments, (which cannot exceed 80% of costs incurred or 85% of costs incurred for small businesses). The DoD PBP analysis tool will enable both sides to determine the financial value of the improved cash flow provided by PBPs on a given contract. PBPs require the contractor to successfully complete a PBP event in accordance with the completion criteria specified in the contract before being paid. Therefore, the contractor's focus will be on successfully performing those events in a prompt and efficient manner. Since the purpose of all contract financing is to assist the contractor in paying the contract cost incurred during contract performance, and given that in accordance with FAR 32.104(a), contract financing is intended to be provided ''only to the extent actually needed for prompt and efficient performance,'' the proposed rule appropriately links PBPs with cost incurred to ensure that financing is not provided to a greater extent than intended by the FAR.

R. Invoice Delay

Comment: One respondent expressed concern that the proposed rule will delay invoice payments.

DoD Response: The rule will have no impact on the timing of invoice payments.

S. Better Buying Power Initiative

Comment: One respondent claimed that the PBP Analysis Tool fails to address the ''Better Buying Power'' direction of flexibility to propose an alternative payment arrangement and innovative financing methods.

DoD Response: The rule does not impede the flexibility to propose an alternative payment arrangement. In many cases, performance-based payment financing arrangements will be the alternative payment arrangement. Therefore, the rule addresses how a PBP arrangement will be analyzed from a cash flow perspective. A similar cash flow analysis would be required in any arrangement that provided improved cash flow to the contractor.

T. PBP Analysis Tool Assessment Accuracy

Comment: One respondent asserted that the PBP Analysis Tool does not provide an accurate methodology for assessing improved cash flow. The respondent stated that the PBP Analysis Tool discounts the reduction in cash flows using an after-tax discount rate, but fails to account for the reduction in cash associated with applied taxes to earned income.

DoD Response: The DoD PBP analysis tool compares the series of financing cash flows that would be generated under customary progress payments and PBPs. Taxes are only applicable to profit, not financing cash flows. Since the model already produces a mutually beneficial financing arrangement in which the profit is lower using PBPs than with customary progress payments, accounting for taxes within the model would only result in an even lower profit position. Although the model could be revised to include the reduced taxes paid by the contractor as a result of reduced profit in the PBP scenario, the net impact would be negligible and does not warrant the added complexity.

Comment: One respondent recommended that DoD revise the cash flow model and its instructions to reflect the discount/interest rates recognized in the FAR for all other financing and cash flow valuations as the sole basis for consideration required (OMB A–94 or Prompt Payment Act Interest Rate).

DoD Response: The cost of raising money is not the same for industry and the Government and therefore the time-value of money is not the same for each. The model will be revised as follows: The discount rate for contractor cash flows will be reflective of the short term borrowing rate as represented by the published Prime Rate adjusted for the corporate income tax rate of 35%. At the current Prime Rate of 3.25%, the discount rate for contractor cash flows would be 2.11% [$3.25\% \times (1 - .35)$].

The discount rate for Government cash flows will continue to be the rates published in OMB Circular A–94 Appendix C which are specified for use by the Government in cash flow analysis as they are reflective of the cost of borrowing to the Treasury. For contract periods of performance that fall between the rate periods identified in the circular, the model instructions will be revised to instruct the user on how to extrapolate to derive the appropriate rate for their contract action.

U. Overly Complex PBP Analysis Tool

Comment: One respondent recommended that DoD redesign the cash flow model to make it more intuitive and correct errors that have the potential to overstate the consideration requirement by $200 million a year.

DoD Response: The cash flow model will be used by trained contracting officers who will be able to walk the contractor through the process, if required. DoD has found no inconsistencies between the PBP cash-flow model and the FAR, nor has DoD found errors in the model that have the potential to overstate the consideration requirement by $200 million a year.

Comment: One respondent asserted that if a DoD contracting officer is unable to develop a fair and reasonable PBP schedule, why would DoD believe that there would be a better outcome from this new and complicated process.

DoD Response: There are a number of important aspects to establishing an effective and equitable PBP arrangement. The DoD PBP analysis tool addresses the cash flow consideration aspect of PBPs. The other aspects are addressed in the new PBP Users Guide.

V. Previously Implemented PBP Analysis Tool

Comment: One respondent indicated displeasure that the proposed rule fails to note that the PBP analysis tool has been in effect since the issuance of DPAP memo mandating a cash-flow analysis for alternative financing arrangements for fixed price contracts. The respondent requested DoD provide a historical background and explanation for the new PBP policy.

DoD Response: This rule provides requirements for the use of the performance-based payments (PBP) analysis tool. The PBP analysis tool is a cash-flow model for evaluating alternative financing arrangements, and is required to be used by all contracting officers contemplating the use of performance-based payments on new fixed-price type contract awards. The DoD PBP analysis tool has been available since the issuance of the DPAP memo and a cash flow analysis is mandatory when providing improved cash flow to the contractor.

W. Prompt Payment Act

Comment: A respondent recommended that DoD request a statutory change to the Prompt Payment Act to provide interest payments to contractors on late or delayed performance-based payment financing.

DoD Response: The Prompt Payment Act is not applicable to contract financing payments (see 31 U.S.C. 3902(a) and 5 CFR 1315.1(b)(1)). As PBPs are a form of contract financing, they are not subject to the Prompt Payment Act. DoD does not intend to seek a statutory change to, or a regulatory change to the implementation of, the Prompt Payment Act at this time to make contract financing payments subject to the Act.

X. Protracted Negotiations

Comment: One respondent expressed concern that the proposed rule constrains the normal constructive evaluation and negotiation of all aspects of the business being put under contract.

DoD Response: The proposed rule does not constrain the normal evaluation and negotiation of any other elements of the business deal. The proposed rule pertains to the analysis and negotiation of the consideration due the Government as a result of the improved cash flow provided by PBP financing.

Y. Timing of PBP Negotiations

Comment: One respondent expressed concern that the proposed rule language at DFARS 232.1004(b)(iii) requires the Government to negotiate the consideration to be received by the Government if using a PBP financing arrangement will be more favorable to the contractor than customary progress payments. The respondent claimed that such negotiations are inappropriate since, in accordance with FAR 32.005(a), contract financing consideration is required after award.

DoD Response: FAR 32.005(a) assumes that appropriate consideration for the contract financing included in a contract is already reflected in the contract price or other contract terms and conditions. The proposed rule simply defines the process by which contracting officers will determine the appropriate consideration when a contract will be awarded with PBP financing.

Z. Term Clarification

Comment: One respondent took exception to the proposed language at DFARS 232.1004(b)(ii)(A), which states in part ''. . . If performance-based payments are deemed practical, the Government will evaluate and negotiate the details of the performance-based payments schedule.'' The respondent believes that this introduces a nebulous new term (i.e., ''practical'') that does not appear to be defined, and appears to be in conflict with basic FAR requirements. The respondent recommends that this statement be replaced with the following: ''If the FAR Part 32 provisions for making contract financing payments are met, the Government will evaluate and may negotiate the details of the proposed performance-based payments schedule.''

DoD Response: The use of PBPs is not practical for all fixed price contracts. The FAR already states that PBPs ''are the preferred method of contract financing when the contracting officer finds them to be practical and the contractor agrees to their use.'' Therefore, it is important that the contracting officer determine if PBPs are practical for use on the contract before proceeding further with the evaluation and negotiation of a PBP arrangement.

III. Executive Orders 12866 and 13563

Executive Orders (E.O.s) 12866 and 13563 direct agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). E.O. 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. This is a significant regulatory action and, therefore, was subject to review under section 6(b) of E.O. 12866, Regulatory Planning and Review, dated September 30, 1993. This rule is not a major rule under 5 U.S.C. 804.

IV. Regulatory Flexibility Act

DoD has prepared a final regulatory flexibility analysis consistent with 5 U.S.C. 603. A copy of the analysis may be obtained from the point of contact specified herein. The analysis is summarized as follows:

This rule provides detailed guidance and instructions on the use of the performance–based payments (PBP) analysis tool. The objective of the rule is to amend the DFARS to provide

requirements for the use of the PBP analysis tool. The PBP analysis tool is a cash-flow model for evaluating alternative financing arrangements and is required to be used by all contracting officers contemplating the use of performance-based payments on new fixed-price type contract awards.

No comments were submitted by the Chief Counsel for Advocacy of the Small Business Administration in response to the initial regulatory flexibility analysis published with the proposed rule. However, one respondent stated a concern that the proposed rule will result in increased costs for small businesses and prevent them from competing due to the adequate business system requirement. Small business contractors are not obligated to negotiate or accept a performance-based payment financing arrangement, and a decision not to pursue performance-based payments will not be held against any offeror in a competitive source selection. Performance-based payment negotiations will commence only after the contracting officer and offeror have agreed on price using customary progress payments. Therefore, small business will not be at a competitive disadvantage whether or not they decide that a performance-based payment funding arrangement is in their best interest.

DoD does not expect this rule to have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.,* because requiring the use of the PBP analysis tool by all contracting officers contemplating the use of PBPs on new fixed-price type contract awards does not require contractors to expend significant effort or cost. No known alternatives to the rule have been identified.

V. Paperwork Reduction Act

The rule contains new information collection requirements that require the approval of the Office of Management and Budget under the Paperwork Reduction Act (44 U.S.C. chapter 35). This information collection is necessary in order to use the PBP analysis tool, required by all contracting officers contemplating the use of PBPs on new fixed-price type contract awards. OMB has cleared this information collection requirement under OMB Control Numbers 0704–0485, Performance-Based Payments (PBP) Analysis Tool, DFARS Part 232-Contract Financing.

List of Subjects in 48 CFR Parts 232 and 252

Government procurement.

Manuel Quinones,

Editor, Defense Acquisition Regulations System.

Therefore, 48 CFR parts 232 and 252 are amended as follows:

■ 1. The authority citation for 48 CFR parts 232 and 252 continues to read as follows:

Authority: 41 U.S.C. 1303 and 48 CFR chapter 1.

PART 232—CONTRACT FINANCING

■ 2. Amend section 232.1001 by—

■ a. Adding a new paragraph (a); and

■ b. Amending paragraph (d) by removing ''standard prompt payment terms'' and adding in its place ''standard payment terms''.

The addition reads as follows:

232.1001 Policy.

(a) As with all contract financing, the purpose of performance-based payments is to assist the contractor in the payment of costs incurred during the performance of the contract. Therefore, performance-based payments should never exceed total cost incurred at any point during the contract. See PGI 232.1001(a) for additional information on use of performance-based payments.

* * * * *

■ 3. Add section 232.1003–70 to read as follows:

232.1003–70 Criteria for use.

The contracting officer will consider the adequacy of an offeror's or contractor's accounting system prior to agreeing to use performance-based payments.

■ 4. In section 232.1004, revise the section heading and add paragraph (b) to read as follows:

232.1004 Procedures.

(b) Prior to using performance-based payments, the contracting officer shall—

(i) Agree with the offeror on price using customary progress payments before negotiation begins on the use of performance-based payments, except for modifications to contracts that already use performance-based payments;

(ii) Analyze the performance-based payment schedule using the performance-based payments (PBP) analysis tool. The PBP analysis tool is on the DPAP Web site in the Cost, Pricing & Finance section, Performance Based Payments—Guide Book & Analysis Tool tab, at *http://www.acq.osd.mil/dpap/cpic/cp/Performance_based_payments.html.*

(A) When considering performance-based payments, obtain from the offeror/contractor a proposed performance-based payments schedule that includes all performance-based payments events, completion criteria and event values along with the projected expenditure profile in order to negotiate the value of the performance events. If performance-based payments are deemed practical, the Government will evaluate and negotiate the details of the performance-based payments schedule.

(B) For modifications to contracts that already use performance-based payments financing, the basis for negotiation must include performance-based payments. The PBP analysis tool will be used in the same manner to help determine the price for the modification. The only difference is that the baseline assuming customary progress payments will reflect an objective profit rate instead of a negotiated profit rate;

(iii) Negotiate the consideration to be received by the Government if the performance-based payments payment schedule will be more favorable to the contractor than customary progress payments;

(iv) Obtain the approval of the business clearance approving official, or one level above the contracting officer, whichever is higher, for the negotiated consideration; and

(v) Document in the contract file that the performance-based payment schedule provides a mutually beneficial settlement position that reflects adequate consideration to the Government for the improved contractor cash flow.

* * * * *

■ 5. Add section 232.1005–70 to read as follows:

232.1005–70 Contract clauses.

The contracting officer shall include the following clauses with appropriate fill-ins in solicitations and contracts that include performance-based payments:

(a) For performance-based payments made on a whole-contract basis, use the clause at 252.232–7012, Performance-Based Payments—Whole-Contract Basis.

(b) For performance-based payments made on a deliverable-item basis, use the clause at 252.232–7013, Performance-Based Payments—Deliverable-Item Basis.

PART 252—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

■ 6. Add sections 252.232–7012 and 252.232–7013 to read as follows:

252.232–7012 Performance-Based Payments—Whole-Contract Basis.

As prescribed in 232.1005–70(a), use the following clause: PERFORMANCE–BASED PAYMENTS—WHOLE–CONTRACT BASIS (MAR 2014)

(a) Performance-based payments shall form the basis for the contract financing payments provided under this contract, and shall apply to the whole contract. The performance-based payments schedule (Contract Attachment _____) describes the basis for payment, to include identification of the individual payment events, evidence of completion, and amount of payment due upon completion of each event.

(b)(i) At no time shall cumulative performance-based payments exceed cumulative contract cost incurred under this contract. To ensure compliance with this requirement, the Contractor shall, in addition to providing the information required by FAR 52.232–32, submit supporting information for all payment requests using the following format:

BILLING CODE: 5001–06–P

Current performance-based payment(s) event(s) addressed by this request:		
Contractor shall identify—	Amount	Totals
(1a) Negotiated value of all previously completed performance-based payment(s) event(s);		
(1b) Negotiated value of the current performance-based payment(s) event(s);		
(1c) Cumulative negotiated value of performance-based payment(s) events completed to date (1a) + (1b);		
(2) Total costs incurred to date;		
(3) Enter the amount from (1c) or (2), whichever is less;		
(4) Cumulative amount of payments previously requested; and		
(5) Payment amount requested for the current performance-based payment(s) event(s) (3) - (4).		

(ii) The Contractor shall not submit payment requests more frequently than monthly.

(iii) Incurred cost is determined by the Contractor's accounting books and records, which the contractor shall provide access to upon request of the Contracting Officer for the administration of this clause.

(End of clause)

252.232–7013 Performance-Based Payments—Deliverable-Item Basis.

As prescribed in 232.1005–70(b), use the following clause: PERFORMANCE-BASED PAYMENTS—DELIVERABLE-ITEM BASIS (MAR 2014)

(a) Performance-based payments shall form the basis for the contract financing payments provided under this contract and shall apply to Contract Line Items (CLINs) ____, ____, and ____. The performance-based payments schedule (Contract Attachment ____) describes the basis for payment, to include identification of the individual payment events, CLINs to which each event applies, evidence of completion, and amount of payment due upon completion of each event.

(b)(i) At no time shall cumulative performance-based payments exceed cumulative contract cost incurred under CLINs ____, ____, and ____. To ensure compliance with this requirement, the Contractor shall, in addition to providing the information required by FAR 52.232–32, submit supporting information for all payment requests using the following format:

Current performance-based payment(s) event(s) addressed by this request:		
Contractor shall identify—	Amount	Totals
(1a) Negotiated value of all previously completed performance-based payment(s) event(s);		
(1b) Negotiated value of the current performance-based payment(s) event(s);		
(1c) Cumulative negotiated value of performance-based payment(s) event(s) completed to date (1a) + (1b);		
(2) Total costs incurred to date;		
(3) Enter the amount from (1c) or (2), whichever is less;		
(4) Cumulative amount of payments previously requested; and		
(5) Payment amount requested for the current performance-based payment(s) event(s) (3) - (4).		

(ii) The Contractor shall not submit payment requests more frequently than monthly.

(iii) Incurred cost is determined by the Contractor's accounting books and records, which the contractor shall provide access to upon request of the Contracting Officer for the administration of this clause.

(End of clause)

[FR Doc. 2014–07069 Filed 3–28–14; 8:45 am]

BILLING CODE 5001–06–C

Proposed Rules

Federal Register
Vol. 79, No. 61
Monday, March 31, 2014

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 925

[Doc. No. AMS–FV–14–0010; FV14–925–1 PR]

Grapes Grown in a Designated Area of Southeastern California; Increased Assessment Rate

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: This proposed rule would increase the assessment rate established for the California Desert Grape Administrative Committee (Committee) for the 2014 and subsequent fiscal periods from $0.0165 to $0.0200 per 18-pound lug of grapes handled. The Committee locally administers the marketing order, which regulates the handling of grapes grown in a designated area of southeastern California. Assessments upon grape handlers are used by the Committee to fund reasonable and necessary expenses of the program. The fiscal period began on January 1 and ends December 31. The assessment rate would remain in effect indefinitely unless modified, suspended, or terminated.

DATES: Comments must be received by April 15, 2014.

ADDRESSES: Interested persons are invited to submit written comments concerning 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 docket 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: Kathie M. Notoro, Marketing Specialist, or Martin Engeler, Regional Director, California Marketing Field Office, Marketing Order and Agreement Division, Fruit and Vegetable Program, AMS, USDA; Telephone: (559) 487–5901, Fax: (559) 487–5906, or Email: *Kathie.Notoro@ams.usda.gov* or *Martin.Engeler@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 Order No. 925, as amended (7 CFR part 925), regulating the handling of grapes grown in a designated area of southeastern California, 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, 13563, and 13175.

This proposed rule has been reviewed under Executive Order 12988, Civil Justice Reform. Under the marketing order now in effect, grape handlers in a designated area of southeastern California 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 grapes beginning on January 1, 2014, 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 2014 and subsequent fiscal periods from $0.0165 to $0.0200 per 18-pound lug of grapes handled.

The grape 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 and handlers of grapes grown in a designated area of southeastern California. They are familiar with the Committee's needs and with the costs of goods and services in their local area and are thus 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 2014 and subsequent fiscal periods, the Committee recommended, and the USDA approved, an assessment rate that would continue in effect from fiscal period to fiscal period unless modified, suspended, or terminated by USDA based upon recommendation and information submitted by the Committee or other information available to USDA.

The Committee met on November 5, 2013, and unanimously recommended 2014 expenditures of $110,000, and an assessment rate of $0.0200 per 18-pound lug of grapes handled. In comparison, last year's budgeted expenditures were $100,000. The Committee recommended a crop estimate of 5,500,000 18-pound lugs, which is lower than the 5,800,000 18-pound lugs handled last year. The Committee also recommended carrying over a financial reserve of $49,000,

which would increase to $59,000 if the contingency fund was not expended. The assessment rate of $0.0200 per 18-pound lug of grapes handled recommended by the Committee is $0.0035 higher than the $0.0165 rate currently in effect. The higher assessment rate, applied to shipments of 5,500,000 18-pound lugs, would generate $110,000 in revenue and be sufficient to cover the anticipated expenses.

The major expenditures recommended by the Committee for the 2014 fiscal period include $15,500 for research, $22,000 for general office expenses, $62,500 for management and compliance expenses, and $10,000 for a contingency reserve. The $15,500 research project is a continuation of a vine study in progress by the University of California, Riverside. In comparison, major expenditures for the 2013 fiscal period included $15,500 for research, $17,000 for general office expenses, and $67,500 for management and compliance expenses. Overall 2014 expenditures include a decrease in management and compliance expenses, an increase in general office expenses, and additional funds for the contingency reserve.

The assessment rate recommended by the Committee was derived by evaluating several factors, including estimated shipments for the 2014 season, budgeted expenses, and the level of available financial reserves. The Committee determined that the $0.0200 assessment rate would generate $110,000 in revenue to cover the budgeted expenses of $110,000.

Reserve funds by the end of 2014 are projected to be $49,000 if the $10,000 added to the contingency fund is expended or $59,000 if it is not expended. Both amounts are well within the amount authorized under the order. Section 925.41 of the order permits the Committee to maintain approximately one fiscal period's expenses in reserve.

The proposed assessment rate would continue in effect indefinitely unless modified, suspended, or terminated by USDA based upon a 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 for modification of 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 the Committee's 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 2014 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 15 handlers of southeastern California grapes who are subject to regulation under the marketing order and about 41 grape producers in the production area. Small agricultural service firms are defined by the Small Business Administration (13 CFR 121.201) as those having annual receipts of less than $7,000,000, and small agricultural producers are defined as those whose annual receipts are less than $750,000. Ten of the 15 handlers subject to regulation have annual grape sales of less than $7,000,000, according to USDA Market News Service and Committee data. Based on information from the Committee and USDA's Market News, it is estimated that at least 10 of 41 producers have annual receipts of less than $750,000. Thus, it may be concluded that a majority of the grape handlers regulated under the order and about 10 of the producers could be classified as small entities under the Small Business Administration's definitions.

This proposed rule would increase the assessment rate established for the Committee and collected from handlers for the 2014 and subsequent fiscal periods from $0.0165 to $0.0200 per 18-pound lug of grapes. The Committee unanimously recommended 2014 expenditures of $110,000, and an assessment rate of $0.0200 per 18-pound lug of grapes handled. The proposed assessment rate of $0.0200 is $0.0035 higher than the 2013 rate currently in effect. The quantity of assessable grapes for the 2014 season is estimated at 5,500,000 18-pound lugs. Thus, the $0.0200 rate should generate $110,000 in income. In addition, reserve funds at the end of the year are projected to be $49,000, which is well within the order's limitation of approximately one fiscal period's expenses.

The major expenditures recommended by the Committee for the 2014 fiscal period include $15,500 for research, $22,000 for general office expenses, $62,500 for management and compliance expenses, and $10,000 for the contingency reserve. In comparison, major expenditures for the 2013 fiscal period included $15,500 for research, $17,000 for general office expenses, and $67,500 for management and compliance expenses. Overall expenditures included a decrease in management and compliance expenses, an increase in general office expenses, and funding of a contingency reserve.

Prior to arriving at this budget, the Committee considered alternative expenditures and assessment rates, to include not increasing the $0.0165 assessment rate currently in effect. Based on a crop estimate of 5,500,000 18-pound lugs, the Committee ultimately determined that increasing the assessment rate to $0.0200 would generate sufficient funds to cover budgeted expenses. Reserve funds at the end of the 2014 fiscal period are projected to be $49,000 if the $10,000 contingency fund is expended or $59,000 if it is not expended. These amounts are well within the amount authorized under the order.

A review of historical crop and price information, as well as preliminary information pertaining to the upcoming fiscal period, indicates that the producer price for the 2013 season averaged about $16.20 per 18-pound lug of California grapes handled. Utilizing the estimate and the proposed assessment rate of $0.0200, estimated assessment revenue as a percentage of total estimated producer revenue would be 0.12 percent for the 2014 season ($0.0200 divided by $16.20 per 18-pound lug). Thus, the assessment revenue should be well below 1 percent of estimated producer revenue in 2014.

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. Some of the additional costs may be passed on to producers. However, these costs would be offset by the benefits derived from the operation

of the marketing order. In addition, the Executive Subcommittee and the Committee's meetings were widely publicized throughout the grape production area and all interested persons were invited to attend and participate in Committee deliberations on all issues. Like all Committee meetings, the November 5, 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. 0581–0189. 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 California grape 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 increased opportunities for citizen access to 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 2014 fiscal period began on January 1, 2014, and the order requires that the rate of assessment for each fiscal period apply to all assessable grapes 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 and is similar to other assessment rate actions issued in past years.

List of Subjects in 7 CFR Part 925

Grapes, Marketing agreements, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, 7 CFR part 925 is proposed to be amended as follows:

PART 925—GRAPES GROWN IN A DESIGNATED AREA OF SOUTHEASTERN CALIFORNIA

■ 1. The authority citation for 7 CFR part 925 continues to read as follows:

Authority: 7 U.S.C. 601–674.

■ 2. Section 925.215 is revised to read as follows:

§ 925.215 Assessment rate.

On and after January 1, 2014, an assessment rate of $0.0200 per 18-pound lug is established for grapes grown in a designated area of southeastern California.

Dated: March 12, 2014.

Rex A. Barnes,

Associate Administrator, Agricultural Marketing Service.

[FR Doc. 2014–07012 Filed 3–28–14; 8:45 am]

BILLING CODE 3410–02–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2014–0176; Directorate Identifier 2013–NM–066–AD]

RIN 2120–AA64

Airworthiness Directives; DASSAULT AVIATION Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: We propose to adopt a new airworthiness directive (AD) for certain DASSAULT AVIATION Model FALCON 900EX airplanes. This proposed AD was prompted by our determination of the need for a revision to the airplane airworthiness limitations to introduce a corrosion prevention control program, among other changes, to the maintenance requirements and airworthiness limitations. This proposed AD would require revising the maintenance or inspection program, as applicable, to include the maintenance tasks and airworthiness limitations specified in the Airworthiness Limitations section of the airplane maintenance manual. We are proposing this AD to prevent reduced structural integrity of the airplane, and prevent reduced controllability of the airplane.

DATES: We must receive comments on this proposed AD by May 15, 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 Dassault Falcon Jet, P.O. Box 2000, South Hackensack, NJ 07606; telephone 201–440–6700; Internet *http://www.dassaultfalcon.com*. You may view this referenced service information at the FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, WA. For information on the availability of this material at the FAA, call 425–227–1221.

Examining the AD Docket

You may examine the AD docket on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2014–0176; 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 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: Tom Rodriguez, Aerospace Engineer, International Branch, ANM–116, Transport Airplane Directorate, FAA, 1601 Lind Avenue SW., Renton, WA 98057–3356; phone: (425) 227–1137; fax: (425) 227–1149.

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–2014–0176; Directorate Identifier 2013–NM–066–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

The European Aviaton Safety Agency (EASA), which is the Technical Agent for the Member States of the European Community, has issued EASA Airworthiness Directive 2013–0052, dated March 4, 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:

> The airworthiness limitations and maintenance requirements for the Falcon 900EX type design relating to Falcon 900EX Easy, Falcon 900LX and Falcon 900DX variants, are included in Aircraft Maintenance Manual (AMM) chapter 5–40 and are approved by the European Aviation Safety Agency (EASA).
>
> EASA issued AD 2008–0221 [*http://ad.easa.europa.eu/blob/easa_ad_2008_0221_Corrected.pdf/AD_2008-0221_1*] to require accomplishment of the maintenance tasks and implementation of the airworthiness limitations, as specified in Dassault Aviation Falcon 900EX Easy/900LX/900DX AMM chapter 5–40 referenced DGT 113875 at revision 3.
>
> Since that [EASA] AD was issued, Dassault Aviation issued revision 7 of Falcon 900EX Easy/900LX/900DX AMM chapter 5–40, which contains new or more restrictive maintenance requirements and/or airworthiness limitations and introduces, among others, the following changes:
>
> —Tasks renumbering,
> —Introduction of a Corrosion Prevention Control Program (CPCP),
> —Revised overhaul limits for screwjack of flap actuators − 3 version;
> —Revised interval for checking the screw/nut play on screwjack of flap actuators -3 version;
> —Removal of service life limit for screwjack of flap actuators;
> —Test of flap asymmetry protection system, with an extended inspection interval;
> —Inspection procedures of fuselage and wings;
> —Check of overpressure tightness on pressurization control regulating valves. Compliance with this check is required by EASA AD 2008–0072, but AMM chapter 5–40 DGT 113875 at revision 7 introduces an extended inspection interval;
> —Check of overpressure relief valve vacuum supply lines. The maintenance tasks and airworthiness limitations, as specified in the Falcon 900EX Easy/900LX/900DX AMM chapter 5–40, have been identified as mandatory actions for continued airworthiness of the Falcon EX Easy, Falcon 900LX and Falcon 900DX variants of the F900EX type design. Failure to comply with AMM chapter 5–40 at revision 7 may result in an unsafe condition.
>
> For the reasons described above, this [EASA] AD requires the implementation of the maintenance tasks and airworthiness limitations, as specified in the Dassault Aviation Falcon 900EX Easy/900LX/900DX AMM chapter 5–40 DGT 113875 at revision 7.

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–2014–0176.

Relevant Service Information

Dassault Aviation has issued Chapter 5–40, Airworthiness Limitations, DGT 113875, Revision 7, dated September 2012, of the Falcon 900 EX EASy, Falcon 900LX, and Falcon 900 DX Maintenance Manual. 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 78 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
Maintenance Program Revision	1 work-hour × $85 per hour = $85	N/A	$85	$6,630

Authority for This Rulemaking

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

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

Regulatory Findings

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

For the reasons discussed above, I certify this proposed regulation:

1. Is not a ''significant regulatory action'' under Executive Order 12866;

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

3. Will not affect intrastate aviation in Alaska; and

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

List of Subjects in 14 CFR Part 39

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

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

■ 2. Amend § 39.13 by adding the following new AD:

DASSAULT AVIATION: Docket No. FAA–2014–0176; Directorate Identifier 2013–NM–066–AD.

(a) Comments Due Date

We must receive comments by May 15, 2014.

(b) Affected ADs

This AD affects AD 2002–23–20, Amendment 39–12964 (67 FR 71098, November 29, 2002), and AD 2010–26–05, Amendment 39–16544 (75 FR 79952, December 21, 2010).

(c) Applicability

This AD applies to DASSAULT AVIATION Model FALCON 900EX airplanes, certificated in any category, serial number (S/N) 97 and S/N 120 and higher (Falcon 900EX Easy, Falcon 900LX and Falcon 900DX variants).

(d) Subject

Air Transport Association (ATA) of America Code 05, Time Limits/Maintenance Checks.

(e) Reason

This AD was prompted by a revision to the airplane airworthiness limitations to introduce the corrosion prevention control program, among other changes, to the maintenance requirements and airworthiness limitations. We are issuing this AD to prevent reduced structural integrity of the airplane, and prevent reduced controllability of the airplane.

(f) Compliance

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

(g) Revision of Maintenance Program

Within 30 days after the effective date of this AD, revise the maintenance or inspection program, as applicable, to incorporate the information specified in Chapter 5–40, Airworthiness Limitations, DGT 113875, Revision 7, dated September 2012, of the Falcon 900 EX EASy, Falcon 900LX, and Falcon 900 DX Maintenance Manual. The initial compliance time for accomplishing the actions specified in Chapter 5–40, Airworthiness Limitations, DGT 113875, Revision 7, dated September 2012, of the Falcon 900 EX EASy, Falcon 900LX, and Falcon 900 DX Maintenance Manual, is within the applicable times specified in the maintenance manual or 30 days after the effective date of this AD, whichever occurs later, except as provided by paragraphs (g)(1) through (g)(4) of this AD.

(1) The term ''LDG'' in the ''First Inspection'' column of any table in the service information means total airplane landings.

(2) The term ''FH'' in the ''First Inspection'' column of any table in the service information means total flight hours.

(3) The term ''FC'' in the ''First Inspection'' column of any table in the service information means total flight cycles.

(4) The term ''M'' in the ''First Inspection'' column of any table in the service information means months.

(h) Terminating Action

Accomplishing paragraph (g) of this AD terminates the requirements of paragraph (a) of AD 2002–23–20, Amendment 39–12964 (67 FR 71098, November 29, 2002); and paragraph (g)(1) of AD 2010–26–05, Amendment 39–16544 (75 FR 79952, December 21, 2010), for DASSAULT AVIATION Model FALCON 900EX airplanes, S/N 97 and S/N 120 and higher.

(i) No Alternative Actions and Intervals

After accomplishing the revision required by paragraph (g) of this AD, no alternative actions (e.g., inspections) or intervals may be used unless the actions or intervals are approved as an alternative method of compliance (AMOC) in accordance with the procedures specified in paragraph (j)(1) of this AD.

(j) Other FAA AD Provisions

The following provisions also apply to this AD:

(1) *Alternative Methods of Compliance (AMOCs):* The Manager, International Branch, ANM–116, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. In accordance with 14 CFR 39.19, send your request to your principal inspector or local Flight Standards District Office, as appropriate. If sending information directly to the International Branch, send it to ATTN: Tom Rodriguez, Aerospace Engineer, International Branch, ANM–116, Transport Airplane Directorate, FAA, 1601 Lind Avenue SW., Renton, WA 98057–3356; phone: (425) 227–1137; fax: (425) 227–1149. Information may be emailed to: *9-ANM-116-AMOC-REQUESTS@faa.gov.* Before using any approved AMOC, notify your appropriate principal inspector, or lacking a principal inspector, the manager of the local flight standards district office/certificate holding district office. The AMOC approval letter must specifically reference this AD.

(2) *Airworthy Product:* For any requirement in this AD to obtain corrective actions from a manufacturer, 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 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) EASA Airworthiness Directive 2013–0053, dated March 4, 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–2014–0176.

(2) For service information identified in this AD, contact Dassault Falcon Jet, P.O. Box 2000, South Hackensack, NJ 07606; telephone 201–440–6700; Internet *http://www.dassaultfalcon.com.* You may view 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 March 19, 2014.

Ross Landes,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2014–07070 Filed 3–28–14; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2014–0178; Airspace Docket No. 13–ASW–23]

Proposed Establishment of Class E Airspace; Conway, AR

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This action proposes to establish Class E airspace at Conway, AR. Controlled airspace is necessary to accommodate new Standard Instrument Approach Procedures (SIAPs) at Cantrell Field. The FAA is taking this action to enhance the safety and management of Instrument Flight Rules (IFR) operations for SIAPs at the airport.

DATES: Comments must be received on or before May 15, 2014.

ADDRESSES: Send comments on this proposal to the U.S. Department of Transportation, Docket Operations, 1200

New Jersey Avenue SE., West Building Ground Floor, Room W12–140, Washington, DC 20590–0001. You must identify the docket number FAA–2014–0178/Airspace Docket No. 13–ASW–23, at the beginning of your comments. You may also submit comments through the Internet at *http://www.regulations.gov.* You may review the public docket containing the proposal, any comments received, and any final disposition in person in the Dockets Office between 9:00 a.m. and 5:00 p.m., Monday through Friday, except Federal holidays. The Docket Office (telephone 1–800–647–5527), is on the ground floor of the building at the above address.

FOR FURTHER INFORMATION CONTACT: Raul Garza, Jr., Central Service Center, Operations Support Group, Federal Aviation Administration, Southwest Region, 2601 Meacham Blvd., Fort Worth, TX 76137; telephone: 817–321–7654.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments, as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy-related aspects of the proposal. Communications should identify both docket numbers and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket No. FAA–2014–0178/Airspace Docket No. 13–ASW–23.'' The postcard will be date/time stamped and returned to the commenter.

Availability of NPRMs

An electronic copy of this document may be downloaded through the Internet at *http://www.regulations.gov*. Recently published rulemaking documents can also be accessed through the FAA's Web page at *http://www.faa.gov/regulations_policies/rulemaking/recently_published/.*

You may review the public docket containing the proposal, any comments received and any final disposition in person in the Dockets Office (see **ADDRESSES** section for address and phone number) between 9:00 a.m. and 5:00 p.m., Monday through Friday, except Federal holidays. An informal docket may also be examined during normal business hours at the office of the Central Service Center, 2601 Meacham Blvd., Fort Worth, TX 76137.

Persons interested in being placed on a mailing list for future NPRMs should contact the FAA's Office of Rulemaking (202) 267–9677, to request a copy of Advisory Circular No. 11–2A, Notice of Proposed Rulemaking Distribution System, which describes the application procedure.

The Proposal

This action proposes to amend Title 14, Code of Federal Regulations (14 CFR), Part 71 by establishing Class E airspace extending upward from 700 feet above the surface within a 12-mile radius of Cantrell Field, Conway, AR, to accommodate new standard instrument approach procedures. Controlled airspace is needed for the safety and management of IFR operations at the airport.

Class E airspace areas are published in Paragraph 6005 of FAA Order 7400.9X, dated August 7, 2013 and effective September 15, 2013, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designation listed in this document will be published subsequently in the Order.

The FAA has determined that this proposed regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore, (1) is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a Regulatory Evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule, when promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

The FAA's authority to issue rules regarding aviation safety is found in Title 49 of the U.S. Code. Subtitle 1, Section 106 describes the authority of the FAA Administrator. Subtitle VII, Aviation Programs, describes in more detail the scope of the agency's authority. This rulemaking is promulgated under the authority described in Subtitle VII, Part A, Subpart I, Section 40103. Under that section, the FAA is charged with prescribing regulations to assign the use of airspace necessary to ensure the safety of aircraft and the efficient use of airspace. This regulation is within the scope of that authority as it would establish controlled airspace at Cantrell Field, Conway, AR.

Environmental Review

This proposal will be subject to an environmental analysis in accordance with FAA Order 1050.1E, ''Environmental Impacts: Policies and Procedures'' prior to any FAA final regulatory action.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

The Proposed Amendment

In consideration of the foregoing, the Federal Aviation Administration proposes to amend 14 CFR part 71 as follows:

PART 71—DESIGNATION OF CLASS A, B, C, D, AND E AIRSPACE AREAS; AIR TRAFFIC SERVICE ROUTES; AND REPORTING POINTS

■ 1. The authority citation for part 71 continues to read as follows:

Authority: 49 U.S.C. 106(g); 40103, 40113, 40120; E.O. 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389.

§ 71.1 [Amended]

■ 2. The incorporation by reference in 14 CFR 71.1 of FAA Order 7400.9X, Airspace Designations and Reporting Points, dated August 7, 2013 and effective September 15, 2013, is amended as follows:

Paragraph 6005 Class E airspace areas extending upward from 700 feet or more above the surface of the earth.

* * * * *

ASW AR E5 Conway, AR [New]

Cantrell Field, AR

(Lat. 35°01′12″ N., long. 092°33′18″ W.)

That airspace extending upward from 700 feet above the surface within a 12-mile radius of Cantrell Field.

Issued in Fort Worth, TX, on March 21, 2014.

Humberto D. Melendez,

Acting Manager, Operations Support Group, ATO Central Service Center.

[FR Doc. 2014–07114 Filed 3–28–14; 8:45 am]

BILLING CODE 4901–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2014–0022; Airspace Docket No. 13–AGL–31]

Proposed Establishment of Class E Airspace; Crandon, WI

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This action proposes to establish Class E airspace at Crandon, WI. Controlled airspace is necessary to accommodate new Standard Instrument Approach Procedures (SIAPs) at Crandon/Steve Conway Municipal Airport. The FAA is taking this action to enhance the safety and management of Instrument Flight Rules (IFR) operations for SIAPs at the airport.

DATES: Comments must be received on or before May 15, 2014.

ADDRESSES: Send comments on this proposal to the U.S. Department of Transportation, Docket Operations, 1200 New Jersey Avenue SE., West Building Ground Floor, Room W12–140, Washington, DC 20590–0001. You must identify the docket number FAA–2014–0022/Airspace Docket No. 13–AGL–31 at the beginning of your comments. You may also submit comments through the Internet at *http://www.regulations.gov.* You may review the public docket containing the proposal, any comments received, and any final disposition in person in the Dockets Office between 9:00 a.m. and 5:00 p.m., Monday through Friday, except Federal holidays. The Docket Office (telephone 1–800–647–5527), is on the ground floor of the building at the above address.

FOR FURTHER INFORMATION CONTACT: Raul Garza, Jr., Central Service Center, Operations Support Group, Federal Aviation Administration, Southwest Region, 2601 Meacham Blvd., Fort Worth, TX 76137; telephone: (817) 321–7654.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments, as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy-related aspects of the proposal. Communications should identify both docket numbers and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket No. FAA–2014–0022/Airspace Docket No. 13–AGL–31.'' The postcard will be date/time stamped and returned to the commenter.

Availability of NPRMs

An electronic copy of this document may be downloaded through the Internet at *http://www.regulations.gov*. Recently published rulemaking documents can also be accessed through the FAA's Web page at *http://www.faa.gov/airports_airtraffic/air_traffic/publications/airspace_amendments/.*

You may review the public docket containing the proposal, any comments received and any final disposition in person in the Dockets Office (see **ADDRESSES** section for address and phone number) between 9:00 a.m. and 5:00 p.m., Monday through Friday, except Federal holidays. An informal docket may also be examined during normal business hours at the office of the Central Service Center, 2601 Meacham Blvd., Fort Worth, TX 76137.

Persons interested in being placed on a mailing list for future NPRMs should contact the FAA's Office of Rulemaking (202) 267–9677, to request a copy of Advisory Circular No. 11–2A, Notice of Proposed Rulemaking Distribution System, which describes the application procedure.

The Proposal

This action proposes to amend Title 14, Code of Federal Regulations (14 CFR), Part 71 by establishing Class E airspace extending upward from 700 feet above the surface within a 7-mile radius of Crandon/Steve Conway Municipal Airport, Crandon, WI. Controlled airspace is needed for the safety and management of IFR operations at the airport.

Class E airspace areas are published in Paragraph 6005 of FAA Order 7400.9X, dated August 7, 2013 and effective September 15, 2013, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designation listed in this document would be published subsequently in the Order.

The FAA has determined that this proposed regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore, (1) is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a Regulatory Evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule, when promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

The FAA's authority to issue rules regarding aviation safety is found in Title 49 of the U.S. Code. Subtitle 1, Section 106 describes the authority of the FAA Administrator. Subtitle VII, Aviation Programs, describes in more detail the scope of the agency's authority. This rulemaking is promulgated under the authority described in Subtitle VII, Part A, Subpart I, Section 40103. Under that section, the FAA is charged with prescribing regulations to assign the use of airspace necessary to ensure the safety of aircraft and the efficient use of airspace. This regulation is within the scope of that authority as it would establish controlled airspace at Crandon/Steve Conway Municipal Airport, Crandon, WI.

Environmental Review

This proposal will be subject to an environmental analysis in accordance with FAA Order 1050.1E, ''Environmental Impacts: Policies and Procedures'' prior to any FAA final regulatory action.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (Air).

The Proposed Amendment

In consideration of the foregoing, the Federal Aviation Administration proposes to amend 14 CFR part 71 as follows:

PART 71—DESIGNATION OF CLASS A, B, C, D, AND E AIRSPACE AREAS; AIR TRAFFIC SERVICE ROUTES; AND REPORTING POINTS

■ 1. The authority citation for part 71 continues to read as follows:

Authority: 49 U.S.C. 106(g); 40103, 40113, 40120; E.O. 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389.

§ 71.1 [Amended]

■ 2. The incorporation by reference in 14 CFR 71.1 of FAA Order 7400.9X, Airspace Designations and Reporting Points, dated August 7, 2013, and effective September 15, 2013, is amended as follows:

Paragraph 6005 Class E airspace areas extending upward from 700 feet or more above the surface of the earth.

* * * * *

AGL WI E5 Crandon, WI [New]

Crandon/Steve Conway Municipal Airport, WI
(Lat. 45°31′22″ N., long. 88°55′42″ W.)

That airspace extending upward from 700 feet above the surface within a 7-mile radius of Crandon/Steve Conway Municipal Airport.

Issued in Fort Worth, TX, on March 21, 2014.

Humberto D. Melendez,

Acting Manager, Operations Support Group, ATO Central Service Center.

[FR Doc. 2014–07125 Filed 3–28–14; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 1

[Docket No. FDA–2011–N–0179]

Draft Guidance for Industry: Prior Notice of Imported Food Questions and Answers (Edition 3); Availability

AGENCY: Food and Drug Administration, HHS.

ACTION: Notification of availability.

SUMMARY: The Food and Drug Administration (FDA or we) is announcing the availability of a draft guidance entitled ''Guidance for Industry: Prior Notice of Imported Food Questions and Answers (Edition 3).'' The draft guidance addresses questions received since the publication of the second edition of the guidance in May 2004 and includes information related to the Food Safety Modernization Act (FSMA), which amended the Federal Food, Drug, and Cosmetic Act, to require the name of any country to which an article has been refused entry be reported in a prior notice. The draft guidance is intended to help the food industry and others comply with prior notice requirements.

DATES: Although you can comment on any guidance at any time (see 21 CFR 10.115(g)(5)), to ensure that the Agency considers your comment on this draft guidance before it begins work on the final version of the guidance, submit either electronic or written comments on the draft guidance by May 30, 2014.

ADDRESSES: Submit written requests for single copies of the draft guidance to the Office of Regulatory Affairs, Office of Food and Feed Operations, Food and Drug Administration, 10903 New Hampshire Ave., Silver Spring, MD 20993. Send two self-addressed adhesive labels to assist that office in processing your request. See the **SUPPLEMENTARY INFORMATION** section for electronic access to the guidance.

Submit electronic comments on the draft guidance to *http://www.regulations.gov*. Submit written comments to the Division of Dockets Management (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.

FOR FURTHER INFORMATION CONTACT: Anthony Taube, Office of Regulatory Affairs, Office of Food and Feed Operations, Division of Food Defense Targeting (HFC–180), Food and Drug Administration, 12420 Parklawn Dr., Rockville, MD 20857, 866–521–2297.

SUPPLEMENTARY INFORMATION:

I. Background

We are announcing the availability of a draft guidance for industry entitled ''Guidance for Industry: Prior Notice of Imported Food Questions and Answers (Edition 3).'' In the **Federal Register** of May 3, 2004 (69 FR 24070), FDA issued a notice of availability of guidance entitled ''Questions and Answers Regarding the Interim Final Rule on Prior Notice of Imported Food (Edition 2).'' Since publication of edition 2 of the guidance, we have issued a final rule requiring the submission to FDA of prior notice of food, including animal feed, imported or offered for import into the United States (73 FR 66294; November 7, 2008) and, in accordance with section 304 of FSMA, a final rule requiring the name of any country to which an article has been refused entry be reported in prior notices (78 FR 32359; May 30, 2013). FDA is issuing a third edition of its prior notice guidance to address questions received since publication of the second edition, clarify previous responses, update previous responses as appropriate to reflect the 2008 and 2013 final rules, and include information about the new prior notice information requirement created by FSMA.

The Agency continues to believe that it is reasonable to maintain responses to questions concerning prior notice of imported food in a single document that is periodically updated in response to additional questions and/or regulatory changes. As in the previous edition, the following indicators are used to help users identify revisions: (1) The guidance is identified as a revision of a previously issued document; (2) the revision date appears on the cover of the guidance; (3) the edition number of the guidance is included in its title; and (4) revised or added questions and answers are identified as such in the body of the guidance.

This draft guidance is being issued consistent with our good guidance practices regulation (21 CFR 10.115). The draft guidance, when finalized, will represent our current thinking on this topic. It does not create or confer any rights for or on any person and does not operate to bind FDA or the public. An alternative approach may be used if such approach satisfies the requirements of the applicable statutes and regulations.

II. Comments

Interested persons may submit either electronic comments regarding the draft guidance 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*.

III. Electronic Access

Persons with access to the Internet may obtain the draft guidance at either *http://www.fda.gov/FoodGuidances* or *http://www.regulations.gov*. Use the FDA Web site listed in the previous sentence to find the most current version of the guidance.

Dated: March 25, 2014.

Leslie Kux,

Assistant Commissioner for Policy.

[FR Doc. 2014–07046 Filed 3–28–14; 8:45 am]

BILLING CODE 4160–01–P

DEPARTMENT OF THE INTERIOR

Bureau of Ocean Energy Management

30 CFR Part 519

Office of Natural Resources Revenue

30 CFR Part 1219

[Docket ID: ONRR–2011–0024; DS63610000 DR2PS0000.CH7000 145D0102R2]

RIN 1012–AA11

Allocation and Disbursement of Royalties, Rentals, and Bonuses—Oil and Gas, Offshore

AGENCY: Office of Natural Resources Revenue, Interior.

ACTION: Proposed rule.

SUMMARY: The Office of Natural Resources Revenue (ONRR) is amending the regulations on the distribution and disbursement of qualified revenues from certain leases on the Gulf of Mexico's Outer Continental Shelf, in accordance with the provisions of the Gulf of Mexico Energy Security Act of 2006. These proposed regulations set forth ONRR's formulas and methodologies for calculating and allocating revenues during the second phase of revenue sharing to the States of Alabama, Louisiana, Mississippi, and Texas; their eligible coastal political subdivisions; the Land and Water Conservation Fund; and the United States Treasury. Additionally, in this proposed rule, the Department of the Interior moves the Gulf of Mexico Energy Security Act of 2006's Phase I regulations from the Bureau of Ocean Energy Management's (BOEM) title 30 of the Code of Federal Regulations (CFR) chapter V to ONRR's 30 CFR chapter XII, and proposes additional clarification and minor definition changes to the current revenue-sharing regulations.

DATES: Submit comments by May 30, 2014. ONRR may not consider comments received after this date.

ADDRESSES: You may submit comments to ONRR by any of the following methods (please reference ''1012–AA11'' in your comments):

- Electronically, go to *www.regulations.gov.* In the entry titled ''Enter Keyword or ID,'' enter ''ONRR–2011–0024,'' then click ''Search.'' Follow the instructions to submit public comments. ONRR will post all comments.
- Mail comments to Armand Southall, Regulatory Specialist, ONRR, P.O. Box 25165, MS 61030A, Denver, Colorado 80225–0165.
- Hand-carry comments, or use an overnight courier service, to the Office of Natural Resources Revenue, Building 85, Room A–614, Denver Federal Center, West 6th Ave. and Kipling St., Denver, Colorado 80225.

FOR FURTHER INFORMATION CONTACT: For questions, contact Karen Osborne, Supervisory Management & Program Analyst, Office of the Deputy Director, ONRR, at *karen.osborne@onrr.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

The President signed the Gulf of Mexico Energy Security Act of 2006 (GOMESA or Act) into law on December 20, 2006 (Pub. L. 109–432, 120 Stat. 2922; 43 U.S.C. 1331 note), as part of H.R. 6111, The Tax Relief and Health Care Act of 2006. With regard to the Gulf of Mexico (GOM) Outer Continental Shelf (OCS) provisions (Division C, Title 1, 120 Stat. 3000), GOMESA:

- Provided for sharing leasing revenues with Gulf producing States, coastal political subdivisions (CPSs) within those States, and the Land and Water Conservation Fund (LWCF) for coastal protection, conservation, and restoration projects.
- Lifted the congressional moratorium on oil and gas leasing and development in a portion of the Eastern and Central GOM.
- Mandated lease sales for 8.3 million acres in the Eastern and Central GOM, including 5.8 million acres in the Central GOM previously held under Congressional moratoria.
- Barred oil and gas leasing within 125 miles of the Florida coastline in the Eastern Planning Area, all areas in the GOM east of the Military Mission Line (86°4′ W. longitude), and within 100 miles of the Florida coastline in the Central Planning Area, until June 30, 2022.
- Established a process for companies to exchange with the Federal government certain existing leases in moratorium areas for bonus or royalty credits to use on other GOM leases.

This proposed rule sets forth how the Department of the Interior (DOI, hereafter ''We'') plans to implement the second phase of GOMESA revenue sharing in fiscal year 2017 and beyond. In addition, we propose several clarifications and conforming modifications to the GOMESA Phase I revenue-sharing regulations, currently found in part 519, subpart D, of 30 CFR chapter V. We propose these changes to differentiate between the two GOMESA revenue-sharing phases. We also propose moving BOEM's regulations in 30 CFR chapter V, part 519, subpart D, to ONRR's regulations at 30 CFR chapter XII.

We published a final rule (73 FR 78622, December 23, 2008) in the **Federal Register** on the allocation and disbursement of qualified revenues from two designated areas in the Gulf of Mexico, known as the 181 Area in the Eastern Planning Area and the 181 South Area. That final rule addresses such allocation and disbursement for each of fiscal years 2007 through 2016, to which we refer as ''GOMESA Phase I'' revenue sharing. You may find the 181 Area and the 181 South Area on the map available at *www.boem.gov/Oil-and-Gas-Energy-Program/Mapping-and-Data/Map-Gallery/Index.aspx.* The majority of this proposed rule covers revenue sharing from the 181 Area, the 181 South Area, and the 2002–2007 Planning Area subject to GOMESA, for fiscal year 2017 and thereafter, to which we refer as ''GOMESA Phase II'' revenue sharing. To avoid confusion between the two GOMESA revenue-sharing phases, we are proposing a new subpart E for GOMESA Phase II. The differences between GOMESA Phase I and Phase II include the calculation methodology, revenue-sharing areas, and the imposition of a cap on shared revenues in Phase II. Moving the GOMESA Phase I regulations to 30 CFR chapter XII and modifying the definitions would not change the existing revenue-sharing methodology.

We have drawn on our experience gained during the first few years of GOMESA Phase I revenue sharing, along with comments and questions received, to refine the definitions. We have worked to eliminate any uncertainty, consistent with the Secretary's authority under GOMESA.

II. Explanation of Proposed Amendments

Before reading the explanatory information below, please turn to the proposed rule language, which immediately follows the List of Subjects for 30 CFR parts 519 and 1219 and the signature page in this proposed rule. DOI will codify this language in the CFR if we finalize this rule as written.

After you have read the proposed rule language, please return to the preamble discussion below. The preamble contains additional information about the proposed rule, such as why we define a term in a certain manner, why we choose a certain procedure, and how we interpret the laws that this rule implements. We welcome comments on our reading and interpretation of the Act.

We propose to remove and reserve part 519 including subpart D of chapter V and to recodify part 519, subpart D, as part 1219, subpart D. We also propose

to modify several definitions used in the subpart D regulations to differentiate and to avoid confusion between the two GOMESA revenue-sharing subparts. None of the proposed changes affect the formula or methodology for the distribution of GOMESA Phase I qualified OCS revenues. We propose a new subpart at 30 CFR Part 1219, Subpart E—Oil and Gas, Offshore, GOMESA Phase II Revenue Sharing.

Finally, we rewrote all sections of 30 CFR part 1219, including subpart C (sections 1219.100 through 1219.105), in plain language to meet the criteria of Executive Orders 12866 and 12988, and the Presidential Memorandum of June 1, 1998, which require clean and consistent writing of Federal rules to enable the public to understand and follow them. We did not, however, make any substantive changes to subpart C; therefore, this Preamble presents no section-by-section analysis of sections 1219.100 through 1219.105.

A. Section-by-Section Analysis of 30 CFR Part 519—Distribution and Disbursement of Royalties, Rentals, and Bonuses, Subpart D—Oil and Gas, Offshore

The following is a derivation table for the recodified part 1219, subpart D, of chapter XII, deriving from part 519, subpart D, of chapter V, and a section-by-section explanation of the amended and new subpart D (omitting sections that require no further explanation):

DERIVATION TABLE FOR PART 1219

The requirements of section:	Derive from section:
Subpart A [Reserved]	
Subpart B [Reserved]	
Subpart C No New Sections. Internal changes made to existing sections 1219.100 through 1219.105 only.	
Subpart D	
1219.410	519.410
1219.411	519.411
1219.412	519.412, 519.413
1219.413	519.414
1219.414	519.416
1219.415	519.417
1219.416	519.418

B. Section-by-Section Analysis of Proposed 30 CFR Part 1219—Distribution and Disbursement of Royalties, Rentals, and Bonuses, Subpart D—Oil and Gas, Offshore, GOMESA Phase I Revenue Sharing

ONRR proposes to revise the title of subpart D to add the phrase ''GOMESA Phase I Revenue Sharing.'' We are proposing the title revision to differentiate between the two phases of GOMESA revenue sharing in subparts D and E.

Subpart D, Oil and Gas, Offshore, GOMESA Phase I Revenue Sharing

1219.410 What does this subpart contain?

ONRR proposes to revise paragraph (b) to change the responsible agency named in paragraph (b) from BOEM to ONRR. In this section, we would add the following new sentences after the first sentence: ''Leasing revenues disbursed under this subpart originate from leases issued on or after December 20, 2006, in the 181 Area in the Eastern Planning Area and the 181 South Area, subject to restrictions identified in GOMESA. We collectively refer to the revenue sharing from these areas for each of these fiscal years as GOMESA Phase I revenue sharing.''

1219.411 What definitions apply to this subpart?

In this section, we propose to clarify several definitions in order to improve users' understanding and to differentiate between similar terms proposed in this rule for subpart E. The proposed revisions would affect the following definitions:

The definition of *181 Area* would delete the first reference to the ''Minerals Management Service'' and update the second reference to the ''Minerals Management Service,'' to the ''Bureau of Ocean Energy Management.''

Applicable leased tract would change to ''*Applicable leased tract (Phase I).*'' This change would differentiate between the terms ''*Applicable leased tract (Phase I)*'' in subpart D and ''*Applicable leased tract (Phase II),*'' found in subpart E of this part. Additionally, we propose adding the phrase ''and issued on or after December 20, 2006,'' to the definition to further clarify that an applicable leased tract must have been leased on or after GOMESA's effective date. There are currently several active leases in the 181 Area in the Eastern Planning Area that we issued before 2006. Without the change, it may not be clear to those reading the regulation that we would not consider these leases to be applicable leased tracts for the purpose of the proportional inverse distance calculations.

Qualified OCS revenues would change to ''*Qualified OCS revenues (Phase I).*'' This change would differentiate between the terms ''*Qualified OCS revenues (Phase I)*'' in subpart D and ''*Qualified OCS revenues (Phase II),*'' found in subpart E of this part.

1219.412 How will ONRR divide the qualified OCS revenues?

We would move the language referring to the Coastal Political Subdivisions' (CPS's) share of shared revenues currently found in § 519.413 to § 1219.412. This would provide consistency between subparts D and E. The remainder of the section would not change.

1219.413 How will ONRR determine each Gulf producing State's share of the qualified OCS revenues (Phase I) from leases in the 181 Area in the Eastern Planning Area and the 181 South Area?

ONRR proposes moving the text at § 519.414 to § 1219.413, and revising § 1219.413 to meet the criteria of Executive Orders 12866 and 12988, and the Presidential Memorandum of June 1, 1998, which require that Federal rules be written in plain language.

1219.414 How will ONRR allocate the qualified OCS revenues (Phase I) to coastal political subdivisions within the Gulf producing States?

ONRR proposes moving the text at § 519.416 to § 1219.414, and revising § 1219.414 to meet the criteria of Executive Orders 12866 and 12988, and the Presidential Memorandum of June 1, 1998, which require us to write all rules in plain language.

1219.415 How will ONRR allocate qualified OCS revenues (Phase I) to coastal political subdivisions if, during any fiscal year, there are no applicable leased tracts in the 181 Area in the Eastern Gulf of Mexico Planning Area?

ONRR proposes moving the current language at § 519.417 to § 1219.415. The current language at § 519.417 explains how if, during any fiscal year, there are no applicable leased tracts in the 181 Area of the Eastern Gulf of Mexico Planning Area, qualified OCS revenue (Phase I) will be allocated to CPSs. There is no substantive difference between the current language in § 519.417 and the proposed language for § 1219.415, but ONRR has revised the language of § 1219.415 to meet the criteria of Executive Orders 12866 and 12988, and the Presidential Memorandum of June 1, 1998, which require that Federal rules be written in plain language.

ONRR also proposes deleting the current language at § 519.415, which concerns the use of bonus and royalty credits issued under GOMESA § 104(c). Section 519.415 states that, if such

credits are used to pay bonuses or royalties on leases in the 181 Area located in the Eastern Planning Area and the 181 South Area, there will be a corresponding reduction in qualified OCS revenues (Phase I) available for distribution. This provision is no longer necessary for two reasons: (1) All record title interest owners interested in obtaining bonus or royalty credit had to submit a request for such a credit on or before October 14, 2010, under 30 CFR 556.92(a), and (2) all such credits that were issued have already been applied to bonus or royalty obligations. Therefore, no more credits will be issued in the future, and all credits issued in the past have been used, so they can no longer affect the amount of qualified OCS revenues (Phase I) available for distribution. Hence, ONRR proposes to delete as obsolete the current language at § 519.415.

1219.416 When will ONRR disburse funds to Gulf producing States and eligible coastal political subdivisions?

ONRR proposes moving the text from § 519.418 to § 1219.416, and revising § 1219.416 to meet the criteria of Executive Orders 12866 and 12988, and the Presidential Memorandum of June 1, 1998, which require us to write all rules in Plain Language.

C. Section-By-Section Analysis of Proposed 30 CFR Part 1219, Subpart E, Oil and Gas Offshore, GOMESA Phase II Revenue Sharing

Background

For each of the fiscal years 2017 and thereafter, GOMESA directs the Secretary of the Interior to deposit 50 percent of qualified OCS revenues (Phase II) received on or after October 1, 2016, from OCS oil and gas leases in the 181 Area, the 181 South Area, and the 2002–2007 Planning Area, into a special account in the U.S. Treasury. From that account, we would distribute 25 percent of the qualified revenues to the Land and Water Conservation Fund (LWCF) and distribute the remaining 75 percent to the States of Alabama, Louisiana, Mississippi, and Texas (collectively identified as the ''Gulf producing States'') and their eligible CPSs. Under GOMESA Phase II, we share the revenues from leases issued on or after December 20, 2006, in the 181 Area, the 181 South Area, and the 2002–2007 Planning Area. You may find the definition of these Phase II revenue-sharing areas in Section 102 of GOMESA, and you may also locate them on the map and supporting documentation available at *www.boem.gov/Oil-and-Gas-Energy-Program/Mapping-and-Data/Map-Gallery/Index.aspx.*

We would allocate the GOMESA Phase II qualified OCS revenues among the Gulf producing States based upon proportional inverse distance calculations from applicable leased tracts (Phase II) in the 181 Area and the 181 South Area, and historical lease sites in the 2002–2007 Planning Area, in accordance with GOMESA. In determining the individual Gulf producing States' share of the GOMESA Phase II qualified OCS revenues, GOMESA provides that no State would receive less than 10 percent of the revenues that we would disburse to the Gulf producing States, regardless of the amount established by the application of the proportional inverse distance formula. Additionally, the shared revenues from certain GOMESA Phase II areas are subject to a cap of $500 million for each of fiscal years 2016 through 2055. The result of this inverse distance calculation is that States closest to the most applicable leased tracts (Phase II) and historical lease sites will receive the greatest share of revenues.

The CPSs located in the State's coastal zone, and within 200 nautical miles of the geographic center of any OCS leased tract, would receive 20 percent of the qualified OCS revenues (Phase II) allocated to the State. We would allocate revenues to the CPSs based upon their in-State relative population, coastline length, and proportional inverse distance from applicable leased tracts (Phase II) in the 181 Area, and historical lease sites in the 2002–2007 Planning Area.

There are a few substantive differences between GOMESA Phase I and Phase II revenue sharing. First, the GOM acreage and resulting qualified revenues would be greater in GOMESA Phase II because Phase II acreage consists of the entire 181 Area, the 181 South Area, and the 2002–2007 Planning Area, whereas Phase I acreage consists of only the 181 Area in the Eastern Planning Area and the 181 South Area. Second, GOMESA Phase II would require that the proportional inverse distance calculations be from both applicable leased tracts in the 181 Area and the 181 South Area, and historical lease sites in the 2002–2007 Planning Area, rather than from only applicable leased tracts. Additionally, under GOMESA Phase II we must update the group of historical lease sites in the 2002–2007 Planning Area once every five years. The result of the five-year periods between updates is that each Gulf producing State's subset of inverse distances to historic lease sites would remain static for five years following each update. Third, GOMESA Phase I ends with the disbursement of fiscal year 2016 qualified OCS revenues. GOMESA Phase II begins with the disbursement of fiscal year 2017 qualified OCS revenues. Fourth, for Phase II, GOMESA directs a $500 million annual cap on the majority of shared revenues, which equates to a $375 million annual cap among the four Gulf producing States and their eligible CPSs, and a $125 million annual cap to the LWCF for each of fiscal years 2016 through 2055. The remaining differences are minor, and we discuss them later in the preamble of this rule.

Revenues Shared Under GOMESA Phase II

Qualified OCS revenues under GOMESA Phase II are revenues from leases issued after the passage of GOMESA (December 20, 2006) in the 181 Area, the 181 South Area, and the 2002–2007 Planning Area, as delineated by GOMESA. Section 102(9)(A)(ii) of GOMESA defines qualified OCS revenues as (fiscal year 2017 and each fiscal year thereafter) all rentals, royalties, bonus bids, and other sums due and payable to the United States received on or after October 1, 2016, from leases entered into on or after the date of enactment of this Act for the 181 Area, the 181 South Area, and 2002–2007 planning area.

Exclusions to qualified OCS revenues under GOMESA Phase II are described in the preamble discussion for the definition of ''*Qualified OCS revenues (Phase II)*'' in § 1219.511.

Excluded Acreage

Selected acreage in the De Soto Canyon Protraction Area does not fall within the 181 Area, the 181 South Area, or the 2002–2007 Planning Area, as defined by GOMESA. You can locate the 21 blocks in the De Soto Canyon Protraction area bordering the Eastern Planning Area and not covered under GOMESA on the ''Call for Information and Nominations Map, Central Planning Area Lease Sale 213,'' available at *www.boem.gov/Oil-and-Gas-Energy-Program/Leasing/Regional-Leasing/Gulf-of-Mexico-Region/Lease-Sales/213/index.aspx.*

GOMESA Phase II Revenue Distribution of Qualified OCS Revenues and the $500 Million Annual Cap

As explained below in our discussion of proposed § 1219.512, the GOMESA revenue-sharing distribution among recipient categories does not change from that in Phase I unless the GOMESA Phase II annual $500 million cap is exceeded. The following table shows a

summary of mandated Phase II revenue shares:

GOMESA Recipients of qualified OCS revenues:	Percentage of qualified OCS revenues:
U.S. Treasury (General Fund)	50
Land and Water Conservation Fund	12.5
Gulf Producing States	30
Gulf Producing State CPSs	7.5

Section 105(f)(1) of GOMESA states that the total amount of qualified outer Continental Shelf revenues made available under subsection (a)(2) shall not exceed $500,000,000 for each of fiscal years 2016 through 2055.

The language imposing the $500 million cap in section 105(f)(1) refers to ''fiscal years 2016 through 2055,'' while GOMESA sections 102(9)(A)(ii) and 105(b)(2)(A) each define the Phase II revenue-sharing period as being ''fiscal year 2017 and each fiscal year thereafter . . .'' We reasonably consider the reference to fiscal year 2016 obsolete since the Act, in sections 102(9)(A)(ii) and 105(b)(2)(A), is explicit that GOMESA Phase II does not share any revenues before fiscal year 2017.

Section 105(f)(2) of GOMESA excludes, through 2055, from this annual cap of $500 million, the ''receipts from that fiscal year from any area in the 181 Area in the Eastern Planning Area and the 181 South Area.'' These are the areas from which States began receiving shares from the qualified OCS revenues under GOMESA Phase I. Thus, the cap applies only to GOMESA Phase II qualified OCS revenues from the 181 Area in the Central Planning Area and the 2002–2007 Planning Area.

Allocation Methodology for Shared Revenues Under GOMESA Phase II

Under both phases of GOMESA, the United States mandates sharing revenues only from leases issued after December 20, 2006, with the Gulf producing States. Further, the conceptual methodology for allocating each State's percentage share under GOMESA Phase II would be the same as it is for Phase I. Critical details in the methodology differ, however. To determine the percentage of State shares, Phase I relies on proportional inverse distances only from applicable leased tracts in the 181 Area in the Eastern Planning Area and the 181 South Area. In contrast, Phase II would rely on proportional inverse distances from applicable leased tracts in the 181 Area and the 181 South Area, and historical lease sites in the 2002–2007 Planning Area, to compute the States' percentage shares. All revenues shared under Phase II, with the exception of revenues from leases in the 181 Area in the Eastern Planning Area and the 181 South Area, would be subject to the $500 million-per-year cap, while there is no cap on the revenue shares in Phase I.

Based upon the current group of historical lease sites in the 2002–2007 Planning Area and applicable lease tracts in the 181 Area and 181 South Area, the following table shows a summary of the estimated GOMESA Phase II percentage shares among the four Gulf producing States as of May 2012:

Gulf producing State	Estimated share based on historical lease sites and applicable leased tracts (Phase II)* (percent)
Alabama	13
Louisiana	47
Mississippi	14
Texas	26
Total	100

** NOTE: The actual percentage distributions would be different than shown in the table because of (1) new historical lease sites that would be added between May 1, 2012, and December 31, 2015; (2) applicable leased tracts (Phase II) that would be added between May 1, 2012, and September 30, 2018; (3) and applicable leased tracts (Phase II) that would be removed if they are relinquished, expire, or terminate between May 1, 2012, and September 30, 2018.*

DOI's Role in GOMESA Revenue Sharing

GOMESA does not provide the Secretary of the Interior with a compliance responsibility or enforcement mechanism similar to the plan review and approval authority included in the Outer Continental Shelf Lands Act (OCSLA) Coastal Impact Assistance Program (CIAP). Accordingly, while the recipients of the GOMESA revenue-sharing funds are legally obligated under GOMESA to expend the funds received only on the authorized uses enumerated in the Act, our primary role in this program is to calculate shares and transfer the applicable funds to the States and CPSs. This approach is similar to what we follow when disbursing revenue-sharing funds to the States under section 8(g) of the OCSLA or the onshore oil and gas revenues under the Mineral Leasing Act (30 U.S.C. 191). Beginning with fiscal year 2011, the amounts of GOMESA and other Department of the Interior mineral revenues shared with States and localities are available in the Catalog of Federal Domestic Assistance (CFDA), in compliance with OMB Circular A–89.

Structure of the Subpart E

This proposed rule for subpart E, in many ways, mirrors subpart D, which includes the GOMESA Phase I revenue-sharing regulations. While many of the Phase I and Phase II definitions, formulas, and methodologies are the same between subpart D and the proposed subpart E, the differences are significant enough that ONRR proposes a new subpart. The primary ways in which GOMESA Phase II differs from Phase I are (1) the leasing areas from which qualified OCS revenues originate; (2) the cap on certain Phase II shared revenues that GOMESA imposes; and (3) the use of proportional inverse distance calculations in Phase II from both applicable leased tracts (Phase II) and historical lease sites to distribute the revenue that States share. The following section-by-section analysis describes the specific definitions, methodologies, and calculations proposed.

Subpart E—Oil and Gas, Offshore, GOMESA Phase II Revenue Sharing

1219.510 What does this subpart contain?

This section would describe the general purpose of the subpart and enumerate the five authorized uses for revenue-sharing funds. We also would provide ONRR contact information for GOMESA-related questions. This introduction is similar to the subpart D introduction.

1219.511 What definitions apply to this subpart?

This section would provide the definition of terms used throughout subpart E. Some of the definitions used in this subpart are definitions that legislation (GOMESA or OCSLA) established or definitions that we included in subpart D (GOMESA Phase I). We would differentiate and modify several of the definitions in the subpart E regulations to make them unique to the GOMESA Phase II revenue sharing, when necessary. Discussed below are the definitions that we propose to add or to expand in order to clarify their meaning. In some cases, we explain why we did not include definitions used in the GOMESA Phase I regulations in Phase II, in order to provide interested parties with further clarification and explanation of the differences between the two revenue-sharing phases.

181 Area—The inclusion of the 181 Area in Phase II revenue sharing comes directly from section 102 of GOMESA, and the 181 Area is defined at 30 CFR part 1219, subpart D. GOMESA's delineation of the 181 Area is important to both GOMESA Phase I and Phase II revenue sharing and is occasionally the source of confusion. It is important to note that GOMESA's definition of the ''*181 Area''* excludes the acreage actually offered in the OCS Lease Sale 181, held on December 5, 2001.

''181 Area in the Central Planning Area'' would be comprised of the area of overlap of the two geographic areas defined at § 1219.411 as the ''181 Area'' and the ''Central Planning Area.''

2002–2007 Planning Area—We would define the ''*2002–2007 Planning Area''* using language directly from section 102 of GOMESA.

The planning area boundaries that GOMESA uses to delineate the 2002–2007 Planning Area are the ''former'' planning area boundaries from the 2002–2007 Five-Year Program. These boundaries are displayed on Map 7, page 49 of the ''Proposed Final Outer Continental Shelf Leasing Program 2002–2007,'' dated April 2002. Note that the planning area boundaries in BOEM's subsequent Five-Year Programs differ from the boundaries in the 2002–2007 Five-Year Program.

The Central Planning Area-Eastern Planning Area boundary used in the 2002–2007 Five-Year Program is an important delineation because of the Presidential withdrawal and Congressional moratoria restrictions that GOMESA references. Besides the withdrawal and moratoria exclusions, the remaining key exclusions are the 181 Area and 181 South Area.

Within GOMESA sections 102(6)(B)(i) and (ii), which contribute to the definition of the 2002–2007 Planning Area, there are several important references to the 1998 Presidential Withdrawal and the Congressional Moratoria through the Interior Appropriations Acts. These ''exclusions'' to the 2002–2007 Planning Area remove acreage from revenue sharing and from historical lease site inverse distance calculations.

GOMESA section 102(6)(B)(i) excludes from the 2002–2007 Planning Area all acreage under Congressional Moratoria in the 2006 Interior Appropriations Act as in effect on August 2, 2005. See sections 104 through 106 of the 2006 Appropriations Act for details.

The relevant effect of section 104 of the Appropriations Act on GOMESA Phase II revenue sharing is that it excludes the area due north of the Florida Keys. Section 105 of the Appropriations Act covers the same acreage referenced in section 104, plus the remaining Eastern Planning Area acreage, except for the 181 Area, as defined in the 1997–2002 Five-Year Program. Section 106 applies to the Atlantic OCS Region and has no applicability to GOM OCS acreage.

GOMESA, section 102(6)(B)(ii), excludes from the 2002–2007 Planning Area ''an area withdrawn from leasing under the 'Memorandum on Withdrawal of Certain Areas of the United States Outer Continental Shelf from Leasing Disposition,' from 34 Weekly Comp. Pres. Doc. 1111, dated June 12, 1998.'' The June 12, 1998, Presidential Memorandum on Withdrawal that President Clinton signed describes the withdrawn areas by referring to Public Law 105–83 and the Marine Protection, Research, and Sanctuaries Act of 1972, 33 U.S.C. 1401–1445 (Marine Sanctuaries Act). The key references are to sections 108–111 of Public Law 105–83, which are the Fiscal Year 1998 Interior Appropriations Act, and the Marine Sanctuaries Act.

The referenced areas from the fiscal year 1998 Interior Appropriations Act are largely duplicative of those included in the later 2006 Interior Appropriations Act language. Sections 109 and 111 contain no references to the GOM, so they are not applicable to the delineation of the 2002–2007 Planning Area in the GOM. Please note that ''Sale 181'' as referenced in section 110 of Public Law 105–83 and section 105 of Public Law 109–54 is different from the ''181 Area'' that GOMESA defines. GOMESA includes the acreage actually offered for leasing in Sale 181, held on December 5, 2001, in the ''2002–2007 Planning Area,'' not the ''181 Area.'' The only result of the moratoria reference to the Marine Sanctuaries Act is the exclusion of the Flower Garden Banks acreage from the definition of the 2002–2007 Planning Area.

''*Applicable leased tract (Phase II)''* would mean a tract that is subject to a lease under section 8 of the OCSLA for the purpose of drilling for, developing, and producing oil or natural gas resources, issued on or after December 20, 2006, and located fully or partially in either the 181 Area or the 181 South Area. As mentioned in the preamble section on proposed revisions to 30 CFR part 1219, subpart D, the term ''*Applicable leased tract''* would add ''(Phase I)'' to its title to differentiate between the applicable leased tracts in each phase of GOMESA revenue sharing.

''*Central Planning Area,''* ''*Coastal political subdivision,''* ''*Coastline,''* ''*Distance, Eastern Planning Area,''* and ''*Gulf producing State''*—are defined the same as in 30 CFR 1219.411.

Historical lease site—The term ''*Historical lease site''* would mean any tract leased after October 1, 1982, under section 8 of the OCSLA for the purpose of drilling for, developing, and producing oil or natural gas resources in the 2002–2007 Planning Area. We would count a tract meeting these requirements even if it is not currently covered by an active lease.

Because GOMESA's intent is to allocate leasing revenues to States based upon the distance from historical lease sites to the various States, we would interpret a historical lease site as a single site, and count it one time, regardless of how many times lessors have leased it since October 1, 1982. The other interpretation, counting a tract more than once if lessors have leased it multiple times, over-weights tracts that repeatedly turn over with little development and/or production activity. Further, the interpretation also under-weights tracts that lessors have leased only once and that have continuously been in production.

GOMESA section 105(b)(2)(C)(i) provides the Secretary of the Interior with the option of including, as ''Historical lease sites,'' leases entered into earlier than October 1, 1982. Most GOM OCS tracts in the 2002–2007 Planning Area have been leased since October 1, 1982. There are only a few shallow-water tracts leased before this measurement date—all distributed along the Gulf coast. Adding these few historical lease sites would have a negligible effect on inverse-distance weighting; therefore, they have not been added.

GOMESA section 105(b)(2)(C) states that ''the historical lease sites in the 2002–2007 planning area shall include all leases entered into . . . during the period beginning on October 1, 1982 . . . and ending on December 31, 2015.'' Section 105(b)(2)(C)(ii) adds that ''Effective January 1, 2022, and every 5 years thereafter, the ending date described in clause (i) shall be extended for an additional 5 calendar years.'' Regulations at 30 CFR 1219.515 sets forth the process by which ONRR will update the group of historical lease sites.

Leased tract—The term ''*Leased tract''* is the same as in 30 CFR 1219.411.

Qualified OCS revenues (Phase II)—The term ''*Qualified OCS revenues (Phase II)''* would mean, in the case of fiscal year 2017 and each fiscal year thereafter, all rentals, royalties, bonus bids, and other sums that the United States receives from certain leases that

lessees enter(ed) into on or after December 20, 2006. These leases are located in the 181 Area, the 181 South Area or the 2002–2007 Planning Area.

The term ''*Qualified OCS revenues (Phase II)*'' would not include:

- Revenues from the forfeiture of a bond or other surety instrument securing obligations other than royalties.
- Civil penalties.
- Royalties ''taken by the Secretary in-kind and not sold.'' (Pub. L. 109–432, Dec 20, 2006)
- Revenues generated from leases subject to section 8(g) of the Outer Continental Shelf Lands Act (43 U.S.C. 1337(g)).
- User fees.
- Lease revenues explicitly excluded from GOMESA revenue sharing by statute or appropriations law.

The term *''Qualified OCS revenues (Phase II)''* consists wholly of the two subsets defined as *''Qualified OCS revenues (Phase II—capped)''* and *''Qualified OCS revenues (Phase II—uncapped)''.*

The proposed definition ''*Qualified OCS revenues (Phase II)*'' includes several variations from the GOMESA definition and is consistent with the regulations published for GOMESA Phase I revenue sharing. First, the GOMESA definition refers to ''leases entered into on or after the date of enactment of this Act.'' The definition proposed for this rule states the actual GOMESA enactment date.

Second, in GOMESA section 102(9)(A)(i), we interpret the phrase ''due and payable to'' to mean ''received by.'' The GOMESA definition ''*Qualified OCS revenues*'' refers to ''. . . all rentals, royalties, bonus bids, and other sums due and payable to the United States . . . ,'' which could imply that the revenues to allocate to the Gulf producing States, CPSs, and the LWCF for a given fiscal year would be the amounts that the lessees owe for the payment of royalties in that fiscal year, whether or not we actually received the payments during that fiscal year. This interpretation, however, is not consistent with our system of collecting, disbursing, and accounting for royalty revenues.

Royalties on oil and gas produced in one month are due and payable by the end of the following month; for example, royalties on oil and gas produced in October must be paid by the end of November. We do not calculate royalty amounts owed and bill the payors; rather, we accept the amounts payors report and pay, subject to subsequent audit and other verification procedures.

Royalty payors frequently make adjustments to previous months' royalty payments as final data becomes available on sales volumes, prices, and the amount of allowable transportation or processing deductions. The adjustments may result in payors paying additional royalties or, if they overpaid previous royalties, claiming a credit against their current royalty obligation. These adjustments may not occur until several months after the payment was originally due. As a result, they may adjust payments made in one fiscal year in a subsequent fiscal year.

The value of these adjustments, for those leases subject to the GOMESA revenue-sharing provisions, will tend to balance-out over time as payors make both positive and negative adjustments from one fiscal year to the next. As the permanent indefinite appropriation requires, all qualified rentals, royalties, bonus bids, and other sums received within a fiscal year and subsequently transferred to the appropriate receipt account establishes the amount of revenues due and payable for that fiscal year.

Third, to maintain consistency with other laws that appropriate OCS lease revenues and fees associated with actions on OCS leases, this proposed definition of ''*Qualified OCS revenues (Phase II)*'' (section (2)(v) and (2)(vi)) excludes any leasing revenues and fees that Congress may authorize DOI to retain in appropriations legislation or that it otherwise precludes from GOMESA revenue sharing.

Beginning in Fiscal Year 2009, the Appropriations Acts for the Department of the Interior have contained language that excludes certain rental receipts, which Congress has appropriated to fund certain Departmental operations, from GOMESA qualified OCS revenues. Appropriations legislation for Fiscal Year 2012 made that exclusion permanent.

Additionally, we collect fee payments for special services based on the cost of providing those services. We collect these fees under the authority of the Independent Office Appropriations Act consistent with the Office of Management and Budget's Circular A–25. We do not derive these fees from the lease. For these reasons, Congress designates such fees to be retained by the Department as part of our appropriation, and they do not qualify as qualified OCS revenues under GOMESA.

Fourth, the definition of ''*Qualified OCS revenues (Phase II)*'' excludes revenues described under GOMESA section 102(9)(A)(i), which defines qualified OCS revenues for the period 2007 through 2016 (Phase I) for the 181 Area in the Eastern Planning Area and the 181 South Area. The regulations for Phase I of GOMESA revenue sharing found in 30 CFR part 1219, subpart D, cover the allocations of qualified OCS revenues for these areas during this time period.

Fifth, GOMESA excludes from the definition of ''*Qualified OCS revenues*'' those Federal revenues obtained from the ''forfeiture of a bond or other surety securing obligations other than royalties, civil penalties, or royalties taken by the Secretary in-kind and not sold.''

Lastly, GOMESA specifically excludes revenues ''generated from leases subject to section 8(g) of the Outer Continental Shelf Lands Act.'' (Pub. L. 109–432, Dec 20, 2006). We interpret this last exclusion to mean that, if a lease is subject to OCSLA 8(g), it is not subject to GOMESA because revenues from leases under section 8(g) are already shared with coastal States. Section 8(g)(2) of the OCSLA (43 U.S.C. 1337(g)(2)) provides that coastal States receive 27 percent of revenues generated from the leasing of lands within 3 miles of the seaward boundary of the coastal State. It is important to note that some 8(g) leases lie only partially within the 8(g) area. So only the portion of revenues associated with the acreage within the 8(g) area is shared with the States. However, GOMESA excludes sharing of any revenues from these leases, even if a portion of the lease lies seaward of the 8(g) area.

We believe these elements of the definitions are consistent with the intent of the GOMESA provisions and other applicable laws.

''*Qualified OCS revenues (Phase II—capped)*'' would mean, in the case of fiscal year 2017 and each fiscal year thereafter, the subset of qualified OCS revenues (Phase II) due and payable to the United States from leases that lessees enter(ed) into on or after December 20, 2006, located:

- In the 181 Area in the Central Planning Area.
- In the 2002–2007 Planning Area.

''*Qualified OCS revenues (Phase II—uncapped)*'' would mean, in the case of fiscal year 2017 and each fiscal year thereafter, the subset of qualified OCS revenues (Phase II) due and payable to the United States from leases that lessees enter(ed) into on or after December 20, 2006, located:

- In the 181 Area in the Eastern Planning Area.
- In the 181 South Area.

Disposition of Qualified OCS Revenues to Gulf Producing States

1219.512 How will ONRR divide the qualified OCS revenues (Phase II)?

GOMESA section 105(a)(2) requires that ''50 percent of qualified [OCS] revenues [would be deposited] in a special account in the Treasury from which the Secretary shall disburse—75 percent to the Gulf producing States [(of which 20 percent would subsequently be allocated to local eligible CPSs)]. . . 25 percent to provide financial assistance to States in accordance with section 6 of the [LWCF].'' Each Gulf producing State will receive at least 10 percent of the qualified OCS revenues (Phase II) available for allocation to the Gulf producing States each fiscal year.

The following table shows the revenue shares from the qualified OCS revenues (Phase II—uncapped) only:

REVENUE DISTRIBUTION OF QUALIFIED OCS REVENUES (PHASE II—UNCAPPED) UNDER GOMESA PHASE II

Recipient of qualified OCS revenues:	Percentage of qualified OCS revenues:
U.S. Treasury (General Fund)	50
Land and Water Conservation Fund	12.5
Gulf Producing States	30
Gulf Producing State CPSs	7.5

All of the revenues from the two areas noted in the definition of qualified OCS revenues (Phase II—uncapped) will be distributed as shown in the table above. But GOMESA section 105(f)(1) limits the total amount of qualified OCS revenues (Phase II—capped) made available to the Gulf producing States, CPSs and the LWCF to $500,000,000 for each of the fiscal years 2017 through 2055. In each fiscal year, ONRR will first apply the cap and deposit all qualified OCS revenues (Phase II—capped) above $500,000,000 in the U.S. Treasury (General Fund). ONRR will then deposit the remaining qualified OCS revenues (Phase II—capped), up to $500,000,000, in a special account in the U.S. Treasury. ONRR will disburse the money in that account in the same portions noted above for qualified OCS revenues (Phase II-uncapped).

As an illustrative example, suppose that fiscal year qualifying OCS revenues (Phase II—capped) are $1.5 billion. Fifty percent of $1.5 billion is $750 million, which exceeds the $500 million cap. In this example we would deposit $500 million in a special account in the Treasury, $125 million of which would go to the LWCF, and $375 million of which would be shared among the Gulf producing States and their CPSs. We would deposit the remaining $1 billion in the U.S. Treasury (General Fund). Thus, the percentage of total qualified OCS revenues (Phase II—capped) that would go to the LWCF is 8.3% ($125 million), the Gulf producing States and their CPSs would share 25% ($375 million), and the U.S. Treasury (General Fund) would receive 66.7% of the revenues ($1 billion). As the amount of total qualified OCS revenues (Phase II—capped) increases, the mathematical proportion of the total that the LWCF, Gulf producing States, and CPSs share decreases due to the application of the cap. Thus, we cannot illustrate the distribution percentages in a table, since they will vary depending on the total revenues received in a particular year.

1219.513 How will ONRR determine each Gulf producing State's share of the qualified OCS revenues (Phase II) from leases in the 181 Area, the 181 South Area, and the 2002–2007 Planning Area?

The GOMESA Phase II revenue-sharing provisions direct that we allocate qualified OCS revenues (Phase II) to each Gulf producing State in amounts that are inversely proportional to the respective distances between (a) the point on the coastline of each Gulf producing State that is closest to the geographic center of the applicable leased tract (Phase II) or historical lease site and (b) the geographic center of the tract or site. To implement these provisions, we must make three key sets of determinations:

- The points that are the geographic centers of each applicable leased tract (Phase II) and historical lease site;
- The point on the coastline of each Gulf producing State that is closest to the geographic center of each applicable leased tract (Phase II) and historical lease site; and
- The distance between the two points for each applicable leased tract (Phase II) and historical lease site.

As mentioned earlier, GOMESA Phase II uses the inverse distances from both the applicable leased tracts (Phase II) in the 181 Area and the 181 South Area, and historical lease sites in the 2002–2007 Planning Area. For inverse distance calculations and the allocation of revenues to Gulf producing States, we will treat both the applicable leased tracts (Phase II) and the historical lease sites in the same manner.

The methodology to calculate the distances between the Gulf producing States and the geographic center of the applicable leased tracts (Phase II) and historical lease sites for GOMESA Phase II is the same as the GOMESA Phase I methodology. The formula we would use to calculate the Gulf producing States' shares of qualified OCS revenues (Phase II) derives from their cumulative proportional inverse distances from the applicable leased tracts (Phase II) and historical lease sites.

In determining the individual Gulf producing States' shares of the qualified OCS revenues (Phase II), GOMESA provides that no State, regardless of the amount established by applying the proportional inverse distance formula, would receive less than 10 percent of the disbursable revenues.

Distance Calculation Procedures

The following information describes how we propose to calculate the distances between the Gulf producing States and the applicable leased tracts (Phase II) and historical lease sites that we would use in the proportional inverse distance calculations to allocate the qualified OCS revenues (Phase II).

Determining applicable leased tract and historical lease site center points—We would identify all applicable leased tracts (Phase II) in the 181 Area and the 181 South Area, updated each year, and we would identify all historical lease sites in the 2002–2007 Planning Area, updated once every five years. We would calculate the geographic center of each tract, which is the location that provides a balancing point in two-dimensional space. See 73 FR 30331, 30334 (May 27, 2008) for additional details.

Determining measurement points on State coastlines—According to the Submerged Lands Act (43 U.S.C. 1301), the term ''*coastline*'' means the line of ordinary low water along that portion of the coast that is in direct contact with the open sea and the line marking the seaward limit of inland waters. The definition of ''*coastline*'' is in 30 CFR 1219.411. For the purpose of both international and domestic law, we call the boundary line dividing the land from the ocean the ''baseline.'' We determined the baseline according to principles described in the 1958 United Nations Convention on the Territorial Sea and the Contiguous Zone and the 1982 United Nations Convention on the Law of the Sea (LOS Convention), and it is normally the low water line along the coast, as marked on officially recognized charts.

In the United States, we have further refined the definition based on Federal court decisions. The United States baseline is the mean lower low water line along the coast, as shown on official United States nautical charts. The

baseline is the set of points and connected lines representing the mean lower low water line in direct contact with the open sea and marking the seaward limit of inland waters. The baseline is drawn across river mouths, bay openings, and along the outer points of complex coastlines. The normal baseline from which the international maritime zones are charted is usually synonymous with the coastline as defined by the Submerged Lands Act. However, differences exist in certain circumstances, such as where a United States Supreme Court Supplemental Decree has fixed the Submerged Lands Act baseline or boundary.

We would use the latitudinal and longitudinal data for the Submerged Lands Act, 43 U.S.C. 1301, baseline points in conjunction with the tract or site center point data to identify the positions on the States' coastlines that are closest to the geographic center of the applicable leased tracts and historical lease sites. We would base all coordinates used in these calculations and depicted on Official Protraction Diagrams, Leasing Maps, and Supplemental Official OCS Block Diagrams on the North American Datum of 1927.

Measuring distances from States to applicable leased tracts (Phase II) and historical lease sites—Using the data identifying the geographic centers of the tracts and the above described points on each of the four States' coastlines, we would find the nearest coastline points for each State to each applicable leased tract (Phase II) and historical lease site. We would do this by measuring the distances between all States' coastline points and each geographic tract or site center, and then determining the pairs of points with the shortest distance for each State/tract pair.

We used the ''great circle distance'' to establish the distances between the States' coastlines and the applicable leased tracts for GOMESA Phase I and propose to do the same for GOMESA Phase II. The great circle distance is the shortest distance between any two points on the surface of the Earth measured along a path on the surface of the Earth. Between any two points on a sphere that are not directly opposite each other, there is a unique great circle. The two points separate the great circle into two arcs. The length of the shorter arc is the great circle distance between the points.

Calculating Gulf Producing State Revenue Allocations

We propose calculating each Gulf producing State's share of the qualified OCS revenues (Phase II) using the following procedure. For the examples presented, we round results after each intermediate calculation to facilitate the methodology demonstration. In actual practice, we would compute actual calculations of shared revenue with full precision and round only the final disbursement amount to the nearest cent. The revenue-sharing formula that we would use to calculate each Gulf producing State's share of GOMESA Phase II qualified OCS revenues is:

(1) For each Gulf producing State, we propose calculating and totaling, over all applicable leased tracts (Phase II) and historical lease sites, the mathematical inverses of the distances between the points on the State's coastline that are closest to the geographic centers of the applicable leased tracts (Phase II) and historical lease sites, and the geographic centers of the applicable leased tracts (Phase II) and historical lease sites.

(2) For each Gulf producing State, we would divide the sum of each State's inverse distances, from all applicable leased tracts (Phase II) and historical lease sites, by the sum of the inverse distances from all applicable leased tracts (Phase II) and historical lease sites across all four Gulf producing States. We would multiply the result by the amount of shareable, qualified OCS revenues (Phase II), as shown below. In the formulas, I_{AL}, I_{LA}, I_{MS}, and I_{TX} represent the sum of the inverses of the shortest distances between Alabama, Louisiana, Mississippi, and Texas and all applicable leased tracts (Phase II) and historical lease sites, respectively.

Alabama Share = $(I_{AL} \div (I_{AL} + I_{LA} + I_{MS} + I_{TX})) \times$ qualified OCS revenues (Phase II)

Louisiana Share = $(I_{LA} \div (I_{AL} + I_{LA} + I_{MS} + I_{TX})) \times$ qualified OCS revenues (Phase II)

Mississippi Share = $(I_{MS} \div (I_{AL} + I_{LA} + I_{MS} + I_{TX})) \times$ qualified OCS revenues (Phase II)

Texas Share = $(I_{TX} \div (I_{AL} + I_{LA} + I_{MS} + I_{TX})) \times$ qualified OCS revenues (Phase II)

The following simplified example, involving only two tracts, illustrates the application of the steps above in calculating the revenue allocations for the Gulf producing States and also demonstrates how the inverse distance formulas work to reward those closest to the sources of revenue.

Suppose that there are two tracts (t_1 and t_2) and the following table shows the shortest distance from each Gulf producing State to the tracts' geographic centers:

Gulf producing state	Applicable leased tracts and historical lease sites				Sum of inverse distances
	t_1		t_2		
	Distance (nautical miles)	Inverse distance	Distance (nautical miles)	Inverse distance	
Alabama	50	0.0200	70	0.0143	0.0343
Louisiana	90	0.0111	80	0.0125	0.0236
Mississippi	70	0.0143	60	0.0167	0.0310
Texas	230	0.0043	210	0.0048	0.0091
All States	440	0.0497	420	0.0483	0.0980

Further, suppose that fiscal year qualified OCS revenues (Phase II) are $96 million, $12 million of which would go to the LWCF, and $36 million of which would be shared among the Gulf producing States and their CPSs. Since $48 million ($36 million + $12 million) is below the $500 million annual cap, the cap is not relevant in this simplified example. Applying the formulas above, we would allocate $36 million to the Gulf producing States, as shown below.

Alabama Share = (0.0343 ÷ 0.0980) × $36 million = $12,600,000.00

Louisiana Share = (0.0236 ÷ 0.0980) × $36 million = $8,669,387.76

Mississippi Share = (0.0310 ÷ 0.0980) × $36 million = $11,387,755.10

Texas Share = (0.0091 ÷ 0.0980) × $36 million = $3,342,857.14

However, because Texas's share is less than $3.6 million, or 10 percent of

the allocation of $36 million, we would allocate a 10-percent share to Texas and recalculate the other Gulf producing States' shares, omitting Texas and its 10-percent share from the calculation, as shown below.

Texas Share = 10 percent × $36 million = $3,600,000.00

Alabama Share = (0.0343 ÷ (0.0980 − 0.0091)) × $32.4 million = $12,500,787.40

Louisiana Share = (0.0236 ÷ (0.0980 − 0.0091)) × $32.4 million = $8,601,124.86

Mississippi Share = (0.0310 ÷ (0.0980 − 0.0091)) × $32.4 million = $11,298,087.74

Adding the three States' shares to Texas's 10-percent share equals $36,000,000.

This example did not reach the GOMESA $500 million Phase II annual cap. If the Phase II qualified OCS revenues (Phase II) exceed the cap, we would proportionally reduce all recipients' allocations accordingly.

1219.514 How will ONRR allocate the qualified OCS revenues (Phase II) to coastal political subdivisions within the Gulf producing States?

We would distribute 20 percent of each Gulf producing State's allocable share directly to eligible CPSs. The following table shows the CPSs eligible for GOMESA funds:

CPSs Eligible for a Share of Qualified OCS Revenues Under GOMESA

Alabama counties	Louisiana parishes	Mississippi counties	Texas counties
Baldwin, Mobile.	Assumption, Calcasieu, Cameron, Iberia, Jefferson, Lafourche, Livingston, Orleans, Plaquemines, St. Bernard, St. Charles, St. James, St. John the Baptist, St. Martin, St. Mary, St. Tammany, Tangipahoa, Terrebonne, Vermillion.	Hancock, Harrison, Jackson.	Arkansas, Brazoria, Calhoun, Cameron, Chambers, Galveston, Harris, Jackson, Jefferson, Kenedy, Kleberg, Matagorda, Nueces, Orange, Refugio, San Patricio, Victoria, Willacy.

In the allocation of revenues among the States' CPSs, GOMESA refers to the CIAP provisions in the Energy Policy Act of 2005 that amend section 31 of the OCSLA (43 U.S.C. 1356a). Specifically, GOMESA section 105(b)(3)(B) states that the funds ''shall be allocated to each CPS in accordance with subparagraphs (B), (C), and (E) of section 31(b)(4) of the OCSLA (43 U.S.C. 1356a(b)(4)). To determine the population shares, we would make our allocations using the latest official U.S. Census Bureau population data. The ''coastline'' definition for CPSs is used in section 2 of the Submerged Lands Act (43 U.S.C. 1301) and is the same line established for use in CIAP by section 384 of the Energy Policy Act of 2005, codified at 43 U.S.C 1356a.

GOMESA requires us to use applicable leased tracts (Phase II) and historical lease sites for the inverse proportional distance calculations in GOMESA Phase II. Additionally, no part of the 181 Area or the 2002–2007 Planning Area was subject to the January 1, 2005, leasing moratorium, referenced above in ''(E) Exclusion of certain leased tracts.'' However, the 181 South Area was under a moratorium as of January 1, 2005, and no lease has ever produced in this area, thus ONRR cannot include those tracts in the calculations for CPSs in accordance with 43 U.S.C. 1356a(b)(4) referenced above. Therefore, in calculating the inverse proportional distances for States, we will use applicable leased tracts in the 181 Area and the 181 South Area, and historical lease sites in the 2002–2007 Planning Area. However, we would use only applicable leased tracts in the 181 Area, and historical leases sites in the 2002–2007 Planning Area, to calculate each CPS's revenue share.

The following is a continuation of the prior example, detailing the estimated allocations for the two State of Alabama eligible CPSs—Baldwin and Mobile Counties. For this example, t_1 and t_2 could be either applicable leased tracts in the 181 Area or could be historical lease sites in the 2002–2007 Planning Area. The revenue allocated to the Alabama CPSs is 20 percent of the $12,500,787.40 calculated in the earlier example, equal to $2,500,157.48.

We base 25 percent of the allocation on the CPS's population proportion. The 2010 Census population numbers are: Baldwin County—182,265 and Mobile County—412,992. The corresponding population proportions are 30.62 percent and 69.38 percent, respectively.

We base a second 25 percent of the allocation on the CPS's proportion of coastline length. The coastline lengths, in nautical miles, for Alabama's CPSs are: Baldwin—28.249 and Mobile—22.045. The corresponding proportions of coastline length are 56.17 percent and 43.83 percent, respectively.

Finally, we base the 50 percent allocation on the proportion of summed inverse distances between the CPSs, and the applicable leased tracts (Phase II) and historical lease sites in the 2002–2007 Planning Area. The distance measures and inverse distance calculations for the CPSs are conceptually identical to those employed above in assessing the State shares. Let us assume that the following distances and resulting inverse distance calculations for the two CPSs are as follows:

Alabama eligible CPS	Applicable leased tracts or historical lease sites				Sum of inverse distances
	t_1		t_2		
	Distance (nautical miles)	Inverse distance	Distance (nautical miles)	Inverse distance	
Baldwin	50	0.0200	70	0.0143	0.0343
Mobile	54	0.0185	74	0.0135	0.0320
All CPSs		0.0385		0.0278	0.0663

According to the table above, the proportions of the summed inverse distances for each CPS are: Baldwin County—51.73 percent and Mobile County—48.27 percent. The table below shows the total allocation for each CPS, based on the three components:

Alabama CPS	Population allocation (25%)	Coastline allocation (25%)	Inverse distance allocation (50%)	Total % allocation
Baldwin	.25 * .3062 = .07655	.25 * .5617 = .140425	.50 * .5173 = .25865	47.5625
Mobile	.25 * .6938 = .17345	.25 * .4383 = .109575	.50 * .4827 = .24135	52.4375

In this hypothetical example, Baldwin County would receive $1,189,137.40 (47.5625 percent) and Mobile County would receive $1,311,020.08 (52.4375 percent) of the $2,500,157.48 Alabama CPSs' share.

1219.515 How will ONRR update the group of ''historical lease sites'' and ''applicable leased tracts (Phase II)'' used for determining the allocation of shared revenues?

GOMESA section 105(b)(2)(C)(ii) requires 5-year updates for historical lease sites. The schedule for historical lease site updates would follow the requirements of GOMESA section 105(b)(2)(C). On December 31, 2015, we would freeze the group of historical lease sites and use it in determining the percentage of revenue shares due from Fiscal Years 2017 through 2021. Beginning January 1, 2022, and every fifth year thereafter, we would extend the ending date for determining the group of qualified historical lease sites by an additional five calendar years. Every five years, we would add any new historical lease sites to the existing group. We would use the group as one subset of distances in determining the percentage revenue shares for the next five fiscal years, for example, we would use the December 31, 2020, update in the revenue-sharing calculations for Fiscal Years 2022 through 2026.

The group of applicable leased tracts (Phase II) changes as leases are relinquished, expire, or terminate. Similar to GOMESA Phase I, for the purposes of GOMESA Phase II revenue-sharing, the distance to an applicable leased tract (Phase II) would be included if that tract was actively leased at any point within the fiscal year associated with the revenue sharing. We would use this group of distances as the second subset of distances in determining the percentage revenue shares.

In summary, the group of historical lease sites can only grow over time, while the group of applicable leased tracts (Phase II) would likely fluctuate up and down depending on leasing interest in the 181 Area and the 181 South Area.

1219.516 When will ONRR disburse funds to Gulf producing States and eligible coastal political subdivisions?

Under section 105(c) of GOMESA, we must make funds available during the fiscal year immediately following the fiscal year that the United States received the funds. We received comments during the GOMESA Phase I revenue-sharing rulemaking requesting that we disburse funds as early as possible in the fiscal year following the year in which the revenues were earned. We also received inquiries about the possibility of monthly disbursements to States and CPSs in the same manner that we disburse section 8(g) revenues. Because of GOMESA section 105(c), we do not have the flexibility to disburse monthly. We intend to disburse revenues within the first half of the fiscal year following the year that we collect qualified OCS revenues.

We welcome comments on our reading and interpretation of the Act.

III. Procedural Matters

Regulatory Planning and Review (Executive Orders 12866 and 13563)

Executive Order (E.O.) 12866 provides that the Office of Information and Regulatory Affairs (OIRA) of the Office of Management and Budget (OMB) will review all significant rules. OIRA has determined that this rule is not significant.

Executive Order 13563 reaffirms the principles of E.O. 12866 while calling for improvements in the nation's regulatory system to promote predictability, to reduce uncertainty, and to use the best, most innovative, and least burdensome tools for achieving regulatory ends. The executive order directs agencies to consider regulatory approaches that reduce burdens and maintain flexibility and freedom of choice for the public where these approaches are relevant, feasible, and consistent with regulatory objectives. E.O. 13563 emphasizes further that regulations must be based on the best available science and that the rulemaking process must allow for public participation and an open exchange of ideas. We have developed this rule in a manner consistent with these requirements.

This proposed rule would not have an annual effect of $100 million or more on the economy because the appropriated revenues are simply transfer payments to States, coastal political subdivisions (CPSs), and the LWCF. This proposed rule only describes the formula and methodology we would use to allocate the GOMESA Phase I and Phase II revenues among the Gulf producing States and the CPSs. It would not adversely affect, in a material way, the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or Tribal governments or communities. In the context of a cost-benefit analysis, the payments to States and CPSs do not represent real resource costs and, thus, they fall under the definition of ''transfer payments.'' From a cost-benefit perspective, these payments do not enter into the Net Benefits Calculation.

GOMESA directs the Secretary of the Interior to disburse a portion of qualified OCS revenues to the Gulf producing States, CPSs, and the LWCF. This proposed rule is the result of a permanent appropriation in GOMESA of oil and gas leasing revenues to the States of Alabama, Louisiana, Mississippi, Texas, their CPSs, and the LWCF. The law requires the sharing of qualified OCS leasing revenues, and this is not subject to the Department of the Interior's discretion. The transfer of revenues from the Federal Government to State and local governments would not impose additional costs on any sector of the United States economy and would not have an appreciable effect on the national economy.

GOMESA section 105(e)(1) states that the revenues are to ''be made available, without further appropriation . . .'' and GOMESA section 105(f)(1) states that all revenues distributed under this proposed rule ''shall not exceed

$500,000,000 for each of fiscal years 2016 through 2055.'' We expect that GOMESA Phase II (30 CFR part 1219, subpart E) shared revenues are likely to meet the annual statutory cap of $500 million beginning in Fiscal Year 2017, which is the first year of sharing qualified OCS revenues under this proposed rule. Since these are transfer payments shifted from Federal to State and local governments, the net effect of this rulemaking on the national economy would be ''no measureable economic effect.'' Therefore, the annual net effect would not exceed the threshold of ''a significant economic effect'' of $100 million. The revenues shared annually under the GOMESA Phase I (30 CFR part 1219, subpart D) regulations are significantly less than $100 million. It is speculative to project future revenues in this area because it had not been available for leasing prior to the passing of GOMESA.

This proposed rule would not create any serious inconsistency or otherwise interfere with another agency's actions or plans. GOMESA's mandated disbursements affect no other agency.

This proposed rule would not alter the budgetary effects of entitlements, grants, user fees, or loan programs or the rights or obligations of their recipients. If Congress did not appropriate the shared revenues to the States and the LWCF, the revenues would enter the U.S. Treasury General Fund to appropriate as part of another Federal program. Whether appropriated for coastal restoration, conservation, or protection in the United States GOM, for national defense, or for other Federal programs, the difference in economic effect or impact on the national economy is likely to be minimal. Therefore, according to the standard set under E.O. 12866, this proposed rule would not have an annual economic effect of more than $100 million.

While GOMESA payments do not introduce an economic effect on the national economy, there is a distributional effect in how the United States population shares the benefits. The GOMESA statute specifies that the shared revenues be provided to the four Gulf producing States and their CPSs. There are no regulatory alternatives consistent with the statute that allows us to consider a different distribution.

This proposed rule would not raise novel legal or policy issues. It merely provides formulas and methods to implement an Act of Congress. There are no alternative actions available to the Secretary of the Interior for the GOMESA-required sharing of qualified OCS revenues.

Regulatory Flexibility Act

DOI certifies that this proposed rule would not have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). This proposed rule specifies the formulas and methodologies for distributing shared revenues that DOI collects to the qualified Gulf producing States, their CPSs, and the LWCF. This proposed rule would have no effect on the amount of royalties, rents, or bonuses that lessees, operators, or payors owe, regardless of size and, consequently, would not have a significant economic effect on offshore lessees or operators, including those classified as small businesses. Small entities may be the beneficiary of contracts that GOMESA revenues fund and that Gulf producing States or CPSs manage for coastal protection, conservation, or restoration services, but that is solely at the local government entity's discretion rather than the Federal Government's discretion. It is not possible to estimate the effects on small entities since, under the statute, States and CPSs would ultimately be the entities disbursing the shared revenues for one or more of the five GOMESA-authorized uses.

Small Business Regulatory Enforcement Fairness Act

This proposed rule would not be a major rule under 5 U.S.C. 801 *et seq.,* the Small Business Regulatory Enforcement Fairness Act, for the reasons outlined in the following paragraphs.

This proposed rule would not have an annual effect on the economy of $100 million or more. The provisions of this proposed rule specify how we would allocate qualified OCS revenues to States and CPSs during the second phase of GOMESA revenue sharing. The proposed rule would have no effect on the amount of royalties, rents, or bonuses that lessees, operators, or payors owe, regardless of size and, consequently, would not have a significant adverse economic effect on offshore lessees or operators, including those classified as small businesses. The Gulf producing States and CPS recipients of the revenues would likely fund contracts that would benefit the local economies, small entities, and the environment. We project these annual effects to be less than $100 million.

This proposed rule would not cause a major increase in costs or prices for consumers, individual industries, Federal, State, local government agencies, or geographic regions.

This proposed rule would not have significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of United States-based enterprises to compete with foreign-based enterprises. We project the effects, if any, of distributing revenues to the States and CPSs to be beneficial.

Unfunded Mandates Reform Act

This proposed rule would not impose an unfunded mandate on State, local, or tribal governments or the private sector of more than $100 million per year. The proposed rule would not have a significant or unique effect on State, local, or tribal governments or the private sector. We are not required to provide a statement containing the information that the Unfunded Mandates Reform Act (2 U.S.C. 1501 et seq.) requires because the proposal is not a mandate. This proposed rule merely provides the formulas and methods to implement an allocation of revenue to certain States and eligible CPSs, as Congress directed.

Takings Implication Assessment (E.O. 12630)

Under the criteria in section 2 of E.O. 12630, this proposed rule would not have significant takings implications. This proposed rule would not be a governmental action capable of interference with constitutionally protected property rights. This proposed rule does not require a Takings Implication Assessment.

Federalism (E.O. 13132)

Under the criteria in section 1 of E.O. 13132, this proposed rule would not have federalism implications to warrant the preparation of a Federalism summary impact statement. This proposed rule would not substantially and directly affect the relationship between the Federal and State governments. To the extent that State and local governments have a role in OCS activities, this proposed rule would not affect that role. However, the underlying statute funds State and local government activities that mitigate challenges attributed to OCS exploration and development. This proposed rule does not require a Federalism summary impact statement.

Civil Justice Reform (E.O. 12988)

This proposed rule would comply with the requirements of E.O. 12988, for the reasons outlined in the following paragraphs.

This proposed rule would meet the criteria of section 3(a), which requires that we review all regulations to

eliminate errors and ambiguity and write them to minimize litigation.

This proposed rule would meet the criteria of section 3(b)(2), which requires that we write all regulations in clear language with clear legal standards.

Consultation With Indian Tribes (E.O. 13175)

The Department of the Interior strives to strengthen its government-to-government relationship with Indian Tribes through a commitment to consultation with Indian Tribes and recognition of their right to self-governance and tribal sovereignty. Under the Department's consultation policy and the criteria in E.O. 13175, we have evaluated this proposed rule and determined that it would have no substantial direct effects on federally recognized Indian Tribes.

Paperwork Reduction Act

This proposed rule would not contain any information collection requirements and does not require a submission under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

National Environmental Policy Act

This proposed rule would not constitute a major Federal action, and it would not significantly affect the quality of the human environment. The procedural changes resulting from these amendments have no consequences with respect to the physical environment. We are not required to provide a detailed statement under the National Environmental Policy Act of 1969 (NEPA) because this rule qualifies for categorical exclusion under 43 CFR 46.210(i), which excludes ''(i) Policies, directives, regulations, and guidelines: That are of an administrative, financial, legal, technical, or procedural nature.'' We have also determined that this proposed rule does not involve any of the extraordinary circumstances listed in 43 CFR 46.215 that would require further analysis under NEPA.

Data Quality Act

In developing this proposed rule, we would not conduct or use a study, experiment, or survey requiring peer review under the Data Quality Act (Pub. L. 106–554), also known as the Information Quality Act. The Department of the Interior has issued guidance regarding the quality of information that it relies on for regulatory decisions. This guidance is available on DOI's Web site at *www.doi.gov/ocio/information_management/iq.cfm.*

Effects on the Energy Supply (E.O. 13211)

This proposed rule would not be a significant energy action under the definition in E.O. 13211, and, therefore, would not require a Statement of Energy Effects.

Clarity of This Regulation

Executive Orders 12866 (section 1(b)(2)), 12988 (section 3(b)(1)(B)), and, 13563 (section 1(a)), and the Presidential Memorandum of June 1, 1998, require that Federal rules be written in plain language. This means that each rule that we publish must: (a) Have logical organization; (b) use the active voice to address readers directly; (c) use common, everyday words, and clear language rather than jargon; (d) use short sections and sentences; and (e) use lists and tables wherever possible.

If you feel that we have not met these requirements, send your comments to *Armand.Southall@onrr.gov.* To better help us revise the rule, your comments should be as specific as possible. For example, you should tell us the numbers of the sections or paragraphs that you think we wrote unclearly, which sections or sentences are too long, the sections where you feel lists or tables would be useful, etc.

Public Availability of Comments

We will post all comments, including names and addresses of respondents, at *www.regulations.gov.* Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that we may make your entire comment—including your personal identifying information—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.

List of Subjects

30 CFR Part 519

Government contracts, Indian-lands, Mineral royalties, Oil and gas exploration, Public lands—mineral resources.

30 CFR Part 1219

Government contracts, Mineral royalties, Oil and gas exploration, Public lands—mineral resources.

Dated: March 11, 2014.

Rhea Suh,

Assistant Secretary for Policy, Management and Budget.

Dated: March 27, 2014.

Tommy Beaudreau,

Principal Deputy Assistant Secretary for Land and Minerals.

For the reasons discussed in the preamble, under the authority provided by the Reorganization Plan No. 3 of 1950 (64 Stat. 1262) and Secretarial Order Nos. 3299, 3302, and 3306, the Department of the Interior proposes to amend part 519 of title 30 CFR chapter V and part 1219 of 30 CFR chapter XII as follows:

CHAPTER V—BUREAU OF OCEAN ENERGY MANAGEMENT, DEPARTMENT OF THE INTERIOR

Subchapter A—Minerals Revenue Management

PART 519—[REMOVED AND RESERVED]

■ 1. Remove and reserve part 519, consisting of subparts A through D (§§ 519.410 through 519.418).

CHAPTER XII—OFFICE OF NATURAL RESOURCES REVENUE, DEPARTMENT OF THE INTERIOR

Subchapter A—Natural Resources Revenue

■ 2. Revise part 1219 to read as follows:

PART 1219—DISTRIBUTION AND DISBURSEMENT OF ROYALTIES, RENTALS, AND BONUSES

Subpart A—General Provisions [Reserved]

Subpart B—Oil and Gas, General [Reserved]

Subpart C—Oil and Gas, Onshore

Sec.
1219.100 What is ONRR's timing of payment to the States?
1219.101 What receipts are subject to an interest charge?
1219.102 What is ONRR's method of payment to the States?
1219.103 How will ONRR manage payments to Indian accounts?
1219.104 What are Explanation of Payments to the States and Indian Tribes?
1219.105 What definitions apply to this subpart?

Subpart D—Oil and Gas, Offshore, GOMESA Phase I Revenue Sharing

1219.410 What does this subpart contain?
1219.411 What definitions apply to this subpart?
1219.412 How will ONRR divide the qualified OCS revenues (Phase I)?
1219.413 How will ONRR determine each Gulf producing State's share of the qualified OCS revenues (Phase I) from leases in the 181 Area in the Eastern Planning Area and the 181 South Area?

1219.414 How will ONRR allocate the qualified OCS revenues (Phase I) to coastal political subdivisions within the Gulf producing States?
1219.415 How will ONRR allocate qualified OCS revenues (Phase I) to the coastal political subdivisions if, during any fiscal year, there are no applicable leased tracts in the 181 Area in the Eastern Gulf of Mexico Planning Area?
1219.416 When will ONRR disburse funds to Gulf producing States and eligible coastal political subdivisions?

Subpart E—Oil and Gas, Offshore, GOMESA Phase II Revenue Sharing

1219.510 What does this subpart contain?
1219.511 What definitions apply to this subpart?
1219.512 How will ONRR divide the qualified OCS revenues (Phase II)?
1219.513 How will ONRR determine each Gulf producing State's share of the qualified OCS revenues (Phase II) from leases in the 181 Area, the 181 South Area, and the 2002–2007 Planning Area?
1219.51 How will ONRR allocate the qualified OCS revenues (Phase II) to coastal political subdivisions within the Gulf producing States?
1219.515 How will ONRR update the group of ''historical lease sites'' and ''applicable leased tracts (Phase II)'' used for determining the allocation of shared revenues?
1219.516 When will ONRR disburse funds to Gulf producing States and eligible coastal political subdivisions?

Authority: Pub. L. 109–432, Div C, Title I, 120 Stat. 3000 (43 U.S.C. 1331 note) as amended; 43 U.S.C. 1301 *et seq.;* 1331 *et seq.*

Subpart A—General Provisions [Reserved]

Subpart B—Oil and Gas, General [Reserved]

Subpart C—Oil and Gas, Onshore

§ 1219.100 What is ONRR's timing of payment to the States?

ONRR will pay a State's share of mineral leasing revenues to the State not later than the last business day of the month in which the U.S. Treasury issues a warrant authorizing the disbursement, except for any portion of such revenues which is under challenge and placed in a suspense account pending resolution of a dispute.

§ 1219.101 What receipts are subject to an interest charge?

(a) Subject to the availability of appropriations, the Office of Natural Resources Revenue (ONRR) will pay the State its proportionate share of any interest charge for royalty and related monies that are placed in a suspense account pending resolution of any matters that may disallow distribution and disbursement. Such monies not disbursed by the last business day of the month following receipt by ONRR will accrue interest until paid.

(b) Upon resolution of any matters that may disallow distribution and disbursement, ONRR will disburse the suspended monies found due in paragraph (a) of this section, plus interest, to the State, under the provisions of § 1219.100.

(c) ONRR will apply paragraph (a) of this section to revenues that ONRR cannot disburse to the State because the payor/lessee provided to ONRR incorrect, inadequate, or incomplete information, which prevented ONRR from identifying the proper recipient of the payment.

§ 1219.102 What is ONRR's method of payment to the States?

ONRR will disburse monies to a State either by Treasury check or by Electronic Funds Transfer (EFT). If a State prefers to receive its payment by EFT, it should request this payment method in writing and send the request to the Program Manager, Financial Management, Office of Natural Resources Revenue, P.O. Box 25165, Denver, Colorado 80225–0165.

§ 1219.103 How will ONRR manage payments to Indian accounts?

ONRR will transfer mineral revenues received from Indian leases to the appropriate Indian accounts that the Bureau of Indian Affairs (BIA) manages for allotted and tribal revenues. These accounts are specifically designated Treasury accounts. ONRR will transfer these revenues to the Indian accounts at the earliest practicable date after such funds are received, but in no case later than the last business day of the month in which ONRR receives these revenues.

§ 1219.104 What are Explanation of Payments to the States and Indian Tribes?

(a) ONRR will describe the payments to States and BIA, on behalf of Indian Tribes or Indian allottees, discussed in this part in ONRR-prepared Explanation of Payment reports. ONRR will prepare these reports at the lease level and will include a description of the type of payment made, the period covered by the payment, the source of the payment, sales amounts upon which the payment is based, the royalty rate, and the unit value. If any State or Indian Tribe needs additional information pertaining to mineral revenue payments, the State or Tribe may request this information from ONRR.

(b) ONRR will provide these reports to:

(1) States not later than the 10th day of the month following the month in which ONRR disburses the State's share of royalties and related monies; and

(2) BIA, on behalf of Tribes and Indian allottees, not later than the 10th day of the month following the month in which ONRR disburses the funds.

(c) ONRR will not include in these reports revenues that we cannot distribute to States, Tribes, or Indian allottees because the payor/lessee provided incorrect, inadequate, or incomplete information about the proper recipient of the payment, until the payor/lessee has submitted to ONRR the missing information.

§ 1219.105 What definitions apply to this subpart?

Terms that ONRR uses in this subpart shall have the same meaning as in 30 U.S.C. 1702.

Subpart D—Oil and Gas, Offshore, GOMESA Phase I Revenue Sharing

§ 1219.410 What does this subpart contain?

(a) The Gulf of Mexico Energy Security Act of 2006 (GOMESA) directs the Secretary of the Interior to disburse a portion of the rentals, royalties, bonus bids, and other sums derived from certain Outer Continental Shelf (OCS) leases in the Gulf of Mexico (GOM) to the States of Alabama, Louisiana, Mississippi, and Texas (collectively identified as the Gulf producing States); to eligible coastal political subdivisions within those States; and to the Land and Water Conservation Fund. Shared GOMESA revenues are reserved for the following purposes:

(1) Projects and activities for the purposes of coastal protection, including conservation, coastal restoration, hurricane protection, and infrastructure directly affected by coastal wetland losses;

(2) Mitigation of damage to fish, wildlife, or natural resources;

(3) Implementation of a federally-approved marine, coastal, or comprehensive conservation management plan;

(4) Mitigation of the impact of OCS activities through the funding of onshore infrastructure projects; and

(5) Planning assistance and administrative costs not-to-exceed 3 percent of the amounts received.

(b) This subpart sets forth the formula and methodology ONRR will use to determine the amount of revenues allocated and disbursed to each Gulf producing State and each eligible coastal political subdivision (CPS) for each of fiscal years 2007 through 2016. Leasing revenues disbursed under this subpart originate from leases issued on

or after December 20, 2006, in the 181 Area in the Eastern Planning Area and the 181 South Area subject to restrictions identified in GOMESA. We collectively refer to the revenue sharing from these areas for these fiscal years as GOMESA Phase I revenue sharing. For questions related to the revenue-sharing provisions in this subpart, please contact: Program Manager, Financial Management, Office of Natural Resources Revenue, P.O. Box 25165, Denver Federal Center, Building 85, Denver, CO 80225–0165, or at (303) 231–3217.

§ 1219.411 What definitions apply to this subpart?

For purposes of this subpart:

181 Area means the area identified in map 15, page 58, of the ''Proposed Final Outer Continental Shelf Oil and Gas Leasing Program for 1997–2002,'' dated August 1996, available in the Office of the Director of the Bureau of Ocean Energy Management, excluding the area offered in OCS Lease Sale 181, held on December 5, 2001.

181 Area in the Eastern Planning Area is comprised of the area of overlap of the two geographic areas defined as the ''181 Area'' and the ''Eastern Planning Area.''

181 South Area means any area—

(1) Located:

(i) South of the 181 Area;

(ii) West of the Military Mission Line; and

(iii) In the Central Planning Area;

(2) Excluded from the ''Proposed Final Outer Continental Shelf Oil and Gas Leasing Program for 1997–2002,'' dated August 1996, of the Bureau of Ocean Energy Management; and

(3) Included in the areas considered for oil and gas leasing, as identified in map 8, page 84, of the document entitled, ''Revised Outer Continental Shelf Oil and Gas Leasing Program 2007–2012,'' approved December 2010.

Applicable leased tract (Phase I) means a tract that is subject to a lease under section 8 of the Outer Continental Shelf Lands Act (OCSLA), 43 U.S.C. 1337, for the purpose of drilling for, developing, and producing oil or natural gas resources, issued on or after December 20, 2006, and located fully or partially in either the 181 Area in the Eastern Planning Area or in the 181 South Area.

Central Planning Area means the Central Gulf of Mexico Planning Area of the Outer Continental Shelf, as designated in the document entitled, ''Revised Outer Continental Shelf Oil and Gas Leasing Program 2007–2012,'' approved December 2010.

Coastal political subdivision means a political subdivision of a Gulf producing State, any part of which is:

(1) Within the coastal zone (as defined in section 304 of the Coastal Zone Management Act of 1972 (16 U.S.C. 1453)) of the Gulf producing State as of December 20, 2006; and

(2) Not more than 200 nautical miles from the geographic center of any leased tract.

Coastline means the line of ordinary low water along that portion of the coast which is in direct contact with the open sea and the line marking the seaward limit of inland waters. This is the same definition used in section 2 of the Submerged Lands Act (43 U.S.C. 1301).

Distance means the minimum great circle distance.

Eastern Planning Area means the Eastern Gulf of Mexico Planning Area of the Outer Continental Shelf, as designated in the document entitled, ''Revised Outer Continental Shelf Oil and Gas Leasing Program 2007–2012,'' approved December 2010.

Gulf producing State means each of the States of Alabama, Louisiana, Mississippi, and Texas.

Leased tract means any tract that is subject to a lease under section 6 or 8 of the Outer Continental Shelf Lands Act for the purpose of drilling for, developing, and producing oil or natural gas resources.

Military Mission Line means the north-south line at 86°41′ W. longitude.

Qualified OCS revenues (Phase I) means—

(1) In the case of each of the fiscal years 2007 through 2016, all rentals, royalties, bonus bids, and other sums due and payable to the United States from leases issued on or after December 20, 2006, located:

(i) In the 181 Area in the Eastern Planning Area; and

(ii) In the 181 South Area.

(2) For applicable leased tracts intersected by the planning area administrative boundary line (e.g., separating the GOM Central Planning Area from the Eastern Planning Area), only the percent of revenues equivalent to the percent of surface acreage in the 181 Area in the Eastern Planning Area will be considered qualified OCS revenues *(Phase I).*

(3) Exclusions from the term qualified OCS revenues *(Phase I)* are:

(i) Revenues from the forfeiture of a bond or other surety securing obligations other than royalties;

(ii) Civil penalties;

(iii) Royalties taken by the Secretary in-kind and not sold;

(iv) User fees; and

(v) Lease revenues explicitly excluded from GOMESA revenue sharing by statute or appropriations law.

§ 1219.412 How will ONRR divide the qualified OCS revenues (Phase I)?

For each of the fiscal years 2007 through 2016, the Secretary of the Treasury will deposit 50 percent of the qualified OCS revenues (Phase I) into a special U.S. Treasury account, from which ONRR will disburse 75 percent to the Gulf producing States and 25 percent to the Land and Water Conservation Fund (LWCF). Of the revenues disbursed to a Gulf producing State, we will disburse 20 percent directly to the CPSs within that State. Each Gulf producing State will receive at least 10 percent of the qualified OCS revenues (Phase I) available for allocation to the Gulf producing States each fiscal year. The following table summarizes the resulting revenue shares (adding to 100 percent):

REVENUE DISTRIBUTION OF QUALIFIED OCS REVENUES UNDER GOMESA PHASE I

Recipient of qualified OCS revenues	Percentage of qualified OCS revenues
U.S. Treasury (General Fund)	50
Land and Water Conservation Fund	12.5
Gulf Producing States	30
Gulf Producing State Coastal Political Subdivisions	7.5

§ 1219.413 How will ONRR determine each Gulf producing State's share of the qualified OCS revenues (Phase I) from leases in the 181 Area in the Eastern Planning Area and the 181 South Area?

(a) ONRR will determine the great circle distance between:

(1) The geographic center of each applicable leased tract (Phase I); and

(2) The point on the coastline of each Gulf producing State that is closest to the geographic center of each applicable leased tract (Phase I).

(b) Based on these distances, we will calculate the qualified OCS revenues (Phase I) to disburse to each Gulf producing State as follows:

(1) For each Gulf producing State, we will calculate and total, over all applicable leased tracts (Phase I), the mathematical inverses of the distances between the points on the State's coastline that are closest to the geographic centers of the applicable leased tracts (Phase I), and the geographic centers of the applicable leased tracts (Phase I). For applicable

leased tracts intersected by the planning area administrative boundary line, we will use the geographic center of the entire lease for the inverse distance determination.

(2) For each Gulf producing State, we will divide the sum of each State's inverse distances from all applicable leased tracts (Phase I), by the sum of the inverse distances from all applicable leased tracts (Phase I) across all four Gulf producing States. In the formulas below, I_{AL}, I_{LA}, I_{MS}, and I_{TX} represent the sum of the inverses of the shortest distances between Alabama, Louisiana, Mississippi, and Texas and all applicable leased tracts (Phase I), respectively. We will multiply the result by the amount of shareable, qualified OCS revenues (Phase I).

Alabama Share = $(I_{AL} \div (I_{AL} + I_{LA} + I_{MS} + I_{TX})) \times$ qualified OCS revenues (Phase I)

Louisiana Share = $(I_{LA} \div (I_{AL} + I_{LA} + I_{MS} + I_{TX})) \times$ qualified OCS revenues (Phase I)

Mississippi Share = $(I_{MS} \div (I_{AL} + I_{LA} + I_{MS} + I_{TX})) \times$ qualified OCS revenues (Phase I)

Texas Share = $(I_{TX} \div (I_{AL} + I_{LA} + I_{MS} + I_{TX})) \times$ qualified OCS revenues (Phase I)

(3) If, in any fiscal year, this calculation results in less than a 10-percent allocation of the qualified OCS revenues (Phase I) to any Gulf producing State, we will recalculate the distribution. We will allocate 10 percent of the qualified OCS revenues (Phase I) to the affected State and recalculate the other States' shares of the remaining qualified OCS revenues (Phase I), omitting from the calculation the State receiving the 10-percent minimum share.

§ 1219.414 How will ONRR allocate the qualified OCS revenues (Phase I) to coastal political subdivisions within the Gulf producing States?

(a) Of the qualified OCS revenues (Phase I) allocated to a Gulf producing State's CPSs, ONRR will allocate 25 percent based on the proportion that each CPS's population bears to the population of all CPSs in the State.

(b) Of the qualified OCS revenues (Phase I) allocated to a Gulf producing State's CPSs, we will allocate 25 percent based on the proportion that each CPS's miles of coastline bears to the total miles of coastline across all CPSs in the State. However, for the State of Louisiana, we will deem CPSs without a coastline to each have a coastline one-third the average length of the coastline of all CPSs within Louisiana that have a coastline.

(c) Of the qualified OCS revenues (Phase I) allocated to a Gulf producing State's CPSs, we will allocate 50 percent in amounts that are inversely proportional to the respective distances between the point in each CPS that is closest to the geographic center of each applicable leased tract (Phase I) and the geographic center of each applicable leased tract (Phase I); except that we will exclude amounts collected for an applicable leased tract (Phase I) from this calculation if any portion of the tract is located in a geographic area that was subject to a leasing moratorium on January 1, 2005, unless the leased tract was in production on that date.

§ 1219.415 How will ONRR allocate qualified OCS revenues (Phase I) to the coastal political subdivisions if, during any fiscal year, there are no applicable leased tracts in the 181 Area in the Eastern Gulf of Mexico Planning Area?

If, during any fiscal year, there are no applicable leased tracts in the 181 Area in the Eastern Gulf of Mexico Planning Area, ONRR will allocate revenues to the CPSs in accordance with the following criteria:

(a) Of the qualified OCS revenues (Phase I) allocated to a Gulf producing State's CPSs, we will allocate 50 percent based on the proportion that each CPS's population bears to the population of all CPSs in the State.

(b) Of the qualified OCS revenues (Phase I) allocated to a Gulf producing State's CPSs, we will allocate 50 percent based on the proportion that each CPS's miles of coastline bears to the total miles of coastline across all CPSs within the State. However, for the State of Louisiana, we will deem CPSs without a coastline to each have a coastline one-third the average length of the coastline of all CPSs within Louisiana having a coastline.

§ 1219.416 When will ONRR disburse funds to Gulf producing States and coastal political subdivisions?

(a) ONRR will disburse GOMESA funds in the fiscal year after we collect the qualified OCS revenues (Phase I).

(b) We intend to disburse revenues within the first half of the fiscal year following the year that we collect qualified OCS revenues (Phase I).

Subpart E—Oil and Gas, Offshore, GOMESA Phase II Revenue Sharing

§ 1219.510 What does this subpart contain?

(a) GOMESA directs the Secretary of the Interior to disburse a portion of the rentals, royalties, bonus bids, and other sums derived from certain OCS leases in the GOM to the States of Alabama, Louisiana, Mississippi, and Texas (collectively identified as the Gulf producing States); to eligible CPSs within those States; and to the LWCF. GOMESA directs the Gulf producing States and CPSs to use the shared revenues for the following purposes:

(1) Projects and activities for the purposes of coastal protection, including conservation, coastal restoration, hurricane protection, and infrastructure directly affected by coastal wetland losses;

(2) Mitigation of damage to fish, wildlife, or natural resources;

(3) Implementation of a federally-approved marine, coastal, or comprehensive conservation management plan;

(4) Mitigation of the impact of OCS activities through the funding of onshore infrastructure projects; and

(5) Planning assistance and administrative costs not-to-exceed 3 percent of the amounts received.

(b) This subpart sets forth the formula and methodology ONRR will use to determine the amount of revenues allocated and disbursed to each Gulf producing State and each eligible CPS for fiscal year 2017 and each fiscal year thereafter. Leasing revenues disbursed under this subpart (also referred to as GOMESA Phase II) originate from leases issued on or after December 20, 2006, in the 181 Area, the 181 South Area, and the GOM 2002–2007 Planning Area subject to restrictions and caps identified in GOMESA. For questions related to the revenue-sharing provisions in this subpart, please contact: Program Manager, Financial Management, Office of Natural Resources Revenue, P.O. Box 25165, Denver Federal Center, Building 85, Denver, CO 80225–0165, or at (303) 231–3217.

§ 1219.511 What definitions apply to this subpart?

For purposes of this subpart:

181 Area is defined at § 1219.411.

181 South Area is defined at § 1219.411.

''181 Area in the Central Planning Area'' is comprised of the area of overlap of the two geographic areas defined at § 1219.411 as the ''181 Area'' and the ''Central Planning Area.''

2002–2007 Planning Area means any area—

(1) Located in—

(i) The Eastern Planning Area, as designated in the ''Proposed Final Outer Continental Shelf Leasing Program 2002–2007,'' dated April 2002;

(ii) The Central Planning Area, as designated in the ''Proposed Final Outer Continental Shelf Leasing Program 2002–2007,'' dated April 2002; or

(iii) The Western Planning Area, as designated in the ''Proposed Final Outer Continental Shelf Leasing Program 2002–2007,'' dated April 2002; and

(2) Not located in—

(i) An area in which no funds may be expended to conduct offshore preleasing, leasing, and related activities under sections 104 through 106 of the Department of the Interior, Environment, and Related Agencies Appropriations Act, 2006 (Pub. L. 109–54; 119 Stat. 521) (as in effect on August 2, 2005);

(ii) An area withdrawn from leasing under the ''Memorandum on Withdrawal of Certain Areas of the United States Outer Continental Shelf from Leasing Disposition,'' from 34 Weekly Comp. Pres. Doc. 1111, dated June 12, 1998; or

(iii) The 181 Area or 181 South Area.

Applicable leased tract (Phase II) means a tract that is subject to a lease under section 8 of the OCSLA, for the purpose of drilling for, developing, and producing oil or natural gas resources, issued on or after December 20, 2006, and located fully or partially in either the 181 Area or the 181 South Area.

Central Planning Area is defined at § 1219.411.

Coastal political subdivision is defined at § 1219.411.

Coastline is defined at § 1219.411.

Distance is defined at § 1219.411.

Eastern Planning Area is defined at § 1219.411.

Gulf producing State is defined at § 1219.411.

Historical lease site means any tract leased on or after October 1, 1982, under section 8 of the OCSLA, for the purpose of drilling for, developing, and producing oil or natural gas resources in the 2002–2007 Planning Area.

Leased tract is defined at § 1219.411.

Military Mission Line is defined at § 1219.411.

Qualified OCS revenues (Phase II) means—

(1) In the case of fiscal year 2017 and each fiscal year thereafter, all rentals, royalties, bonus bids, and other sums due and payable to the United States from leases that lessees enter(ed) into on or after December 20, 2006, located:

(i) In the 181 Area.

(ii) In the 181 South Area.

(iii) In the 2002–2007 Planning Area.

(2) Exclusions from the term ''*Qualified OCS revenues (Phase II)*'' are:

(i) Revenues from the forfeiture of a bond or other surety instrument securing obligations other than royalties;

(ii) Civil penalties;

(iii) Royalties ''taken by the Secretary in-kind and not sold.'' (Pub. L. 109–432, Dec 20, 2006);

(iv) Revenues generated from leases subject to section 8(g) of the Outer Continental Shelf Lands Act (43 U.S.C. 1337(g));

(v) User fees; and

(vi) Lease revenues explicitly excluded from GOMESA revenue sharing by statute or appropriations law.

(3) The term *''Qualified OCS revenues (Phase II)''* consists wholly of the two subsets defined as *''Qualified OCS revenues (Phase II–capped)''* and *''Qualified OCS revenues (Phase II–uncapped).''*

(i) *Qualified OCS revenues (Phase II—capped)* means, in the case of fiscal year 2017 and each fiscal year thereafter, the subset of qualified OCS revenues (Phase II) due and payable to the United States from leases that lessees enter(ed) into on or after December 20, 2006, located:

(A) In the 181 Area in the Central Planning Area.

(B) In the 2002–2007 Planning Area.

(ii) *Qualified OCS revenues (Phase II—uncapped)* means, in the case of fiscal year 2017 and each fiscal year thereafter, the subset of qualified OCS revenues (Phase II) due and payable to the United States from leases that lessees enter(ed) into on or after December 20, 2006, located:

(A) In the 181 Area in the Eastern Planning Area.

(B) In the 181 South Area.

§ 1219.512 How will ONRR divide the qualified OCS revenues (Phase II)?

(a) For fiscal year 2017 and each fiscal year thereafter, the Secretary of the Treasury will deposit 50 percent of the qualified OCS revenues (Phase II—uncapped) into a special U.S. Treasury account, from which ONRR will disburse 75 percent to the Gulf producing States and 25 percent to the LWCF. Of the revenues disbursed to a Gulf producing State, we will disburse 20 percent directly to the CPSs within that State. Each Gulf producing State will receive at least 10 percent of the qualified OCS revenues (Phase II—uncapped) available for allocation to the Gulf producing States each fiscal year. The following table summarizes the resulting revenue shares (adding to 100 percent):

REVENUE DISTRIBUTION OF QUALIFIED OCS REVENUES (PHASE II—UNCAPPED) UNDER GOMESA PHASE II

Recipient of qualified OCS revenues	Percentage of qualified OCS revenues
U.S. Treasury (General Fund)	50
Land and Water Conservation Fund	12.5
Gulf Producing States	30
Gulf Producing State Coastal Political Subdivisions	7.5

(b) For fiscal year 2017 and each fiscal year thereafter, the Secretary of the Treasury will deposit 50 percent of the qualified OCS revenues (Phase II—capped) into a special U.S. Treasury account. The total amount of qualified OCS revenues (Phase II—capped) deposited in the special U.S. Treasury account and available for allocation to the Gulf producing States, the CPSs and the LWCF, under this subpart, cannot exceed $500,000,000 for each of the fiscal years 2017 through 2055. After applying the cap, if applicable, ONRR will disburse 75 percent to the Gulf producing States and 25 percent to the LWCF. Of the revenues disbursed to a Gulf producing State, we will disburse 20 percent directly to the CPSs within that State. Each Gulf producing State will receive at least 10 percent of the qualified OCS revenues (Phase II—capped) available for allocation to the Gulf producing States each fiscal year.

§ 1219.513 How will ONRR determine each Gulf producing State's share of the qualified OCS revenues (Phase II) from leases in the 181 Area, the 181 South Area and the 2002–2007 Planning Area?

(a) ONRR will determine the great circle distance between:

(1) The geographic center of each tract or site; and

(2) The point on the coastline of each Gulf producing State that is closest to the geographic center of each applicable leased tract (Phase II) or historical lease site.

(b) Based on these distances, we will calculate the qualified OCS revenues (Phase II) to disburse to each Gulf producing State as follows:

(1) For each Gulf producing State, we will calculate and total, over all applicable leased tracts (Phase II) and historical lease sites, the mathematical inverses of the distances between the points on the State's coastline that are closest to the geographic centers of the applicable leased tracts (Phase II) and historical lease sites, and the geographic centers of the applicable leased tracts (Phase II) and historical lease sites.

(2) For each Gulf producing State, we will divide the sum of each State's

inverse distances from all applicable leased tracts (Phase II) and historical lease sites, by the sum of the inverse distances from all applicable leased tracts (Phase II) and historical lease sites across all four Gulf producing States. In the formulas below, I_{AL}, I_{LA}, I_{MS}, and I_{TX} represent the sum of the inverses of the shortest distances between Alabama, Louisiana, Mississippi, and Texas and all applicable leased tracts (Phase II) and historical lease sites, respectively. We will multiply the result by the amount of shareable, qualified OCS revenues (Phase II).

Alabama Share = $(I_{AL} \div (I_{AL} + I_{LA} + I_{MS} + I_{TX})) \times$ qualified OCS revenues (Phase II)

Louisiana Share = $(I_{LA} \div (I_{AL} + I_{LA} + I_{MS} + I_{TX})) \times$ qualified OCS revenues (Phase II)

Mississippi Share = $(I_{MS} \div (I_{AL} + I_{LA} + I_{MS} + I_{TX})) \times$ qualified OCS revenues (Phase II)

Texas Share = $(I_{TX} \div (I_{AL} + I_{LA} + I_{MS} + I_{TX})) \times$ qualified OCS revenues (Phase II)

(3) If, in any fiscal year, this calculation results in less than a 10-percent allocation of the qualified OCS revenues (Phase II) to any Gulf producing State, we will recalculate the distribution. We will allocate 10 percent of the qualified OCS revenues (Phase II) to the affected State and recalculate the other States' shares of the remaining qualified OCS revenues (Phase II), omitting from the calculation the State receiving the 10-percent minimum share.

§ 1219.514 How will ONRR allocate the qualified OCS revenues (Phase II) to coastal political subdivisions within the Gulf producing States?

(a) Of the qualified OCS revenues (Phase II) allocated to a Gulf producing State's CPSs, ONRR will allocate 25 percent based on the proportion that each CPS's population bears to the population of all CPSs in the State.

(b) Of the qualified OCS revenues (Phase II) allocated to a Gulf producing State's CPSs, we will allocate 25 percent based on the proportion that each CPS's miles of coastline bears to the total miles of coastline across all CPSs in the State. However, for the State of Louisiana, we will deem CPSs without a coastline to each have a coastline one-third the average length of the coastline of all CPSs within Louisiana that have a coastline.

(c)(1) Of the qualified OCS revenues (Phase II) allocated to a Gulf producing State's CPSs, we will allocate 50 percent in amounts that are inversely proportional to the respective distances between:

(i) The point in each CPS that is closest to the geographic center of the applicable leased tract (Phase II) or historical lease site; and

(ii) The geographic center of each applicable leased tract (Phase II) or historical lease site.

(2) However, we will exclude an applicable leased tract (Phase II) from this calculation if any portion of the tract is located in a geographic area that was subject to a leasing moratorium on January 1, 2005, unless the leased tract was in production on that date.

§ 1219.515 How will ONRR update the group of ''historical lease sites'' and ''applicable leased tracts (Phase II)'' used for determining the allocation of shared revenues?

(a) As GOMESA directs, ONRR will update the group of historical lease sites in the 2002–2007 Planning Area as follows:

(1) On December 31, 2015, we will freeze the group of historical lease sites, subject to the adjustment under paragraph (a)(2) of this section.

(2) Beginning January 1, 2022, and every fifth year thereafter, we will extend the ending date for determining the group of historical lease sites for an additional five calendar years by adding any new historical lease sites to the existing group.

(b) Each year we will update the group of applicable leased tracts (Phase II) to include only leases that were in effect at any time during the fiscal year.

§ 1219.516 When will ONRR disburse funds to Gulf producing States and coastal political subdivisions?

(a) ONRR will disburse GOMESA funds in the fiscal year after we collect the qualified OCS revenues (Phase II).

(b) We intend to disburse revenues within the first half of the fiscal year following the year that we collect qualified OCS revenues (Phase II).

[FR Doc. 2014–06848 Filed 3–27–14; 11:15 am]

BILLING CODE 4310–T2–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R09–OAR–2014–0171; FRL–9908–24-Region 9]

Revisions to the Arizona State Implementation Plan

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is proposing to approve a revision to the Arizona Statutes portion of the Arizona State Implementation Plan (SIP). This revision concerns particulate matter (PM) emissions from dust generating operations that do not already have a permit. We are proposing to approve a state general permit to regulate these emission sources under the Clean Air Act (CAA or the Act).

DATES: Any comments on this proposal must arrive by April 30, 2014.

ADDRESSES: Submit comments, identified by docket number EPA–R09–OAR–2014–0171, by one of the following methods:

1. *Federal eRulemaking Portal: www.regulations.gov.* Follow the on-line instructions.

2. *Email: steckel.andrew@epa.gov.*

3. *Mail or deliver:* Andrew Steckel (Air-4), U.S. Environmental Protection Agency Region IX, 75 Hawthorne Street, San Francisco, CA 94105–3901.

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

Docket: Generally, documents in the docket for this action are available electronically at *www.regulations.gov* and in hard copy at EPA Region IX, 75 Hawthorne Street, San Francisco, California 94105–3901. While all documents in the docket are listed at *www.regulations.gov*, some information may be publicly available only at the hard copy location (e.g., copyrighted material, large maps), and some may not be publicly available in either location (e.g., CBI). To inspect the hard copy materials, please schedule an

appointment during normal business hours with the contact listed in the **FOR FURTHER INFORMATION CONTACT** section.

FOR FURTHER INFORMATION CONTACT: Christine Vineyard, EPA Region IX, (415) 947–4125, *vineyard.christine@epa.gov*.

SUPPLEMENTARY INFORMATION: This proposal addresses the requirements in the ADEQ Dust Action General Permit (DAGP) in accordance with Arizona Revised Statute section 49–457.05. In the Rules and Regulations section of this **Federal Register**, we are approving this state requirement in a direct final action without prior proposal because we believe this SIP revision is not controversial. If we receive adverse comments, however, we will publish a timely withdrawal of the direct final rule and address the comments in subsequent action based on this proposed rule.

We do not plan to open a second comment period, so anyone interested in commenting should do so at this time. If we do not receive adverse comments, no further activity is planned. For further information, please see the direct final action.

Dated: March 7, 2014.

Jared Blumenfeld,

Regional Administrator, Region IX.

[FR Doc. 2014–07119 Filed 3–28–14; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R09–OAR–2012–0984; FRL–9904–74-Region 9]

Revisions to the Arizona State Implementation Plan

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is proposing under the Clean Air Act to approve a revision to the Arizona Statutes portion of the Arizona State Implementation Plan (SIP). This revision concerns particulate matter (PM) emissions from dust generating operations that do not already have a permit within the Phoenix Planning area. We are proposing to approve a state statute that requires the Arizona Department of Environmental Quality to develop and adopt a general permit that specifies episodic best management practices that are to be implemented by certain dust-generating activities.

DATES: Any comments on this proposal must arrive by April 30, 2014.

ADDRESSES: Submit comments, identified by docket number EPA–R09–OAR–2012–0984, by one of the following methods:

1. *Federal eRulemaking Portal: www.regulations.gov.* Follow the on-line instructions.
2. *Email: steckel.andrew@epa.gov.*
3. *Mail or deliver:* Andrew Steckel (Air-4), U.S. Environmental Protection Agency Region IX, 75 Hawthorne Street, San Francisco, CA 94105–3901.

Instructions: All comments will be included in the public docket without change and may be made available online at *www.regulations.gov,* including any personal information provided, unless the comment includes Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Information that you consider CBI or otherwise protected should be clearly identified as such and should not be submitted through *www.regulations.gov* or email. *www.regulations.gov* is an ''anonymous access'' system, and EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send email directly to EPA, your email address will be automatically captured and included as part of the public comment. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses. *Docket:* Generally, documents in the docket for this action are available electronically at *www.regulations.gov* and in hard copy at EPA Region IX, 75 Hawthorne Street, San Francisco, California 94105–3901. While all documents in the docket are listed at www.regulations.gov, some information may be publicly available only at the hard copy location (e.g., copyrighted material, large maps), and some may not be publicly available in either location (e.g., CBI). To inspect the hard copy materials, please schedule an appointment during normal business hours with the contact listed in the **FOR FURTHER INFORMATION CONTACT** section.

FOR FURTHER INFORMATION CONTACT: Christine Vineyard, EPA Region IX, (415) 947–4125, *vineyard.christine@epa.gov.*

SUPPLEMENTARY INFORMATION: This proposal addresses the following state statute: A.R.S. section 49–457.05 (only A, B, D, and I), (''dust action general permit; best management practices; applicability; definitions''). In the Rules and Regulations section of this **Federal Register**, we are approving this state statute in a direct final action without prior proposal because we believe this SIP revision is not controversial. If we receive adverse comments, however, we will publish a timely withdrawal of the direct final rule and address the comments in subsequent action based on this proposed rule.

We do not plan to open a second comment period, so anyone interested in commenting should do so at this time. If we do not receive adverse comments, no further activity is planned. For further information, please see the direct final action.

Dated: December 16, 2013.

Jared Blumenfeld,

Regional Administrator,Region IX.

[FR Doc. 2014–07116 Filed 3–28–14; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R03–OAR–2013–0589; FRL–9908–49-Region 3]

Approval and Promulgation of Air Quality Implementation Plans; Pennsylvania; Update of the Motor Vehicle Emissions Budgets for the Reading 1997 Eight-Hour Ozone National Ambient Air Quality Standard Maintenance Area

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is proposing to approve revisions to the Commonwealth of Pennsylvania's (Pennsylvania) State Implementation Plan (SIP). The revisions consist of an update to the SIP approved Motor Vehicle Emissions Budgets (MVEBs) for nitrogen oxides (NO_X) for the 1997 Eight-Hour Ozone National Ambient Air Quality Standard (NAAQS) SIP for Berks County (also referred to as the ''Reading Maintenance Area''). Also as a part of this SIP revision is an update to the area and point source inventories for NO_X. In the Final Rules section of this **Federal Register**, EPA is approving the State's SIP submittal as a direct final rule without prior proposal because the Agency views this as a noncontroversial submittal and anticipates no adverse comments. A detailed rationale for the approval is set forth in the direct final rule. If no adverse comments are received in response to this action, no

further activity is contemplated. If EPA receives adverse comments, the direct final rule will be withdrawn and all public comments received will be addressed in a subsequent final rule based on this proposed rule. EPA will not institute a second comment period. Any parties interested in commenting on this action should do so at this time.

DATES: Comments must be received in writing by April 30, 2014.

ADDRESSES: Submit your comments, identified by Docket ID Number EPA–R03–OAR–2013–0589 by one of the following methods:

A. *www.regulations.gov.* Follow the on-line instructions for submitting comments.

B. Email: *Fernandez.cristina@epa.gov.*

C. Mail: EPA–R03–OAR–2013–0589, Cristina Fernandez, Associate Director, Office of Air Program Planning, Mailcode 3AP30, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103.

D. Hand Delivery: At the previously-listed EPA Region III address. 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–R03–OAR–2013–0589. 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 information that you consider to be CBI or otherwise protected through *www.regulations.gov* or email. 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 during normal business hours at the Air Protection Division, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103. Copies of the State submittal are available at the Pennsylvania Department of Environmental Protection, Bureau of Air Quality Control, P.O. Box 8468, 400 Market Street, Harrisburg, Pennsylvania 17105.

FOR FURTHER INFORMATION CONTACT: Asrah Khadr, (215) 814–2071, or by email at *Khadr.asrah@epa.gov.*

SUPPLEMENTARY INFORMATION:

For further information, please see the information provided in the direct final action, with the same title, that is located in the ''Rules and Regulations'' section of this **Federal Register** publication. Please note that if EPA receives adverse comment on an amendment, paragraph, or section of this rule and if that provision may be severed from the remainder of the rule, EPA may adopt as final those provisions of the rule that are not the subject of an adverse comment.

Dated: March 7, 2014.

W.C. Early,

Acting Regional Administrator, Region III.

[FR Doc. 2014–06670 Filed 3–28–14; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 80

[EPA–HQ–OAR–2013–0787; FRL–9908–12–OAR]

Approval of States' Requests To Relax the Federal Reid Vapor Pressure Volatility Standard in Florida, and the Raleigh-Durham-Chapel Hill and Greensboro/Winston-Salem/High Point Areas in North Carolina

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is proposing to approve requests from Florida and North Carolina for the EPA to relax the Reid Vapor Pressure (RVP) Standard applicable to gasoline introduced into commerce from June 1 to September 15 of each year in six counties in Florida, and in counties in the Raleigh-Durham-Chapel Hill Area (also referred to as the ''Triangle Area'') and the Greensboro/Winston-Salem/High Point Area (also referred to as the ''Triad Area'') in North Carolina. Specifically, the EPA is proposing to amend the regulations to change the RVP standard for six counties in Florida and for the counties in the Triangle and Triad Areas from 7.8 pounds per square inch (psi) to 9.0 psi for gasoline in the aforementioned areas. The EPA has preliminarily determined that these changes to the federal RVP regulation are consistent with the applicable provisions of the Clean Air Act (CAA or Act).

DATES: Written comments must be received on or before April 30, 2014. Request for a public hearing must be received by April 15, 2014. If the EPA receives a request for a public hearing, the Agency will publish information related to the timing and location of the hearing and the timing of a new deadline for public comments.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–HQ–OAR–2013–0787, by one of the following methods:

1. *www.regulations.gov:* Follow the on-line instructions for submitting comments.
2. *Email: a-and-r-docket@epa.gov.*
3. *Fax:* 202–566–9744.
4. *Mail:* Environmental Protection Agency, Mail Code: 2822T, 1200 Pennsylvania Avenue NW., Washington, DC 20460. Please include two copies.
5. *Hand Delivery or Courier:* U.S. Environmental Protection Agency, EPA Headquarters Library, EPA West Building, Room 3334, 1301 Constitution Avenue NW., 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–2013–0787. The 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 the 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 the 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, the 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 the EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, the Agency 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 the EPA's public docket visit the EPA Docket Center homepage at *http://www.epa.gov/epahome/dockets.htm.*

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 through *www.regulations.gov* or in hard copy at the Air Docket, EPA/DC, EPA West, Room 3334, 1301 Constitution Ave. NW., Washington, DC. The Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566–1744, and the telephone number for the Air Docket is (202) 566–1742.

FOR FURTHER INFORMATION CONTACT:

Rudolph Kapichak, Office of Transportation and Air Quality, Environmental Protection Agency, 2000 Traverwood Drive, Ann Arbor, MI 48105; telephone number: 734–214–4574; fax number 734–214–4052; email address: *kapichak.rudolph@epa.gov.*

SUPPLEMENTARY INFORMATION:

Organization of this document. The following outline is provided to aid in locating information in this preamble.

Table of Contents

I. General Information
II. Does this action apply to me?
III. What should I consider as I prepare my comments for EPA?
IV. Details of the Proposal
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VII. Legal Authority

I. General Information

Throughout this document, ''the Agency'' is used to mean the EPA.

In the ''Rules and Regulations'' section of this **Federal Register**, the EPA is making these revisions as a direct final rule without prior proposal, because the Agency views these revisions as noncontroversial and anticipates no adverse comment. The rationale for this rulemaking is described both in this proposal and in the direct final rule.

The regulatory text for this proposed rule is included in the direct final rule and parties should review that rule for the regulatory text. If the EPA receives no adverse comment, the Agency will not take further action on this proposed rule. If the EPA receives adverse comment on the rule or any portion of the rule, the Agency will withdraw the direct final rule or the portion of the rule that received adverse comment. All public comments received will then be addressed in a subsequent final rule based on this proposed rule. The EPA will not institute a second comment period on this rulemaking. Any parties interested in commenting must do so at this time.

II. Does this action apply to me?

Entities potentially affected by this rule are fuel producers and distributors who do business in Florida and in North Carolina. Regulated entities include:

Examples of potentially regulated entities	NAICS codes [a]
Petroleum refineries	324110
Gasoline Marketers and Distributors	424710 424720
Gasoline Retail Stations	447110
Gasoline Transporters	484220 484230

[a] North American Industry Classification System (NAICS).

This table provides only a guide for readers regarding entities likely to be regulated by this action. You should carefully examine the regulations in 40 CFR 80.27 to determine whether your facility is impacted. If you have further questions, call the person listed in the **FOR FURTHER INFORMATION CONTACT** section of this preamble.

III. What should I consider as I prepare my comments for EPA?

A. *Submitting CBI.* Do not submit this information to the EPA through *www.regulations.gov* or email. Clearly mark the part or all of the information that you claim to be CBI. For CBI information in a disk or CD ROM that you mail to the 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.

B. *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.

IV. Details of the Proposal

A. Summary of the Proposal

The EPA is proposing to approve a request from Florida to change the summertime RVP standard for Broward, Dade, Duval, Hillsborough, Palm Beach and Pinellas counties in Florida from 7.8 psi to 9.0 psi by amending the EPA's

regulations at 40 CFR 80.27(a)(2). Additionally, the EPA is proposing to approve a request from North Carolina to change the summertime RVP standard for the Triangle and Triad Areas from 7.8 psi to 9.0 psi by amending the EPA's regulations at 40 CFR 80.27(a)(2). The Triangle Area is comprised of Durham and Wake Counties, and the Dutchville Township portion of Granville County. The Triad Area is comprised of the counties of Davidson, Forsyth and Guilford in their entirety, and the portion of Davie County bounded by the Yadkin River, Dutchmans Creek, North Carolina Highway 801, Fulton Creek and back to Yadkin River.

In previous rulemakings, the EPA approved state implementation plan (SIP) revisions from Florida and North Carolina which provided technical analyses that demonstrated that removal of the Federal RVP requirements of 7.8 psi for gasoline sold between June 1 and September 15 of each year in the six counties in Florida, and the Triangle and Triad Areas in North Carolina would not interfere with maintenance of the national ambient air quality standards (NAAQS) in these areas. For more information on Florida's SIP revision for the six Florida counties and the EPA's analysis of Florida's SIP revision refer to the January 6, 2014, final rule at 79 FR 573; on North Carolina's SIP revision for the Triangle Area refer to the January 2, 2014, final rule at 79 FR 47; and on North Carolina's SIP revision for the Triad Area refer to the January 24, 2014, final rule at 79 FR 4082.

As mentioned above, the EPA is proposing to approve requests from Florida and North Carolina to change the summertime RVP standard for six Florida counties, and for the Triangle and Triad Areas from 7.8 psi to 9.0 psi by amending the EPA's regulations at 40 CFR 80.27(a)(2). The preamble for this rulemaking is organized as follows. Section IV.B provides the history of federal gasoline volatility regulation. Section IV.C describes the policy regarding relaxation of volatility standards in ozone nonattainment areas that are redesignated as attainment areas. Section IV.D provides information specific to Florida's request for the six counties currently subject to the 7.8 psi summertime RVP requirements. Section IV.E provides information specific to North Carolina's requests for the counties in the Triangle and Triad Areas that are currently subject to the 7.8 psi summertime RVP requirements. Finally, Section V briefly discusses the associated direct final rule.

B. History of the Gasoline Volatility Requirement

On August 19, 1987 (52 FR 31274), the EPA determined that gasoline nationwide was becoming increasingly volatile, causing an increase in evaporative emissions from gasoline-powered vehicles and equipment. Evaporative emissions from gasoline, referred to as volatile organic compounds (VOC), are precursors to the formation of tropospheric ozone and contribute to the nation's ground-level ozone problem. Exposure to ground-level ozone can reduce lung function (thereby aggravating asthma or other respiratory conditions), increase susceptibility to respiratory infection, and may contribute to premature death in people with heart and lung disease.

The most common measure of fuel volatility that is useful in evaluating gasoline evaporative emissions is RVP. Under section 211(c) of the CAA, the EPA promulgated regulations on March 22, 1989 (54 FR 11868) that set maximum limits for the RVP of gasoline sold during the regulatory control periods that were established on a state-by-state basis in the final rule. The regulatory control periods addressed the portion of the year when peak ozone concentrations were expected. These regulations constituted Phase I of a two-phase nationwide program, which was designed to reduce the volatility of commercial gasoline during the high ozone season. On June 11, 1990 (55 FR 23658), the EPA promulgated more stringent volatility controls as Phase II of the volatility control program. These requirements established maximum RVP standards of 9.0 psi or 7.8 psi (depending on the state, the month, and the area's initial ozone attainment designation with respect to the 1-hour ozone NAAQS).

The 1990 CAA Amendments established a new section, 211(h), to address fuel volatility. Section 211(h) requires the EPA to promulgate regulations making it unlawful to sell, offer for sale, dispense, supply, offer for supply, transport, or introduce into commerce gasoline with an RVP level in excess of 9.0 psi during the high ozone season. Section 211(h) prohibits the EPA from establishing a volatility standard more stringent than 9.0 psi in an attainment area, except that the Agency may impose a lower (more stringent) standard in any former ozone nonattainment area redesignated to attainment.

On December 12, 1991 (56 FR 64704), the EPA modified the Phase II volatility regulations to be consistent with section 211(h) of the CAA. The modified regulations prohibited the sale of gasoline with an RVP above 9.0 psi in all areas designated attainment for ozone, beginning in 1992. For areas designated as nonattainment, the regulations retained the original Phase II standards published on June 11, 1990 (55 FR 23658), which included the 7.8 psi ozone season limitation for certain areas. As stated in the preamble to the Phase II volatility controls and reiterated in the proposed change to the volatility standards published in 1991, the EPA will rely on states to initiate changes to the volatility program. The EPA's policy for approving such changes is described in Section III of this notice.

Florida and North Carolina have initiated these changes by requesting that the EPA relax the 7.8 psi RVP standard for counties that are in ozone maintenance areas. Accordingly, the States revised their original modeling and maintenance demonstrations for these areas to reflect continued attainment under the relaxed 9.0 psi RVP standard that the states have requested.

C. EPA's Policy Regarding Relaxation of Volatility Standards in Ozone Nonattainment Areas That Are Redesignated as Attainment Areas

As stated in the preamble for the EPA's amended Phase II volatility standards (56 FR 64706), any change in the volatility standard for a nonattainment area that was subsequently redesignated as an attainment area must be accomplished through a separate rulemaking that revises the applicable standard for that area. Thus, for former 1-hour ozone nonattainment areas where the EPA mandated a Phase II volatility standard of 7.8 psi RVP in the December 12, 1991 rulemaking, the 7.8 psi RVP will remain in effect, even after such an area is redesignated to attainment, until a separate rulemaking is completed that revises the RVP standard in that area from 7.8 psi to 9.0 psi.

As explained in the December 12, 1991, rulemaking, the EPA believes that relaxation of an applicable RVP standard is best accomplished in conjunction with the redesignation process. In order for an ozone nonattainment area to be redesignated as an attainment area, section 107(d)(3) of the Act requires the state to make a showing, pursuant to section 175A of the Act, that the area is capable of maintaining attainment for the ozone NAAQS for ten years. Depending on the area's circumstances, this maintenance plan will either demonstrate that the area is capable of maintaining

attainment for ten years without the more stringent volatility standard or that the more stringent volatility standard may be necessary for the area to maintain its attainment with the ozone NAAQS. Therefore, in the context of a request for redesignation, the EPA will not relax the volatility standard unless the state requests a relaxation and the maintenance plan demonstrates, to the satisfaction of the EPA, that the area will maintain attainment for ten years without the need for the more stringent volatility standard.

D. EPA's Analysis of Florida's Request To Relax the Federal RVP Requirements in the State

On November 6, 1991, the EPA designated and classified the Southeast Florida area (i.e., Broward, Dade and Palm Beach counties) as Moderate; the Jacksonville area (i.e., Duval County) as Transitional; and the Tampa area (i.e., Hillsborough and Pinellas counties) as Marginal nonattainment areas for the 1-hour ozone NAAQS. *See* 56 FR 56694 (November 6, 1991). Among the requirements applicable to nonattainment areas for the 1-hour ozone NAAQS was the requirement to meet certain RVP standards for gasoline sold commercially during the high ozone season. *See* 55 FR 23658 (June 11, 1990). Thus, the RVP requirements for gasoline sold in these three 1-hour ozone nonattainment areas was 7.8 psi from June 1 through September 15 of each year. Subsequently, each area was redesignated to attainment for the 1-hour ozone NAAQS.[1] Florida's redesignation requests did not include a request for relaxation of the gasoline volatility standard and thus, the requirement to use gasoline with a 7.8 psi RVP during the high ozone season remained in effect.[2] [3]

On August 15, 2013, the State of Florida, through the Florida Department of Environmental Protection (FDEP), submitted a request for the EPA to relax the Federal RVP requirement of 7.8 psi in Broward, Dade, Duval, Hillsborough, Palm Beach and Pinellas Counties in Florida. The State also submitted a technical analysis which demonstrated that the less-stringent RVP in these counties would not interfere with continued maintenance of the 1997 8-hour ozone NAAQS or any other applicable standard.[4] Specifically, the State updated the 10-year maintenance plans that were submitted for the three 1-hour ozone maintenance areas under section 110(a)(1) of the CAA for the 1997 ozone NAAQS.[5] As required, these section 110(a)(1) maintenance plans provided for continued attainment and maintenance of the 1997 8-hour ozone NAAQS for at least 10 years from the effective date of these areas' designation as attainment for the 1997 8-hour ozone NAAQS. These plans also included components demonstrating how each area will continue to attain the 1997 8-hour ozone NAAQS, and provided contingency measures should an area violate the NAAQS. Florida's previous ozone redesignation requests and maintenance plans for these areas did not remove the 7.8 psi RVP standard. *See* 75 FR 29671 (May 27, 2010).

As mentioned above, on August 15, 2013, FDEP submitted changes to the three section 110(a)(1) maintenance plans that collectively cover Broward, Dade, Duval, Hillsborough, Palm Beach and Pinellas Counties in Florida. Florida's August 15, 2013, SIP revision modifies the existing section 110(a)(1) maintenance plans to account for a less stringent applicable RVP gasoline requirement of 9.0 psi for these areas. Specifically, Florida's August 15, 2013, SIP revision included an evaluation of the impact that the removal of the 7.8 psi RVP requirement would have on maintenance of the 1997 and 2008 ozone standards, and on other applicable NAAQS. The EPA evaluated Florida's August 15, 2013, SIP revision in a previous rulemaking that was subject to public notice-and-comment and no comments were received. The EPA approved Florida's August 15, 2013, SIP revision on January 6, 2014. *See* 79 FR 573. In this action, based on the previous approval of Florida's August 15, 2013, SIP revision, and the fact that the areas are currently attaining all ozone NAAQS, the EPA is proposing to approve Florida's request to relax the high ozone season RVP standard for Broward, Dade, Duval, Hillsborough, Palm Beach and Pinellas counties from 7.8 psi to 9.0 psi.

E. EPA's Analysis of North Carolina's Requests To Relax the Federal RVP Requirements in the Triangle and Triad Areas

The following two sections provide the EPA's analysis of North Carolina's requests to relax the Federal RVP requirements in the Triangle and Triad Areas.

1. EPA's Analysis of North Carolina's Requests To Relax the Federal RVP Requirement in the Triangle Area

On November 6, 1991, the EPA designated and classified Durham and Wake Counties, and the Dutchville Township portion of Granville County (also known as the Triangle Area at the time) as a Moderate nonattainment area for the 1-hour ozone NAAQS. *See* 56 FR 56694 (November 6, 1991). Among the requirements applicable to nonattainment areas for the 1-hour ozone NAAQS was the requirement to meet certain RVP standards for gasoline sold commercially during the high ozone season. *See* 55 FR 23658 (June 11, 1990). Thus, the RVP requirement for gasoline sold in the Triangle Area was 7.8 psi from June 1 through September 15 of each year. On April 18, 1994, the Triangle Area was redesignated to attainment for the 1-hour ozone standard. *See* 59 FR 18300. North Carolina's redesignation request for the Triangle Area did not include a request for relaxation of the gasoline volatility standard.[6] [7] [8]

On March 27, 2013, the State of North Carolina, through the North Carolina Department of Environment, and Natural Resources (NC DENR), submitted a request for the EPA to relax the Federal RVP requirement of 7.8 psi in Wake and Durham Counties, and the Dutchville Township portion of Granville County that was originally included in the 1-hour ozone nonattainment area. The State also submitted a technical analysis which demonstrated that the less-stringent RVP in the aforementioned counties would not interfere with continued maintenance of the 1997 8-hour ozone NAAQS or any other applicable

[1] 60 FR 41, (January 3, 1995); 60 FR 10326 (February 24, 1995); and 60 FR 62748 (December 7, 1995), respectively).

[2] Effective on June 15, 2004, Broward, Dade, Duval, Hillsborough, Palm Beach and Pinellas Counties were designated unclassifiable/attainment for the 1997 8-hour ozone NAAQS. *See* 69 FR 23857.

[3] Effective on July 20, 2012, the same counties were designated as unclassifiable/attainment for the 2008 8-hour ozone NAAQS. *See* 77 FR 30088.

[4] Maintenance areas for the 1-hour ozone standard designated attainment/unclassifiable for the 1997 8-hour ozone standard are required to submit a maintenance plan under section 110(a)(1) of the CAA demonstrating maintenance out to 10 years after designation. *See* 69 FR 23996 (April 30, 2004).

[5] The EPA has determined that redesignated 1-hour ozone attainment areas that are designated 8-hour ozone attainment areas may rely on the section 110(a)(1) maintenance plan for purposes of requesting relaxation of the more stringent volatility standard. *See* 73 FR 8202, 8205 (February 13, 2008).

[6] Effective on June 15, 2004, the nonattainment area for the Triangle Area for the 1997 ozone NAAQS was expanded from Durham and Wake Counties, and the Dutchville Township portion of Granville County, to also include Franklin, Johnston, Orange, and Person Counties, and the remainder of Granville County and Baldwin, Center, New Hope and Williams Townships in Chatham County. *See* 69 FR 23857.

[7] On December 26, 2007 the Triangle Area was redesignated to attainment for the 1997 8-hour ozone NAAQS. *See* 72 FR 72948.

[8] Effective on July 20, 2012, the same counties were designated as unclassifiable/attainment for the 2008 8-hour ozone NAAQS. *See* 77 FR 30088.

standard. Specifically, the State updated the 10-year maintenance plan that was submitted for the Triangle 1997 8-hour ozone maintenance area under section 175A of the CAA. As required, this section 175A maintenance plan provided for continued attainment and maintenance of the 1997 8-hour ozone NAAQS for at least 10 years from the EPA's redesignation of the area from nonattainment to attainment for the 1997 8-hour ozone NAAQS. This plan also included components demonstrating how the area will continue to attain the 1997 8-hour ozone NAAQS, and provided contingency measures should the area violate the NAAQS. North Carolina's previous ozone redesignation requests and maintenance plans for this area did not remove the 7.8 psi RVP standard. *See* 72 FR 72948 (December 26, 2007).

As mentioned above, on March 27, 2013, NC DENR submitted changes to the 175A maintenance plan for the Triangle Area. North Carolina's March 27, 2013, SIP revision modifies the existing section 175A maintenance plan to account for a less stringent applicable RVP gasoline requirement of 9.0 psi for the Triangle Area. Specifically, North Carolina's March 27, 2013, SIP revision included an evaluation of the impact that the removal of the 7.8 psi RVP requirement would have on maintenance of the 1997 and 2008 ozone standards, and on other applicable NAAQS. The EPA evaluated North Carolina's March 27, 2013, SIP revision in a previous rulemaking that was subject to public notice-and-comment, and no adverse comments and one supportive comment were received on that proposed action. The EPA approved North Carolina's March 27, 2013, SIP revision on January 2, 2014. *See* 79 FR 47. In this action, based on the EPA's previous approval of North Carolina's March 27, 2013, SIP revision, and the fact that the Triangle Area is currently attaining all ozone NAAQS, the EPA is proposing to approve North Carolina's request to relax the high ozone season RVP standard for Wake and Durham Counties, and a portion of Granville County in North Carolina from 7.8 psi to 9.0 psi.

2. EPA's Analysis of North Carolina's Requests To Relax the Federal RVP Requirement in the Triad Area

On November 6, 1991, the EPA designated Davidson, Forsyth and Guilford counties in their entirety and the portion of Davie County bounded by the Yadkin River, Dutchmans Creek, North Carolina Highway 801, Fulton Creek and back to Yadkin River in the Triad Area as a Moderate nonattainment area for the 1-hour ozone NAAQS. *See* 56 FR 56694 (November 6, 1991). Among the requirements applicable to nonattainment areas for the 1-hour ozone NAAQS was the requirement to meet certain RVP standards for gasoline sold commercially during the ozone season. *See* 55 FR 23658 (June 11, 1990). Thus, the RVP requirement for gasoline sold in the Triad Area was 7.8 psi during the high ozone season. On April 18, 1994, the Triad Area was redesignated to attainment for the 1-hour ozone standard. *See* 59 FR 18300. North Carolina's redesignation request for the Triad Area did not include a request for the relaxation of the gasoline volatility standard.[9] [10] [11] [12]

On April 12, 2013, the State of North Carolina, through NC DENR, submitted a request for the EPA to relax the Federal RVP requirement of 7.8 psi in Davidson, Forsyth and Guilford Counties and the relevant portion of Davie County. The State also submitted a technical analysis which demonstrated that the less-stringent RVP in the aforementioned counties would not interfere with continued maintenance of the 1997 8-hour ozone NAAQS or any other applicable standard. Specifically, the State updated the 10-year maintenance plan that was submitted for the Triad 1-hour ozone maintenance area under section 110(a)(1) of the CAA for the 1997 ozone NAAQS.[13] As required, this section 110(a)(1) maintenance plan provided for continued attainment and maintenance of the 1997 8-hour ozone NAAQS for at least 10 years from the effective date of the area's designation as attainment for the 1997 8-hour ozone NAAQS. This plan also included components demonstrating how the area will continue to attain the 1997 8-hour ozone NAAQS, and provided contingency measures should an area violate the NAAQS. North Carolina's previous ozone redesignation request and maintenance plan for this area did not remove the 7.8 psi RVP standard. *See* 77 FR 3611 (January 25, 2012).

As mentioned above, on April 12, 2013, NC DENR submitted changes to the section 110(a)(1) maintenance plan for the Triad Area. North Carolina's April 12, 2013, SIP revision modifies the existing section 110(a)(1) maintenance plan to account for a less stringent applicable RVP gasoline requirement of 9.0 psi for the area. Specifically, North Carolina's April 12, 2013, SIP revision included an evaluation of the impact that the removal of the 7.8 psi RVP requirement would have on maintenance of the 1997 and 2008 ozone standards, and on other applicable NAAQS. The EPA evaluated North Carolina's April 12, 2013, SIP revision in a previous rulemaking that was subject to public notice-and-comment, and no adverse comments and one supportive comment were received on that proposed action. The EPA approved North Carolina's April 12, 2013, SIP revision on January 24, 2014. *See* 79 FR 4082. In this action, based on the previous approval of North Carolina's April 12, 2013, SIP revision, and the fact that the Triad Area is currently attaining all ozone NAAQS, the EPA is proposing to approve North Carolina's request to relax the summertime RVP standard for Davidson, Forsyth and Guilford Counties and a portion of Davie County from 7.8 psi to 9.0 psi.

V. Direct Final Rule

A direct final rule that would make the same changes as those proposed in this notice appears in the Rules and Regulations section of this **Federal Register**. The EPA is taking direct final action on these revisions, because the Agency views the revisions as noncontroversial and anticipates no adverse comment. The EPA has explained the reasons for the amendments in this proposal and in the direct final rule. If no adverse comments are received, no further action will be taken on the proposal, and the direct final rule will become effective as provided in that action.

If the EPA receives adverse comments on the rule or any portion of the rule, the Agency will withdraw the direct final rule or the portion of the rule that received adverse comment. The EPA will publish a timely withdrawal in the

[9] Effective June 15, 2004 for the 1997 ozone NAAQS, the Triad Area was designated as nonattainment with a deferred effective date as part of the Early Action Compact (EAC) program. As part of this action the Triad Area was expanded to include the entire county of Davie, and Alamance, Caswell, Randolph, and Rockingham Counties in their entirety. *See* 69 FR 23857.

[10] For more information on the EAC program, see, *http://www.epa.gov/airquality/eac/fs20080331_eac.html*.

[11] The Triad Area attained the 1997 ozone NAAQS and on February 2, 2008, the EPA finalized an action for 13 nonattainment areas with deferred effective dates, including the Triad Area, designating these areas attainment for the 1997 8-hour ozone NAAQS. However, as a former 1-hour ozone maintenance area the Triad Area was required to submit a 10-year maintenance plan under section 110(a)(1) of the CAA. *See* 73 FR 17897.

[12] Effective July 20, 2012, the Triad Area counties were designated as unclassifiable/attainment for the 2008 8-hour ozone NAAQS. *See* 77 FR 30088.

[13] The EPA has determined that redesignated 1-hour ozone attainment areas that are designated 8-hour ozone attainment areas may rely on the section 110(a)(1) maintenance plan for purposes of requesting relaxation of the more stringent volatility standard. 73 FR 8202, 8205 (February 13, 2008).

Federal Register indicating which provisions will become effective and which provisions are being withdrawn. All public comments received will then be addressed in a subsequent final rule based on this proposed rule. The EPA will not institute a second comment period on the subsequent final action. Any parties interested in commenting must do so at this time.

The changes to the regulatory text proposed in this notice are identical to those for the direct final rule published in the Rules and Regulations section of this **Federal Register**. For further information, including the regulatory revisions, see the direct final rule published in a separate part of this **Federal Register**.

VI. Statutory and Executive Order Reviews

For a complete discussion of all of the administrative requirements applicable to this action, see the direct final rule in the Rules and Regulations section of this **Federal Register**.

VII. Legal Authority

Authority for this action is in sections 211(h) and 301(a) of the Clean Air Act, 42 U.S.C. 7545(h) and 7601(a).

List of Subjects in 40 CFR Part 80

Environmental protection, Administrative practice and procedures, Air pollution control, Fuel additives, Gasoline, Incorporation by reference, Motor vehicle and motor vehicle engines, Motor vehicle pollution, Penalties, Reporting and recordkeeping requirements.

Dated: March 19, 2014.

Gina McCarthy,

Administrator.

[FR Doc. 2014–06861 Filed 3–28–14; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[EPA–HQ–OPP–2013–0023; FRL–9907–04]

Withdrawal of Pesticide Petitions for Residues of Pesticide Chemicals in or on Various Commodities

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of withdrawal of pesticide petitions.

SUMMARY: This document announces the withdrawal of pesticide petitions requesting the establishment or modification of regulations for residues of pesticide chemicals in or on various commodities. The petitions were either withdrawn voluntarily by the petitioners or administratively by the Agency.

DATES: The pesticide petitions in this document are withdrawn as of March 31, 2014.

FOR FURTHER INFORMATION CONTACT: Lois Rossi, Registration Division (7505P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave. NW., Washington, DC 20460–0001; telephone number: (703) 305–7090; email address: *RDFRNotices@epa.gov.* You may also reach each contact person by mail at Registration Division (7505P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave. NW., Washington, DC 20460–0001.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this action apply to me?

Although this action only applies to the petitioners in question, it is directed to the public in general. Since various individuals or entities may be interested, the Agency has not attempted to describe all the specific entities that may be interested in this action. If you have any questions regarding this action, please consult the person listed at the end of the withdrawal summary for the pesticide petition of interest.

B. How can I get copies of this document and other related information?

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

III. What action is the Agency taking?

EPA is announcing the withdrawal of pesticide petitions received under section 408 of the Federal Food, Drug, and Cosmetic Act (FFDCA), 21 U.S.C. 346a, requesting the establishment or modification of regulations in 40 CFR part 180 for residues of pesticide chemicals in or on various food commodities.

Pursuant to 40 CFR 180.7(f), a summary of each of the petitions covered by this document, prepared by the petitioner, was included in a docket EPA created for each rulemaking. The docket for each of the petitions is available online at *http://www.regulations.gov.*

Withdrawals by Petitioners

1. *PP 2E8043 (N-heptane).* EPA issued a notice in the **Federal Register** of August 22, 2012 (77 FR 50661) (EPA–HQ–OPP–2012–0491), which announced the filing of a pesticide petition (PP 2E8043 by Suterra LLC., 20950 NE., Talus Place, Bend, OR 97701. The petition requested to establish an exemption from the requirement of a tolerance for residues of n-heptane (CAS No. 142–82–5) under 40 CFR 180.920 in or on raw agricultural commodities, when used as a pesticide inert ingredient in aerosol, pheromone mating disruption products only, and only in concentrations less than 40% of the total formulation, and applied to growing crops only. Upon review, EPA determined that this request is appropriate as a non-food use petition, which does not require such notice. Therefore, on October 15, 2012, the EPA administratively withdrew this petition.

2. *PP* 1E7951 *(EPTC).* EPA issued a notice in the **Federal Register** of April 4, 2012 (77 FR 20336) (EPA–HQ–OPP–2011–1011), which announced the filing of pesticide petition (PP 1E7951) by Interregional Research Project Number 4 (IR–4). The petition proposed to establish a tolerance in 40 CFR part 180 for residues of the herbicide S-ethyl dipropylthiocarbamate (EPTC), including its metabolites and degradates, in or on fruit, citrus, group 10–10 at 0.1 ppm; sunflower subgroup 20B at 0.08 ppm; and watermelon at 0.08 ppm. On March 6, 2013, IR–4 notified EPA that it was withdrawing this petition.

3. *PP 1E7879 (Methanone,* 2-hydroxy-4-methoxybenzophenone*).* EPA issued a notice in the **Federal Register** of August 26, 2011 (76 FR 53372) (FRL–8884–9) (EPA–HQ–OPP–2011–0587), which announced the filing of pesticide petition (PP 1E7879) by Loveland Products, Inc. The petition proposed to establish an exemption from the requirement of a tolerance for residues of methanone, 2-hydroxy-4-methoxybenzophenone, in 40 CFR part 180.920, when used as a pesticide inert ingredient as a UV-stabilizer at no more than 25% in pesticide formulations (pre-harvest uses), and requested to

establish exemptions from the requirement of a tolerance in or on all raw agricultural commodities. On January 21, 2014, Loveland Products, Inc., notified EPA that it was withdrawing this petition.

4. *PP 3E8170 (Chlorantraniliprole).* EPA issued a notice in the **Federal Register** of July 19, 2013 (78 FR 43115) (FRL–9392–9) (EPA–HQ–OPP–2013–0235), which announced the filing of pesticide petition (PP 3E8170) by Interregional Research Project Number 4 (IR–4). The petition proposed to establish a tolerance in 40 CFR part 180.628 for residues of the insecticide chlorantraniliprole in or on fruit, stone, group 12–12, except cherry, chickasaw plum, and damson plum at 4.0 ppm; nut, tree, group 14–12 at 0.04 ppm; papaya at 4.0 ppm; passionfruit at 4.0 ppm; and onion, green, subgroup 3–07B at 3.0 ppm. On January 28, 2014, IR–4 notified EPA that it was withdrawing the proposed tolerance in or on nut, tree, group 14–12 from this petition.

5. *PP 9E7621 (Alkyl Polyglucoside Esters (AGEs)).* EPA issued a notice in the **Federal Register** of March 24, 2010 (75 FR 14154) (EPA–HQ–OPP–2010–0138), which announced the filing of a pesticide petition (PP 9E7621) by Lamberti USA, Inc., 161 Washington St., Conshohocken, PA 19428. The petition requested to establish an exemption from the requirement of a tolerance for residues of alkyl polyglucoside esters (AGEs) group, formed by D-Glucopyranose, oligomeric, 6-(dihydrogen 2-hydroxy-1,2,3-propanetricarboxylate), 1-(C8-C20 linear and branched alkyl) ethers, sodium salts (CAS No. 1079993–97–7); D-Glucopyranose, oligomeric, 6-(hydrogen sulfobutanedioate), 1-(C8-C20 linear and branched alkyl) ethers, sodium salts (CAS No. 1079993–92–2); D-Glucopyranose, oligomeric, Propanoic acid, 2-hydroxy-, 1-(C8-C20 linear and branched alkyl) ethers (CAS No. 1079993–94–4); under 40 CFR 180.910 and 40 CFR 180.920 in or on raw agricultural commodities, when used as a pesticide inert in final pesticide formulations. On February 11, 2014, Lamberti USA, Inc., notified EPA that it was withdrawing this petition.

6. *PP 2E8093 (sodium metabisulfite).* EPA issued a notice in the **Federal Register** of June 5, 2013 (78 FR 33785) (EPA–HQ–OPP–2013–0175), which announced the filing of a pesticide petition (PP 2E8093) by Winfield Solutions, LLC, P.O. Box 64589, St. Paul, MN 55164. The petition requested to establish an exemption from the requirement of a tolerance for residues of sodium metabisulfite (CAS No. 7681–57–4) under 40 CFR 180.920 in or on raw agricultural commodities, when used as a pesticide inert ingredient (preservative) at concentrations less than 0.5% of the total formulation and applied to growing crops only. On February 14, 2014, Winfield Solutions notified EPA that it was withdrawing this petition.

List of Subjects

Environmental protection, Agricultural commodities, Feed additives, Food additives, Pesticides and pests, Reporting and recordkeeping requirements.

Dated: March 6, 2014.

Lois Rossi,

Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 2014–05693 Filed 3–28–14; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

42 CFR Part 88

World Trade Center Health Program; Petition 003—Kidney Damage; Finding of Insufficient Evidence

AGENCY: Centers for Disease Control and Prevention, HHS.

ACTION: Denial of petition for addition of a health condition.

SUMMARY: On January 22, 2014, the Administrator of the World Trade Center (WTC) Health Program received a petition to add ''kidney damage'' (Petition 003) to the List of WTC-Related Health Conditions (List). The Administrator has not found sufficient scientific evidence to conduct an analysis of whether to add kidney damage and/or disease to the List. Accordingly, the Administrator finds that insufficient evidence exists to request a recommendation of the WTC Health Program Scientific/Technical Advisory Committee (STAC), to publish a proposed rule, or to publish a determination not to publish a proposed rule.

DATES: The Administrator of the WTC Health Program is denying this petition for the addition of a health condition as of March 31, 2014.

FOR FURTHER INFORMATION CONTACT: Rachel Weiss, Program Analyst, 4674 Columbia Parkway, MS: C–46, Cincinnati, OH 45226; telephone (855) 818–1629 (this is a toll-free number); email *NIOSHregs@cdc.gov.*

SUPPLEMENTARY INFORMATION:

A. WTC Health Program Statutory Authority

Title I of the James Zadroga 9/11 Health and Compensation Act of 2010 (Pub. L. 111–347), amended the Public Health Service Act (PHS Act) to add Title XXXIII [1] establishing the WTC Health Program within the Department of Health and Human Services (HHS). The WTC Health Program provides medical monitoring and treatment benefits to eligible firefighters and related personnel, law enforcement officers, and rescue, recovery, and cleanup workers (responders) who responded to the September 11, 2001, terrorist attacks in New York City, at the Pentagon, and in Shanksville, Pennsylvania, and to eligible persons (survivors) who were present in the dust or dust cloud on September 11, 2001 or who worked, resided, or attended school, childcare, or adult daycare in the New York City disaster area.

All references to the Administrator of the WTC Health Program (Administrator) in this notice mean the Director of the National Institute for Occupational Safety and Health (NIOSH) or his or her designee.

Pursuant to § 3312(a)(6)(B) of the PHS Act, interested parties may petition the Administrator to add a health condition to the List in 42 CFR 88.1. Within 60 calendar days after receipt of a petition to add a condition to the List, the Administrator must take one of the following four actions described in § 3312(a)(6)(B) and 42 CFR 88.17: (i) request a recommendation of the STAC; (ii) publish a proposed rule in the **Federal Register** to add such health condition; (iii) publish in the **Federal Register** the Administrator's determination not to publish such a proposed rule and the basis for such determination; or (iv) publish in the **Federal Register** a determination that insufficient evidence exists to take action under (i) through (iii) above.

B. Petition 003

On January 22, 2014, the Administrator received a petition to add ''kidney damage'' to the List (Petition 003).[2] The petition was submitted by a Fire Department of New York (FDNY) firefighter who worked at Ground Zero in the aftermath of the September 11, 2001, terrorist attacks. The petitioner indicated that he had been diagnosed with kidney failure and shared a letter

[1] Title XXXIII of the PHS Act is codified at 42 U.S.C. 300mm to 300mm–61. Those portions of the Zadroga Act found in Titles II and III of Public Law 111–347 do not pertain to the WTC Health Program and are codified elsewhere.

[2] See Petition 003. WTC Health Program: Petitions Received. *http://www.cdc.gov/wtc/received.html.*

from his nephrologist explaining that he has ''chronic kidney disease with unknown oetiology [*sic*].'' Also included in his petition was a press release issued by the WTC–CHEST Program at Icahn School of Medicine at Mount Sinai (Mount Sinai) describing a forthcoming study by Mary Ann McLaughlin and others, finding a ''significant link between a high level of exposure to particulate matter by first responders at Ground Zero and the increased level of the protein albumin in their urine.'' [3] The anticipated study findings are described in an abstract supplement to the *Journal of the American Society of Nephrology*.[4]

C. Administrator's Determination on Petition 003

The Administrator has established a methodology for evaluating whether to add non-cancer health conditions to the List of WTC-Related Health Conditions.[5] A health condition may be added to the List if published, peer-reviewed epidemiologic evidence provides substantial support for a causal relationship between 9/11 exposures and the health condition in 9/11-exposed populations.[6] If the epidemiologic evidence provides modest support for a causal relationship between 9/11 exposures and the health condition, the Administrator may then evaluate studies of associations between the health condition and 9/11 agents.[7] If that additional assessment establishes substantial support for a causal relationship between a 9/11 agent or agents and the health condition, the health condition may be added to the List.

In accordance with § 3312(a)(6)(B) of the PHS Act and 42 CFR 88.17, described above, the Administrator has reviewed the evidence presented in Petition 003. The Administrator has also conducted a search of the existing scientific/medical literature for evidence that could establish a causal relationship between 9/11 exposure and kidney damage/disease. He did not find any peer-reviewed, published epidemiologic studies of 9/11-exposed populations supporting such an relationship. While the information reported in the McLaughlin *et al.* abstract is an important first step in scientific inquiry, the Administrator finds that an abstract is insufficient to serve as the scientific basis for adding an entire class of health conditions—chronic kidney damage/disease—to the List.

Because the McLaughlin *et al.* abstract is found to be insufficient to scientifically support the further consideration of kidney damage/disease and because it is clear to the Administrator that the scientific literature on 9/11 exposed-populations does not support a causal relationship between that exposure and kidney damage/disease, the Administrator has determined that requesting a recommendation from the STAC (pursuant to PHS Act, § 3312(a)(6)(B)(i) and 42 CFR 88.17(a)(2)(i)) is unwarranted. In prior actions, the Administrator requested a recommendation from the STAC when he determined that it would assist his evaluation; such as when, for example, the Administrator is in need of an interpretation of conflicting or inconclusive published scientific evidence.

Similarly, the Administrator has determined that insufficient evidence exists to take further action, including either proposing the addition of kidney damage/disease to the List (pursuant to PHS Act, § 3312(a)(6)(B)(ii) and 42 CFR 88.17(a)(2)(ii)) or publishing a determination not to publish a proposed rule in the **Federal Register** (pursuant to PHS Act, § 3312(a)(6)(B)(iii) and 42 CFR 88.17(a)(2)(iii)). In order to publish such a proposed addition or a determination not to propose a rule, the Administrator would first need to find that enough scientific evidence is available to analyze whether 9/11 exposures are associated with the health condition. Since the Administrator is unable to identify sufficient evidence to conduct an analysis of whether to add the health condition, the Administrator (pursuant to PHS Act, § 3312(a)(6)(B)(iv) and 42 CFR 88.17(a)(2)(iv)) is publishing a determination that he cannot take any of the other statutory and regulatory actions.

For the reasons discussed above, the request made in Petition 003 to add kidney damage/disease to the List of WTC-Related Health Conditions is denied.

Dated: March 24, 2014.

John Howard,

Administrator, World Trade Center Health Program and Director, National Institute for Occupational Safety and Health, Centers for Disease Control and Prevention, Department of Health and Human Services.

[FR Doc. 2014–06906 Filed 3–28–14; 8:45 am]

BILLING CODE 4163–18–P

[3] Mount Sinai Hospital [November 9, 2013]. Kidney Damage in First Responders Linked to September 11. *http://www.mountsinai.org/about-us/newsroom/press-releases/kidney-damage-in-first-responders-linked-to-september-11*.

[4] McLaughlin MA, Sanghavi S, Maceda C, Woodward M, Crowley LE, Wyatt CM [2013]. New Evidence that Particulate Matter Exposure at Ground Zero is Associated with Kidney Damage.'' J Am Soc Nephrol 24:663A. See *http://www.asn-online.org/education/kidneyweek/archives/*.

[5] This methodology, ''Policy and Procedures for Adding Non-Cancer Conditions to the List of WTC-Related Health Conditions,'' is available on the WTC Health Program Web site, at *http://www.cdc.gov/wtc/policies.html*.

[6] The substantial evidence standard is met when the Program assesses all of the available, relevant information and determines with high confidence that the evidence supports its findings regarding a causal association between the 9/11 exposure(s) and the health condition.

[7] The modest evidence standard is met when the Program assesses all of the available, relevant information and determines with moderate confidence that the evidence supports its findings regarding a causal association between the 9/11 exposure(s) and the health condition.

DEPARTMENT OF HEALTH AND HUMAN SERVICES

42 CFR Part 110

RIN 0906–AA79

Countermeasures Injury Compensation Program: Pandemic Influenza Countermeasures Injury Table

AGENCY: Health Resources and Services Administration (HRSA), HHS.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Public Readiness and Emergency Preparedness Act (PREP Act) directs the Secretary of Health and Human Services (the Secretary), to establish a Countermeasures Injury Compensation Program (the Program) to provide ''timely, uniform, and adequate compensation'' to eligible individuals who sustain serious physical injuries or to certain survivors of individuals who die as a direct result of the use or administration of covered countermeasures identified by the Secretary in declarations issued under the PREP Act. The Secretary has delegated authority to administer the Program to the Health Resources and Services Administration (HRSA). Through this regulation, the Secretary proposes a Table for pandemic influenza covered countermeasures identified by the Secretary in several PREP Act declarations. This regulation also includes proposed Table time intervals for the first symptom or manifestation of onset of injury, Table injury definitions, and requirements which define the terms and conditions included on the Table. These are considered part of the proposed Table.

DATES: Written comments must be submitted on or before May 30, 2014. Subject to consideration of the comments received, the Secretary intends to publish a final regulation.

ADDRESSES: You may submit comments in one of three ways, as listed below.

Please submit your comments in only *one* of these ways to minimize the receipt of duplicate submissions. The first is the preferred method.

1. Federal eRulemaking Portal. You may submit comments electronically to *www.regulations.gov*. Click on the link ''[S]ubmit electronic comments on HRSA regulations with an open comment period.'' You may submit attachments to your comments in any file format accepted by Regulations.gov.

2. By regular, express, or overnight mail. You may mail written comments to the following address only: Health Resources and Services Administration, Department of Health and Human Services, Attention: HRSA Regulations Officer, Parklawn Building, Room 14–101, 5600 Fishers Lane, Rockville, MD 20857. Please allow sufficient time for mailed comments to be received before the close of the comment period.

3. Delivery by hand (in person or by courier). If you prefer, you may deliver your written comments before the close of the comment period to the same address: Parklawn Building, Room 14–101, 5600 Fishers Lane, Rockville, MD 20857. Please call in advance to schedule your arrival with one of our HRSA Regulations Office staff members at telephone number (301) 443–1785. This is not a toll-free number.

Because of staffing and resource limitations, and to ensure that no comments are misplaced, the Program cannot accept comments by facsimile (FAX) transmission. When commenting by any of the above methods, please refer to file code: #0906–AA79. Comments received on a timely basis will be available for public inspection as they are received, beginning approximately three weeks after publication of this notice, online at *www.regulations.gov* or in person at: Parklawn Building, Room 14–101 of the Health Resources and Services Administration's offices at 5600 Fishers Lane, Rockville, MD on Monday through Friday of each week from 8:30 a.m. to 5 p.m. (excluding Federal holidays). Phone: (301) 443–1785. This is not a toll-free number.

FOR FURTHER INFORMATION CONTACT: Please visit the Countermeasures Injury Compensation Program's Web site, *http://www.hrsa.gov/cicp/*, or contact Dr. Vito Caserta, Director, Countermeasures Injury Compensation Program, Healthcare Systems Bureau, HRSA, Parklawn Building, Room 11C–06, 5600 Fishers Lane, Rockville, MD 20857. Phone calls can be directed to (855) 266–2427. This is a toll-free number.

SUPPLEMENTARY INFORMATION: The President encourages Federal agencies through Executive Order 13563 to develop balanced regulations by encouraging broad public participation in the regulatory process and an open exchange of ideas. The Department of Health and Human Services accordingly urges all interested parties to examine this regulatory proposal carefully and to share your views with us, including any data to support your positions. If you have questions before submitting comments, please see the ''For Further Information'' box below for the names and contact information of subject matter experts involved in this proposal's development. We must consider all written comments received during the comment period before issuing a final rule.

If you are a person with a disability and/or a user of assistive technology who has difficulty accessing this document, please see the ''For Further Information'' box below for the names and contact information to obtain this information in an accessible format. Please visit *http://www.HHS.gov/regulations* for more information on HHS rulemaking and opportunities to comment on proposed and existing rules.

The PREP Act (Pub. L. 109–148) directs the Secretary to establish, through regulations, a Covered Countermeasures Injury Table (Table) identifying serious physical injuries that are presumed to be directly caused by the administration or use of covered countermeasures identified in PREP Act declarations issued by the Secretary. The Secretary may only add injuries to a Table if it is determined based on ''compelling, reliable, valid, medical and scientific evidence'' that the administration or use of the covered countermeasure directly causes such covered injuries.[1] Such a Table informs the public about serious physical injuries supported by medical and scientific evidence known to be directly caused by covered countermeasures. In addition, such a Table creates a rebuttable presumption of causation, for compensation purposes, for eligible individuals whose injuries are listed on a Table and meet the requirements of a Table.

Background

The Public Readiness and Emergency Preparedness Act of 2005 (PREP Act), part of the ''Department of Defense, Emergency Supplemental Appropriations to Address Hurricanes in the Gulf of Mexico, and Pandemic Influenza Act, 2006,'' Public Law 109–148, establishes liability protections for certain covered persons and authorizes the payment of benefits to eligible individuals injured by covered countermeasures. Both liability protections and compensation are available under the PREP Act based on the terms of the PREP Act declarations (hereafter declarations or Secretarial declarations) issued by the Secretary of Health and Human Services (the Secretary).

The purpose of a Secretarial declaration is to identify a disease, health condition, or a threat to health that is currently, or may in the future constitute, a public health emergency. In addition, the Secretary, through a declaration, may recommend and encourage the development, manufacturing, distribution, dispensing, and administration or use of one or more covered countermeasures to treat, prevent, or diagnose the disease, condition, or threat specified in the declaration.[2]

This notice of proposed rulemaking (NPRM) concerns only the compensation program authorized by the PREP Act, not the liability protections set forth therein. Specifically, the PREP Act authorizes the Secretary to establish and administer this program to provide timely, uniform, and adequate compensation to certain individuals who develop serious physical injuries or to certain survivors of individuals who die as a direct result of the use or administration of a covered countermeasure identified in a Secretarial declaration.[3] The Secretary delegated responsibility for establishing and administering the Program to HRSA, within the Department of Health and Human Services (HHS).

The PREP Act authorizes the Secretary to publish regulations to establish and administratively implement the Program. Specifically, the PREP Act authorizes the Secretary to determine Program eligibility, the process to apply for benefits, the methods of payments and amounts of compensation, and the process for further review of Requests for Benefits submitted by, or on behalf of, requesters. To be considered for compensation for any serious physical injury or death, an individual must

[1] Section 319F–4(b)(5)(A) of the Public Health Service Act, as amended (42 U.S.C. 247d–6e(b)(5)(A)).

[2] Section 319F–3(b) of the PHS Act (42 U.S.C 247d–6d(b)).

[3] Section 319F–4(a) of the PHS Act (42 U.S.C. 247d–6e(a)).

submit a Request for Benefits with the required information.

The Secretary published the interim final rule implementing the Program on October 15, 2010.[4] This rule, which was published as a final rule on October 7, 2011, explains the Program's policies, procedures, and requirements. Title 42 of the Code of Federal Regulations (CFR) § 110.20(a) states that individuals must establish that a covered injury occurred in order to be eligible for benefits under the Program. A covered injury is death or a serious injury determined by the Secretary to be: (1) An injury meeting the requirements of a Covered Countermeasures Injury Table, which is presumed to be the direct result of the administration or use of a covered countermeasure unless the Secretary determines there is another more likely cause; or (2) an injury (or its health complications) that is the direct result of the administration or use of a covered countermeasure. This includes serious aggravation caused by a covered countermeasure of a pre-existing condition. 42 CFR 110.3(g).

Serious injury means serious physical injury. Physical biochemical alterations leading to physical changes and serious functional abnormalities at the cellular or tissue level in any bodily function may, in certain circumstances, be considered serious injuries. As a general matter, only injuries that warranted hospitalization (whether or not the person was actually hospitalized) or injuries that led to a significant loss of function or disability (whether or not hospitalization was warranted) will be considered serious injuries. 42 CFR 110.3(z).

Through this NPRM, the Secretary proposes adding subpart K to 42 CFR part 110, which had been reserved for the purpose of creating an Injury Table for covered countermeasures. These countermeasures are identified in Secretarial declarations relating to pandemic influenza, including influenza caused by the 2009 H1N1 pandemic influenza virus (hereafter referred to as the 2009 H1N1 virus), and other potential pandemic strains, such as H5N1 avian influenza.

The Table proposed in this notice is limited to pandemic influenza covered countermeasures. Future Countermeasure Injury Tables (Tables) may be created for other countermeasures relating to threats to health that pose or constitute public health emergencies, since the PREP Act mandates the establishment of a Program Table identifying covered injuries that may be presumed to be directly caused by the administration or use of a covered countermeasure. To date, declarations have been issued with respect to countermeasures against pandemic influenza A viruses, anthrax, botulism, smallpox, and acute radiation syndrome. The Secretary may publish Tables in the **Federal Register** through separate amendments to 42 CFR part 110 in the future.

The 2009 H1N1 virus outbreak quickly emerged into an influenza pandemic in the spring of 2009. An influenza pandemic is a worldwide epidemic of the disease and occurs when: (1) A new influenza virus appears against which the human population has no or very limited immunity; and (2) the virus can spread easily from person-to-person in a sustained manner.

The 2009 H1N1 virus was a new recombinant influenza A virus of swine origin that was first recognized as causing human illness with transmission from person to person in Mexico and the United States in the early spring of 2009. The first documented case in the United States was confirmed by laboratory testing at the Centers for Disease Control and Prevention (CDC) on April 15, 2009. The virus then spread rapidly throughout the world and it was determined that the human population had very limited immunity to this novel influenza A virus.

The virus has been reported to cause a wide range of influenza-like symptoms, including fever, cough, sore throat, body aches, headaches, chills, fatigue, nausea, vomiting, and/or diarrhea. Most infections have been mild and self-limiting; however, serious illnesses including pneumonia and death have occurred.

Due to the novel nature of the 2009 H1N1 virus and the increasing number of CDC-confirmed cases indicating rapid spread, the Acting Secretary of HHS issued a public health emergency determination, under section 319 of the Public Health Service (PHS) Act[5] on April 26, 2009, titled ''Determination that a Public Health Emergency Exists.'' This determination stated that a public health emergency was in existence nationwide involving the pandemic 2009 H1N1 influenza virus because it affected, or had significant potential to affect, national security. More information is available at *http://www.flu.gov/planning-preparedness/federal/h1n1emergency042609.html#*. This declaration was renewed by the Secretary on July 24, 2009; October 1, 2009; December 28, 2009; and March 23, 2010. Each renewal, titled ''Renewal of Determination that a Public Health Emergency Exists,'' focused specifically on the 2009 H1N1 influenza pandemic. HHS did not further renew this determination, which resulted in the expiration of the Secretary's 2009 H1N1 influenza public health emergency determination on June 23, 2010, under section 319 of the PHS Act.[6] However, HHS still encourages individuals to continue to practice flu prevention techniques (*http://www.flu.gov/prevention-vaccination/index.html#*).

Definition of Covered Countermeasure

The Secretary has issued several PREP Act declarations concerning pandemic influenza covered countermeasures, pursuant to section 319F–3(b) of the PHS Act.[7] ''Covered countermeasure'' is defined in the PREP Act and includes three categories.[8] The first category, consisting of ''qualified pandemic or epidemic product[s],'' is defined in section 319F–3(i)(7) of the PHS Act.[9] This category includes products (drugs, biologics, and devices) manufactured, used, designed, developed, modified, licensed, or procured to diagnose, mitigate, prevent, treat, or cure a pandemic or epidemic or to limit the harm such pandemic or epidemic might otherwise cause. The category also extends to products used to diagnose, mitigate, prevent, treat, or cure a serious or life-threatening disease or condition caused by a ''qualified pandemic or epidemic product.''[10] To qualify, a drug, biologic, or device must be: (1) Approved or cleared under the Federal Food, Drug, and Cosmetic Act (FD&C Act) or licensed under the PHS Act; (2) the subject of research for possible use and subject to an exemption under sections 505(i) or 520(g) of the FD&C Act; or (3) authorized for emergency use in accordance with section 564, 564A, or 564B of the FD&C Act.

The second category includes ''security countermeasure[s].'' A security countermeasure, defined in section 319F–2(c)(1)(B) of the PHS Act,[11] is a drug, biologic, or device that the Secretary determines: (1) Is a priority to diagnose, mitigate, prevent, or treat harm either from an agent identified as a material threat or from a condition that may result in injuries or deaths, and may be caused by administering a drug, biologic, or device against such an agent; (2) is a necessary

[4] 42 CFR part 110.

[5] 42 U.S.C. 247d.

[6] 42 U.S.C. 247d.

[7] 42 U.S.C. 247d–6d(b).

[8] Section 319F–3(i)(1) of the PHS Act (42 U.S.C. 247d–6d(i)(1)).

[9] 42 U.S.C. 247d–6d(i)(7).

[10] Section 319F–3(i)(7)(A)(ii) of the PHS Act (42 U.S.C. 247d–6d(i)(7)(A)(ii)).

[11] 42 U.S.C. 247d–6b(c)(1)(B).

countermeasure; and (3) is approved or cleared under the FD&C Act or licensed under the PHS Act or will likely be approved, cleared, or licensed within ten years or is authorized for emergency use under section 564 of the FD&C Act.

The final category consists of drugs,[12] biologics,[13] or devices [14] that are authorized for emergency use in accordance with section 564, 564A, or 564B of the FD&C Act.

To be eligible for the liability protections of the PREP Act or to receive benefits under the compensation provisions of the PREP Act, a covered countermeasure must meet one of these three categories and must also be described by the Secretary in a declaration.

Covered Countermeasures

In this section, we provide an overview of the covered countermeasures subject to Secretarial declarations that will be included on the proposed Table.

Pandemic Influenza Vaccine Declarations

The Secretary published a declaration covering pandemic influenza A H5N1 vaccines on January 26, 2007.[15] This declaration was amended on November 21, 2007, with the effective date of November 30, 2007, adding influenza vaccines caused by subtypes H7 and H9.[16] The January 26, 2007, declaration was further amended on October 10, 2008, to add influenza caused by subtypes H2 and H6 and covering vaccines to prevent these diseases.[17] A fourth amendment was signed by the Secretary on June 15, 2009, which specified that pandemic H1N1 influenza and vaccines are covered.[18] The June 15, 2009, declaration also republished the amended January 26, 2007, declaration in its entirety and stated that the 2009 H1N1 virus and resulting disease constituted a public health emergency. The June 15, 2009, republished declaration was amended on September 28, 2009, adding provisions regarding the H5N1, H2, H6, H7, H9 subtypes and 2009 H1N1 vaccines.[19] The declaration was amended on February 26, 2010, which republished the June 15, 2009, declaration with amendments.[20]

This February 26, 2010, amended declaration widened the scope of the previous declarations to extend to vaccines against pandemic influenza A viruses with pandemic potential and to associated adjuvants.[21]

The declaration was further amended on February 29, 2012. This amendment extended the effective time period, reformatted the declaration, modified or clarified terms, and republished the February 26, 2010, declaration with amendments.[22]

Although the ''determination that a public health emergency exists'' under section 319 of the PHS Act [23] expired, the PREP Act declarations remain effective as described above.

Diagnostics, Personal Respiratory Protection Devices, and Respiratory Support Devices Declarations

On December 17, 2008, the Secretary signed a PREP Act declaration concerning pandemic influenza diagnostics, personal respiratory protection devices, and respiratory support devices.[24]

Pandemic influenza diagnostics are defined in section IX of the declaration as ''diagnostics to identify avian or other animal influenza A viruses that pose a pandemic threat, or to otherwise aid in the diagnosis of pandemic influenza, when (1) [l]icensed under section 351 of the Public Health Service Act; (2) approved under section 505 or section 515 of the FD&C Act; (3) cleared under section 510(k) of the FD&C Act; (4) authorized for emergency use under section 564 of the FD&C Act; (5) used under section 505(i) of the FD&C Act or section 351(a)(3) of the PHS Act and 21 CFR part 312; or (6) used under section 520(g) of the FD&C Act and 21 CFR part 812.'' [25]

Pandemic influenza personal respiratory protection devices are defined in section IX of the declaration as being ''for use by the general public to reduce wearer exposure to pathogenic biological airborne particulates during public health medical emergencies, such as an influenza pandemic, when (1) [l]icensed under section 351 of the Public Health Service Act; (2) approved under section 505 or section 515 of the FD&C Act; (3) cleared under section 510(k) of the FD&C Act; (4) authorized for emergency use under section 564 of the FD&C Act; (5) used under section 505(i) of the FD&C Act or section 351(a)(3) of the PHS Act and 21 CFR part 312; or (6) used under section 520(g) of the FD&C Act and 21 CFR part 812.'' [26]

Pandemic influenza respiratory support devices are defined in section IX of the declaration as, ''devices to support respiratory function for patients infected with highly pathogenic influenza A H5N1 viruses or other influenza viruses that pose a pandemic threat when (1) [l]icensed under section 351 of the Public Health Service Act; (2) approved under section 505 or section 515 of the FD&C Act; (3) cleared under section 510(k) of the FD&C Act; (4) authorized for emergency use under section 564 of the FD&C Act; (5) used under section 505(i) of the FD&C Act or section 351(a)(3) of the PHS Act and 21 CFR part 312; or (6) used under section 520(g) of the FD&C Act and 21 CFR part 812.''[27]

Antiviral Medication Declarations

The Secretary signed a PREP Act declaration on October 10, 2008, adding the influenza antiviral drugs Tamiflu and Relenza as pandemic influenza covered countermeasures.[28] This declaration was amended on April 26, 2009, to expand the category of covered diseases to all animal influenza A viruses that are or may be capable of developing into a pandemic strain.[29]

In addition, the Secretary signed a September 28, 2009, PREP Act declaration for the antiviral drug, peramivir, when used to treat influenza caused by the pandemic 2009 H1N1 virus.[30]

General Information

The effective dates for the above-referenced declarations vary, and the Secretary has the authority to amend the declarations at any time. The declarations, including amendments to

[12] As defined in section 201(g)(1) of the FD&C Act (21 U.S.C. 321(g)(1)).

[13] As defined in section 351(i) of the PHS Act (42 U.S.C. 262(i)).

[14] As defined in section 201(h) of the FD&C Act (21 U.S.C. 321(h)).

[15] 72 FR 4710 (Feb. 1, 2007)); *http://www.gpo.gov/fdsys/pkg/FR-2007-02-01/pdf/E7-1635.pdf.*

[16] 72 FR 67731 (Nov. 30, 2007); *http://www.gpo.gov/fdsys/pkg/FR-2007-11-30/pdf/07-5884.pdf.*

[17] 73 FR 61871 (Oct. 17, 2008); *http://www.gpo.gov/fdsys/pkg/FR-2008-10-17/pdf/E8-24736.pdf.*

[18] 74 FR 30294 (June 25, 2009); *http://www.gpo.gov/fdsys/pkg/FR-2009-06-25/pdf/E9-14948.pdf.*

[19] 74 FR 51153 (Oct. 5, 2009); *http://www.gpo.gov/fdsys/pkg/FR-2009-10-05/pdf/E9-23844.pdf.*

[20] 75 FR 10268 (March 5, 2010); *http://www.gpo.gov/fdsys/pkg/FR-2010-03-05/pdf/2010-4644.pdf.*

[21] 75 FR 10268.

[22] 77 FR 13329 (March 6, 2012); *http://www.gpo.gov/fdsys/pkg/FR-2012-03-06/pdf/2012-5312.pdf.*

[23] 42 U.S.C. 247d.

[24] 73 FR 78362 (Dec. 22, 2008)); *http://edocket.access.gpo.gov/2008/pdf/E8-30510.pdf.*

[25] 73 FR 78362.

[26] 73 FR 78362.

[27] 73 FR 78362.

[28] 73 FR 61861 (Oct. 17, 2008)); *http://www.gpo.gov/fdsys/pkg/FR-2008-10-17/pdf/E8-24733.pdf.*

[29] 74 FR 29213 (June 19, 2009)); *http://www.gpo.gov/fdsys/pkg/FR-2009-06-19/pdf/E9-14412.pdf.*

[30] 74 FR 50968 (Oct. 2, 2009)); *http://www.gpo.gov/fdsys/pkg/FR-2009-10-02/pdf/E9-23761.pdf.*

the declarations, are published in the **Federal Register**.

In addition to the above-referenced declarations, the Secretary also has issued declarations for countermeasures to the security threats of anthrax, smallpox, botulism, and acute radiation syndrome. Injury Tables for these covered countermeasures may be published at a later date.

As noted above, the PREP Act authorized the Secretary to create Tables for each covered countermeasure identified in a declaration if there is compelling, reliable, valid, medical and scientific evidence that the countermeasure directly causes a covered injury. In this NPRM, the Secretary proposes a Table for injuries directly resulting from the use or administration of pandemic influenza covered countermeasures identified in the above-referenced declarations. The proposed Table lists serious physical injuries that have been demonstrated by compelling, reliable, valid, medical and scientific evidence to be directly caused by the administration or use of the covered countermeasures.[31] Only injuries supported by this type of evidence are proposed for inclusion on the Table.

For each countermeasure, the proposed Table will include the covered injuries and/or conditions directly caused by such countermeasure and the applicable time intervals for the first symptom or manifestation of onset of injuries. The Program's statute directs that covered injuries presumed to be caused by the administration or use of a covered countermeasure must be included on a Table.[32] The Secretary proposes also to note on the Table if no injuries or conditions qualify for a Table presumption for a particular countermeasure at this time. This is done to reflect that she considered the possibility of Table injuries for these covered countermeasures. Claims related to any injuries alleged to be caused by these countermeasures will be considered on a case-by-case basis.

General information about applying for compensation/benefits under the Program is outside the scope of this NPRM, but is available in 42 CFR part 110.40 or on the Program's Web site, *www.hrsa.gov/gethealthcare/conditions/countermeasurescomp/howtofile.html.* The implementing regulations for this Program can also be found at: *www.gpo.gov/fdsys/pkg/FR–2011–10–07/pdf/2011–25858.pdf.*

[31] Section 319F–4(b)(5)(A) of the PHS Act (42 U.S.C. 247d–6e(b)(5)(A)).

[32] Section 319F–4(b)(5)(A) of the PHS Act (42 U.S.C. 247d–6e(b)(5)(A)).

Summary of Proposed Regulation

This NPRM proposes to amend the Program's implementing regulations[33] and, if adopted, would establish a table of injuries resulting from the administration or use of pandemic influenza covered countermeasures. Certain conditions of interest that are currently not being proposed for inclusion on the Table also are discussed in this NPRM.

General Requirement of Serious Physical Injuries or Deaths

By statute, only serious physical injuries or deaths directly resulting from the use or administration of a covered countermeasure may be compensable under the Program.[34] The serious physical injury or death may be compensable regardless of whether the injury is a Table injury or a non-Table injury. Because this requirement of a serious physical injury applies to all Requests for Benefits filed with the Program, the Secretary considered this requirement while drafting the proposed Table included in this NPRM.

In general, only injuries or significant aggravation of injuries that warranted hospitalization (whether or not the person was actually hospitalized) or that led to a significant loss of function or disability will be considered serious physical injuries.[35] It is recognized that the term ''disability'' can be defined in many ways, and there are several definitions used by the Federal government specific to various programs and services. To provide further clarity as to the type of disability that would qualify as a serious injury for the Program, under this proposed rule, the term ''disability'' is defined as ''a physical or mental impairment that substantially limits one or more major life activities of an individual.'' This definition corresponds with the first listed definition of disability in the Americans with Disabilities Act, 42 U.S.C. 12102(1)(A). This definition was chosen because it is consistent with the Program's existing authorities and adds further guidance by using a widely accepted definition familiar to the general public.

In addition, pursuant to 42 CFR 110.3(z), ''physical biochemical alterations leading to physical changes and serious functional abnormalities at the cellular or tissue level in any bodily function may, in certain circumstances, be considered serious physical injuries.'' According to the preamble to the interim final rule, serious physical injuries also include ''instances in which there may be no measurable anatomic or structural change in the affected tissue or organ, but there is an abnormal functional change. For example, many psychiatric conditions are caused by abnormal neurotransmitter levels in key portions of the central nervous system. Thus, it is possible that certain serious psychiatric conditions may qualify as serious physical injuries if the psychiatric conditions are a manifestation of a physical biochemical abnormality in neurotransmitter level or type caused by a covered countermeasure. One way of determining that an abnormal physical change in neurotransmitter level is causing the injury would be a clinical challenge that demonstrates a positive clinical response to a medication that is designed to restore the balance of appropriate neurotransmitters necessary for normal function in an injured countermeasure recipient.''[36]

Only serious physical injuries believed to have a direct causal relationship with the use or administration of a covered countermeasure based on compelling, reliable, valid, medical and scientific evidence may be included on the Table.

Minor injuries do not meet the definition of a serious physical injury. For example, covered injuries do not include common and expected skin reactions (such as localized swelling or warmth that is not of sufficient severity to warrant hospitalization and does not lead to significant loss of function or disability). Expected minor reactions, such as headaches and body aches, commonly occur with influenza vaccinations. However, if a minor injury leads to a serious physical injury, and the minor injury was directly caused by a covered countermeasure, the Program may compensate the individual for the serious physical injury. The injury's causal link to the countermeasure must be based on compelling, reliable, valid, medical and scientific evidence. The Program will consider such claims on a case-by-case basis.

Serious Aggravation of Pre-Existing Conditions

Injuries covered under the Program may include serious aggravations of pre-existing conditions if such aggravations were caused by a covered countermeasure (i.e., any disorder that is proven to the satisfaction of the Secretary to have been made significantly more severe as the direct

[33] 42 CFR part 110.

[34] Section 319F–4(a), (e)(3) of the PHS Act (42 U.S.C. 247d–6e(a), (e)(3)).

[35] 42 CFR 110.3(z).

[36] 75 FR 63661.

result of the administration or use of the covered countermeasure). The serious aggravation of the pre-existing condition must be supported by compelling, reliable, valid, medical and scientific evidence and show a direct causal link between the aggravation or worsening of the pre-existing condition and the countermeasure. The Program will consider claims involving serious aggravations of pre-existing conditions on a case-by-case basis.

Table Time Intervals

The proposed Table includes time intervals, per covered injury, describing the time interval between the administration or use of the covered countermeasure and the first symptom or manifestation of onset of injury after the administration or use of the countermeasure. In addition to meeting the requirements of the Table injury, the symptom or manifestation of onset of injury must be evident within the time period described on the Table. The time intervals are biologically sound time intervals based on medical and scientific evidence in which nearly all of the cases of injury are known to appear when the injury is actually caused by the covered countermeasure. As is the case for non-Table injuries, Table injuries not meeting the Table time intervals may be compensated based on adequate demonstration of compelling, reliable, valid, medical and scientific evidence supporting that the countermeasure had a causal role.

Table Definitions and Requirements

The proposed Table also includes definitions of the terms and conditions included on the Table which sets forth the requirements necessary to establish the Table injuries. For this reason, the Table definitions and requirements are considered part of the Table. To receive compensation for a Table injury, the individual must meet the time interval, Table definition, and any other Table requirements, in addition to the other Program requirements.

Presumption Created for Table Injuries

For purposes of this Program, a rebuttable presumption exists that a Table injury was directly caused by the administration or use of a covered countermeasure if the first symptom or manifestation of onset of an injury listed on the Table occurred within the time period indicated, and the Table's definitions and requirements are satisfied. By statute, this presumption only applies to Table injuries.[37] An individual may obtain this presumption of causation by submitting medical documents demonstrating that the covered injury occurred, that it began within the time interval specified on the Table after administration or use of a covered countermeasure, that there was not another more likely cause, and that all other applicable Table requirements and Table definitions are met.

Nevertheless, the presumption is not conclusive. It may be rebutted if, based on review of the relevant medical and scientific evidence, the Secretary determines that the Table injury was more likely caused by other factors and not directly caused by the countermeasure.

Non-Table Injuries

Compensation may be available for individuals who develop an injury not included on the Table, or an injury that is included on the Table but where the injury begins outside the allotted time interval provided by the Table, or the injury does not satisfy the definition or requirements included on the Table with respect to such injury. In these cases, the requester does not receive the presumption of causation for a Table injury and must demonstrate that the use or administration of the covered countermeasure directly caused the injury. The regulation administratively implementing the Program includes more information about the requirements for such an injury.[38] For example, a temporal association between the administration or use of a covered countermeasure and onset of the injury (i.e., the injury occurs a certain time after the administration or use of the countermeasure) alone is not sufficient to show that an injury is the direct result of a covered countermeasure.[39] Proof of a causal association for the non-Table injury must still be based on compelling, reliable, valid, medical and scientific evidence.

***Sequelae* (Health Complications) of Table and Non-Table Injuries**

A requester who demonstrates a Table injury may be entitled to benefits related to *sequelae* (health complications), including death, if the Program determines that the *sequelae* resulted from the Table injury. This is also applicable to a requester who develops *sequelae* from a non-Table injury, but only if the non-Table injury is shown to be directly caused by a covered countermeasure, and the evidence shows a causal relationship based on compelling, reliable, valid, medical and scientific evidence. The Program will consider compensation for *sequelae* that develop from Table and non-Table injuries on a case-by-case basis.

Injuries Sustained as a Result of a Pandemic Influenza Virus

An individual will not have suffered a covered injury if a covered countermeasure is ineffective in diagnosing, preventing, or treating the underlying disease for which the countermeasure was administered or used, and the individual sustains an injury caused by the disease and not by the covered countermeasure. An injury sustained as the direct result of a disease (or health condition or threat to health), e.g., 2009 H1N1 influenza infection, for which the Secretary recommended the administration or use of a covered countermeasure in a declaration, is not a covered injury. This is because the injury results from the disease itself and not from the administration or use of a covered countermeasure. For more information, see 42 CFR 110.20(d).

Amendments to the Proposed Table of Injuries

The Secretary has the discretion to modify the Table in the future. For example, the Secretary may amend the Table by adding or removing injuries, modifying the governing time intervals, and/or revising the Table definitions and requirements. The Secretary will monitor new studies and evolving medical and scientific evidence concerning any causal relationships between covered countermeasures and injuries or death. The Secretary may amend the Table at any time while the Program remains operational. Changes to the Table will be accomplished as amendments to 42 CFR part 110 and will be published in the **Federal Register**.

The Table in Effect at the Time a Claim Is Filed

The version of the Table that applies to a requester is the one that is in effect on the filing date of his/her Request for Benefits unless a subsequent one is published that may provide greater benefit to the requester. If a new Table or an amendment to an existing Table would benefit a requester, as described in the following section, the requester may have an additional opportunity to file a Request for Benefits.

Filing Deadlines and Table Additions or Amendments

In accordance with 42 CFR 110.42(f), in the event that the Secretary issues a

[37] Section 319F–4(b)(5)(A) of the PHS Act (42 U.S.C. 247d–6e(b)(5)(A)).

[38] 42 CFR 110.20(c).

[39] 42 CFR 110.20(c).

new Covered Countermeasure Injury Table or amends a previously published Table, requesters may have an extended filing deadline based on the effective date of the Table amendment. This extended filing deadline will apply only if the Table amendment enables a requester who could not establish a Table injury before the amendment to establish such an injury. For example, if the Table proposed in this NPRM is adopted, any person who meets the Table requirements for an injury of anaphylaxis after receiving the monovalent 2009 H1N1 vaccine (2009 H1N1 vaccine) would have one year from the effective date of the Table's adoption to file a Request for Benefits. This filing deadline applies regardless of whether the requester previously filed a request form with the Program.

Individuals may seek compensation for one or more injuries stemming from a single administration of a covered countermeasure. However, if individuals have previously received compensation for an injury through the Program, they may not re-file a claim for compensation if the same injury is later added to a Table. The inability for individuals to re-file their claim avoids such individuals having the opportunity to receive additional compensation for the same serious physical injury. However, this does not preclude filing a Request for Benefits for an injury or aggravation of an injury, resulting from the subsequent administration or use of the same type of covered countermeasure. It also does not preclude subsequent Requests for Benefits for an injury, or an aggravation of an injury, resulting from the administration or use of a different covered countermeasure or a different injury from the same countermeasure.

The filing deadline provided under 42 CFR 110.42(f) is an additional filing period to the one afforded to all potential requesters under 42 CFR 110.42(a). Therefore, persons who would be eligible to use the filing deadline described in § 110.42(f) could rely on the deadline provided under § 110.42(a) or § 110.42(f).

It is important to note that the additional filing deadline described in 42 CFR 110.42(f) is only available to persons who meet the requirements of: (1) A new Table or an amendment(s) to a Table; (2) the Table time interval(s); (3) Table definitions; and (4) any other Table requirements. In this case, such persons may be eligible for the presumption of causation. Persons who sustained injuries not included on the Table, or those who do not meet all of the requirements for such a Table injury but may prove causation of the injury through other means, will not be afforded an additional one-year filing deadline based on the Table change. Because the Table change would not enable such individuals to establish a Table injury, they would be subject to the standard filing deadline described in 42 CFR 110.42(a) (i.e., one year from the date of administration or use of the covered countermeasure).

Overview of the Proposed Table

Through this NPRM, as authorized by statute, the Secretary is proposing a Table for several covered countermeasures listing serious physical injuries (i.e., illnesses, disabilities, conditions, etc.). The serious physical injuries included on the Table are injuries that are supported by compelling, reliable, valid, medical and scientific evidence showing that the administration or use of the covered countermeasures directly causes such covered injuries. The Table lists the serious injuries directly caused by a specific countermeasure, if any, the time interval within which the first symptom or manifestation of onset of adverse effects must appear, and the definition of the injury. Table definitions are included to further explain each covered injury and the level of severity necessary to qualify as a Table injury. However, as discussed above, individuals with injuries not meeting these requirements of the Table injury may still pursue their claims as non-Table injuries under the Program.

The injuries included on the proposed Table and the time intervals, Table definitions, and Table requirements reflect the Secretary's best efforts to identify those serious physical injuries causally related to the covered countermeasures. The causal linkages between the covered countermeasures and these associated Table injuries are based on compelling, reliable, valid, medical and scientific evidence. The Secretary will stay informed of updates in the scientific and medical field concerning new information about causal association between injuries and covered countermeasures.

Pandemic Influenza Countermeasures Injury Table

In response to the 2009 H1N1 pandemic, the 2009 H1N1 vaccine was licensed by the Food and Drug Administration (FDA) as a strain change from the seasonal influenza vaccine. The vaccine was developed using the same FDA-approved manufacturing processes used to produce the seasonal influenza vaccine.

The United States has a long record of safety regarding seasonal influenza vaccines. Because the 2009 H1N1 vaccine was produced using the same processes as the annual seasonal influenza vaccine, its safety profile was expected to be similar to that of any strain change of the seasonal influenza vaccine.

The Federal response to the 2009 H1N1 influenza pandemic centered on a mass vaccination program unprecedented in its size and scope in the United States. Because of this response, the Federal government significantly increased its vaccine safety monitoring efforts.[40] After the 2009 H1N1 vaccination program began in the fall of 2009, HHS and its Agencies worked in close partnership with the Department of Defense and others in the areas of research, surveillance, and programmatic activities to determine if vaccine safety signals or adverse events following immunization were related to the 2009 H1N1 vaccine by chance or were truly adverse reactions to the vaccine. In addition, the National Vaccine Advisory Committee (NVAC), which provides advice to the HHS Assistant Secretary for Health (ASH), established the H1N1 Vaccine Safety Risk Assessment Working Group (the Working Group), with the charge to conduct independent, rapid reviews of available safety monitoring data for the 2009 H1N1 vaccine. The Working Group met regularly to review available data from Federal vaccine safety monitoring systems. The NVAC deliberated on the Working Group's findings and shared information with the ASH. HHS also worked with other countries to share vaccine data and safety information on the 2009 H1N1 vaccine. At the local level, public health departments and public and private medical health entities collaborated in Federal vaccine safety monitoring efforts as well.

The Secretary is aware of minor adverse events associated with the 2009 H1N1 vaccine and other pandemic influenza vaccines. Specifically, for the 2009 H1N1 injectable vaccine, common minor adverse events included temporary tenderness, pain, redness, and swelling at the injection site, and acute systemic reactions such as headache, malaise, and muscle aches in people of all ages, and fever in children. For the 2009 H1N1 intranasal vaccine, common minor temporary adverse events include runny nose, cough, nasal congestion, and headache in all age groups; sore throat and tiredness or weakness in adults; and abdominal

[40] Daniel A. Salmon, ''Immunization-Safety Monitoring Systems for the 2009 H1N1 Monovalent Influenza Vaccination Program,'' Pediatrics: Supplement 1; May 2011, S79.

pain, vomiting, diarrhea, and fever in children. Cases involving unusually severe forms of minor adverse events that meet the serious physical injury standard may qualify as non-Table injuries and will be reviewed on a case-by-case basis by the Program. As described above, minor injuries are excluded from the Table.

The proposed Table not only includes the covered injuries listed, but also the necessary time intervals between the administration of the vaccine and the first symptom or manifestation of onset of the Table injury required for a Table presumption of causation. In addition, the Table lists Table definitions and Table requirements for each covered injury.

The proposed Table lists the injuries of anaphylaxis, syncope, and deltoid bursitis for pandemic influenza vaccines, including the 2009 H1N1 vaccine, and Guillain-Barre Syndrome (GBS) for only the 2009 H1N1 vaccine.

Anaphylaxis

Anaphylaxis is a single discrete event that presents as a severe and potentially life threatening multi-organ reaction, particularly affecting the skin, respiratory tract, cardiovascular system, and the gastrointestinal tract. In an anaphylactic reaction, an immediate reaction generally occurs within minutes after exposure, and in most cases, the individual develops signs and symptoms within four hours after exposure to the antigen. The immediate reaction leads to a combination of skin rash, mucus membrane swelling, leakage of fluid from the blood into surrounding tissues, tightening of the air passages in the lungs with tissue swelling, and gastrointestinal symptoms that can lead to shock, organ damage, and death if not promptly treated.

Symptoms may include swelling, itching, rash, trouble breathing, chest tightness, and/or dizziness. Death, if it occurs, usually results from airway obstruction caused by laryngeal edema (throat swelling) or bronchospasm and may be associated with cardiovascular collapse.

Other significant clinical signs and symptoms may include the following: cyanosis (bluish coloration in the skin due to low blood oxygen levels), hypotension (low blood pressure), bradycardia (slow heart rate), tachycardia (fast heart rate), arrhythmia (irregular heart rhythm), edema (swelling) of the pharynx and/or larynx (throat or upper airway) with stridor (noisy breathing on inspiration), dyspnea (shortness of breath), diarrhea, vomiting, and abdominal pain. Autopsy findings may include acute emphysema (a type of lung abnormality), which results from lower respiratory tract obstruction, edema (swelling) of the upper airway, and minimal findings of eosinophilia (an excess of a type of white blood cell associated with allergy) in the liver. When death occurs within minutes of exposure without signs of respiratory distress, lack of significant pathologic findings would not exclude a diagnosis of anaphylaxis.

Anaphylaxis may occur following exposure to allergens from a variety of sources including food, aeroallergens, insect venom, drugs, and immunizations. Most treated cases resolve without *sequelae.* Anaphylaxis can be due to an exaggerated acute systemic hypersensitivity reaction, especially involving immunoglobulin E antibodies, as in allergic anaphylaxis, or it could be a non-immunologically mediated reaction leading to similar clinical symptomatology as in non-immune anaphylaxis. Non-immune anaphylaxis cannot be detected by skin tests or *in vitro* allergy diagnostic procedures. As stated, anaphylaxis is a single discrete event. It is not an initial episode of a chronic condition such as chronic urticaria (hives).

Anaphylaxis following immunization is a rare occurrence with estimates in the range of 1–10 per 1 million doses distributed, depending on the vaccine studied.[41] The Institute of Medicine (IOM) has reported that the evidence favors acceptance of a causal relationship between certain vaccines and anaphylaxis based on case reports and case series. The IOM has reported that causality could be inferred with reasonable certainty based on one or more case reports because of the unique nature and timing of anaphylaxis following vaccine administration and provided there is an absence of likely alternative causes.[42] It also has found that the evidence convincingly supports a causal relationship between influenza vaccine and anaphylaxis.[43]

Because influenza vaccines are currently prepared from influenza viruses propagated in embryonated chicken eggs, the final vaccine product contains a limited quantity of egg protein that can induce immediate hypersensitivity reactions in some persons with severe egg allergies. The inactivated injectable vaccine (prepared from inactivated or killed influenza virus) may also contain gelatin proteins, which can be a source of allergic reactions in sensitized individuals. The live attenuated intranasal vaccine (containing living weakened virus) contains egg proteins, gentamicin, and gelatin, which may cause allergic reactions in sensitized individuals.

The 1994 IOM Report noted in support of a causal association that there exists an observation of a spectrum of host responses to the influenza vaccine that follow a logical biological gradient from true anaphylaxis to milder hypersensitivity reactions. Biological gradient refers to the observation of a spectrum of responses from mild to severe, and in the case of hypersensitivity reactions the reported spectrum after the vaccine runs from mild skin manifestations to chest and throat tightness and cardiovascular events to full blown anaphylaxis.[44] The CDC adopted the Advisory Committee on Immunization Practice's findings, concluding that ''[i]mmediate—presumably allergic—reactions (e.g., hives, angioedema, allergic asthma, and systemic anaphylaxis) rarely occur after influenza vaccination. These reactions probably result from hypersensitivity to certain vaccine components.'' [45]

For its 2012 report, the IOM reviewed certain adverse events for their association with seasonal influenza vaccine. The 2009 H1N1 vaccine contains many of the same anaphylaxis-causing components as the seasonal influenza vaccine (e.g., egg protein). Although the IOM reported limited confidence in the epidemiologic evidence, they assessed the mechanistic evidence regarding an association between influenza vaccine and anaphylaxis as strong. This assessment was based on 22 cases in the medical literature that present a strong temporal relationship, the finding of antigelatin IgE in two cases, the finding of two cases with positive skin prick tests to gelatin, and one case with positive rechallenge (where the same acute adverse event occurs after more than one administration of the vaccine). The IOM concluded that ''the evidence convincingly supports a causal

[41] The Brighton Collaboration Anaphylaxis Working Group, ''Anaphylaxis: Case Definition and Guidelines for Data Collection, Analysis, and Presentation of Immunization Safety Data,'' Vaccine, Aug. 2007; 5676.

[42] Institute of Medicine (IOM), Immunization Safety Review Vaccination and Sudden Unexpected Death in Infancy, (Washington, DC: The National Academies Press, 2003) 55.

[43] IOM, Adverse Effects of Vaccines: Evidence and Causality (Washington, DC: The National Academies Press, 2012) 288.

[44] IOM, Adverse Events Associated With Childhood Vaccines Evidence Bearing on Causality, (Washington, DC: The National Academies Press, 1994) 60.

[45] Scott A. Harper, MD, et al., ''Prevention and Control of Influenza,'' Morbidity and Mortality Weekly; July 29, 2005; 16.

relationship between influenza vaccine and anaphylaxis.'' [46]

The IOM also stated that the onset of anaphylaxis generally occurs within a few hours of exposure.[47] Consistent with the time interval for the first manifestation of anaphylaxis after vaccines covered by the National Vaccine Injury Compensation Program (VICP), the Program proposes an onset interval of 0–4 hours for anaphylaxis to be covered under the proposed Table.

Based on the nature and timing of anaphylaxis and the medical literature (including the fact that it is a very rare event with significant symptomatology), compelling, reliable, valid, medical and scientific evidence shows a direct link between influenza vaccines, including pandemic influenza vaccines (e.g., the 2009 H1N1 vaccine) and anaphylaxis.[48] Anaphylaxis is proposed for inclusion on the Table because it is a serious physical injury that may be directly caused by the use of the pandemic influenza vaccine, as supported by compelling, reliable, valid, medical and scientific evidence.

In a very small minority of cases of acute anaphylaxis, initial symptoms of the immediate reaction may present up to 12 hours after exposure. A more slowly evolving late phase hypersensitivity reaction is also possible, with an onset that usually begins 4–8 hours after the immediate reaction ends. The medical literature contains reports of late phase onset up to 72 hours later.[49] The late phase reaction results from a different immunologic mechanism of action. The late phase reaction is part of a biphasic reaction. It is possible for the first immediate hypersensitivity reaction to be relatively mild, unrecognized, or not observed.

There may be unusual cases in which the immediate reaction is delayed and/or cases in which the immediate reaction is not recognized, with the first apparent manifestation occurring in the late phase. These unusual cases will be evaluated on a case-by-case basis, and the Secretary will determine causation based on the presence of compelling, reliable, valid, medical and scientific evidence.

Vasovagal Syncope

Vasovagal syncope is a temporary loss of consciousness (fainting) and postural tone that includes a reflex drop in blood pressure and may be triggered by an event associated with pain or anxiety. This reaction is known to occur as a result of any injection, including the injection of a vaccine. Some people may experience jerking movements after losing consciousness which generally are not seizures.

In its 2012 report, the IOM concluded, based on mechanistic evidence, that the evidence convincingly supports a causal relationship between the injection of a vaccine and syncope. Included in the evidence was one case of positive re-challenge involving influenza vaccine.[50] As a rule, syncope after vaccination is not associated with serious injuries; however, in approximately 10 percent of reported cases it can cause serious injury related to physical trauma from an associated fall or other related accidents. Only serious injuries are eligible for compensation.

Most cases of syncope occur within one hour of vaccination. The Program will therefore propose an onset interval of 0–1 hour for vasovagal syncope caused by injected pandemic influenza vaccine to be covered under the proposed Table. Vasovagal syncope is proposed for inclusion on the Table because it may result in serious physical injury that is directly caused by the use of the vaccine, as supported by compelling, reliable, valid, medical and scientific evidence.

Subdeltoid Bursitis

Subdeltoid bursitis (i.e., deltoid bursitis, subacromial bursitis) is an inflammation of the bursa located between the deltoid muscle and the capsule of the shoulder joint. A bursa is a closed fluid-containing sac. Bursae serve to reduce friction between bones and tendons, or bones and skin. The pain from subacromial or subdeltoid bursitis is usually located in the lateral aspect of the shoulder. There is frequently tenderness to direct palpation (the process of using your hands to examine the body, especially while perceiving/diagnosing a disease or illness) below the acromion process (part of the shoulder). A shoulder with isolated bursitis should have full passive range of motion with more tenderness on actively resisted abduction than on passive abduction. This bursa extends below the deltoid muscle, and it is possible for a deep injection given high in the shoulder to inadvertently enter the bursa causing an inflammatory bursitis. Subdeltoid bursitis can result in debilitating pain or immobility. Only serious injuries are eligible for compensation.

The IOM evaluated three cases of positive re-challenge associated with influenza vaccine from the Vaccine Adverse Event Reporting System (VAERS) in addition to a published report of 13 claims in the VICP. Most of the cases had onset of symptoms within 48 hours of vaccination. The IOM concluded that the evidence convincingly supports a causal relationship between the injection of a vaccine and deltoid bursitis.[51] The Program will therefore propose an onset interval of 0–48 hours for subdeltoid bursitis caused by injected pandemic influenza vaccine to be covered under the proposed Table.

Injury to other musculoskeletal structures in the shoulder or upper arm (e.g., tendons, ligaments, bone, muscle, nerves) due to direct injection of the vaccine into these structures, or injuries resulting from the localized inflammation caused by the vaccine in close proximity to these structures, will be reviewed on a case-by-case basis.

Subdeltoid bursitis is proposed for inclusion on the Table because it may be a serious physical injury that may be directly caused by the use of the pandemic influenza vaccine, as supported by compelling, reliable, valid, medical and scientific evidence.

Guillain-Barrè Syndrome (GBS)

Multiple studies performed to monitor the safety of 2009 H1N1 vaccine provide evidence that demonstrates a small, statistically significant increased risk of GBS in the six weeks following administration of the 2009 H1N1 vaccine, as outlined below.

GBS is an acute paralysis caused by dysfunction in the peripheral nervous system (i.e., the nervous system outside the brain and spinal cord). GBS may manifest with weakness, abnormal sensations, and/or abnormality in the autonomic (involuntary) nervous system. In the United States, each year approximately 3,000 to 4,000 cases of GBS are reported, and the incidence of GBS increases in older individuals. Senior citizens tend to have a poorer prognosis. Most people fully recover from GBS, but some people can either develop permanent disability or die due to respiratory difficulties. It is not fully understood why some people develop GBS, but it is believed that stimulation of the body's immune system, as occurs

[46] IOM, Adverse Effects of Vaccines, 345.

[47] IOM, Immunization Safety Review Vaccination, 5.

[48] Hector S. Izurieta, et al., ''Adverse Events Reported Following Live, Cold-Adapted, Intranasal Influenza Vaccine,'' Journal of the American Medical Association, Dec. 7, 2005; 2721 and Stanley A. Plotkin, et al., Vaccines, 5th Edition, (United Kingdom: Elsevier, 2008) 97, 982.

[49] The Brighton Collaboration, 5678.

[50] IOM, Adverse Effects of Vaccines, 343.

[51] IOM, Adverse Effects of Vaccines, 18.

with infections, can lead to the formation of autoimmune antibodies and cell-mediated immunity that play a role in its development.

GBS may present as one of several clinicopathological subtypes. The most common type in North America and Europe, comprising more than 90 percent of cases, is acute inflammatory demyelinating polyneuropathy (AIDP), which has the pathologic and electrodiagnostic features of focal demyelination of motor and sensory peripheral nerves and roots. Demyelinating refers to a loss or disruption of the myelin sheath, which wraps around the axons of some nerve cells and which is necessary for the normal conduction of nerve impulses in those nerves that contain myelin. Polyneuropathy refers to the involvement of multiple peripheral nerves. Motor nerves affect muscles or glands. Sensory nerves transmit sensations. Another subtype called acute motor axonal neuropathy (AMAN) is generally seen in other parts of the world and is predominated by axonal damage that primary affects motor nerves. AMAN lacks features of demyelination. The axon is a portion of the nerve cell that transmits nerve impulses away from the nerve cell body. Another less common subtype of GBS includes acute motor and sensory neuropathy (AMSAN), which is an axonal form of GBS that is similar to AMAN, but also affects the axons of sensory nerves and roots.

The diagnosis of the AIDP, AMAN, and AMSAN subtypes of GBS requires bilateral flaccid (relaxed with decreased muscle tone) limb weakness and decreased or absent deep tendon reflexes in weak limbs, and a monophasic illness pattern with the interval between onset and nadir of weakness between 12 hours and 28 days with a subsequent clinical plateau. (The clinical plateau leads to either stabilization at the nadir of symptoms, or subsequent improvement without significant relapse. Death may occur without clinical plateau. Treatment-related fluctuations in all subtypes of GBS can occur within nine weeks of GBS symptom onset and recurrence of symptoms after this time frame would not be consistent with GBS.). In addition, there must not be a more likely alternative diagnosis for the weakness.

Other factors in all subtypes of GBS that add to diagnostic certainty but are not required for diagnosis include electrophysiologic findings consistent with GBS or cytoalbuminologic dissociation (i.e., elevation of cerebral spinal fluid (CSF) protein and a total white cell count in the CSF less than 50 cells per microliter).

The weakness in the AIDP, AMAN, and AMSAN subtypes of GBS is usually, but not always symmetric, and usually has an ascending pattern of progression from legs to arms. However, other patterns of progression may occur. The cranial nerves can be involved. Respiratory failure can occur due to respiratory involvement. Fluctuations in the degree of weakness prior to reaching the point of greatest weakness or during the plateau or improvement phase may occur, especially in response to treatment. These fluctuations occur in the first nine weeks after onset and are generally followed by eventual improvement.

According to the Brighton Collaboration,[52] Fisher Syndrome (FS), also known as Miller Fisher Syndrome, is a subtype of GBS characterized by ataxia, areflexia, and ophthalmoplegia, and overlap between FS and GBS may be seen with limb weakness. The diagnosis of FS requires bilateral ophthalmoparesis; bilateral reduced or absent tendon reflexes; ataxia; the absence of limb weakness (the presence of limb weakness suggests a diagnosis of AIDP, AMAN, or AMSAN); a monophasic illness pattern; an interval between onset and nadir of weakness between 12 hours and 28 days; subsequent clinical plateau (the clinical plateau leads to either stabilization at the nadir of symptoms or subsequent improvement without significant relapse); no alteration in consciousness; no corticospinal track signs; and the absence of an identified more likely alternative diagnosis. Death may occur without a clinical plateau.

Exclusionary criteria for the diagnosis of GBS include the ultimate diagnosis of any of the following conditions: Chronic inflammatory demyelinating polyneuropathy (CIDP), carcinomatous meningitis, brain stem encephalitis (other than Bickerstaff brainstem encephalitis), myelitis, spinal cord infarct, spinal cord compression, anterior horn cell diseases such as polio or West Nile virus infection, subacute inflammatory demyelinating polyradiculoneuropathy, multiple sclerosis, cauda equina compression, metabolic conditions such as hypermagnesemia or hypophosphatemia, tick paralysis, heavy metal toxicity (such as arsenic, gold, or thallium), drug-induced neuropathy (such as vincristine, platinum compounds, or nitrofurantoin), porphyria, critical illness neuropathy, vasculitis, diphtheria, myasthenia gravis, organophosphate poisoning, botulism, critical illness myopathy, polymyositis, dermatomyositis, hypokalemia, or hyperkalemia. The above list is not exhaustive.[53]

For all subtypes of GBS (AIDP, AMAN, AMSAN, and FS), the onset of symptoms less than three days (72 hours) after exposure essentially excludes that exposure as a cause because the immunologic steps necessary to create symptomatic disease require a minimum of three days.

CIDP is clinically and pathologically distinct from GBS. The onset phase of CIDP is generally greater than eight weeks and the weakness may remit and relapse. CIDP is also not monophasic.[54]

In the past, GBS has been causally associated with certain vaccines. For example, rabies vaccines produced in nervous system tissue such as goat, sheep, or suckling mouse brain have been tied to an increased risk of GBS in people vaccinated with this vaccine. However, this method of vaccine production is no longer used in the United States.

Another example is the 1976 influenza A (swine flu) vaccine, which was found by the IOM to be causally associated with GBS. The risk of developing GBS in the six-week period after receiving the 1976 swine flu vaccine was 9.2 times higher than the risk for those who were not vaccinated.[55] Since the 1976 influenza season, numerous studies have been conducted to evaluate whether other influenza vaccines were associated with GBS. In most published studies, no association was found, but one large study published in the *New England Journal of Medicine* evaluated the 1992–93 and 1993–94 influenza seasons and suggested approximately one additional case of GBS out of one million persons vaccinated, in the six weeks following vaccination, may be attributable to the vaccine formulation used in those years. The background incidence of GBS not associated with vaccine among adults was documented in the study to be 0.87 cases per million persons for any 6-week period.[56]

[52] Sejvar, 599–612.

[53] Sejvar, 599–612.

[54] Sejvar, 599–612.

[55] Lawrence B. Schonberger, et al., ''Guillain-Barre Syndrome Following Vaccination in the National Influenza Immunization Program, United States, 1976–1977,'' American Journal of Epidemiology, 25 Apr. 1979; 118 and IOM, ''Immunization Safety Review: Influenza Vaccines and Neurological Complications,'' (Washington, DC: The National Academies Press, 2004) 25.

[56] Tamar Lasky, et al., ''The Guillain-Barrè Syndrome and the 1992–1993 and 1993–1994 Influenza Vaccines,'' The New England Journal of Medicine, Dec. 17, 1998; 1797.

The IOM published a thorough scientific review of the peer reviewed literature in 2004 [57] and concluded that people who received the 1976 swine influenza vaccine had an increased risk for developing GBS. Based on its review of the published literature, the IOM also decided that the evidence linking GBS and influenza vaccines in influenza seasons other than 1976 was not clear. This led to the IOM's conclusion that the evidence was inadequate to accept or reject a causal relationship between influenza immunization and GBS for years other than 1976.

In 2012, the IOM published another report that evaluated the association of seasonal influenza vaccine and GBS. Pandemic vaccines, such as the influenza vaccine used in 1976 and the 2009 H1N1 influenza vaccine, were specifically not evaluated. The IOM concluded that the evidence is inadequate to accept or reject a causal relationship between seasonal influenza vaccine and GBS.[58]

The Working Group, in its February 7, 2012, final report to the NVAC regarding 2009 H1N1 safety surveillance, reported that a meta-analysis combining the results from each study group participating in the 2009 H1N1 enhanced safety surveillance revealed a small, statistically significant increased risk of GBS in the six weeks after receiving the 2009 H1N1 vaccine. The meta-analysis was predominantly based on enhanced safety surveillance studies performed by different investigators with different populations in the Emerging Infections Program (EIP), the Vaccine Safety Datalink (VSD), and the Post-Licensure Rapid Immunization Safety Monitoring (PRISM) System.

The VSD enhanced safety surveillance includes active surveillance and medical record review in a well-defined population of nine million people. The self-controlled risk interval study design showed a statistically significant relative risk of 4.4 of GBS after monovalent inactivated 2009 H1N1 influenza vaccine. The corresponding risk difference or attributable risk was 5.0 per million vaccine doses in the six weeks following vaccination. The authors concluded that there was a relatively small elevated risk (a quadrupling of the risk) of GBS following monovalent inactivated 2009 H1N1 vaccine, but that there was no increased risk following the trivalent seasonal vaccine (when administered without 2009 H1N1) in the 2009–2010 influenza season.[59]

The EIP implemented active population-based surveillance for GBS following H1N1 vaccine in 10 different areas of the country, capturing a population of approximately 45 million people. Analyses using self-controlled methods found a statistically significant increased relative risk of GBS after 2009 H1N1 influenza vaccine of between 2.1 and 3.0, depending on the exact methods used. The corresponding attributable risks per million doses administered in the six weeks after vaccination were 1.5 and 2.8. The authors concluded that the results suggest a low increased risk (a doubling or tripling of the risk) of GBS following the monovalent 2009 H1N1 influenza vaccine.[60]

Another analysis using EIP data found a statistically significant adjusted rate ratio of 1.57 with a corresponding attributable risk of 0.74 excess GBS cases per one million vaccine doses in the six weeks following monovalent 2009 H1N1 influenza vaccination. The findings for seasonal vaccine demonstrated a rate ratio similar to that for 2009 H1N1 vaccine, but the association was not statistically significant. Although the authors conclude that the relationship between monovalent 2009 H1N1 influenza vaccine and GBS during the 2009–2010 influenza season was likely weak (the study found a 57 percent increased risk of GBS in the six weeks after vaccination compared to controls) and that the excess risk of GBS was small, these data support a causal connection due to the results showing a statistically significant increased risk.[61] The consistent trend across studies of an increased risk provides support that the measured association of a 57 percent increase in risk after the vaccination is real and that it reflects a causal association even if this one analysis demonstrates a modest or small increase in relative risk.

The EIP combined the data obtained from doses of the monovalent live attenuated 2009 H1N1 vaccine and the monovalent inactivated 2009 H1N1 vaccine and therefore the conclusions provide compelling evidence related to the administration of both vaccines and GBS.

The PRISM system is a cohort-based active surveillance network that conducted a retrospective analysis to determine if the 2009 H1N1 vaccine was associated with an increased risk of any of 14 pre-specified outcomes. Five health insurance and associated companies with 38 million members, together with nine immunization registries, contributed records related to approximately 2.6 million doses of 2009 H1N1 vaccine. The self-controlled risk interval analysis of chart-confirmed GBS cases found an elevated but not statistically significant incident rate ratio for GBS after inactivated 2009 H1N1 vaccine. The incident rate ratio was 2.5 with a confidence interval of 0.42 to 15.[62] Although this study does not reach statistical significance, the results trend in the same direction of an increased risk of GBS after receiving the 2009 H1N1 vaccine as outlined in, and consistent with, the studies above. The wide confidence interval suggests this analysis did not have sufficient power to reach statistical significance.

A meta-analysis was performed of the VSD, EIP, and PRISM data mentioned above, together with additional data from safety surveillance studies performed by Medicare, the Department of Defense, and the Department of Veterans Affairs, which analyzed data from 23 million vaccinated people. The meta-analysis found that the 2009 H1N1 inactivated vaccine was associated with a small increased risk of GBS within six weeks of vaccination. This excess risk is equivalent to 1.6 excess cases in the six weeks after vaccination per million people vaccinated.

The meta-analysis provides the benefit of additional statistical power. Statistical power reflects the ability of a study to detect a true effect from the exposure being studied. Additional statistical power allows for the analyses of certain hypotheses, not possible to analyze individually in the six studies that made up the meta-analysis. This increased risk found in the meta-analysis was consistent: (1) Across studies looking at different groups of people; (2) using different definitions of

[57] IOM, Immunization Safety Review: Influenza Vaccines and Neurological Complications, 25.

[58] IOM, Adverse Effects of Vaccines, 334.

[59] Sharon K. Greene, et al., ''Risk of Confirmed Guillain-Barrè Syndrome Following Receipt of Monovalent Inactivated Influenza A (H1N1) and Seasonal Influenza Vaccines in the Vaccine Safety Datalink Project, 2009–2010,'' American Journal of Epidemiology, Jun. 1, 2012; 1100.

[60] Jerome I. Tokars, et al., ''The Risk of Guillain-Barrè Syndrome Associated with Influenza A (H1N1) 2009 Monovalent Vaccine and 2009–2010 Seasonal Influenza Vaccines: Results from a Self-Controlled Analysis,'' Pharmacoepidemiology and Drug Safety, May 2012; 546.

[61] Matthew E. Wise, et al., ''Guillain-Barre Syndrome During the 2009–2010 H1N1 Influenza Vaccination Campaign: Population-based Surveillance Among 45 Million Americans,'' American Journal of Epidemiology, Jun. 1, 2012; 1110.

[62] W. Katherine Yih, et al., ''Surveillance for Adverse Events Following Receipt of Pandemic 2009 H1N1 Vaccine in the Post-Licensure Rapid Immunization Safety Monitoring (PRISM) System, 2009–2010,'' American Journal of Epidemiology, Jun. 1, 2012; 1120.

illness; (3) in people who received or did not receive a concurrent seasonal influenza vaccine or had influenza like symptoms; (4) across various time windows; and (5) in different age categories. This suggests that these five factors did not affect the risk of developing GBS.[63]

Considering the totality of the evidence, and particularly the enhanced surveillance studies and meta-analysis performed to monitor the safety of the 2009 H1N1 vaccine, compelling evidence demonstrates a small increased risk of GBS in the six weeks following administration of the 2009 H1N1 vaccine. The Program will therefore propose an onset interval of 3–42 days for GBS caused by the 2009 H1N1 influenza vaccine to be covered under the proposed Table. Day 3 begins 72 hours after administration of the vaccination and takes into account the time interval needed to show first signs or symptoms after exposure.[64] GBS is proposed for inclusion on the Table because it is a serious physical injury, and the fact that it may be directly caused by the use of the 2009 H1N1 vaccine is supported by compelling, reliable, valid, medical and scientific evidence.

Pandemic Influenza Countermeasure Conditions of Special Interest

Although the conditions listed below are of special interest to the public and are being monitored by HHS, the Secretary does not propose including them on the Table at this time because compelling, reliable, valid, medical and scientific evidence of causation does not currently exist. The conditions include the following:

(1) Spontaneous Miscarriage

The Secretary has a special interest in spontaneous miscarriages with respect to the 2009 H1N1 vaccine because pregnant women were a priority group targeted for this vaccination. Spontaneous miscarriages commonly occur regardless of the use or administration of any vaccines. There are about six million clinically recognized pregnancies in the United States each year, and approximately 15 percent of those pregnancies will end in clinically recognized miscarriages with no known cause (spontaneous miscarriages). This calculates to approximately 900,000 miscarriages per year, or an average of 2,466 per day in the United States regardless of vaccination status. Given the large number of women who experience spontaneous miscarriages with no known cause and the large number of pregnant women who received the 2009 H1N1 vaccine, it is expected that a significant number of pregnant women would demonstrate a coincidental temporal association between the vaccine and miscarriages with no other evidence of a causative role.

The H1N1 Working Group, in its February 7, 2012, final report to the NVAC regarding 2009 H1N1 safety surveillance, reported on pregnancy outcomes. Some studies showed weak statistical signals for an increased risk of pre-eclampsia and miscarriage after 2009 H1N1 vaccine administration. These results were not consistent across different studies, and there were several important methodological limitations to these analyses, suggesting that it was not a real association with the vaccine. The H1N1 Working Group concluded that surveillance associated with the 2009 H1N1 vaccine was adequate to detect serious pregnancy complications that occurred with a high incidence. However, a high incidence of serious pregnancy complications was not seen. To discern smaller effects, the Working Group recommended the performance of methodological work to enhance surveillance of vaccine adverse events in pregnant women.

There is, therefore, no compelling evidence to date supporting a causal relationship between the 2009 H1N1 vaccine and spontaneous miscarriage. For this reason, the Secretary does not propose including spontaneous miscarriage as a Table injury. Should compelling, reliable, valid, medical and scientific evidence demonstrate such a link, the Secretary may add this injury to the Table. Unless such an amendment is made, the Program will consider any claims for spontaneous miscarriage on a case-by-case basis as non-Table claims.

(2) Febrile Seizures

Influenza vaccinations are known to occasionally cause fever in some children. Seizures secondary to fever (febrile seizures) from any cause have been observed in 2–5 percent of children between the ages of three months and five years, with the peak age being 14 to 18 months.

For its 2012 report, the IOM reviewed the medical evidence for non-pandemic influenza vaccine causing seizures. The IOM had a moderate degree of confidence in the epidemiologic evidence. The studies reviewed had sufficient validity and precision to assess an association between influenza vaccine and seizures. These studies consistently reported a null association. The IOM concluded that the evidence is inadequate to accept or reject a causal relationship between seasonal influenza vaccine and seizures.[65] In addition, enhanced surveillance to assess the safety of the 2009 H1N1 vaccine provided evidence that this vaccine did not cause seizures.[66]

In 2011, enhanced surveillance for febrile seizures in the United States was conducted through the VSD. More than 200,000 children between the ages of six months and four years were studied. The analyses showed that febrile seizures following trivalent seasonal influenza vaccine and pneumococcal vaccine (PCV 13) given at different visits rarely occurred. The seizures were most common in children age 12 to 23 months when the two vaccines were given in the same health care visit. The analyses demonstrated one additional febrile seizure among every 2,000 to 3,000 children vaccinated. However, these analyses do not apply to the 2009 H1N1 vaccine.

Compelling, reliable, valid, medical and scientific evidence does not currently exist causally linking seizures, including febrile seizures, with the 2009 monovalent H1N1 influenza vaccine. The Program will consider a claim for febrile seizure leading to serious injury or death on a case-by-case basis as a non-Table claim.

(3) Bronchospasm

Bronchospasm is a constriction of the muscles in the walls of the smaller breathing tubes (bronchioles) in the lungs. It is facilitated by cells in the immune system under the influence of various stimuli. The resulting constriction and inflammation causes a narrowing of the airways and an increase in mucus production, which reduces air exchange. This causes breathlessness, coughing, and wheezing. Some common causes of bronchospasm in a susceptible person are allergic reactions to certain foods and medications, chemical irritation, and infections.

Evidence indicates that the 2009 H1N1 intranasal vaccine may be associated with bronchospasm in children younger than two years of age; however, this has not been observed consistently in older individuals. For this reason, the intranasal vaccine is not recommended for children younger than two years of age. To date, no direct link

[63] Daniel A. Salmon et al., ''Association Between Guillain-Barre Syndrome and Influenza A (H1N1) 2009 monovalent inactivated vaccines in the USA: a Meta-analysis,'' Lancet, electronically published March 13, 2013, *http://dx.doi.org/10.1016/S0140-6736(12)62189-8.*

[64] Peripheral Neuropathy (Philadelphia, PA: Elsevier Saunders, 2005), 626.

[65] IOM, Adverse Effects of Vaccines, 304.

[66] Yih, 1123.

has been shown between bronchospasm and the 2009 H1N1 vaccination through surveillance when given to recommended populations. Therefore, the Secretary does not propose including bronchospasm on the Table for the 2009 H1N1 vaccine at this time.

In its 2012 report, the IOM concluded that the evidence is inadequate to accept or reject a causal relationship between seasonal Live Attenuated Influenza Vaccine (LAIV) and asthma exacerbation or reactive airway disease episodes in both children younger than five years of age and persons who are five years of age or older. In addition, this same IOM committee concluded that the evidence favors rejection of a causal relationship between inactivated influenza vaccine and asthma exacerbation or reactive airway disease episodes in children and adults.[67]

Should compelling, reliable, valid, medical and scientific evidence arise to demonstrate a direct link between bronchospasm and the 2009 H1N1 vaccine with respect to populations for which the vaccine is indicated, the Secretary may add this injury to the Table. Unless such an amendment is made, the Program will consider any claims for bronchospasm leading to serious injury or death on a case-by-case basis as a non-Table claim.

Pandemic Influenza Antiviral Medications

Influenza antiviral medications including Tamiflu and Relenza have been reported in controlled trials to shorten the time to symptom improvement in acute uncomplicated influenza caused by circulating viral strains; based on retrospective observational studies and pooled analyses, many experts believe they can reduce the severity and duration of influenza and can reduce the risk of influenza-related complications, severe illness, and death. Tamiflu, Relenza, and peramivir have been used to combat influenza A and B viruses by inhibiting the viral neuraminidase enzyme involved in releasing viral particles from the infected cell. These antivirals were used to treat and protect against illness due to the 2009 H1N1 virus in the 2009–2010 pandemic influenza season. Tamiflu and Relenza are covered when used to treat or protect against a current or potential pandemic influenza. Peramivir is covered when used to treat 2009 H1N1 influenza during the 2009 pandemic season. The use of these drugs for the treatment or prevention of seasonal influenza is not covered.

[67] IOM, Adverse Effects of Vaccines, 356.

Tamiflu is a prescription medicine taken by mouth for the prevention and treatment of influenza. Similarly, Relenza is an inhaled prescription drug used for the prevention and treatment of influenza. Peramivir is an intravenous investigational antiviral drug currently limited in use in the United States. For example, it has been used in clinical trials and for a time was available under an emergency use authorization (EUA) in response to the 2009 H1N1 pandemic. However, this EUA is currently not in effect.

The proposed Table currently includes anaphylaxis for Tamiflu, Relenza and peramivir because compelling, reliable, valid, medical and scientific evidence establishes a causal relationship between these drugs and anaphylaxis. A discussion of anaphylaxis can be found in the pandemic influenza vaccines section of this preamble to this NPRM. Further support for causation is based on the well-established biological mechanism that anaphylaxis, according to the IOM reports of 1994 and 2003 on vaccine adverse events, can occur after exposure to a foreign antigen or drug and by the temporal sequence of observed events following exposure. In addition, the spectrum of host responses that follows a logical biologic gradient, as described by the IOM, from mild hypersensitivity reactions to true anaphylaxis have been observed and are known to occur in post marketing surveillance for Tamiflu and Relenza. During the pandemic there was only limited use of peramivir under IND or EUA in the United States, and postmarketing experience comparable to Tamiflu and Relenza is not available, but peramivir is included here on the basis of experience with similar drugs.

Compelling, reliable, valid, scientific and medical evidence supports that antiviral drugs can cause anaphylaxis if the onset of the condition occurs within four hours after the administration or use of the antiviral.[68] According to the American College of Allergy, Asthma, and Immunology, any person can develop an allergic drug reaction to any drug (*http://www.acaai.org/allergist/allergies/Types/drug-allergy/Pages/default.aspx*).

Tamiflu capsules contain gelatin, which is a protein known to cause allergic reactions and anaphylaxis in sensitized individuals. With Relenza, each dose inhaled contains lactose powder that also contains milk proteins, which may cause the spectrum of allergic reactions in sensitized individuals. Based on the unique nature of the presentation and timing of anaphylaxis together with consensus in the medical community regarding causation and the existing medical literature, the Secretary proposes including anaphylaxis on the Table for Tamiflu, Relenza, and peramivir. For the reasons discussed for anaphylaxis, the Secretary proposes including an onset interval of 0–4 hours on the Table after the administration or use of Tamiflu, Relenza, or peramivir. Anaphylaxis is proposed for inclusion on the Table because it is a serious physical injury that may be directly caused by the use of these antiviral medications, as supported by compelling, reliable, valid, medical and scientific evidence.

[68] Werner J. Pichler, et al., ''Drug Hypersensitivity Reactions: Pathomechanisms and Clinical Symptoms,'' Medical Clinics North America, July 2010; 651–654.

Since only serious physical injuries qualify as covered injuries, the Secretary does not propose including minor adverse events for Tamiflu, Relenza and peramivir on the Table. Minor side effects associated with Tamiflu include nausea and vomiting, which usually occur in the first two days of treatment. Minor side effects associated with Relenza include cough, nasal irritation, nausea, vomiting, headache, and ear, nose, and throat infections. The more commonly reported side effects of peramivir, which may or may not be related causally, are diarrhea, nausea, vomiting, and a decrease in white blood cell count. These side effects were reported from clinical trials. Possible side effects of receiving any medication (including peramivir) by vein are brief pain, bleeding, bruising of the skin where the needle entered, soreness and swelling, and inflammation or infection at the needle entry point. These reactions are usually minor and resolve without complication. However, in cases in which these symptoms worsen and lead to serious physical injury or death, the Program will consider these claims on a case-by-case basis as non-Table claims.

Pandemic Influenza Antivirals Conditions of Special Interest

The Secretary does not propose to include the following conditions associated with the antiviral drugs on the Table at this time, although they are of special interest to the public. These conditions may be added in the future if compelling, reliable, valid, medical and scientific evidence becomes available showing a direct link between the antiviral drug(s) and these conditions. Such conditions include:

(1) Bronchospasm

Bronchospasm is a constriction of the muscles in the walls of smaller breathing tubes (bronchioles) in the lungs. It is facilitated by cells in the immune system under the influence of various stimuli. The resulting constriction, inflammation, and increased mucus production causes a narrowing of the airways which reduces air exchange and may lead to breathlessness, coughing, and/or wheezing.

Serious cases of bronchospasm, including fatalities, have been reported to FDA and manufacturers during treatment with Relenza in patients with and without underlying airway disease.[69] Many of these cases were reported during post-marketing surveillance and causality was difficult to assess because, for example, some patients without prior pulmonary disease may also have respiratory abnormalities from acute respiratory infection that could resemble this adverse drug reaction.

Should compelling, reliable, valid, medical and scientific evidence become available and demonstrate a direct link between bronchospasm and Relenza the Program may add this injury to the Table. Unless such an amendment is made, the Program will consider any claims for bronchospasm leading to serious injury or death on a case-by-case basis as non-Table claims.

(2) Neuropsychiatric Events

Rarely, transient neuropsychiatric events such as self-injury or delirium have been reported in post-market monitoring among persons taking Tamiflu and Relenza. The majority of reports were among children and adolescents living in Japan. Because influenza infection itself may be associated with a variety of neurologic and behavioral symptoms (e.g., seizures, delirium and hallucinations), it is unclear whether the antiviral drugs are responsible for these neuropsychiatric effects. To date, retrospective analyses conducted by the manufacturers of Tamiflu and Relenza and the Vaccine Safety Datalink have not found evidence for an increased risk of neuropsychiatric events after Tamiflu or Relenza use.[70]

Should compelling, reliable, valid, medical and scientific evidence become available and demonstrate a direct link between neuropsychiatric effects and Tamiflu and/or Relenza, the Program may add these injuries to the Table. Unless such an amendment is made, the Program will consider any claims for neuropsychiatric effects leading to serious injury or death on a case-by-case basis as non-Table claims.

Pandemic Influenza Personal Respiratory Protection Devices

To reduce the risk of infection in certain populations and areas with confirmed cases of 2009 H1N1 influenza, the CDC has put forward recommendations for the use of personal respiratory protection devices. Personal respiratory protection devices are for use by individuals to reduce wearer exposure to pathogenic biological airborne particulates according to the Secretarial declaration of December 17, 2008.[71] Such devices also can be used to reduce transmission of infection from the person wearing the device to another. Examples of personal respiratory protection devices are ''facemasks'' and respirators. The term ''facemask'' refers to disposable facemasks approved by FDA for use as medical devices, including facemasks labeled as surgical, dental, medical procedure, isolation, or laser masks. These facemasks loosely fit the face. They have specific levels of protection from penetration of blood and body fluids and help stop droplets from being spread by the individuals wearing them. Furthermore, a facemask acts to prevent splashes or sprays from reaching the mouth and nose of the person wearing the facemask. A facemask generally does not protect against breathing in very small aerosolized particles that may contain viruses.

A respirator refers to an N95 or higher filtering face piece respirator. A respirator that fits properly on the face can filter out virus-containing small particles in the aerosol that can be generated by an infected person. Compared to a facemask, it is harder to breathe through a respirator for long periods of time. Although some respirators may cause latex or contact allergies, these reactions are generally self-limited and do not usually rise to the level of serious injury.

The Secretary considered potential injuries due to the use or administration of personal respiratory protection devices. The use of personal respiratory protection devices may cause injury in some wearers. However, the Secretary finds that use or administration of personal respiratory protection devices generally are not known to cause serious physical injuries. Therefore, the proposed Table indicates that there presently is ''[N]o condition covered'' for this countermeasure. Injuries may be added in the future if compelling, reliable, valid, medical and scientific evidence develops revealing a causal relationship between a personal respiratory protection device and a serious adverse event. The Program will consider a claim leading to serious injury or death from the use or administration of a personal respiratory protection device on a case-by-case basis as a non-Table claim.

Pandemic Influenza Respiratory Support Devices

Infection with the 2009 H1N1 virus and other pandemic strains of influenza can lead to serious respiratory tract disease, including pneumonia. Additionally, influenza infection can make people more susceptible to bacterial pneumonia and other serious complications. Individuals infected with covered influenza A viruses may require respiratory support with respiratory devices, such as mechanical ventilators, lung expansion devices, and extracorporeal membrane oxygenation (ECMO). Mechanical ventilators assist or control respiration continuously. Lung expansion devices include products such as intermittent positive-pressure breathing, nasal positive end-expiratory pressure, and continuous nasal positive airway pressure. ECMO mechanically provides for essential lung functions outside the body.

Generally, patients requiring respiratory support devices already have a significant degree of injury or compromise to their lungs. Notwithstanding any prior lung injuries, it is possible to sustain serious respiratory tract damage directly from these devices. Complications from the underlying influenza infection may have a great deal of overlap with effects or adverse events secondary to the use of respiratory support devices.

The proposed Table includes post-intubation tracheal stenosis, ventilator-induced lung injury (VILI), ventilator-associated pneumonia (VAP), and ventilator-associated tracheobronchitis (VAT) as injuries caused by mechanical ventilators. Bleeding events also are listed as Table injuries associated with receiving anticoagulation medication for ECMO. These are proposed for inclusion on the Table because they are serious

[69] Relenza (zanamivir) Inhalation Powder, for oral inhalation [package insert]. Research Triangle Park, NC: GlaxoSmithKine: December 2011. *http://www.accessdata.fda.gov/drugsatfda_docs/label/2011/021036s027lbl.pdf.* Accessed March 22, 2013.

[70] Toovey, Stephen, et al., ''Post-Marketing Assessment of Neuropsychiatric Adverse Events in Influenza Patients Treated with Oseltamivir: An Updated Review,'' Adv Ther, October 2012; 826–48; and Greene, Sharon, et al., ''Risk of adverse events following oseltamivir treatment in influenza outpatients, Vaccine Safety Datalink Project, 2007–2010,'' Pharmacoepidemiology and Drug Safety, October 2012; published online (no page numbers).

[71] 73 FR 78362.

physical injuries that may be directly caused by the use of respiratory support devices, as supported by compelling, reliable, valid, medical and scientific evidence.

Tracheal Stenosis

The proposed Table includes tracheal stenosis, which is an abnormal narrowing in the windpipe that can increase the work of breathing. Oral or nasal endotracheal tubes or tracheostomy tubes (tubes placed in the throat to assist with breathing) are most commonly used to deliver mechanical ventilatory support in respiratory failure. Despite technological improvements, tracheal stenoses still constitute an important group of complications after intubation and tracheostomy. Early endotracheal tubes were not designed to minimize pressure from the tube's cuff, leading to a much higher incidence of tracheal stenosis than is seen with more modern endotracheal tubes with more compliant cuffs. These newer cuffs have been shown to greatly reduce, but not eliminate, the incidence of tracheal stenosis. Endotracheal intubation is used to secure a patient's airway, to act as a means to deliver oxygen gas from the ventilator to the patient, to prevent aspiration, and/or to help to clear secretions. Pressure from the endotracheal tube itself or from the cuff of the endotracheal tube, which achieves a pneumatic seal between the tube and trachea, can lead to regions of tracheal ischemia (a restriction in blood supply) that may eventually cause tracheal stenosis.

The reported incidence of symptomatic or clinically significant tracheal stenosis following tracheostomy and laryngotracheal intubation currently is less than one percent. When stenosis occurs, the process leading to airway narrowing can begin at any time after intubation or placement of a tracheostomy tube. Tracheal stenosis due to endotracheal intubation mostly occurs at the cuff of the tube due to decreased blood flow to the trachea caused by the cuff. The most important reason for stenosis at the tracheal stoma site (the opening of a tracheostomy) is damaged cartilage and wound infection. In addition, previous cervical or tracheal trauma can negatively affect healing of the stoma leading to stenosis.

The usual presenting symptoms of tracheal stenosis may include shortness of breath, stridor (an abnormal, high-pitched, inspiratory sound produced by turbulent airflow through a partially obstructed airway), and/or wheezing. A slow resumption of physical activity after being on a ventilator can mask or delay the first symptom or manifestation of the onset of injury of tracheal stenosis. These obstructive symptoms appearing in a person who is at rest indicate the diameter of the trachea has decreased to 30 percent or less of its normal size at the point of narrowing. Less stenosis can become symptomatic with exertion, and shortness of breath on exertion is the most common presenting symptom. Symptoms usually develop within 2 to 42 days after removal of the tube in people who develop symptoms.

The length and severity of a tracheal stenosis lesion is ideally determined by bronchoscopic evaluation including laryngoscopy to assess vocal cord function and the presence and location of stenosis in the windpipe. Computerized axial tomography (CT) scans can serve as a rough guide to the location of the stenosis. Other causes of tracheal stenosis include malignant and benign tumors, infections of the trachea (such as tuberculosis and fungal diseases), radiotherapy, tracheal surgery, trauma, congenital abnormality, inflammatory diseases, and autoimmune diseases.

Compelling, reliable, valid, medical and scientific literature support a direct link between tracheal stenosis and ventilators due to the placement of an endotracheal or a tracheostomy tube.[72] Therefore, this injury is proposed for inclusion on the Table.

Ventilator-Associated Pneumonia (VAP) and Ventilator-Associated Tracheobronchitis (VAT)

VAP and VAT are other potential conditions that can be caused by ventilator use. VAP and VAT are defined as occurring in patients who manifest pneumonia or tracheobronchitis more than 48 hours after being intubated. There is no minimum period of time of ventilator use for the pneumonia or tracheobronchitis to be considered ventilator-associated. Bacteria growing in the mouth and on the breathing tube can easily enter the normally bacteria-free trachea and lungs, and this is generally the source of the bacteria for VAP and VAT. Most of the diagnostic criteria for VAP and VAT include clinical symptoms and signs of infection, including the signs of a lung infection, new onset of fever, purulent sputum (upper respiratory secretions containing pus), leukocytosis (increased white blood cell count), leukopenia (decreased white blood cell count), wheezing, cough, bradycardia (diminished heart rate), chest pain, coughing blood, abnormal breath sounds, altered mental status, laboratory evidence of infection, and a decline in the ability to oxygenate and remove carbon dioxide from the blood.[73] An individual with these symptoms and signs and no abnormalities on chest x-ray may have VAT because the infection in the trachea may not be seen on a chest x-ray. Patients with chest x-ray findings consistent with pneumonia may have VAP. VAT can be related to VAP with regard to cause, but is different because the location of the infection is in the trachea instead of the lungs.

VAP is the most common infection acquired in intensive care units. Recent publications report that the rate of VAP ranges from 0.0 to 5.8 cases per 1,000 ventilator days.[74] Patients with VAP require more days of mechanical ventilation and hospitalization, and more medications. The mortality rate may exceed 10 percent.

There is compelling reliable, valid, medical and scientific evidence indicating that VAP and VAT are injuries that may be caused by mechanical ventilator use.[75] Thus, VAP and VAT are proposed Table injuries for respiratory support devices that are used to mechanically ventilate covered patients.

There may be cases where an individual has VAP or VAT but does not meet the proposed definition of VAP or VAT. Such cases will be evaluated on a case-by-case basis, and the Secretary will determine medical eligibility based on the presence of compelling, reliable, valid, medical and scientific evidence.

Ventilator-Induced Lung Injury (VILI)

The medical literature demonstrates that mechanical ventilation can harm the lung and result in VILI.[76] VILI occurs as a result of mechanical trauma to lung structures induced by the positive pressure delivered to the lungs

[72] John C. Wain, Jr., ''Postintubation Tracheal Stenosis,'' Seminars in Thoracic and Cardiovascular Surgery, Fall 2009; 284–286; and Mitlu M. Gokhan and Phillip Factor, ''Complications of Mechanical Ventilation,'' Respiratory Care Clinics of North America; Jun. 2, 2000; 230.

[73] Centers for Disease Control and Prevention (CDC), Ventilator-Associated Event; January 2013; *http://www.cdc.gov/nhsn/PDFs/pscManual/10-VAE_FINAL.pdf.*

[74] CDC, 6–1.

[75] Dennis L. Kasper, MD, Harrison's ''Principles of Internal Medicine, 16th edition''; (United States of America: McGraw-Hill, 2005); 777; and Susan E Coffin, et al., ''Strategies to Prevent Ventilator Associated Pneumonia in Acute Care Hospitals,'' Infection Control and Hospital Epidemiology, Oct. 2008; S31–S40.

[76] Lee Goldman, MD and J. Claude Bennett, MD, ''Cecil's Textbook of Medicine, 21st edition''; (United States of America: W.B. Saunders, 2000); 493.

by the ventilator. The positive pressure produces alveolar (air sac) stretching leading to non-physiologic (abnormal) stretching which leads to lung damage (volutrauma). Trauma caused by the positive pressure from the ventilator is called barotrauma. The non-physiologic stress and strain produced by barotraumas and volutrauma can promote the release of inflammatory chemicals (cytokines) resulting in lung inflammation. This biological reaction to mechanical forces is known as biotrauma. Serious abnormal conditions included under VILI, that are known to be caused by the barotrauma and volutrauma forces generated by mechanical ventilators, include pneumothorax (a type of lung collapse), pneumomediastinum (abnormal air in the middle portion of the chest), lung cysts, systemic air embolism, and acute respiratory distress syndrome (ARDS).[77]

Compelling, reliable, valid, medical and scientific evidence indicates that VILI is an injury directly caused by mechanical ventilator use. Thus, VILI is proposed to be added to the Table as a covered injury for respiratory support devices that are used to mechanically ventilate patients who have developed an infection caused by a pandemic influenza.

As mentioned above, diffuse alveolar damage that is identical to ARDS may occur as a result of alveolar trauma resulting from mechanical ventilation. In addition, ARDS may also be caused by an underlying airway disease that leads to the requirement of mechanical ventilation. The mechanical ventilation may or may not aggravate a case of ARDS caused by something other than a respiratory support device. It may be difficult to differentiate the cause for ARDS because it can be caused by: (1) An underlying lung disease; (2) a 2009 H1N1 influenza pneumonia; or (3) the ventilator treatment needed to support a patient with 2009 H1N1 influenza pneumonia. ARDS is a frequent complication of severe influenza pneumonia.[78]

Because of the difficulties in determining the cause of ARDS, for purposes of the Table, ARDS will not be considered part of the VILI disease spectrum and will not be added to the Table. However, the Program will consider a claim for ARDS leading to serious injury or death on a case-by-case basis as a non-Table claim.

Positive pressure mechanical ventilation may also compromise the cardiovascular system because the positive airway pressure during inspiration reduces blood return to the heart and may decrease cardiac output with decreased profusion.[79] A decreased cardiac output can adversely affect multiple organ systems. Because of the complexity of the potential effects of this diminished cardiac output on multiple organ systems, these cases will be reviewed on a case-by-case basis.

Extracorporeal Membrane Oxygenation

As mentioned under the previous section, the 2009 H1N1 influenza virus was a worldwide cause of acute respiratory distress syndrome (ARDS). Most people with fatal 2009 H1N1 influenza infections died as a result of unrelenting hypoxemia (low oxygen levels in the blood) and respiratory failure. Conventional treatment of this condition with a ventilator can lead to additional lung injury due to factors such as barotrauma, volutrauma, and biotrauma. Select patients with severe ARDS who do not respond to advanced modes of mechanical ventilation may have extracorporeal membrane oxygenation (ECMO) as a treatment option. ECMO uses cardiac bypass technology to provide gas exchange (the function of the lungs) mechanically outside the body in a bedside machine. This temporary takeover of the lung function by ECMO allows ventilator settings to be reduced, thereby causing less lung damage and providing the opportunity for the lungs to heal and improve.

With ECMO, catheters are inserted through the skin into large veins for drainage and infusion of blood. People on ECMO must have their blood thinned (anti-coagulated). ECMO involves the removal of large volumes of venous blood from the person receiving treatment, and then circulating the blood with a pump outside the body through an oxygenator (artificial lung) that inserts oxygen into the blood and a carbon dioxide scrubber that removes carbon dioxide. The oxygenated blood is then re-infused back into the treated person as arterial blood.

An international registry compiled by the Extracorporeal Life Support Organization, referred to as the ''ECMO registry,'' indicates that ECMO has been used frequently to treat H1N1 influenza associated with respiratory failure. This is likely because critically ill H1N1 patients are mostly young, otherwise healthy people without other significant illnesses who are therefore prime candidates for ECMO. The most recent statistics from the H1N1 ECMO registry reflect that as of April 13, 2011, there were 323 patients from 76 centers on the registry.[80]

An observational study that examined 68 patients with 2009 H1N1 influenza-associated ARDS treated with ECMO found that 54 percent of patients had bleeding complications (due to the necessary anti-coagulation), with the most common sources being the catheter insertion site (22 percent), the gastrointestinal tract (10 percent), the respiratory tract (10 percent), vaginal bleeding (9 percent), and intracranial hemorrhage (9 percent).[81]

The above-referenced bleeding complications are related to the use of ECMO and may be a consequence of the use of this countermeasure. These events constitute serious physical injuries that may be caused by the use of ECMO, as supported by compelling, reliable, valid, medical and scientific evidence, and therefore are proposed to be added to the Table. The time interval for the first manifestation of the covered injury is the time period during which the injured person is under the effects of the anti-coagulant therapy, including the time needed to clear any clinically significant effect after the medication is stopped, as measured by relevant coagulation testing.

Pandemic Influenza Diagnostic Testing Devices

Pandemic influenza diagnostics are tests to identify or otherwise aid in the diagnosis of avian or other animal influenza A viruses that pose a pandemic threat.[82] A number of diagnostic tests are available to detect the presence of influenza infection in respiratory specimens. The tests differ in many ways, including their sensitivity and specificity for detecting influenza viruses, their commercial availability, processing time, approved clinical setting, and ability to distinguish among different influenza virus types and among influenza A subtypes (e.g., 2009 H1N1 versus seasonal H1N1 versus seasonal H3N2 viruses).

The tests most commonly used to diagnose infection with the 2009 H1N1 virus are the real-time reverse transcriptase polymerase chain reaction

[77] Goldman, 493 and Luciano Gattinoni, et al., ''Ventilator-induced lung injury: The anatomical and physiological framework,'' Critical Care Medicine, Oct 2010; S539–S540.

[78] Goldman, 1799.

[79] Goldman, 493.

[80] Extracorporeal Life Support Organization, H1N1 ECMO Registry, Apr. 13, 2011, *http://www.elso.med.umich.edu/h1n1registry.html.* At this time Extracorporeal Life Support Organization has stopped collecting additional information on H1N1 cases.

[81] Andrew Davies, et al., ''Extracorporeal Membrane Oxygenation for 2009 Influenza A (H1N1) Acute Respiratory Distress Syndrome,'' Journal of the American Medical Association, Nov. 4, 2009; 1892.

[82] 73 FR 78362.

tests (rRT–PCR tests). The rRT–PCR tests identify the 2009 H1N1 virus by amplifying the viral genetic material from a sample. A positive result indicates that the patient is presumptively infected with the 2009 H1N1 virus, but it does not identify the stage of infection. A negative result does not, by itself, exclude the possibility of the 2009 H1N1 virus infection.

Tests, such as a CT scan or magnetic resonance imaging (MRI), performed to determine the extent or seriousness or *sequelae* of influenza infection in a patient are not considered diagnostic tests for the purpose of diagnosing the presence of pandemic infection in the individual or for the purposes of this Program. Only influenza diagnostic tests performed for the purpose of identifying the presence in the body of the pandemic influenza virus are covered.

The Secretary considered potential serious injuries due to the use or administration of pandemic influenza diagnostics testing devices. Adverse events associated with the use or administration of these testing devices include potential consequences of an inaccurate result and potential discomfort during sample collection. However, these diagnostic testing devices are generally not known to cause serious physical injury. Therefore, the proposed Table does not list any injuries related to pandemic influenza diagnostic testing devices and indicates that there presently is ''[N]o condition covered'' for this countermeasure. However, injuries may be added to the Table if compelling, reliable, valid, medical and scientific evidence develops showing causation between a serious physical injury and a diagnostic test. The Program will consider a claim from the administration or use of diagnostic testing devices leading to serious injury or death on a case-by-case basis as a non-Table claim.

Compensation will not be available merely because a diagnostic test provides inaccurate results, such as failure to diagnose a pandemic influenza infection that is present or yielding a positive result for a pandemic influenza infection that is not present. The Program cannot compensate for injuries that are the direct result of the covered condition or disease for which the countermeasure was administered or used, and that are not the direct result of the administration or use of the covered countermeasure (for example, if the covered countermeasure is ineffective). See 42 CFR 110.20(d).

Regulatory Impact Analysis

HRSA has examined the impact of this rulemaking as required by Executive Order 12866 on Regulatory Planning and Review (September 30, 1993), Executive Order 13563 on Improving Regulation and Regulatory Review (January 18, 2011), the Congressional Review Act (5 U.S.C. 804(2)), the Regulatory Flexibility Act (RFA) (September 19, 1980, Pub. L. 96–354), section 202 of the Unfunded Mandates Reform Act of 1995 (March 2, 1995; Pub. L. 104–4), section 654(c) of the Treasury and General Government Appropriations Act of 1999, and Executive Order 13132 on Federalism (August 4, 1999).

Executive Order 12866 requires that all regulations reflect consideration of alternatives, costs, benefits, incentives, equity, and available information. Regulations must meet certain standards, such as avoiding an unnecessary burden. Regulations that are ''significant'' because of cost, adverse effects on the economy, inconsistency with other agency actions, effects on the budget, or novel legal or policy issues, require special analysis. In 2011, President Obama supplemented and reaffirmed Executive Order 12866. This rulemaking is not being treated as a significant regulatory action under section 3(f) of Executive Order 12866. Accordingly, the proposed rule has not been reviewed by the Office of Management and Budget.

Executive Order 13563 provides that, to the extent feasible and permitted by law, the public must be given a meaningful opportunity to comment through the Internet on any proposed regulations, with at least a 60-day comment period. In addition, to the extent feasible and permitted by law, agencies must provide timely on-line access to both proposed and final rules of the rulemaking docket on Regulations.gov, including relevant scientific and technical findings, in an open format that can be searched and downloaded. Federal agencies must consider approaches to maintain the freedom of choice and flexibility, including disclosure of relevant information to the public. Regulations must be guided by objective scientific evidence, easy to understand, consistent, and written in plain language. Furthermore, Federal agencies must attempt to coordinate, simplify, and harmonize regulations to reduce costs and promote certainty for the public.

In this NPRM, the Secretary proposes a Table identifying serious physical injuries that shall be presumed to result from the administration or use of the covered countermeasures, and the time interval in which the onset of the first symptom or manifestation of each such serious physical injury must manifest in order for such presumption to apply. The Secretary is also proposing Table definitions and requirements. This proposed rule would have the effect of affording certain persons a presumption that particular serious physical injuries were sustained as the result of the administration or use of covered countermeasures. The Table, if implemented, will establish a presumption of causation and relieve requesters of the burden of demonstrating causation for covered injuries listed on the Table. However, this presumption is rebuttable based on the Secretary's review of the evidence. This Table may afford some requesters a new filing deadline.

Other than showing that a serious physical injury or death directly resulted from an injury included on the Table for compensation purposes, individuals may, in the alternative, receive compensation if they are eligible and can show a causation-in-fact relationship between an injury or death and a covered countermeasure. This NPRM is based upon legal authority.

Because any resources required to implement the regulatory requirements imposed by the Program are not required by virtue of the establishment of a Table, and because the Secretary conducted an independent analysis concerning any burdens associated with the implementation of the Program when the Secretary published the companion regulation [83] setting forth the Program's administrative implementation, the Secretary has determined that no resources are required to implement the provisions included in this NPRM. Therefore, in accordance with the Regulatory Flexibility Act of 1980 (RFA) and the Small Business Regulatory Enforcement Fairness Act of 1996, which amended the RFA, the Secretary certifies that this NPRM will not have a significant impact on a substantial number of small entities.

The Secretary has also determined that this NPRM does not meet the criteria for a major rule as defined by Executive Order 12866 and would have no major effect on the economy or Federal expenditures. The Secretary has determined that this NPRM is not a ''major rule'' within the meaning of the statute providing for Congressional Review of Agency Rulemaking, 5 U.S.C. 801. Similarly, it will not have effects on State, local, and tribal governments and on the private sector such as to require consultation under the Unfunded Mandates Reform Act of

[83] 75 FR 64955.

1995. This NPRM comports with the 2011 supplemental requirements.

Unfunded Mandates Reform Act of 1995

The Secretary has determined that this NPRM will not have effects on State, local, and tribal governments and on the private sector such as to require consultation under the Unfunded Mandates Reform Act of 1995.

Federalism Impact Statement

The Secretary has also reviewed this NPRM in accordance with Executive Order 13132 regarding federalism, and has determined that it does not have ''federalism implications.'' This NPRM, if implemented, would not ''have substantial direct effects on the States, or on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government.''

Impact on Family Well-Being

This NPRM will not adversely affect the following elements of family well-being: Family safety, family stability, marital commitment; parental rights in the education, nurture, and supervision of their children; family functioning, disposable income, or poverty; or the behavior and personal responsibility of youth, as determined under section 654(c) of the Treasury and General Government Appropriations Act of 1999. In fact, this NPRM may have a positive impact on the disposable income and poverty elements of family well-being to the extent that injured persons or their families may receive medical, lost employment income, and/or death benefits paid under this part without imposing a corresponding burden on them.

Paperwork Reduction Act of 1995, as Amended

This NPRM has no information collection requirements.

List of Subjects in 42 CFR Part 110

Anaphylaxis, Anticoagulation, Antiviral, Avian, Benefits, Biologics, Bleeding, Bursitis, Compensation, Countermeasure, Declaration, Deltoid, Diagnostics, Device, Eligibility, Extra-Corporeal Membrane Oxygenation (ECMO), Fisher Syndrome, Guillain-Barre Syndrome, 2009 H1N1, Influenza, Injury Table, Immunization, Oseltamivir, Pandemic, Peramivir, Public Readiness and Emergency Preparedness Act (PREP Act), Radiation Syndrome, Respiratory Protection, Relenza, Respirator, Respirator Support, Tamiflu, Tracheal Stenosis, Vaccine, Vasovagal Syncope, Ventilator, Ventilator-Associated Pneumonia and Tracheobronchitis, Ventilator-Induced Lung Injury, Zanamivir.

Dated: February 28, 2014.

Mary Wakefield,

Administrator, Health Resources and Services Administration.

Approved: March 13, 2014.

Kathleen Sebelius,

Secretary.

Therefore, for the reasons stated in the preamble, the Department of Health and Human Services proposes to amend 42 CFR part 110 as follows:

PART 110—COUNTERMEASURES INJURY COMPENSATION PROGRAM

■ 1. The authority citation for part 110 continues to read as follows:

Authority: 42 U.S.C. 247d–6e.

■ 2. Add § 110.100 to subpart K to read as follows:

§ 110.100 Injury tables.

(a) *Pandemic Influenza Countermeasures Injury Table.*

Covered countermeasures under secretarial declarations	Serious physical injury (illness, disability, injury, or condition) [1]	Time interval (for first symptom or manifestation of onset of injury after administration or use of covered countermeasure, unless otherwise specified)
I. Pandemic influenza vaccines administered by needle into or through the skin.	A. Anaphylaxis	A. 0–4 hours.
	B. Deltoid Bursitis	B. 0–48 hours.
	C. Vasovagal Syncope	C. 0–1 hour.
II. Pandemic influenza intranasal vaccines	A. Anaphylaxis	A. 0–4 hours.
III. Pandemic influenza 2009 H1N1 vaccine	A. Guillain-Barrè Syndrome	A. 3–42 days (not less than 72 hours and not more than 42 days).
IV. Oseltamivir Phosphate (Tamiflu) when administered or used for pandemic influenza.	A. Anaphylaxis	A. 0–4 hours.
V. Zanamivir (Relenza) when administered or used for pandemic influenza.	A. Anaphylaxis	A. 0–4 hours.
VI. Peramivir when administered or used for 2009 H1N1 influenza.	A. Anaphylaxis	A. 0–4 hours.
VII. Pandemic influenza personal respiratory protection devices.	A. No condition covered [2]	A. Not applicable.
VIII. Pandemic influenza respiratory support devices.	A. Postintubation Tracheal Stenosis	A. 2–42 days (not less than 48 hours and not more than 42 days) after extubation (removal of a tracheostomy or endotracheal tube).
	B. Ventilator-Associated Pneumonia and Ventilator-Associated Tracheobronchitis.	B. More than 48 hours after intubation (placement of an endotracheal or tracheostomy tube) and up to 48 hours after extubation (removal of the tube).
	C. Ventilator-Induced Lung Injury	C. Throughout the time of intubation (breathing through an endotracheal or tracheostomy tube) and up to 48 hours after extubation (removal of the tube).
IX. Pandemic influenza respiratory support device: extra-corporeal membrane oxygenation (ECMO).	A. Bleeding Events	A. Throughout the time of anticoagulation treatment for ECMO therapy, including the time needed to clear the effect of the anticoagulant treatment from the body.

Covered countermeasures under secretarial declarations	Serious physical injury (illness, disability, injury, or condition) [1]	Time interval (for first symptom or manifestation of onset of injury after administration or use of covered countermeasure, unless otherwise specified)
X. Pandemic influenza diagnostic testing devices.	A. No condition covered	A. Not applicable.

[1] Serious physical injury as defined in 42 CFR 110.3(z). Only injuries that warranted hospitalization (whether or not the person was actually hospitalized) or injuries that led to a significant loss of function or disability will be considered serious physical injuries.

[2] The use of "No condition covered" in the Table reflects that the Secretary at this time does not find compelling, reliable, valid, medical and scientific evidence to support that any serious injury is presumed to be caused by the associated covered countermeasure. For injuries alleged to be due to covered countermeasures for which there is no associated Table injury, requesters must demonstrate that the injury occurred as the direct result of the administration or use of the covered countermeasure. *See* 42 CFR 110.20(b), (c).

(b) *Qualifications and aids to interpretation (table definitions and requirements).* The following definitions and requirements shall apply to the Table set forth in this subpart and only apply for purposes of this subpart.

(1) *Anaphylaxis* Anaphylaxis is an acute, severe, and potentially lethal systemic reaction that occurs as a single discrete event with simultaneous involvement of two or more organ systems. Most cases resolve without *sequelae.* Signs and symptoms begin minutes to a few hours after exposure. Death, if it occurs, usually results from airway obstruction caused by laryngeal edema or bronchospasm and may be associated with cardiovascular collapse. Other significant clinical signs and symptoms may include the following: Cyanosis, hypotension, bradycardia, tachycardia, arrhythmia, edema of the pharynx and/or trachea and/or larynx with stridor and dyspnea. There are no specific pathological findings to confirm a diagnosis of anaphylaxis.

(2) *Deltoid Bursitis.* Deltoid bursitis is an inflammation of the bursa that lies beneath the deltoid muscle and between the acromion process and the rotator cuff. Subdeltoid bursitis manifests with pain in the lateral aspect of the shoulder similar to rotator cuff tendonitis. The presence of tenderness on direct palpation beneath the acromion process distinguishes this bursitis from rotator cuff tendonitis. Similar to tendonitis, isolated bursitis will have full passive range of motion. Other causes of bursitis such as trauma (other than from vaccination), metabolic disorders, and systemic diseases such as rheumatoid arthritis, dialysis, and infection will not be considered Table injuries. This list is not exhaustive. The deltoid bursitis must occur in the same shoulder that received the pandemic influenza vaccine.

(3) *Vasovagal Syncope.* Vasovagal syncope (also sometimes called neurocardiogenic syncope) means loss of consciousness (fainting) and loss of postural tone caused by a transient decrease in blood flow to the brain occurring after the administration of an injected countermeasure. Vasovagal syncope is usually a benign condition but may result in falling and injury with significant *sequelae.* Vasovagal syncope may be preceded by symptoms such as nausea, lightheadedness, diaphoresis, and/or pallor. Vasovagal syncope may be associated with transient seizure-like activity, but recovery of orientation and consciousness generally occurs simultaneously. Loss of consciousness resulting from the following conditions will not be considered vasovagal syncope: Organic heart disease; cardiac arrhythmias; transient ischemic attacks; hyperventilation; metabolic conditions; neurological conditions; psychiatric conditions; seizures; trauma; and situational as can occur with urination, defecation, or cough. This list is not complete. Episodes of recurrent syncope occurring after the applicable time period are not considered to be *sequelae* of an episode of syncope meeting the Table requirements.

(4) *Guillain-Barre Syndrome (GBS).* (i) GBS is an acute monophasic peripheral neuropathy that encompasses a spectrum of four clinicopathological subtypes described below. For each subtype of GBS, the interval between the first appearance of symptoms and the nadir of weakness is between 12 hours and 28 days. This is followed in all subtypes by a clinical plateau with stabilization at the nadir of symptoms, or subsequent improvement without significant relapse. Death may occur without a clinical plateau. Treatment related fluctuations in all subtypes of GBS can occur within nine weeks of GBS symptom onset and recurrence of symptoms after this time frame would not be consistent with GBS.

(ii) The most common subtype in North America and Europe, comprising more than 90 percent of cases, is acute inflammatory demyelinating polyneuropathy (AIDP) which has the pathologic and electrodiagnostic features of focal demyelination of motor and sensory peripheral nerves and nerve roots. Another subtype called acute motor axonal neuropathy (AMAN) is generally seen in other parts of the world and is predominated by axonal damage that primarily affects motor nerves. AMAN lacks features of demyelination. Another less common subtype of GBS includes acute motor and sensory neuropathy (AMSAN), which is an axonal form of GBS that is similar to AMAN, but also affects the sensory nerves and roots. AIDP, AMAN, and AMSAN are typically characterized by symmetric motor flaccid weakness, sensory abnormalities, and/or autonomic dysfunction caused by autoimmune damage to peripheral nerves and nerve roots. The diagnosis of AIDP, AMAN, and AMSAN requires bilateral flaccid limb weakness and decreased or absent deep tendon reflexes in weak limbs; a monophasic illness pattern; an interval between onset and nadir of weakness between 12 hours and 28 days; subsequent clinical plateau (the clinical plateau leads to either stabilization at the nadir of symptoms, or subsequent improvement without significant relapse); and, the absence of an identified more likely alternative diagnosis. Death may occur without a clinical plateau.

(iii) Fisher syndrome (FS), also known as Miller Fisher Syndrome, is a subtype of GBS characterized by ataxia, areflexia, and ophthalmoplegia, and overlap between FS and AIDP may be seen with limb weakness. The diagnosis of FS requires bilateral ophthalmoparesis; bilateral reduced or absent tendon reflexes; ataxia; the absence of limb weakness (the presence of limb weakness suggests a diagnosis of AIDP); a monophasic illness pattern; an interval between onset and nadir of weakness between 12 hours and 28 days; subsequent clinical plateau (the clinical plateau leads to either stabilization at the nadir of symptoms, or subsequent improvement without significant relapse); no alteration in consciousness; no corticospinal track signs; and, the absence of an identified more likely alternative diagnosis. Death may occur without a clinical plateau.

(iv) Evidence that is supportive, but not required, of a diagnosis of all subtypes of GBS includes

electrophysiologic findings consistent with GBS or an elevation of cerebral spinal fluid (CSF) protein with a total CSF white blood cell count below 50 cells per microliter. Both CSF and electrophysiologic studies are frequently normal in the first week of illness in otherwise typical cases of GBS.

(v) For all types of GBS, the onset of symptoms less than three days (72 hours) after exposure to the influenza vaccine excludes vaccine exposure as a cause.

(vi) To qualify as GBS, there must not be a more likely alternative diagnosis for the weakness. Exclusionary criteria for the diagnosis of all subtypes of GBS include the ultimate diagnosis of any of the following conditions: Chronic immune demyelinating polyradiculopathy (''CIDP''), carcinomatous meningitis, brain stem encephalitis (other than Bickerstaff brainstem encephalitis), myelitis, spinal cord infarct, spinal cord compression, anterior horn cell diseases such as polio or West Nile virus infection, subacute inflammatory demyelinating polyradiculoneuropathy, multiple sclerosis, cauda equina compression, metabolic conditions such as hypermagnesemia or hypophosphatemia, tick paralysis, heavy metal toxicity (such as arsenic, gold, or thallium), drug-induced neuropathy (such as vincristine, platinum compounds, or nitrofurantoin), porphyria, critical illness neuropathy, vasculitis, diphtheria, myasthenia gravis, organophosphate poisoning, botulism, critical illness myopathy, polymyositis, dermatomyositis, hypokalemia, or hyperkalemia. The above list is not exhaustive.

(5) *Tracheal Stenosis.* (i) Postintubation tracheal stenosis means an iatrogenic (caused by medical treatment) and symptomatic stricture of the airway (narrowing of the windpipe) resulting from:

(A) Trauma or necrosis from an endotracheal tube;

(B) Stomal injury from a tracheostomy; or

(C) A combination of the two.

(ii) Tracheal stenosis or narrowing due to tumors (malignant or benign), infections of the trachea (such as tuberculosis, fungal diseases), radiotherapy, tracheal surgery, trauma, congenital, and inflammatory or autoimmune diseases will not be considered postintubation tracheal stenosis. Postintubation tracheal stenosis requires either tracheostomy with placement of a tracheostomy tube or endotracheal intubation. Diagnosis requires symptoms of upper airway obstruction such as stridor (inspiratory wheeze) or exertional dyspnea (increased shortness of breath with exertion), and positive radiologic studies showing abnormal narrowing of the trachea or bronchoscopic evaluation that demonstrates abnormal narrowing.

(6) *Ventilator-Associated Pneumonia (VAP)* and *Ventilator-Associated Tracheobronchitis (VAT).* (i) Definition-VAP is defined as an iatrogenic pneumonia caused by the medical treatment of mechanical ventilation. Similarly, VAT is an iatrogenic infection of the trachea and/or bronchi caused by mechanical ventilation. The initial manifestation of VAP and VAT must occur more than 48 hours after intubation (placement of the breathing tube) and up to 48 hours after extubation (removal of the breathing tube). VAP will be considered to be present when the patient demonstrates a new or progressive radiographic infiltrate in the lungs that is consistent with pneumonia, fever, leukocytosis (increased white blood cell count) or leucopenia (decreased white blood cell count), purulent (containing pus) tracheal secretions from a tracheal aspirate, and a positive lower respiratory tract culture. The positive lower respiratory tract culture is a diagnostic requirement only if there has not been a change in antibiotics in the 72 hours prior to collection of the culture. In addition, a tracheal aspirate that does not demonstrate bacteria or inflammatory cells in a patient without a change in antibiotics in the previous 72 hours is unlikely to be VAP and shall not be considered a condition set forth in the Table.

(ii) VAT will be considered to be present when the patient demonstrates fever, leukocytosis or leukopenia, purulent tracheal secretions, and a positive tracheal aspirate culture in the absence of a change of antibiotics within the 72 hours prior to culture. Tracheal colonization with microorganisms is common in intubated patients, but in the absence of clinical findings is not a sign of VAT.

(7) *Ventilator-Induced Lung Injury (VILI).* VILI results from mechanical trauma such as volutrauma leading to rupture of alveoli (air sacs in the lungs where oxygen and carbon dioxide are exchanged with the blood) with subsequent abnormal leakage of air. VILI manifests as iatrogenic pneumothorax (abnormal air from alveolar rupture in the pleural space), pneumomediastinum (abnormal air from alveolar rupture in the mediastinum (middle part of the chest between the lungs)), pulmonary interstitial emphysema (abnormal air in the lung interstitial space between the alveoli), subpleural air cysts (an extreme form of pulmonary emphysema where the abnormal air in the interstitial space has pooled into larger pockets), subcutaneous emphysema (abnormal air from alveolar rupture that has dissected into the skin), pneumopericardium (abnormal air from alveolar rupture that has traveled to the pericardium (covering of the heart)), pneumoperitoneum (abnormal air from alveolar rupture that has moved into the abdominal space), or systemic air embolism (abnormal air from alveolar rupture that has moved into the blood). These manifestations must occur in patients who are being mechanically ventilated at the time of initial manifestation of the VILI.

(8) *Bleeding events.* Bleeding events are defined as excessive or abnormal bleeding in patients under the pharmacologic effects of anticoagulant therapy provided for extracorporeal membrane oxygenation (ECMO) treatment.

(c) *Covered countermeasures.* (1) *Pandemic influenza vaccines.* See the most recent Secretarial declaration at *http://www.gpo.gov/fdsys/pkg/FR-2010-03-05/pdf/2010-4644.pdf.* Any amendments will be automatically incorporated into this declaration and be published in the **Federal Register**.

(2) *Tamiflu.* See the most recent Secretarial declaration at *http://www.gpo.gov/fdsys/pkg/FR-2009-06-19/pdf/E9-14412.pdf.* Any amendments will be automatically incorporated into this declaration and be published in the **Federal Register**.

(3) *Relenza.* See the most recent Secretarial declaration at *http://www.gpo.gov/fdsys/pkg/FR-2009-06-19/pdf/E9-14412.pdf.* Any amendments will be automatically incorporated into this declaration and be published in the **Federal Register**.

(4) *Peramivir.* See the most recent Secretarial declaration at *http://www.gpo.gov/fdsys/pkg/FR-2009-10-02/pdf/E9-23761.pdf.* Any amendments will be automatically incorporated into this declaration and be published in the **Federal Register**.

(5) *Personal respiratory protection devices.* See the most recent Secretarial declaration at *http://www.gpo.gov/fdsys/pkg/FR-2008-12-22/pdf/E8-30510.pdf.* Any amendments will be automatically incorporated into this declaration and published in the **Federal Register**.

(6) *Respiratory support devices.* See the most recent Secretarial declaration at *http://www.gpo.gov/fdsys/pkg/FR-2008-12-22/pdf/E8-30510.pdf.* Any amendments will be automatically

incorporated into this declaration and published in the **Federal Register**.

(7) *Diagnostic testing devices.* See the most recent Secretarial declaration at *http://www.gpo.gov/fdsys/pkg/FR-2008-12-22/pdf/E8-30510.pdf.* Any amendments will be automatically incorporated into this declaration and published in the **Federal Register**.

[FR Doc. 2014–06102 Filed 3–28–14; 8:45 am]

BILLING CODE 4165–15–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

[Docket No. FWS–R7–ES–2012–0093; 4500030113]

Endangered and Threatened Wildlife and Plants; 90-Day Finding on a Petition To List the Alexander Archipelago Wolf as Threatened or Endangered

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of petition finding and initiation of status review.

SUMMARY: We, the U.S. Fish and Wildlife Service (Service), announce a 90-day finding on a petition to list the Alexander Archipelago wolf (*Canis lupus ligoni*) as a threatened or endangered species and to designate critical habitat under the Endangered Species Act of 1973, as amended (Act). Based on our review, we find that the petition presents substantial scientific or commercial information indicating that listing the Alexander Archipelago wolf may be warranted. Therefore, with publication of this notice, we are notifying the public that when resources become available, we will be conducting a review of the status of the species to determine if listing the Alexander Archipelago wolf is warranted. To ensure that this status review is comprehensive, we are requesting scientific and commercial data and other information regarding wolves of Southeast Alaska and adjacent coastal British Columbia. Based on the status review, we will issue a 12-month finding on the petition, which will address whether the petitioned action is warranted, as provided in section 4(b)(3)(B) of the Act.

DATES: We request that we receive information to consider for the status review on or before May 30, 2014. The deadline for submitting information using the Federal eRulemaking Portal (see **ADDRESSES** section, below) is 11:59 p.m. Eastern Time on this date. After May 30, 2014, you must submit information directly to the Division of Policy and Directives Management (see **ADDRESSES** section below). Please note that we might not be able to address or incorporate information that we receive after the above requested date.

ADDRESSES: You may submit information by one of the following methods:

(1) *Electronically:* Go to the Federal eRulemaking Portal: *http://www.regulations.gov.* In the Search box, enter FWS–R7–ES–2012–0093, which is the docket number for this action. Then click on the Search button. You may submit information for the status review by clicking on ''Comment Now!.''

(2) *By hard copy:* Submit by U.S. mail or hand-delivery to: Public Comments Processing, Attn: FWS–R7–ES–2012–0093; Division of Policy and Directives Management; U.S. Fish and Wildlife Service; 4401 N. Fairfax Drive, MS 2042–PDM; Arlington, VA 22203.

We will not accept email or faxes. We will post all information we receive on *http://www.regulations.gov.* This generally means that we will post any personal information you provide us (see the Request for Information section below for more details).

FOR FURTHER INFORMATION CONTACT: Steve Brockmann, Juneau Fish and Wildlife Field Office, 3000 Vintage Blvd., Suite 201, Juneau, AK 99821; by telephone at 907–780–1160; or by facsimile at 907–586–7099. If you use a telecommunications device for the deaf (TDD), please call the Federal Information Relay Service (FIRS) at 800–877–8339.

SUPPLEMENTARY INFORMATION:

Request for Information

When we make a finding that a petition presents substantial information indicating that listing a species may be warranted, we are required to review the status of the species (status review). For the status review to be complete and based on the best available scientific and commercial information, we request information on the Alexander Archipelago wolf from governmental agencies, Native American tribes, the scientific community, industry, and any other interested parties. We seek information on:

(1) The species' biology, range, and population trends, including:

(a) Habitat requirements for feeding, breeding, and sheltering;

(b) Genetics and taxonomy;

(c) Historical and current range including distribution patterns;

(d) Historical and current population levels, and current and projected trends; and

(e) Past and ongoing conservation measures for the species, its habitat, or both.

(2) The factors that are the basis for making a listing determination for a species under section 4(a) of the Act (16 U.S.C. 1531 *et seq.*), which are:

(a) The present or threatened destruction, modification, or curtailment of its habitat or range;

(b) Overutilization for commercial, recreational, scientific, or educational purposes;

(c) Disease or predation;

(d) The inadequacy of existing regulatory mechanisms; or

(e) Other natural or manmade factors affecting its continued existence.

If, after the status review, we determine that listing the Alexander Archipelago wolf is warranted, we will propose critical habitat (see definition in section 3(5)(A) of the Act) under section 4 of the Act, to the maximum extent prudent and determinable at the time we propose to list the species. Therefore, we also request data and information on:

(1) What may constitute ''physical or biological features essential to the conservation of the species,'' within the geographical range currently occupied by the species;

(2) Where these features are currently found;

(3) Whether any of these features may require special management considerations or protection;

(4) Specific areas outside the geographical area occupied by the species that are ''essential for the conservation of the species;'' and

(5) What, if any, critical habitat you think we should propose for designation if the species is proposed for listing, and why such habitat meets the requirements of section 4 of the Act.

Please include sufficient information with your submission (such as scientific journal articles or other publications) to allow us to verify any scientific or commercial information you include.

Submissions merely stating support for or opposition to the action under consideration without providing supporting information, although noted, will not be considered in making a determination. Section 4(b)(1)(A) of the Act directs that determinations as to whether any species is an endangered or threatened species must be made ''solely on the basis of the best scientific and commercial data available.''

You may submit your information concerning this status review by one of the methods listed in the **ADDRESSES**

section. If you submit information via *http://www.regulations.gov,* your entire submission—including any personal identifying information—will be posted on the Web site. If your submission is made via a hardcopy that includes personal identifying information, you may request at the top of your document that we withhold this personal identifying information from public review. However, we cannot guarantee that we will be able to do so. We will post all hardcopy submissions on *http://www.regulations.gov.*

Information and supporting documentation that we received and used in preparing this finding is available for you to review at *http://www.regulations.gov,* or by appointment, during normal business hours, at the U.S. Fish and Wildlife Service, Juneau Fish and Wildlife Field Office (see **FOR FURTHER INFORMATION CONTACT**).

Background

Section 4(b)(3)(A) of the Endangered Species Act (Act) requires that we make a finding on whether a petition to list, delist, or reclassify a species presents substantial scientific or commercial information indicating that the petitioned action may be warranted. We are to base this finding on information provided in the petition, supporting information submitted with the petition. To the maximum extent practicable, we are to make this finding within 90 days of our receipt of the petition and publish our notice of the finding in the **Federal Register**.

Our regulatory standard for substantial scientific or commercial information with regard to a 90-day petition finding is ''that amount of information that would lead a reasonable person to believe that the measure proposed in the petition may be warranted'' (50 CFR 424.14(b)). If we find that substantial scientific or commercial information was presented, we are required to commence a review of the status of the species, which will be subsequently summarized in our 12-month finding.

Section 4 of the Act (16 U.S.C. 1533) and its implementing regulations at 50 CFR part 424 set forth the procedures for adding a species to, or removing a species from, the Federal Lists of Endangered and Threatened Wildlife and Plants. A species may be determined to be an endangered or threatened species due to one or more of the five factors described in section 4(a)(1) of the Act, as listed in the previous section.

In considering what factors might constitute threats, we must look beyond the exposure of the species to a factor to evaluate whether the species may respond to the factor in a way that causes actual impacts to the species. If there is exposure to a factor and the species responds negatively, the factor may be a threat and, during the subsequent status review, we attempt to determine how significant a threat it is. The threat is significant if it drives, or contributes to, the risk of extinction of the species such that the species may warrant listing as threatened or endangered as those terms are defined in the Act. However, the identification of factors that could impact a species negatively may not be sufficient to compel a finding that the information in the petition and our files is substantial. The information must include evidence sufficient to suggest that these factors may be operative threats that act on the species to the point that the species may meet the definition of threatened or endangered under the Act.

Review of the Petition To List the Alexander Archipelago Wolf as an Endangered or Threatened Species Under the Act

Species Information

The Alexander Archipelago wolf is named for the island group that makes up most of Southeast Alaska, the Alexander Archipelago. The range is described by MacDonald and Cook (2007, p. 71) as throughout the mainland of Southeast Alaska and on islands south of Frederick Sound, excluding Coronation, Forrester, and the smaller, more isolated islands without an adequate prey base. North of Frederick Sound, three large islands that support seemingly adequate prey populations (Admiralty, Baranof, and Chichagof) and together make up approximately half of the land area of the Alexander Archipelago, do not support wolves, although there have been several sightings on Admiralty Island in recent years.

Petition History

On August 10, 2011, we received a petition from the Center for Biological Diversity and Greenpeace, requesting that the Alexander Archipelago wolf be listed as endangered or threatened and that critical habitat be designated under the Act. The petition clearly identified itself as such and included the requisite identification information for the petitioners, required at 50 CFR 424.14(a). This finding addresses the petition.

Finding

Based on our review of the information provided in the petition, in the sources cited in the petition, and readily available in our files, we find the petition presents substantial scientific or commercial information indicating that the petitioned action may be warranted for the Alexander Archipelago wolf based on Factors A, B and D. Our summary for this finding can be found on *www.regulations.gov.*

On the basis of our evaluation of the information presented under section 4(b)(3)(A) of the Act, we have determined that the petition summarized above presents substantial scientific or commercial information indicating that listing the Alexander Archipelago wolf may be warranted. Because we have found that the petition presents substantial information indicating that the petitioned actions may be warranted, we will initiate a status review when resources are available to determine whether this action under the Act is warranted. At the conclusion of the status review, we will issue a 12-month finding in accordance with section 4(b)(3)(B) of the Act, as to whether or not the Service finds listing is warranted.

The ''substantial information'' standard for a 90-day finding differs from the Act's ''best scientific and commercial data'' standard that applies to a status review to determine whether a petitioned action is warranted. A 90-day finding does not constitute a status review under the Act. In a 12-month finding, we will determine whether a petitioned action is warranted after we have completed a thorough status review of the species. Because the Act's standards for 90-day and 12-month findings are different, as described above, a substantial 90-day finding does not mean that the 12-month finding will result in a warranted finding.

References Cited

A complete list of references cited is available on the Internet at *http://www.regulations.gov* and upon request from the Juneau Fish and Wildlife Field Office (see **FOR FURTHER INFORMATION CONTACT**).

Author

The primary authors of this notice are the staff members of the Juneau Fish and Wildlife Field Office.

Authority: The authority for these actions is the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*).

Dated: March 18, 2014.

Daniel M. Ashe,

Director, U.S. Fish and Wildlife Service.

[FR Doc. 2014–06791 Filed 3–28–14; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 648

[Docket No. 140117052–4052–01]

RIN 0648–XD094

Fisheries of the Northeastern United States; Summer Flounder, Scup, and Black Sea Bass Fisheries; 2014 Summer Flounder Specifications; 2015 Summer Flounder, Scup, and Black Sea Bass Specifications; 2014 Research Set-Aside Projects

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

ACTION: Proposed specifications; request for comments.

SUMMARY: NMFS proposes revised specifications for the 2014 summer flounder fishery; specifications for the 2015 summer flounder, scup, and black sea bass fisheries; an increase in the commercial scup Winter II possession limit; and provides notice of two projects for which exempted fishing permits may be requested as part of the Mid-Atlantic Fishery Management Council's Research Set-Aside Program. The implementing regulations for the Summer Flounder, Scup, and Black Sea Bass Fishery Management Plan require NMFS to publish specifications for the upcoming fishing year for each of these species and to provide an opportunity for public comment. Furthermore, regulations under the Magnuson-Stevens Fishery Conservation and Management Act require that NMFS allow the public an opportunity to comment on applications for exempted fishing permits. Accordingly, in addition to proposing catch specifications, NMFS announces exempted fishing permit requests, in accordance with the fishery management plan and Magnuson-Stevens Fishery Conservation and Management Act.

DATES: Comments must be received on or before April 15, 2014.

ADDRESSES: An environmental assessment (EA) was prepared for the specifications and describes the proposed action and other considered alternatives, and provides an analysis of the impacts of the proposed measures and alternatives. Copies of the Specifications Document, including the EA and the Initial Regulatory Flexibility Analysis (IRFA), are available on request from Dr. Christopher M. Moore, Executive Director, Mid-Atlantic Fishery Management Council, Suite 201, 800 North State Street, Dover, DE 19901. These documents are also accessible via the Internet at *http://www.nero.noaa.gov.*

You may submit comments, identified by NOAA–NMFS–2014–0032, by any one of the following methods:

- *Electronic Submissions:* Submit all electronic public comments via the Federal e-Rulemaking Portal at *http://www.regulations.gov/#!docketDetail;D=NOAA-NMFS-2014-0032.* Clicking the preceding link will bring you to the NOAA–NMFS–2014–0032 docket folder for this action. To submit comments once in the docket folder, click the ''Comment Now!'' icon. Fill in the fields on the comment form and enter or attach your comment.
- *Mail:* John Bullard, Regional Administrator, NMFS, Greater Atlantic Regional Fisheries Office, 55 Great Republic Drive, Gloucester, MA 01930. Mark the outside of the envelope, ''Comments on FSB Specifications.''

Instructions: Comments must be submitted by one of the above methods to ensure that the comments are received, documented, and considered by NMFS. 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. All comments received are a part of the public record and will generally be posted for public viewing on *www.regulations.gov.* All personal identifying information (e.g., name, address, etc.) submitted voluntarily by the sender will be publicly accessible. Do not submit confidential business information, or otherwise sensitive or protected information. 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 or Excel, WordPerfect, or Adobe PDF file formats only.

FOR FURTHER INFORMATION CONTACT: Moira Kelly, Fishery Policy Analyst, (978) 281–9218.

SUPPLEMENTARY INFORMATION:

General Specification Background

The Mid-Atlantic Fishery Management Council (Council) and the Atlantic States Marine Fisheries Commission (Commission) cooperatively manage the summer flounder, scup, and black sea bass fisheries. Fishery specifications in these fisheries include various catch and landing subdivisions, such as the commercial and recreational sector annual catch limits (ACLs), annual catch targets (ACTs), sector-specific landing limits (i.e., the commercial fishery quota and recreational harvest limit (RHL)), and research set-aside (RSA) established for the upcoming fishing year. An explanation of each subdivision appears later in this rule.

Rulemaking for measures used to manage the recreational fisheries for these three species occurs separately and typically takes place in the spring of each year. The Summer Flounder, Scup, and Black Sea Bass Fishery Management Plan (FMP) and its implementing regulations establish the Council's process for establishing specifications. All requirements of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act), including the 10 national standards, also apply to specifications.

The management units specified in the FMP include summer flounder (*Paralichthys dentatus*) in U.S. waters of the Atlantic Ocean from the southern border of North Carolina northward to the U.S./Canada border, and scup (*Stenotomus chrysops*) and black sea bass (*Centropristis striata*) in U.S. waters of the Atlantic Ocean from 35°13.3′ N. lat. (the latitude of Cape Hatteras Lighthouse, Buxton, NC) northward to the U.S./Canada border.

The Council's Scientific and Statistical Committee (SSC) met on September 17 and 18, 2013, to recommend acceptable biological catches (ABC) for the 2014–2015 summer flounder fishery, and the 2015 scup and black sea bass fisheries. The FMP's implementing regulations require the involvement of a monitoring committee in the specification process for each species. Since the Magnuson-Stevens Act requirements for the SSC to recommend ABC became effective, the monitoring committees' role has largely been to recommend any reduction in catch limits from the SSC-recommended ABCs to offset management uncertainty, and to recommend other management measures (e.g., mesh requirements, minimum commercial fish sizes, gear restrictions, possession restrictions, and area restrictions) needed for the efficient management of these three species' fisheries. The Summer Flounder, Scup, and Black Sea Bass Monitoring Committees met on September 19, 2013, to discuss specification-related recommendations for the three fisheries.

Following the SSC and Monitoring Committee meetings, the Council and the Commission's Summer Flounder, Scup, and Black Sea Bass Management Board (Board) considered the recommendations of the SSC, the three monitoring committees, and public comments, and made their specification recommendations at a meeting on October 9, 2013. While the Board action was finalized at the October meeting, the Council's recommendations must be reviewed by NMFS to ensure that they comply with the FMP and applicable law. NMFS also must conduct notice-and-comment rulemaking to propose and implement the final specifications.

The FMP also contains formulas to divide the specification catch limits into commercial and recreational fishery allocations, state-by-state quotas, and quota periods, depending on the species in question. The FMP allocation provisions cannot be modified through the specification process. Rather, the Council is required to develop and recommend allocation changes by amending the FMP. In this rule, NMFS outlines the application of the existing allocation provisions for each species and proposes the resulting allocations, by state and sector, as appropriate, for each species.

Specifications for all three species for fishing year 2014 were implemented in 2012 (December 31, 2012; 77 FR 76942). The fishing years 2013 and 2014 black sea bass specifications were revised in 2013 (June 21, 2013; 78 FR 37475). The 2014 summer flounder specifications are proposed to be revised based an updated stock assessment conducted by the NMFS Northeast Fisheries Science Center (NEFSC) in July 2013. This rule makes no change to the previously established scup and black sea bass specifications for this fishing year.

TABLE 1—SUMMARY OF THE PROPOSED 2014–2015 SUMMER FLOUNDER SPECIFICATIONS AND 2015 SCUP AND BLACK SEA BASS SPECIFICATIONS

		Summer flounder		Scup	Black sea bass
		2014	2015	2015	2015
ABC	million lb	21.94	22.77	33.77	5.50
	mt	9,950	10,329	15,320	2,494
Commercial ACL	million lb	12.87	13.34	26.34	2.60
	mt	5,837	6,049	11,950	1,180
Recreational ACL	million lb	9.07	9.44	7.43	2.90
	mt	4,113	4,280	3,370	1,314
Commercial ACT	million lb	12.87	13.34	26.34	2.60
	mt	5,837	6,049	11,950	1,180
Recreational ACT	million lb	9.07	9.44	7.43	2.90
	mt	4,113	4,280	3,370	1,314
Commercial Quota	million lb	10.51	10.77	20.60	2.17
	mt	4,767	4,870	9,343	986
RHL	million lb	7.01	7.16	6.60	2.26
	mt	3,179	3,247	2,991	1,026

Note: Commercial Quotas and RHLs include the 3-percent RSA reduction.

Explanation of RSA

In 2001, NMFS implemented regulations under Framework Adjustment 1 to the FMP to allow up to 3 percent of the total allowable landings (TAL) for each species to be set aside each year to support scientific research. NMFS intends to conditionally approve two research projects to harvest a portion of the set-aside quota that has been recommended by the Council and the Commission. In anticipation of receiving applications for exempted fishing permits (EFP) to conduct this research and harvest set-aside quota, the Assistant Regional Administrator for Sustainable Fisheries, Greater Atlantic Region, NMFS (Assistant Regional Administrator), has made a preliminary determination that the activities authorized under the EFPs would be consistent with the goals and objectives of the FMP. However, further review and consultation may be necessary before a final determination is made to issue any EFP.

These proposed specifications include the amount of quota that has been preliminarily set aside for research purposes (a percentage of the TAL for each fishery, not to exceed 3 percent, as recommended by the Council and Board), and a brief description of the likely 2014 Mid-Atlantic RSA projects, including exemptions that will likely be required to conduct the proposed research. The RSA amounts may be adjusted, following consultation with RSA applicants, in the final rule establishing the 2014 specifications for the summer flounder, scup, black sea bass, longfin squid, butterfish, Atlantic bluefish, and spiny dogfish fisheries. If the total amount of available RSA is not awarded, NMFS will publish a document in the **Federal Register** to restore the unused amount to the applicable TAL.

For 2014, the conditionally approved projects may collectively be awarded up to the following amounts of RSA: 542,000 lb (246 mt) of summer flounder; 897,281 lb (407 mt) of scup; 136,686 lb (62 mt) of black sea bass; 1,400,000 lb (635 mt) of longfin squid; 99,800 lb of butterfish (45 mt); 99,000 lb of bluefish (45 mt), and 1,250,000 lb of spiny dogfish (567 mt). The harvest of RSA quota would occur January 1–December 31, 2014, by vessels conducting compensation fishing. Vessels harvesting RSA quota in support of approved research projects would be issued EFPs authorizing them to exceed Federal possession limits and to fish during Federal quota and season closures. These exemptions are necessary to facilitate compensation fishing and to allow project investigators to recover research expenses, as well as to adequately compensate fishing industry participants harvesting RSA quota. Vessels harvesting RSA quota would operate under all other regulations that govern the fishery, unless specifically exempted in a separate EFP.

2014 RSA Proposal Summaries: One of the preliminarily selected projects would conduct a spring and fall bottom trawl survey in shallow waters between Martha's Vineyard, MA, and Cape Hatteras, NC. The project investigators plan to obtain data to support stock

assessments for Mid-Atlantic RSA species, including summer flounder, scup, black sea bass, longfin squid, butterfish, Atlantic bluefish, and spiny dogfish, and assessment-quality data for weakfish, Atlantic croaker, spot, several skate and ray species, smooth dogfish, horseshoe crab, and several unmanaged but important forage species.

Sampling will occur at depths between approximately 20 ft (6.1 m) and 60 ft (18.3 m). Sampling in Block Island Sound and Rhode Island Sound will occur at depths between approximately 60 ft (18.3 m) and 120 ft (36.6 m). The survey will use the trawl gear configuration used for the NEFSC bottom trawl survey. Sampling stations will be selected based on a stratified random design, with strata defined by latitudinal and longitudinal region and depth. Major regions are aligned with strata designations developed by the NEFSC bottom trawl survey. Approximately 150 stations will be sampled during each cruise, with one station per 30 sq. nm. Each tow will be 20 min in duration. After each tow, the catch will be sorted by species and modal-size groups. Biomass will be measured for each species-size group. For species of management interest, a subsample of between three and five fish will be taken, and each individual will be processed for length, weight, sex, maturity stage, and eviscerated weight. Stomachs and otoliths will be collected from each subsampled specimen. All other specimens will be enumerated and weighed. Individual length measurements will also be recorded for all of these specimens or a representative subsample.

The second project is a fishery-independent black sea bass pot survey of five separate hard-bottom sites in southern New England and Mid-Atlantic waters. Unvented black sea bass pots would be fished on each site for 5 months from June through October in southern New England, and April through August in the Mid-Atlantic. The project is designed to collect black sea bass from areas unsampled by current state and Federal finfish bottom trawl surveys. The length frequency distribution of the catch would be compared statistically to each of the other collection sites, and to finfish trawl data collected by NMFS and state agencies. Black sea bass would be collected from five general zones along the coast, utilizing black sea bass pots made with coated wire mesh, single-mesh entry head, and single-mesh inverted parlor nozzle. The five survey zones include waters off of Massachusetts, Rhode Island, New York, New Jersey, and Virginia. The survey zones generally correspond to the northern and southern core range of the species, and each is an area in which a major black sea bass fishery takes place. In each of these general zones, four individual sampling sites would be selected, each of which would be 1 sq. mi (2.6 km^2) in size. Each of the individual sampling sites would be separated by at least 4 mi (6.4 km) in order to provide adequate spatial coverage. Specific sampling sites within each square-mile sampling site would be randomly selected each month from the sub-blocks. The traps would be set at the center of each sampling site once per month. The sampling protocol would require that a commercial vessel take 30 pots (three 10-pot trawls) to each of the randomly selected hard-bottom sampling sites. This procedure would continue each month during the sampling season for 5 mo. Thus, 20 locations would be sampled monthly. Pots would be unbaited and allowed to remain in place for a minimum of 4 days. The date, area, depth, set over days, and catch would be recorded and fish measured utilizing the standard NMFS sea sampling protocols. Fish would be measured excluding the tail tendril, which is the NMFS/ASMFC standard. At the conclusion of each sampling cycle, pots would be placed on the vessel for transport back to port.

Research vessels for the fixed gear pot survey would require an EFP for exemption from minimum scup and black sea bass pot vent size requirements to ensure that black sea bass length frequency data are representative and not biased. If a participating vessel holds a Federal lobster permit, it would also need exemption from lobster pot vent size requirements. Exemption from scup and black sea bass closures and seasons would also be needed to ensure the survey is not disrupted by such regulations. Exemption from scup and black sea bass minimum fish sizes and possession limits would also be needed for data collection purposes only. All undersized fish would be discarded as soon as practicable to minimize mortality, and fish in excess of possession limits would either be discarded as soon as practicable or landed as RSA quota.

Summer Flounder

The summer flounder stock was declared rebuilt in 2011. The new (2013) stock assessment utilized to derive specification recommendations indicates that summer flounder were not overfished and that overfishing did not occur in 2012, the most recent year of available data.

The overfishing limit (OFL) for 2014 was estimated to be 26.76 million lb (12,138 mt). Based on this information, the SSC recommended to the Council that the 2014 ABC for summer flounder be set no higher than 23.94 million lb (9,950 mt). The OFL for 2015 is projected to be 27.06 million lb (12,275 mt), and the SSC recommended that the 2015 ABC for summer flounder be set no higher than 22.77 million lb (10,329 mt).

Consistent with the summer flounder regulations, the sum of the recreational and commercial sector ACLs is equal to the ABC. ACL is an expression of total catch (i.e., landings and dead discarded fish). To derive the ACLs, the sum of the sector-specific estimated discards is removed from the ABC to derive the landing allowance. The resulting landing allowance is apportioned to the commercial and recreational sectors by applying the FMP allocation criteria: 60 percent to the commercial fishery and 40 percent to the recreational fishery. Using this method ensures that each sector is accountable for its respective discards, rather than simply apportioning the ABC by the allocation percentages to derive the sector ACLs. Although the derived ACLs are not split exactly 60/40, the landing portions of the ACLs preserve the 60/40 allocation split, consistent with the FMP. This process results in a commercial ACL of 12.89 million lb (5,837 mt) for 2014, and 13.34 million lb (6,049 mt) for 2015. The recreational ACLs would be 9.07 million lb (4,113 mt) for 2014 and 9.44 million lb (4,280 mt) for 2015.

The Summer Flounder Monitoring Committee met to discuss the SSC's recommendations and to determine whether additional reductions in the catch limits were necessary to account for management uncertainty. Because the recreational fishery in recent years has not reached the RHL, discards in the commercial fishery have been relatively low, and the commercial landings monitoring and fishery closure system is timely, the Summer Flounder Monitoring Committee determined that no additional reductions to account for management uncertainty were necessary. Therefore, it was recommended that the ACTs (both commercial and recreational) should be set equal to their respective ACL for both 2014 and 2015. Removing the estimated discards and, as recommended, 3 percent of the TAL for RSA, the commercial summer flounder quotas would be 10.51 million lb (4,767 mt) for 2014 and 10.74 million lb (4,870 mt) for 2015. The RHLs would be 7.01 million lb (3,179 mt) for 2014 and 7.16 million lb (3,247 mt) for 2015.

TABLE 2—PROPOSED SUMMER FLOUNDER SPECIFICATIONS

Year		ABC	Commercial ACL	Recreational ACL	Comm. ACT	Rec. ACT	Comm. quota (minus 3% RSA)	RHL (minus 3% RSA)
2014 (Current)	million lb	22.40	12.05	10.19	12.05	10.19	11.39	7.60
	mt	10,088	5,467	4,621	5,467	4,621	5,166	3,444
2014 (Proposed)	million lb	21.94	12.87	9.07	12.87	9.07	10.51	7.01
	mt	9,950	5,837	4,113	5,837	4,113	4,767	3,179
2015 (Proposed)	million lb	22.77	13.34	9.44	13.34	9.44	10.77	7.16
	mt	10,329	6,049	4,280	6,049	4,280	4,870	3,247

Note: Commercial Quotas and RHLs include the 3-percent RSA reduction.

The Council and Board considered the SSC and Summer Flounder Monitoring Committee recommendations before concurring with the catch recommendations specified in Table 2. Fishing under these catch limits for 2014 and 2015 is not expected to compromise the summer flounder stock, nor will fishing at this level present a high likelihood of overfishing the stock. The Council recommended all other management measures by remain status quo.

Table 3 and Table 4 present the proposed allocations for 2014 and 2015, respectively, by state, with and without the commercial portion of the RSA deduction. In December 2013, NMFS published a notice indicating what, if any, adjustments would be required to the state commercial summer flounder quotas as a result of commercial sector overages. Those overages would be applied to the new specifications for fishing year 2014 as well, and are presented in Table 3. Any commercial quota adjustments to account for overages will be published prior to the start of the 2015 fishing year.

TABLE 3—2014 PROPOSED SUMMER FLOUNDER STATE COMMERCIAL QUOTAS

State	FMP percent share	2014 initial quota		2014 initial quota, less RSA [1]		Quota overages (through 10/31/13)		Adjusted 2014 quota, less RSA and overages	
		Lb	kg[2]	Lb	kg[2]	Lb	kg[2]	Lb	kg[2]
ME	0.04756	5,153	2,338	4,998	227	0	0	4,998	2,267
NH	0.00046	50	23	48	2	0	0	48	22
MA	6.82046	739,046	335,226	716,792	32,513	28,199	12,791	688,593	312,340
RI	15.68298	1,699,364	770,818	1,648,193	74,761	0	0	1,648,193	747,608
CT	2.25708	244,571	110,935	237,206	10,760	0	0	237,206	107,595
NY	7.64699	828,606	375,850	803,656	36,453	79,355	35,995	724,301	328,537
NJ	16.72499	1,812,273	822,033	1,757,702	79,728	0	0	1,757,702	797,280
DE	0.01779	1,928	874	1,870	85	52,384	23,760	0	0
MD	2.0391	220,951	100,222	214,298	9,720	0	0	214,298	97,204
VA	21.31676	2,309,824	1,047,719	2,240,271	101,617	0	0	2,240,271	1,016,170
NC	27.44584	2,973,954	1,348,963	2,884,403	130,834	0	0	2,884,403	1,308,343
Total [3]	100	10,835,720	4,915,000	10,509,436	476,700	155,376	70,476	10,354,060	4,696,523

[1] Preliminary Research Set-Aside amount is 542,337 lb (246 mt).
[2] Kilograms are as converted from pounds and do not sum to the converted total due to rounding.
[3] Rounding of quotas results in totals exceeding 100 percent.

TABLE 4—2015 PROPOSED SUMMER FLOUNDER STATE COMMERCIAL QUOTAS

State	FMP percent share	Initial quota (TAL)		Initial quota (TAL) less RSA	
		Lb	kg[2]	Lb	kg[2]
ME	0.04756	5,265	2,388	5,106	2,316
NH	0.00046	51	23	49	22
MA	6.82046	754,985	342,461	732,280	332,156
RI	15.68298	1,736,013	787,456	1,683,805	763,761
CT	2.25708	249,845	113,330	242,332	109,920
NY	7.64699	846,477	383,962	821,020	372,408
NJ	16.72499	1,851,358	839,776	1,795,681	814,507
DE	0.01779	1,969	893	1,910	866
MD	2.0391	225,716	102,385	218,928	99,304
VA	21.31676	2,359,640	1,070,333	2,288,676	1,038,126
NC	27.44584	3,038,093	1,378,079	2,946,726	1,336,612
Total [3]	100	11,069,410	5,021,085	10,736,512	4,870,000

[1] Preliminary Research Set-Aside amount is 587,100 lb (266 mt).
[2] Kilograms are as converted from pounds and do not sum to the converted total due to rounding.
[3] Rounding of quotas results in totals exceeding 100 percent.

Scup

Using the appropriate control rule and applying the Council's risk policy, the SSC recommended an ABC for scup of 33.77 million lb (15,320 mt) for fishing year 2015. The stock assessment review upon which the specifications are based indicates that scup biomass is currently lower than in recent years. Therefore, the proposed catch limits are lower than those for fishing year 2013, but are still relatively high compared to recent landings.

The scup management measures specify that the ABC is equal to the sum of the commercial and recreational sector ACLs. The Scup Monitoring Committee met to discuss the SSC's recommendations and to determine whether additional reductions in the catch limits were necessary to account for management uncertainty. Because both the recreational and commercial fisheries have not reached their respective landings limits because of the very high quotas, and the landings monitoring and fishery closure system is timely, the Monitoring Committee determined that no additional reductions to account for management uncertainty were necessary. Therefore, it was recommended that the ACTs (both commercial and recreational) should be set equal to the respective ACLs for fishing year 2015. Therefore, the 2015 commercial sector ACL/ACT would be 26.35 million lb (11,950 mt) and the 2015 recreational sector ACL/ACT would be 7.43 million lb (3,370 mt).

The Council recommended up to 3 percent of the landings for RSA. After RSA is removed, the 2015 commercial quota would be 20.60 million lb (9,343 mt) and the 2015 recreational harvest limit would be 6.60 million lb (2,991 mt).

TABLE 5—PROPOSED SCUP SPECIFICATIONS

Year		ABC	Commercial ACL	Recreational ACL	Comm. ACT	Rec. ACT	Comm. Quota	RHL
2014 (Current)	million lb	35.99	28.07	7.92	28.07	7.92	21.95	7.03
	mt	16,325	12,734	3,592	12,734	3,592	9,955	3,188
2015 (Proposed)	million lb	33.77	26.35	7.43	26.35	7.43	20.60	6.60
	mt	15,320	11,950	3,370	11,950	3,370	9,343	2,991

Note: Commercial Quotas and RHLs include the 3-percent RSA reduction.

The scup commercial quota is divided into three commercial fishery quota periods, Winter I, Summer and Winter II. This rule proposes commercial scup quota for these three periods for 2015. If there is a commercial overage applicable to the 2015 scup commercial quota, a notice will be published prior to the start of the 2015 fishing year. The period quotas, after deducting for RSA, are detailed in Table 56. Unused Winter I quota may be carried over for use in the Winter II period.

TABLE 6—PROPOSED COMMERCIAL SCUP QUOTA ALLOCATIONS FOR 2015 BY QUOTA PERIOD

Quota period	Percent share	Initial quota		Initial quota less overages (through 10/31/2012)		Adjusted quota less overages and RSA	
		Lb	mt	Lb	mt	Lb	mt
Winter I	45.11	9,578,008	4,345	N/A	N/A	9,290,668	4,214
Summer	38.95	8,270,083	3,751	N/A	N/A	8,021,980	3,639
Winter II	15.94	3,384,470	1,535	N/A	N/A	3,282,936	1,489
Total	100.0	21,232,561	9,631	N/A	N/A	20,595,585	9,342

Notes: Metric tons are as converted from pounds and may not necessarily total due to rounding.
N/A = Not applicable.

As described in the table 7, this rule proposes to increase in the Winter II commercial scup possession limit from 2,000 lb (907 kg) to 12,000 lb (5,443 kg) for 2015. Because the commercial fishery has under-harvested the scup quota in recent years, the Council is recommending an increase in the Winter II possession limit in order to increase efficiency in the scup fishery. The Winter I possession limit will drop to 1,000 lb (454 kg) upon attainment of 80 percent of that period's allocation. The Winter II possession limit may be adjusted (in association with a transfer of unused Winter I quota to the Winter II period) via notification in the **Federal Register**.

TABLE 7—PROPOSED COMMERCIAL SCUP POSSESSION LIMITS BY QUOTA PERIOD

Quota period	Percent share	Federal possession limits (per trip)	
		Lb	kg
Winter I	45.11	50,000	22,680
Summer	38.95	N/A	N/A
Winter II	15.94	12,000	5,443
Total	100.0	N/A	N/A

Black Sea Bass

The updated stock assessment indicates that black sea bass were not overfished and overfishing did not occur in fishing year 2012. Black sea bass remains a data-poor stock, with relatively high uncertainty for the purposes of calculating ABC. The SSC rejected the OFL estimate provided from the stock assessment, stating that it was highly uncertain and not sufficiently reliable to use as the basis of management advice. In 2012, the SSC recommended an ABC of 4.50 million lb (2,041 mt) for a 3-year period, with a constant harvest strategy that would implement the same ABC for 2013–2015. The Council tasked the SSC to revisit this recommendation in January 2013. The SSC revised its recommendation for fishing years 2013 and 2014, and recommended an ABC of 5.50 million lb (2,494 mt). This ABC and the corresponding specifications were implemented in June 2013. At the September 2013 SSC meeting, the SSC recommended continuing this ABC into fishing year 2015.

The Black Sea Bass Monitoring Committee met to discuss the SSC's recommendation and to determine if additional reductions in the catch limits were necessary to account for management uncertainty. The Monitoring Committee determined that no additional reductions to account for management uncertainty were necessary because the constant catch strategy adequately addresses uncertainty. Therefore, it was recommended that the ACTs (both commercial and recreational) should be set equal to their respective ACL for fishing year 2015.

The Council and Board considered the SSC and Black Sea Bass Monitoring Committee recommendations at their October meeting. The Council recommends a commercial ACL and ACT of 2.60 million lb (1,180 mt), a recreational ACL and ACT of 2.90 million lb (1,314 mt), a commercial quota of 2.17 million lb (986 mt), and an RHL of 2.26 million lb (1,026 mt). The quotas include a reduction of 3 percent, as recommended by the Council, for RSA.

TABLE 8—PROPOSED BLACK SEA BASS 2015 SPECIFICATIONS

Year		ABC	Commercial ACL	Recreational ACL	Comm. ACT	Rec. ACT	Comm. Quota	RHL
2014 (Current)	million lb	5.50	2.60	2.90	2.60	2.90	2.17	2.26
	mt	2,494	1,180	1,314	1,180	1,314	986	1,026
2015 (Proposed)	million lb	5.50	2.60	2.90	2.60	2.90	2.17	2.26
	mt	2,494	1,180	1,314	1,180	1,314	986	1,026

Classification

Pursuant to section 304(b)(1)(A) of the Magnuson-Stevens Act, the NMFS Assistant Administrator has determined that this proposed rule is consistent with the Summer Flounder, Scup, and Black Sea Bass FMP, other provisions of the Magnuson-Stevens Act, and other applicable law, subject to further consideration after public comment.

These proposed specifications are exempt from review under Executive Order 12866.

An IRFA was prepared by the Council, as required by section 603 of the Regulatory Flexibility Act (RFA), to examine the impacts of these proposed specifications on small business entities, if adopted. A description of the specifications, why they are being considered, and the legal basis for proposing and implementing specifications for the summer flounder, scup, and black sea bass fisheries are contained in the preamble to this proposed rule. A copy of the detailed RFA analysis is available from NMFS or the Council (see **ADDRESSES**). The Council's analysis made use of quantitative approaches when possible. Where quantitative data on revenues or other business-related metrics that would provide insight to potential impacts were not available to inform the analyses, qualitative analyses were conducted. A summary of the 2014–2015 specifications RFA analysis follows.

The Small Business Administration defines a small business in the commercial harvesting sector as a firm with receipts (gross revenues) of up to $5.0 and $19.0 million for shellfish and for finfish business, respectively. A small business in the recreational fishery is a firm with receipts of up to $7.0 million. The categories of small entities likely to be affected by this action include commercial and charter/party vessel owners holding an active Federal permit for summer flounder, scup, or black sea bass, as well as owners of vessels that fish for any of these species in state waters.

Data from the Northeast permit application database show that, in 2012, 1,976 vessels were permitted to take part in the summer flounder, scup, and/or black sea bass fisheries (both commercial and party/charter sectors). In 2012, 1,199 vessels held a valid commercial summer flounder, scup, and/or black sea bass permit. However, not all of those vessels are active participants in one of these fisheries. According to NMFS dealer data, 852 vessels landed and sold summer flounder, scup, and/or black sea bass in 2012. Some of the vessels with summer flounder, scup, or black sea bass permits may be considered to be part of the same firm because they may have the same owners. Firms are classified as finfish, shellfish, or for-hire firms based on the activity from which they derive the most revenue. Using the $5-million cutoff for shellfish firms and the $19-million cutoff for finfish firms, there are 986 entities that are small and 6 that are large, assuming average revenues for the 2010–2013 period. The majority of the permitted vessels readily fall within the definition of small business. Estimates of costs associated with this rule are discussed further below.

There are no new reporting or recordkeeping requirements contained in any of the alternatives considered for this action. In addition, NMFS is not aware of any relevant Federal rules that may duplicate, overlap, or conflict with this proposed rule.

If the Council took no action to revise the fishing year 2014 summer flounder specifications, then the current summer flounder specifications would remain in effect. This would be contrary to the best available science and could put the summer flounder stock in jeopardy of being subject to overfishing. If the Council took no action regarding the fishing year 2015 summer flounder, scup, and black sea bass specifications, several indefinite measures would remain in effect until otherwise changed; however, many components of the 2014 specifications expire on December 31, 2014, including catch limits for all three species. There are no roll-over provisions for the quotas if the specifications are not made effective, and so, without specified quotas, NMFS would have no mechanism to close fisheries if management limits were

exceeded. This would give rise to a situation in which the goals and objectives of the FMP, its implementing regulations, and the Magnuson-Stevens Act would all be violated. Therefore, the no action alternative is not considered to be a reasonable alternative to the preferred action of developing and implementing fishing year 2015 specifications, and it was excluded from detailed analysis in the Council's EA/RFA analyses.

The Council analyzed three sets of combined catch limit alternatives for the fishing years 2014–2015 for the summer flounder, scup, and black sea bass fisheries. Of these, one alternative, labeled Alternative 3 for each species, contained the most restrictive options (i.e., lowest total landing levels): Commercial quotas of 9.18 million lb (4, 164 mt) for summer flounder, 10.68 million lb (4,844 mt) for scup, and 1.09 million lb (494 mt) for black sea bass, and recreational harvest limits of 6.12 million lb 2,776 mt) for summer flounder, 3.01 million lb (1, 365 mt) for scup, and 1.14 million lb (517 mt) for black sea bass. The catch limits associated with Alternative 3 pre-date the ABC framework, thus the information for this alternative is presented in terms of landing levels. Please see the EA for a detailed discussion on this alternative. While the Alternative 3 measures would achieve the objectives of the proposed action for each of three species, they have the highest potential adverse economic impacts on small entities in the form of potential foregone fishing opportunities. Alternative 3 was not preferred by the Council because the other alternatives considered are expected have lower adverse impacts on small entities while achieving the stated objectives of sustaining the summer flounder, scup, and black sea bass stocks, consistent with the FMP and Magnuson-Stevens Act.

Alternative 1 (Council's preferred) would maintain the existing scup and black sea bass specifications and revise the summer flounder ABC to 21.94 million lb (9,950 mt) for 2014. Alternative 1 would also implement the following ABCs for 2015: Summer flounder, 22.77 million lb (10,329 mt), scup, 33.77 million lb (15,320 mt), and black sea bass, 5.50 million lb (2,494 mt). Alternative 2 (status quo) would maintain the current 2014 ABC for summer flounder of 22.24 million lb (10,088 mt). Alternative 2 (status quo) would implement the following ABCs in 2015: Summer flounder, 22.24 million lb (10,088 mt); scup, 35.99 million lb (16,325 mt); and black sea bass, 5.5 million lb (2,494 mt).

Commercial Fishery Impacts

As a result of the proposed decrease in the commercial quota and recreational harvest limit from the currently established 2014 levels, it is expected that small negative economic impacts on the summer flounder fisheries in 2014 and 2015 may occur. Each state's summer flounder allocation commercial limits will decrease under these adjusted commercial quotas. The 2015 proposed scup commercial quota and recreational harvest limits under the proposed alternative are lower than the quotas implemented in 2014; however, they are substantially higher than the 2013 commercial and recreational landings. In 2011, the commercial quota and recreational harvest limit each increased by 91 percent when compared to the limits implemented in 2010. The high 2011 commercial quota and recreational harvest limit values did not constrain the fishery in 2011 as had occurred in previous years when the commercial quota and recreational harvest limits were considerably lower. In fact, the scup fishery did not harvest its full 2011 allocation. Unless market conditions change substantially in 2015, it is expected that commercial and recreational landings will likely be close to the 2013 landings. There is no indication that the market environment for commercially and recreationally caught scup will change considerably in fishing years 2014 or 2015. Therefore, there are no expected negative impacts from the proposed scup quotas, even though they are lower than those of the previous year. The 2015 proposed black sea bass commercial quota is an increase from 2014. As a result of the potential increase in landings under the black sea bass commercial quota and recreational harvest limits under preferred alternative 1, a small positive economic impact is likely, compared to 2013.

Recreational Fishery Impacts

While the proposed specifications would establish fishing year 2014 and 2015 recreational harvest limits for summer flounder, and fishing year 2015 recreational harvest limits for summer flounder, scup, and black sea bass, the management measure details for recreational fisheries will be developed by the Council separately for each fishing year, followed by NMFS rulemaking in the spring of that year. A comprehensive analysis of the impacts associated with the recommended recreational management measures will be provided to NMFS from the Council to support these activities. If recreational landings for these three species are the same in 2014 and 2015 as in recent years, the recreational harvest limits proposed are not expected to constrain recreational landings in 2015 for scup, but may constrain summer flounder recreational landings in 2014 and may constrain summer flounder and black sea bass landings in 2015. As such, it is unlikely that more restrictive limits (i.e., lower possession limits, higher minimum size limits, and/or shorter open seasons) will be required in 2015 when compared to 2013 for scup, but more restrictive recreational harvest measures may be necessary in 2014 or 2015 for summer flounder and in 2015 for black sea bass. Specific recreational management measures (for all three species) will be determined when more complete data regarding recreational landings are available.

Summary

The Council selected Alternative 1 (preferred) over Alternative 2 (status quo) and Alternative 3 (most restrictive) stating that, while each alternative would provide adequate stock protection, the Alternative 1 measures were expected to result in the least amount of long-term negative economic impact to the summer flounder, scup, and black sea bass fisheries, and were consistent with the advice provided to the Council by its SSC and monitoring committees. NMFS agrees with the Council's IRFA analysis and rationale for recommending the catch limits in Alternative 1. As such, NMFS is proposing to implement the Council's preferred ABCs, ACLs, ACTs, Commercial Quotas, and Recreational Harvest Limits for 2014 and 2015:

TABLE 9—SUMMARY OF 2014 AND 2015 CATCH LIMITS

	Summer flounder		Scup	Black sea bass
	2014	2015	2015	2015
ABC (mt)	9,950	10,329	15,320	2,494
ABC (lb)	21,935,995	22,771,547	33,774,819	5,498,329
Commercial ACL (mt)	5,837	6,049	11,950	1,180
Commercial ACL (lb)	12,868,382	13,335,762	26,345,240	2,601,455
Recreational ACL (mt)	4,113	4,280	3,370	1,314
Recreational ACL (lb)	9,067,613	9,435,785	7,429,578	2,896,874
Commercial ACT (mt)	5,837	6,049	11,950	1,180
Commercial ACT (lb)	12,868,382	13,335,762	26,345,240	2,601,455
Recreational ACT (mt)	4,113	4,280	3,370	1,314
Recreational ACT (lb)	9,067,613	9,435,785	7,429,578	2,896,874
Commercial Quota (mt)	4,914	5,021	9,632	1,016
Commercial Quota (lb)	10,834,470	11,068,569	21,234,834	2,204,988
RHL (mt)	3,277	3,347	3,084	1,058
RHL (lb)	7,225,253	7,379,804	6,797,965	2,331,900
Commercial Quota (mt) less RSA	4,767	4,870	9,343	986
Commercial Quota (lb) less RSA	10,509,436	10,736,512	20,597,789	2,173,758
RHL (mt) less RSA	3,179	3,247	2,991	1,026
RHL (lb) less RSA	7,008,495	7,158,410	6,594,026	2,261,943

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

Dated: March 25, 2014.

Samuel D. Rauch III,

Deputy Assistant Administrator for Regulatory Programs, National Marine Fisheries Service.

[FR Doc. 2014–07123 Filed 3–28–14; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 648

[Docket No. 140304191–4191–01]

RIN 0648–BE04

Fisheries of the Northeastern United States; Northeast Skate Complex Fishery; Notice of a Control Date for the Purpose of Limiting Entry to the Skate Fishery; Northeast Skate Complex Fishery Management Plan

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

ACTION: Advance notice of proposed rulemaking (ANPR); request for comments.

SUMMARY: At the request of the New England Fishery Management Council, this notice announces a control date that may be applicable to limiting the number of participants in the skate fishery for uses other than bait. NMFS intends this notice to promote awareness of possible rulemaking, alert interested parties of potential eligibility criteria for future access, and discourage speculative entry into and/or investment in the skate fishery while the New England Fishery Management Council and NMFS consider if and how participation in the skate fishery should be controlled.

DATES: March 31, 2014, shall be known as the ''control date'' for the skate fishery for uses other than bait, and may be used as a reference date for future management measures related to the maintenance of a fishery with characteristics consistent with the Council's objectives and applicable Federal laws. Written comments must be received on or before April 30, 2014.

ADDRESSES: You may submit comments on this document, identified by NOAA–NMFS–2014–0038, by any of the following methods:

- *Electronic Submission:* Submit all electronic public comments via the Federal e-Rulemaking Portal. Go to *www.regulations.gov/#!docketDetail;D=NOAA-NMFS-2014-0038,* click the ''Comment Now!'' icon, complete the required fields, and enter or attach your comments.
- *Mail:* Submit written comments to John K. Bullard, Regional Administrator, National Marine Fisheries Service, 55 Great Republic Drive, Gloucester, MA 01930. Mark the outside of the envelope, ''Comments on Skate Control Date.''

Instructions: Comments must be submitted by one of the above methods to ensure that the comments are received, documented, and considered by NMFS. We may not consider comments sent by any other method, to any other address or individual, or received after the end of the comment period. 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.) submitted voluntarily by the sender will be publicly accessible. Do not submit confidential business information, or otherwise sensitive or protected information. NMFS will accept anonymous comments (enter ''N/A'' in the required fields if you wish to remain anonymous). We accept attachments to electronic comments only in Microsoft Word or Excel, WordPerfect, or Adobe PDF file formats.

FOR FURTHER INFORMATION CONTACT: Carly Bari, Fisheries Management Specialist, 978–281–9224.

SUPPLEMENTARY INFORMATION: In 2003, NMFS implemented the Northeast Skate Fishery Management Plan (Skate FMP) to manage a complex of seven skate species in the Northeast Region: Winter (*Leucoraja ocellata*), little (*L. erinacea*), thorny (*Amblyraja radiata*), barndoor (*Dipturus laevis*), smooth (*Malacoraja senta*), clearnose (*Raja eglanteria*), and rosette (*L. garmani*). The FMP established biological reference points and overfishing definitions for each species, and other management measures designed to rebuild species that were considered overfished (barndoor and thorny). Regulations for the skate fishery are found at 50 CFR part 684, subpart O.

There are two distinct skate fisheries managed under the FMP: A skate wing fishery, which harvest the pectoral fins of large skates (primarily winter skate)

for foreign and domestic food markets; and a bait skate fishery, which targets whole little skate to be sold primarily for bait in the American lobster fishery. A control date for the bait skate fishery was established on July 30, 2009 (74 FR 37978), in anticipation of the changes to the skate fishery as part of Amendment 3 to the Skate FMP. Control dates are used to establish a date after which those who enter a fishery may not be guaranteed access to that fishery if access to it is limited by regulation. Amendment 3 (75 FR 34049), was finalized on June 16, 2010, and established a rebuilding plan for smooth skate, implemented annual catch limits and accountability measures, and established new management measures for the bait skate fishery, including seasonal quotas and reduced possession limits.

On February 11, 2014, the New England Fishery Management Council (Council) requested that NMFS publish this control date for the Northeast skate complex fishery. This new control date will apply to participants in the skate fishery that do not fish for bait skates, but for skate wings. This new control date will also cover all other uses of skate, including food and any potential future use of a skate product. The number of skate permits has fluctuated over time, and the Council is concerned that conditions in other fisheries may shift effort onto skates before a limited entry program can be established. This Advance Notice of Proposed Rulemaking is intended to discourage new or speculative entry into the skate fishery while controlled access restrictions are considered by the Council. The date upon which this notice is published shall be known as the ''control date,'' which is intended to distinguish established participants from new or speculative entrants to the fishery.

This notification establishes March 31, 2014, as the new control date for potential use in determining historical or traditional participation in skate fishery. Establishing a control date does not commit the Council or NMFS to develop any particular management regime or criteria for participation in this fishery. In the future, the Council may choose a different control date, or a management program that does not make use of any control date. Any future action by NMFS will be taken pursuant to the Magnuson-Stevens Fishery Conservation and Management Act.

This notification also gives the public notice that interested participants should locate and preserve records that substantiate and verify their participation in the skate fishery.

This notification and control date do not impose any legal obligations, requirements, or expectation.

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

Dated: March 25, 2014.

Samuel D. Rauch III,

Deputy Assistant Administrator for Regulatory Programs, National Marine Fisheries Service.

[FR Doc. 2014–07120 Filed 3–28–14; 8:45 am]

BILLING CODE 3510–22–P

Notices

Federal Register

Vol. 79, No. 61

Monday, March 31, 2014

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

Re-Establishment of the Council for Native American Farming and Ranching

AGENCY: Office of the Secretary, USDA.

ACTION: Notice and Call for Nominations.

SUMMARY: The Department of Agriculture is announcing the re-establishment of the Council for Native American Farming and Ranching (Council). The purpose of the Council is to provide recommendations to the Secretary on how to eliminate barriers to Native American participation in Farm Service Agency farm loan programs and other farm programs. The Council will discuss issues related to the participation of Native American farmers and ranchers in USDA farm loan programs and transmit recommendations concerning any changes to FSA regulations or internal guidance or other measures. The Council is necessary and in the public interest. The Department of Agriculture is seeking nominations for individuals to be considered Council members. Candidates who wish to be considered for membership on the Council for Native American Farmers and Ranchers should submit an AD–755 application form and resume to the Secretary of Agriculture. Cover letters should be addressed to the Secretary of Agriculture. The application form and more information about advisory Councils can be found at *usda.gov/advisory_committees.xml.*

DATES: Submit nominations on or before May 15, 2014.

ADDRESSES: All nomination materials should be mailed in a single, complete package and postmarked by 45 days of this announcement. All nominations for membership should be sent to:

Thomas Vilsack, Secretary, U.S. Department of Agriculture, 1400 Independence Avenue SW., Washington, DC, 20250, Attn: Council on Native American Farmers and Ranchers. Send comments to the Office of Tribal Relations, 500A Whitten Building, 1400 Independence Avenue SW., Washington, DC 20250.

FOR FURTHER INFORMATION CONTACT: Leslie Wheelock, Director, Office of Tribal Relations. Email your questions to John Lowery at *John.Lowery@osec.usda.gov* or call 202–205–2249.

SUPPLEMENTARY INFORMATION: In accordance with the provisions of the Federal Advisory Council Act (FACA) as amended (5 U.S.C. App. 2) and with the concurrence of the General Services Administration, the Department of Agriculture is announcing the re-establishment of an advisory Council for Native American farmers and ranchers. The Council is a discretionary advisory Council established under the authority of the Secretary of Agriculture, in furtherance of the settlement agreement in *Keepseagle* v. *Vilsack,* that was granted final approval by the District Court for the District of Columbia on April 28, 2011. The Council operates under the provisions of the FACA and reports to the Secretary of Agriculture.

The purpose of the Council is (1) to advise the Secretary of Agriculture on issues related to the participation of Native American farmers and ranchers in USDA farm loan programs; (2) to transmit recommendations concerning any changes to FSA regulations or internal guidance or other measures that would eliminate barriers to program participation for Native American farmers and ranchers; (3) to examine methods of maximizing the number of new farming and ranching opportunities created through the farm loan program through enhanced extension and financial literacy services; (4) to examine methods of encouraging intergovernmental cooperation to mitigate the effects of land tenure and probate issues on the delivery of USDA farm loan programs; (5) to evaluate other methods of creating new farming or ranching opportunities for Native American producers; and (6) to address other related issues as deemed appropriate.

The Council has 15 members, 11 of whom will be Native American leaders or persons who represent the interests of Native American tribes or Native American organizations. The term ''Native American leaders'' is not limited to elected Tribal representatives or members or persons with Native American ancestry. The remaining four members are high-ranking USDA officials, including: (1) The Director, Office of Tribal Relations; (2) the Farm Service Agency Administrator; (3) the Assistant Secretary for Civil Rights; and (4) the Deputy Administrator for Farm Loan Programs, or their designee.

Members serve without compensation, but may receive reimbursement for travel expenses and per diem in accordance with USDA travel regulations for attendance at Council functions. Council members who represent the interests of Native American farmers and ranchers may also be paid an amount not less than $100 per day for time spent away from their employment or farming or ranching operation, subject to the availability of funds. Members may include:

(1) Native American farmers or ranchers who have participated in USDA loan or payment programs;

(2) Representatives of organizations with a history of working with Native American farmers or ranchers;

(3) Civil rights professionals;

(4) Representatives of tribal governments with demonstrated experience working with Native American farmers or ranchers; and

(5) Such other persons as the Secretary considers appropriate.

No individual who is currently registered as a Federal lobbyist is eligible to serve as a member of the Council.

The Secretary of Agriculture invites those individuals, organizations, and groups affiliated with the categories listed above or who have knowledge of issues related to the purpose of the Council to nominate individuals for membership on the Council. Individuals and organizations who wish to nominate experts for this or any other USDA advisory Council should submit a letter to the Secretary listing these individuals' names and business address, phone, and email contact information. The Secretary of Agriculture seeks a diverse group of members representing a broad spectrum of persons interested in providing suggestions and ideas on how USDA can tailor its farm programs to meet the needs of Native American farmers and ranchers. Individuals receiving

nominations will be contacted and asked to return the AD–755 application form and resume within 10 business days of notification. All candidates will be vetted and considered for appointment by the Secretary of Agriculture. Equal opportunity practices will be followed in all appointments to the Council in accordance with USDA policies. The Council will meet at least twice a year.

Gregory Parham,

Assistant Secretary for Administration.

[FR Doc. 2014–07009 Filed 3–28–14; 8:45 am]

BILLING CODE 3410–01–P

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

[Doc. No. AMS–FV–14–0004; FV14–944–1]

Specified Commodities Imported into the United States, Exempt from Import Regulations; Request for Extension of a Currently Approved Information Collection

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3501), this document announces the Agricultural Marketing Service's (AMS) intention to request an extension and revision to currently approved forms utilized by importers of commodities that are exempt from section 8e import regulations.

DATES: Comments on this notice must be received by May 30, 2014 to be considered.

Additional Information: Contact Andrew Hatch, Supervisory Marketing Specialist, Marketing Order and Agreement Division, Fruit and Vegetable Program, AMS, USDA, 1400 Independence Avenue SW., Stop 0237, Room 1406–S, Washington, DC 20250–0237; Tel: (202) 720–2491; Email: *andrew.hatch@ams.usda.gov*.

Small businesses may request information on this notice by contacting Jeffrey Smutny, Marketing Order and Agreement Division, Fruit and Vegetable Program, AMS, USDA, 1400 Independence Avenue SW., Stop 0237, Room 1406–S, Washington, DC 20250–0237; Tel: (202) 690–3919; or Email: *jeffrey.smutny@ams.usda.gov*.

Comments: Comments should reference the docket number and the date and page number of this issue of the Federal Register, and be mailed to the Docket Clerk, Fruit and Vegetable Program, AMS, USDA, 1400 Independence Avenue SW, Room 1406–S, Washington, DC 20250–0237; Fax: (202) 720–8938; or submitted through the Internet at *http://www.regulations.gov*.

All comments to this notice will be summarized and included in the request for OMB approval, and will become a matter of public record.

SUPPLEMENTARY INFORMATION:

Title: Specified Commodities Imported Into the United States Exempt from Import Requirements.

OMB Number: 0581–0167.

Expiration Date of Approval: September 30, 2014.

Type of Request: Extension and Revision of a currently approved information collection.

Abstract: Section 8e of the Agricultural Marketing Agreement Act of 1937 as amended (7 U.S.C. 601–674; Act) requires that whenever the Secretary of Agriculture issues grade, size, quality, or maturity regulations under domestic marketing orders, the same or comparable regulations must be issued for imported commodities. Import regulations apply only during those periods when domestic marketing order regulations are in effect.

Currently, the following commodities are subject to section 8e import regulations: Avocados; grapefruit; kiwifruit; olives (other than Spanish-style); oranges; table grapes; Irish potatoes; onions; tomatoes; dates (other than dates for processing); walnuts; raisins; pistachios; and hazelnuts (filberts). Imports of these commodities are exempt from section 8e requirements if they are imported for such outlets as processing, charity, animal feed, seed, and distribution to relief agencies when those outlets are exempt under the applicable marketing orders.

Safeguard procedures in the form of importer and receiver reporting requirements are used to ensure that the imported commodities are, in fact, shipped to authorized, exempt outlets. Reports required under the safeguard procedure are similar to the reports currently required by most domestic marketing orders, and are required of importers and receivers under the following import regulations: (1) Fruits; import regulations (7 CFR 944.350); (2) vegetables; import regulations (7 CFR 980.501); and (3) specialty crops; import regulations (7 CFR 999.500).

Under these regulations, importers wishing to import commodities for exempt purposes must complete form FV–6, the ''Importer's Exempt Commodity Form,'' prior to importation, through the Marketing Order Online System (MOLS). Launched in August 2008, MOLS is an internet-based application, managed by the USDA, which allows importers and receivers of fruit, vegetable, and specialty crops to review and search for FV–6 certificates online. If an importer correctly inputs his shipment data into MOLS, he will receive and be able to print a certificate that accompanies the shipment. Data are simultaneously transmitted to the receiver and to AMS, where they are reviewed for compliance purposes by Marketing Order and Agreement Division (MOAD) staff, in the USDA's Fruit and Vegetable Program.

In rare instances a paper form FV–6 may be used. The hardcopy form has four parts, which are distributed as follows: Copy one is presented to the U.S. Customs and Border Protection, Department of Homeland Security; copy two is filed with MOAD within two days of the commodity entering the United States; copy three accompanies the exempt shipment to its intended destination, where the receiver certifies its receipt and that it will be used for exempt purposes, and files that copy with MOAD within two days of receipt; and copy four is retained by the importer.

In addition to renewing the FV–6 form, this information collection package does the same for the FV–7 form, ''Civil Penalty Stipulation Agreement.'' Produce importers sign the FV–7 form, for which there is no burden associated because only a signature is required.

The information collected through this package is used primarily by authorized representatives of the USDA, including AMS Fruit and Vegetable Program regional and headquarters staff.

Estimate of Burden: The public reporting burden for this collection of information is estimated to average 5 minutes per response.

Respondents: Importers and receivers of exempt commodities.

Estimated Number of Respondents: 144

Estimated Number of Total Annual Responses: 213,691

Estimated Number of Responses per Respondent: 1,484

Estimated Total Annual Burden on Respondents: 17,734 hours

Comments are invited on: (1) Whether the proposed collection of information is necessary for the proper performance of the functions of the Agency, including whether the information will have practical utility; (2) the accuracy of the Agency's estimate of the burden of the proposed collection of information, 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 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.

All comments to this document will be summarized and included in the request for OMB approval, and will become a matter of public record.

Dated: March 12, 2014.

Rex A. Barnes,

Associate Administrator, Agricultural Marketing Service.

[FR Doc. 2014–07011 Filed 3–28–14; 8:45 am]

BILLING CODE P

DEPARTMENT OF AGRICULTURE

Forest Service

North Central Idaho Resource Advisory Committee

AGENCY: Forest Service, USDA.

ACTION: Notice of meeting.

SUMMARY: The North Central Idaho Resource Advisory Committee (RAC) will meet in Grangeville, Idaho. The committee is authorized under the Secure Rural Schools and Community Self-Determination Act (Pub. L. 110–343) (the Act) and operates in compliance with the Federal Advisory Committee Act. The purpose of the committee is to improve collaborative relationships and to provide advice and recommendations to the Forest Service concerning projects and funding consistent with Title II of the Act. The meeting is open to the public. The purpose of the meeting is to select projects for implementation.

DATES: The meeting will be held on April 30, 2014 at 9:00 a.m.

All RAC meetings are subject to cancellation. For status of meeting prior to attendance, please contact the person listed under **FOR FURTHER INFORMATION CONTACT**.

ADDRESSES: The meetings will be held at the Nez Perce-Clearwater National Forests Grangeville Office, 104 Airport Road, Grangeville, Idaho.

Written comments may be submitted as described under **SUPPLEMENTARY INFORMATION**. All comments, including names and addresses when provided, are placed in the record and are available for public inspection and copying. The public may inspect comments received at the Nez Perce-Clearwater National Forests Grangeville Office. Please call ahead to facilitate entry into the building.

FOR FURTHER INFORMATION CONTACT: Laura Smith, Designated Federal Officer, by phone at 208–983–5143 or via email at *lasmith02@fs.fed.us.*

Individuals who use telecommunication devices for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 between 8:00 a.m. and 8:00 p.m., Eastern Standard Time, Monday through Friday. Please make requests in advance for sign language interpreting, assistive listening devices or other reasonable accommodation for access to the facility or procedings by contacting the person listed above.

SUPPLEMENTARY INFORMATION: Additional RAC information, including the meeting agenda and the meeting summary/minutes can be found at the following Web site: *http://www.fs.usda.gov/nezperceclearwater/.* The agenda will include time for people to make oral statements of three minutes or less. Individuals wishing to make an oral statement should request in writing by March 1st to be scheduled on the agenda. Anyone who would like to bring related matters to the attention of the committee may file written statements with the committee staff before or after the meeting. Written comments and requests for time for oral comments must be sent to Laura Smith, Designated Federal Office, 104 Airport Road, Grangeville, Idaho 83530; or by email to *lasmith02@fs.fed.us,* or via facsimile to 208–983–4099.

Meeting Accommodations: If you are a person requiring reasonable accommodation, please make requests in advance for sign language interpreting, assistive listening devices or other reasonable accommodation for access to the facility or proceedings by contacting the person listed in the section titled **FOR FURTHER INFORMATION CONTACT**. All reasonable accommodation requests are managed on a case by case basis.

Dated: March 14, 2014.

Rick Brazell,

Forest Supervisor.

[FR Doc. 2014–07065 Filed 3–28–14; 8:45 am]

BILLING CODE 3411–15–P

DEPARTMENT OF AGRICULTURE

Forest Service

Ketchikan Resource Advisory Committee

AGENCY: Forest Service, USDA.

ACTION: Notice of meeting.

SUMMARY: The Ketchikan Resource Advisory Committee (RAC) will meet in Ketchikan, Alaska. The committee is authorized under the Secure Rural Schools and Community Self-Determination Act (Pub. L. 110–343) (the Act) and operates in compliance with the Federal Advisory Committee Act. The purpose of the committee is to improve collaborative relationships and to provide advice and recommendations to the Forest Service concerning projects and funding consistent with Title II of the Act. The meeting is open to the public. The purpose of the meeting is to review current projects and recommend future projects.

DATES: The meeting will be held on April 30, 2014 at 5:00 p.m. All RAC meetings are subject to cancellation. For status of meeting prior to attendance, please contact the person listed under **FOR FURTHER INFORMATION CONTACT**.

ADDRESSES: The meeting will be held at the Ketchikan Misty Fiords Ranger District, 3031 Tongass Avenue, Ketchikan, Alaska.

Written comments may be submitted as described under **SUPPLEMENTARY INFORMATION**. All comments, including names and addresses when provided, are placed in the record and are available for public inspection and copying. The public may inspect comments received at Ketchikan Misty Fiords Ranger District. Please call ahead to facilitate entry into the building.

FOR FURTHER INFORMATION CONTACT: Diane L. Daniels, RAC Coordinator, by phone at 907–228–4105 or via email at *ddaniels@fs led.us.*

Individuals who use telecommunication devices for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 between 8:00 a.m. and 8:00 p.m., Eastern Standard Time, Monday through Friday. Please make requests in advance for sign language interpreting, assistive listening devices or other reasonable accommodation for access to the facility or proceedings by contacting the person listed above.

SUPPLEMENTARY INFORMATION: Additional RAC information, including the meeting agenda and the meeting summary/minutes can be found at the following Web site: *http://www.fs.usda.gov/tongass/.* The agenda will include time for people to make oral statements of three minutes or less. Individuals wishing to make an oral statement should request in writing by April 25, 2014 to be scheduled on the agenda. Anyone who would like to bring related matters to the attention of the committee may file written statements with the committee staff

before or after the meeting. Written comments and requests for time for oral comments must be sent to Diane L. Daniels, RAC Coordinator, Ketchikan Misty Fiords Ranger District, 3031 Tongass Avenue, Ketchikan, AK 99901; or by email to *ddaniels@fs.fed.us*, or via facsimile to 907–225–8738.

Meeting Accommodations: If you are a person requiring reasonable accommodation, please make requests in advance for sign language interpreting, assistive listening devices or other reasonable accommodation for access to the facility or proceedings by contacting the person listed in the section titled **FOR FURTHER INFORMATION CONTACT**. All reasonable accommodation requests are managed on a case by case basis.

Dated: March 21, 2014.

Jeffrey DeFreest,

District Ranger.

[FR Doc. 2014–06915 Filed 3–28–14; 8:45 am]

BILLING CODE 3411–15–M

DEPARTMENT OF AGRICULTURE

Forest Service

Prince William Sound Resource Advisory Committee

AGENCY: Forest Service, USDA.

ACTION: Notice of meetings.

SUMMARY: The Prince William Sound Resource Advisory Committee (RAC) will meet in Cordova, Alaska. The committee is authorized under the Secure Rural Schools and Community Self-Determination Act (Pub. L. 110–343) (the Act) and operates in compliance with the Federal Advisory Committee Act. The purpose of the committee is to improve collaborative relationships and to provide advice and recommendations to the Forest Service concerning projects and funding consistent with Title II of the Act. The meetings are open to the public. The purpose of the meeting is to review proposals and prioritize them for when funds become available.

DATES: The meetings will be held at 9 a.m. on the following dates:

- April 12, 2014.
- May 3, 2014.

All RAC meetings are subject to cancellation. For status of meeting prior to attendance, please contact the person listed under **FOR FURTHER INFORMATION CONTACT**.

ADDRESSES: The meetings will be held at the Cordova Ranger District, 612 2nd Street, 3rd Floor Conference Room, Cordova, Alaska. To attend the meetings via teleconference, please call 1–888–844–9904.

Written comments may be submitted as described under **SUPPLEMENTARY INFORMATION**. All comments, including names and addresses when provided, are placed in the record and available for public inspection and copying. The public may inspect comments received at Cordova Ranger District. Please call ahead to facilitate entry into the building.

FOR FURTHER INFORMATION CONTACT: Nancy O'Brien, RAC Coordinator, by phone at 907–424–4722 or via email at *nobrien@fs.fed.us.*

Individuals who use telecommunication devices for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 between 8:00 a.m. and 8:00 p.m., Eastern Standard Time, Monday through Friday. Please make requests in advance for sign language interpreting, assistive listening devices or other reasonable accommodation for access to the facility or procedings by contacting the person listed above.

SUPPLEMENTARY INFORMATION: Additional RAC information, including the meeting agenda and the meeting summary/minutes can be found at the following Web site: *https://fsplaces.fs.fed.us/fsfiles/unit/wo/secure_rural_schools.nsf/RAC/963C5A484FE02057882575450055D337?OpenDocument.* The agenda will include time for people to make oral statements of three minutes or less. Individuals wishing to make an oral statement should request in writing at least a week before the meeting date to be scheduled on the agenda. Anyone who would like to bring related matters to the attention of the committee may file written statements with the committee staff before or after the meeting. Written comments and requests for time for oral comments must be sent to Nancy O'Brien, RAC Coordinator, P.O. Box 280, Cordova, AK 99574; or by email to *nobrien@fs.fed.us,* or via facsimile to 907–424–7214.

Meeting Accommodations: If you are a person requiring reasonable accommodation, please make requests in advance for sign language interpreting, assistive listening devices or other reasonable accommodation for access to the facility or proceedings by contacting the person listed in the section titled **FOR FURTHER INFORMATION CONTACT**. All reasonable accommodation requests are managed on a case by case basis.

Dated: March 20, 2014.

Timothy L. Joyce,

Acting District Ranger.

[FR Doc. 2014–07030 Filed 3–28–14; 8:45 am]

BILLING CODE 3411–15–P

DEPARTMENT OF AGRICULTURE

Rural Business-Cooperative Service

Maximum Loan Amount for Business and Industry Guaranteed Loans in Fiscal Year 2014

AGENCY: Rural Business-Cooperative Service, USDA.

ACTION: The Notice of Funds Availability published in the **Federal Register**, Volume 78, Number 243, on December 18, 2013, that limited Business and Industry Guaranteed Loans to $10 million is hereby rescinded for Fiscal Year 2014. The carryover of unspent Fiscal Year 2013 together with Fiscal Year 2014 funds has resulted in a program level that merits the removal of the $10 million restriction.

DATES: *Effective Date:* March 31, 2014.

FOR FURTHER INFORMATION CONTACT: Jerred Brown, USDA, Rural Development, Business Programs, Business and Industry Division, STOP 3224, 1400 Independence Avenue SW., Washington, DC 20250–3224, telephone (202) 720–1970, email *jerred.brown@wdc.usda.gov*.

SUPPLEMENTARY INFORMATION: This action has been reviewed and determined not to be a rule or regulation as defined in Executive Order 12866 as amended by Executive Order 13258.

Date: March 6, 2014.

Lillian E. Salerno,

Administrator, Rural Business-Cooperative Service.

[FR Doc. 2014–06854 Filed 3–28–14; 8:45 am]

BILLING CODE 3410–XY–P

DEPARTMENT OF COMMERCE

Submission for OMB Review; Comment Request

The Department of Commerce will submit to the Office of Management and Budget (OMB) for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35).

Agency: U.S. Census Bureau.

Title: 2014 Census Test.

OMB Control Number: None.

Form Number(s): The two basic forms to be tested are DC–1A and DC–1B.

Numerous other documents such as letters, postcards, and call-back cards will be utilized in the test but are too numerous to list here.

Type of Request: New collection.

Burden Hours: 31,750.

Number of Respondents: 190,500.

Average Hours per Response: 10 minutes.

Needs and Uses: During the years preceding the 2020 Census, the Census Bureau will pursue its commitment to reducing the cost of conducting the next 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 (such as completing a paper questionnaire and mailing it back to the Census Bureau) can contribute to a less costly census with high-quality results. An overall objective of the Census Bureau is to increase self-response in the decennial census by making it easier to respond to the population and housing unit count. The Census Bureau has committed to using the Internet as a primary response option in the 2020 Census. We need to study ways to promote the Internet as a self-response option for the 2020 Census; identify methods to communicate directly with respondents to alert them about the census data collection timeframe; provide each household a specific identification number to allow them to self-respond via the Internet; and allow options such as telephone questionnaire assistance to ensure respondents are comfortable with the use of this new data collection alternative.

The 2014 Census Test (formerly known as the 2014 Census Site Test) will allow the Census Bureau to study 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 (for texting capabilities), 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. Nonrespondents will be followed up via telephone and personal visit interviews using Computer Assisted Telephone Interviews (CATI) and Computer Assisted Personal Interview (CAPI) automated instruments. The Census Bureau plans to examine the following nonresponse followup (NRFU) design and implementation alternatives:

- Using administrative supported with commercial vendor data;
- varying the number of field followup contact attempts either in a prescribed fashion or applying an adaptive design (AD) approach to choose contact strategies on a housing unit basis. Frame data, paradata, administrative records supported with commercial vendor data, and cost data are used to prioritize cases and determine their contact types and stopping rules;
- changing the rules for when an enumerator can collect data from a proxy respondent; and
- collecting data for nonrespondents with automated devices such as tablets and smartphones.

In addition, the 2014 Census 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. When a respondent does not provide their unique Census ID number on their questionnaire, any address data supplied by him or her must undergo Non-ID Processing. Non-ID Processing is a comparison of respondent-provided addresses to the Census Bureau's national inventory of living quarters addresses.

The 2014 Census Test will be conducted in a single geographic area in Washington, DC and Montgomery County, MD. This test will include contacting up to 190,500 housing units. For these addresses, the testing includes an initial self-response phase followed by a nonresponse followup (NRFU) phase for no more than 50,000 non-responding housing units. Furthermore, 250 of these 50,000 housing units will fall into Bring Your Own Device Testing, which is where the Census Bureau will experiment with using employee-owned, commercial smartphones to conduct NRFU. The households in NRFU are a sample of those who have failed to self-respond to the 2014 Census Test by a certain deadline. A Census Bureau employee will visit or phone these households to attempt to collect their questionnaire data. The number of personal visits or telephone call attempts to collect the data from nonrespondents will vary, based on alternative methods being tested.

For the self-response phase of the test, 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. Sampled housing units will initially receive a letter or a postcard containing instructions about how to respond to the test online using a unique Census ID provided by the Census Bureau. Some households will receive a notice that allows them to pre-register for the Census and to notify the Census Bureau of their communication preference (that is, email or text). The telephone questionnaire assistance option will be available to all households. Respondents can respond by going to the Internet site or contacting the telephone questionnaire assistance center. For those participants who have not responded by late June, the Census Bureau will contact them with a final postcard reminder and then a paper questionnaire by mail, if necessary, on or around July 15.

The geographic area for the 2014 Census Test contains two strata within Washington, DC and Montgomery County, MD: One stratum is more likely to respond while the other is less likely to respond. Each of the contact and enumeration strategies will be tested in both strata. The difference in characteristics in the two strata will allow the Census Bureau to gather a variety of cost data associated with mileage and hours spent traveling to housing units and interviewing respondents. In addition, Time and Motion studies will be conducted to determine if/how we can produce efficiencies in the NRFU data collection operation.

The 2014 Census Test will look to modify the 2010 NRFU operation to increase efficiency and to reduce costs. One difference from procedures in the 2010 Census will be that telephone numbers will be provided to enumerators (when possible) with their case assignment. These numbers will come from a supplemental contact frame developed from commercial data sources. A second difference is that data will be collected on automated enumeration devices, whereas the 2010 Census NRFU data were collected on paper questionnaires. Another difference is that the ''notice of visit'' left at the door when a respondent is not home will contain information on how a respondent can self-respond via the Internet or by calling the Census Bureau's telephone questionnaire assistance line. The intent of this feature is to reduce the number of return visits by encouraging respondents to complete

their questionnaires online or by telephone.

For the 2014 Census Test, the Census Bureau will test the use of an automated enumeration device or instrument in field operations. The enumeration device, called the Census Operations Mobile Platform for Adaptive Services and Solutions (COMPASS), is a new development effort with the goal of replacing paper-based data collection methods historically used in decennial operations such as NRFU. The plan is that the COMPASS instrument will be able to be loaded on consumer-grade devices, such as iPhones and iPads. The test will help inform:

- The feasibility of conducting a field operation with the use of consumer grade devices (for example, iPhones and iPads).
- The feasibility of replacing traditional paper maps from the Census Bureau's TIGER System with Google Maps for locating housing units for enumeration activities.
- The feasibility of collecting GPS coordinates with the COMPASS instrument.

In addition, the Census Bureau will experiment with using employee-owned, commercial smartphones to conduct NRFU. Employee-owned equipment/services are commonly referred to as Bring Your Own Device or BYOD. A separate sample of 250 households will be contacted at the end of the NRFU field operation to test the BYOD alternative against the COMPASS instrument, Google maps, and other systems being used for the test.

The objectives of this additional study are as follows:

—Design, develop, deploy, and support software solutions and processes that run on commercially available employee-owned mobile devices (that is, iPhone).
—Deploy and support secure software solutions that can be installed on commercially available employee-owned mobile devices.
—Conduct interviews with respondents using employee-owned mobile devices.
—Capture lessons learned.

Content Testing

The 2014 Census Test questionnaire will include questions on housing tenure, household roster, age, date of birth, race and Hispanic origin, and relationship. The 2014 Census Test will include testing of a combined race and Hispanic origin question that is similar to one used in the 2012 National Census Test. Based on results from the 2010 Race and Hispanic Origin Alternative Questionnaire Experiment (Compton, et. al. 2012), the 2014 Census Test provides an opportunity to further test the ''streamlined'' version of a combined race and Hispanic origin question. This modified version of the combined question removes the term ''Negro'' from the ''Black or African Am.'' checkbox and provides a shortened list of examples for the ''Hispanic, Latino, or Spanish origin,'' ''Asian,'' and ''Native Hawaiian or Other Pacific Islander'' checkbox categories. This combined question provides examples and write-in areas for each major response category. Respondents are asked to self-identify themselves by selecting one or more checkboxes and reporting a specific origin for each checkbox selected. The 2014 Census Test will involve testing two versions of a combined race and Hispanic origin question against separate race and Hispanic origin questions in the Internet data collection; and testing a single version of the combined question on the paper questionnaire and in the COMPASS.

For the relationship question, the 2014 Census Test will involve the testing of new response categories for opposite sex and same sex husband/wife/spouse and unmarried partner. In Internet data collection and on the paper questionnaire, two versions of the relationship question will be tested against each other: the traditional version and the new version with response options both opposite sex and same sex husband/wife/spouse and unmarried partner. The COMPASS will use the new version.

The results of the 2014 Census Test will guide the design of additional 2020 Census testing later this decade. Testing in 2014 is necessary to establish recommendations for contact strategies, response options, and field operation efficiencies that can be further refined and tested in later mid-decade tests. At this point in the decade, the Census Bureau needs to acquire evidence showing whether the strategies being tested can reduce the costs of a decennial census, while maintaining the quality of the census data.

The response rates to paper and Internet have ''practical utility,'' i.e., the information will be used for a practical and necessary 2020 Decennial program planning and determination of metrics. The use of several software and operating systems for field data collection has ''practical utility'' for the 2020 Decennial program planning and determination of options for software deployment. Several demographic questions and coverage probes are included to contribute to other recent testing opportunities to achieve optimal coverage for decennial censuses and surveys.

In the geographically restricted test areas where the Census Bureau will conduct NRFU, the 2014 Census Test is designed to collect information to (1) research the cost and quality impacts of differing NRFU contact strategies, and (2) test the use and functionality of mobile computing devices by the field staff. Research on the alternative NRFU respondent contact strategies will be conducted to discern if differing instructions to enumerators on the number of contact attempts they should make leads to improved cost and productivity measures. Both fixed and adaptive design alternatives for contact strategies will be tested and compared. For the fixed panels, all NRFU cases will get two personal visit attempts with one telephone contact attempt in between for households where telephone numbers are available and provided to the enumerator. For the adaptive design panels an adaptive design model will indicate to the enumerator which cases are the highest priority to attempt on the current day, using information particular to the specific cases. Results from both of these alternative strategies will be compared to a control panel that will conduct NRFU operations similar to what was done in the 2010 Census. The testing will also obtain detailed data on the use of telephone contacts by enumerators (including the occurrence of inbound telephone calls to the TQA centers) and data on when and how enumerators use proxy respondents. Another major piece of the test is to introduce the use of mobile computing devices and IT processes in field operations to determine if/how these may produce efficiencies in data collection.

The specific goal for the Non-ID Processing research is to evaluate enhancements to the Census Bureau's process to collect address information and for matching and geocoding Non-ID responses via batch processing. Testing enhancements to Non-ID processing early in the decade will inform early planning for the 2020 Census design, as well as the infrastructure required to support large-scale processing of electronic Non-ID response data submitted via the Internet or a Census-provided questionnaire application designed for mobile devices.

The data collected from households and individuals during the 2014 Census Test will be used to research and evaluate new methodologies and systems to plan the 2020 Census. The Census Bureau will not publish any tabulations or population estimates from

the substantive results from this test. However, methodological papers may be written that include tallies of response characteristics or problems identified, and responses may be used to inform future research studies building upon the results of these tests.

Affected Public: Individuals or households.

Frequency: One time.

Respondent's Obligation: Mandatory.

Legal Authority: Title 13, United States Code, Sections 141 and 193.

OMB Desk Officer: Brian Harris-Kojetin, (202) 395–7314.

Copies of the above information collection proposal can be obtained by calling or writing Jennifer Jessup, Departmental Paperwork Clearance Officer, (202) 482–0336, Department of Commerce, Room 6616, 14th and Constitution Avenue NW., Washington, DC 20230 (or via the Internet at *jjessup@doc.gov*).

Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to Brian Harris-Kojetin, OMB Desk Officer either by fax (202–395–7245) or email (*bharrisk@omb.eop.gov*).

Dated: March 26, 2014.

Glenna Mickelson,

Management Analyst, Office of the Chief Information Officer.

[FR Doc. 2014–07061 Filed 3–28–14; 8:45 am]

BILLING CODE 3510–07–P

DEPARTMENT OF COMMERCE

Submission for OMB Review; Comment Request

The Department of Commerce will submit to the Office of Management and Budget (OMB) for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

Agency: Bureau of Industry and Security.

Title: Technical Data Letter of Explanation.

OMB Control Number: 0694–0047.

Form Number(s): N/A.

Type of Request: Regular submission (extension of a currently approved information collection).

Number of Respondents: 6,283.

Average Hours per Response: 30 minutes to 2 hours.

Burden Hours: 9,416.

Needs and Uses: These technical data letters of explanation will assure the Bureau of Industry and Security that U.S.-origin technical data will be exported only for authorized end-uses, users and destinations. The information contained in the letters describes the transaction and fixes the scope of technology to be exported, the parties to the transaction, their roles, the purpose for the export, and the methods authorized to be used in exporting the technology. The letters also place the foreign consignee on notice that the technical data is subject to U.S. export controls and may only be re-exported in accordance with U.S. law.

Affected Public: Businesses or other for-profit organizations.

Frequency: On occasion.

Respondent's Obligation: Required to obtain or retain benefits.

This information collection request may be viewed at reginfo.gov. Follow the instructions to view Department of Commerce collections currently under review by OMB.

Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to *OIRA_Submission@omb.eop.gov* or fax to (202) 395–5806.

Dated: March 25, 2014.

Gwellnar Banks,

Management Analyst, Office of the Chief Information Officer.

[FR Doc. 2014–07033 Filed 3–28–14; 8:45 am]

BILLING CODE 3510–33–P

DEPARTMENT OF COMMERCE

Submission for OMB Review; Comment Request

The Department of Commerce will submit to the Office of Management and Budget (OMB) for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

Agency: National Oceanic and Atmospheric Administration (NOAA).

Title: Recreational Bait and Tackle Store Economic Survey.

OMB Control Number: 0648–xxxx.

Form Number(s): NA.

Type of Request: Regular submission (request for a new information collection).

Number of Respondents: 2,910 (annualized to 970).

Average Hours per Response: Large chain store survey, 3 hours; small chain and independent survey, 30 minutes.

Burden Hours: 1,313 (annualized to 438).

Needs and Uses: This request is for a new information collection.

The objective of the survey is to collect information on the operational structure of bait and tackle stores that cater to marine recreational anglers. The survey will ask store owners to characterize and quantify their operational costs and sales revenues in addition to describing their clientele. As specified in the Magnuson-Stevenson Fishery Conservation and Management Act of 1996 (and reauthorized in 2007), National Marine Fisheries Service (NMFS) is required to enumerate the economic impacts of the policies it implements on fishing participants and coastal communities. The cost and earnings data collected in this survey will be used to estimate the economic contributions and impacts of bait and tackle stores regionally and nationwide.

Affected Public: Business or other for-profit organizations.

Frequency: Once.

Respondent's Obligation: Voluntary.

This information collection request may be viewed at reginfo.gov. Follow the instructions to view Department of Commerce collections currently under review by OMB.

Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to *OIRA_Submission@omb.eop.gov* or faxed to (202) 395–5806.

Dated: March 25, 2014.

Gwellnar Banks,

Management Analyst, Office of the Chief Information Officer.

[FR Doc. 2014–07034 Filed 3–28–14; 8:45 am]

BILLING CODE 3510–JE–P

DEPARTMENT OF COMMERCE

Office of the Secretary

[Docket No.: 140129080–4080–01]

Public Availability of Department of Commerce FY2013 Service Contract Inventory

AGENCY: Office of the Secretary, Department of Commerce.

ACTION: Notice of Public Availability of FY 2013 Service Contract Inventories.

SUMMARY: In accordance with Section 743 of Division C of the Consolidated Appropriations Act of 2010 (Public Law 111–117), the Department of Commerce is publishing this notice to advise the public of the availability of the Fiscal Year (FY) 2013 Service Contract Inventory and a report that analyzes the Department's FY 2012 Service Contract Inventory. The service contract inventory provides information on service contract actions over $25,000 made in FY 2013. The information is organized by function to show how contracted resources are distributed

throughout the agency. The inventory has been developed in accordance with guidance on service contract inventories issued on November 5, 2010 by the Office of Management and Budget's Office of Federal Procurement Policy (OFPP).

ADDRESSES: The Department of Commerce has posted its FY 2013 inventory and summary on the Office of Acquisition Management homepage at the following link *http://www.osec.doc.gov/oam/*. OFPP's guidance memo on service contract inventories is available at: *http://www.whitehouse.gov/sites/default/files/omb/procurement/memo/service-contract-inventories-guidance-11052010.pdf.*

FOR FURTHER INFORMATION CONTACT: Questions regarding the service contract inventory should be directed to Virna Winters, Director for Acquisitions Policy and Oversight Division at 202–482–4248 or *vwinters@doc.gov.*

Dated: March 19, 2014.

Ellen Herbst,

Chief Financial Officer and Assistant Secretary for Administration.

[FR Doc. 2014–07111 Filed 3–28–14; 8:45 am]

BILLING CODE P

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[S–27–2014]

Foreign-Trade Zone 143—West Sacramento, California; Application for Subzone; Mitsubishi Rayon Carbon Fiber and Composites, Inc., Sacramento, California

An application has been submitted to the Foreign-Trade Zones (FTZ) Board by the Sacramento—Yolo Port District, grantee of FTZ 143, requesting subzone status for the facilities of Mitsubishi Rayon Carbon Fiber and Composites, Inc. (Mitsubishi Rayon), located in Sacramento, California. The application was submitted pursuant to the provisions of the Foreign-Trade Zones Act, as amended (19 U.S.C. 81a–81u), and the regulations of the FTZ Board (15 CFR part 400). It was formally docketed on March 26, 2014.

The proposed subzone would consist of the following sites: *Site 1* (10 acres)—5900 88th Street, Sacramento; and, *Site 2* (1.05 acres)—6003 88th Street, Sacramento. An application for production authority is currently pending with the FTZ Board. The Mitsubishi Rayon facilities (formerly Grafil, Inc.) are currently designated as Subzone 143D, with authority expiring on May 7, 2014. The proposed subzone would be subject to the existing activation limit of FTZ 143.

In accordance with the FTZ Board's regulations, Christopher Kemp of the FTZ Staff is designated examiner to review the application and make recommendations to the Executive Secretary.

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 April 30, 2014. Rebuttal comments in response to material submitted during the foregoing period may be submitted during the subsequent 15-day period to May 15, 2014.

A copy of the application will be available for public inspection at the Office of the Executive Secretary, Foreign-Trade Zones Board, Room 21013, U.S. Department of Commerce, 1401 Constitution Avenue NW., Washington, DC 20230–0002, and in the ''Reading Room'' section of the FTZ Board's Web site, which is accessible via *www.trade.gov/ftz.*

For further information, contact Christopher Kemp at *Christopher.Kemp@trade.gov* or (202) 482–0862.

Dated: March 26, 2014.

Andrew McGilvray,

Executive Secretary.

[FR Doc. 2014–07136 Filed 3–28–14; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[B–104–2013]

Foreign-Trade Zone 100—Dayton, Ohio, Authorization of Production Activity, THOR Industries, Inc. (Commercial Bus Manufacturing), Jackson Center, Ohio

On November 26, 2013, Greater Dayton Foreign-Trade Zone, Inc., grantee of FTZ 100, submitted a notification of proposed production activity to the Foreign-Trade Zones (FTZ) Board on behalf of THOR Industries, Inc., within Subzone 100D, in Jackson Center, Ohio.

The notification was processed in accordance with the regulations of the FTZ Board (15 CFR part 400), including notice in the **Federal Register** inviting public comment (78 FR 75331–75332, 12/11/2013). The FTZ Board has determined that no further review of the activity is warranted at this time. The production activity described in the notification is authorized, subject to the FTZ Act and the Board's regulations, including Section 400.14.

Dated: March 25, 2014.

Andrew McGilvray,

Executive Secretary.

[FR Doc. 2014–07126 Filed 3–28–14; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[B–29–2014]

Foreign-Trade Zone (FTZ) 72—Indianapolis, Indiana, Notification of Proposed Production Activity, Ingram Micro Mobility/Brightpoint North America L.P., Subzone 72S (Kitting of Pedometer Products and Accessories), Plainfield, Indiana

The Indianapolis Airport Authority, grantee of FTZ 72, submitted a notification of proposed production activity to the FTZ Board on behalf of Ingram Micro Mobility/Brightpoint North America L.P., within Subzone 72S in Plainfield, Indiana. The notification conforming to the requirements of the regulations of the FTZ Board (15 CFR 400.22) was received on March 20, 2014.

Ingram Micro Mobility/Brightpoint North America L.P. already has authority for cell phone kitting within Subzone 72S. The current request would add finished products and foreign status materials/components for the kitting of pedometer products and accessories to the scope of authority. Pursuant to 15 CFR 400.14(b), additional FTZ authority would be limited to the specific foreign-status materials/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 Ingram Micro Mobility/Brightpoint North America L.P. from customs duty payments on the foreign status materials/components used in export production. On its domestic sales, Ingram Micro Mobility/Brightpoint North America L.P. would be able to choose the duty rates during customs entry procedures that apply to pedometers, wristworn pedometers, clip accessory kits, sleepband accessory kits, accessory charging kits, replacement band kits, tracker kits, accessory band kits, accessory clasp kits and electronic scales (duty rate ranges from duty-free to 7%) for the foreign status materials/components noted below and in the existing scope of authority. Customs

duties also could possibly be deferred or reduced on foreign status production equipment.

The materials/components sourced from abroad include: Silicone sleeves; plastic opening tools; plastic clips; silicone wristbands; plastic parts; holsters; pouches; plastic pegs, pouches, claws and trays; wireless transceivers; USB charging cables; cable assemblies; rubber perforated wristbands; electronic scales; metal pegs; printed paper; corrugated paperboard; glue; pedometers; chargers; dongles; paper inserts; ultra base stations; flex trackers; and, force wristbands with trackers (duty rate ranges from duty-free to 7%).

Public comment is invited from interested parties. Submissions shall be addressed to the Board's Executive Secretary at the address below. The closing period for their receipt is May 12, 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 Board's Web site, which is accessible via *www.trade.gov/ftz.*

For Further Information Contact: Elizabeth Whiteman at *Elizabeth.Whiteman@trade.gov* or (202) 482–0473.

Dated: March 25, 2014.

Andrew McGilvray,

Executive Secretary.

[FR Doc. 2014–07129 Filed 3–28–14; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–910]

Circular Welded Carbon Quality Steel Pipe From the People's Republic of China: Rescission of Antidumping Duty Administrative Review; 2012–2013

AGENCY: Enforcement and Compliance, Formerly Import Administration, International Trade Administration, Department of Commerce.

SUMMARY: The Department of Commerce (''the Department'') is rescinding the administrative review of the antidumping duty order on circular welded carbon quality steel pipe from the People's Republic of China (''PRC'') for the period July 1, 2012, through June 30, 2013.

DATES: *Effective Date:* March 31, 2014.

FOR FURTHER INFORMATION CONTACT: Howard Smith or Jonathan Hill, AD/CVD Operations, Office IV, Enforcement & Compliance, International Trade Administration, Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230; telephone: (202) 482–5193 or (202) 482–3518, respectively.

SUPPLEMENTARY INFORMATION:

Background

On August 28, 2013, based on a timely request for review by Wheatland Tube Company (''Wheatland''), the Department published in the **Federal Register** a notice of initiation of an administrative review of the antidumping duty order on circular welded carbon quality steel pipe from the PRC covering the period July 1, 2012, through June 30, 2013.[1] The review covers 20 companies: Baoshan Iron & Steel Co., Ltd; Beijing Jia Mei AO Trading Co., Ltd; Beijing, Jinghua Global Trading Co., Ltd; Benxi Northern Steel Pipes, Co. Ltd; CNOOC Kingland Pipeline Co., Ltd; ETCO (China) International Trading Co., Ltd; Guangzhou Juyi Steel Pipe Co., Ltd; Huludao City Steel Pipe Industrial; Jiangsu Changbao Steel Tube Co., Ltd; Jiangsu Yulong Steel Pipe Co., Ltd; Liaoning Northern Steel Pipe Co., Ltd; Pangang Chengdu Group Iron & Steel Co., Ltd; Shanghai Zhongyou TIPO Steel Pipe Co., Ltd; Tianjin Haoyou Industry Trade Co., Ltd; Tianjin Baolai International Trade Co., Ltd; Tianjin Longshenghua Import & Export; Tianjin Shuangjie Steel Pipe Co., Ltd; Weifang East Steel Pipe Co., Ltd; WISCO & CRM Wuhan Materials & Trade; and Zhejiang Kingland Pipeline Industry Co., Ltd. On December 9, 2013, Wheatland withdrew its request for an administrative review of the 20 companies listed above.

Rescission of Review

Pursuant to 19 CFR 351.213(d)(1), the Department will rescind an administrative review if the party that requested the review withdraws its request within 90 days of the publication of the notice of initiation of the requested review. As explained in the memorandum from the Assistant Secretary for Enforcement and Compliance, the Department exercised its discretion to toll deadlines for the duration of the closure of the Federal Government from October 1, through October 16, 2013.[2] Accordingly, all deadlines in this segment of the proceeding have been extended by 16 days. Therefore, Wheatland withdrew its review request within the 90-day deadline. No other parties requested an administrative review of the antidumping duty order. As a result, we are rescinding the administrative review of circular welded carbon quality steel pipe from the PRC for the period July 1, 2012, through June 30, 2013.

Assessment

The Department will instruct U.S. Customs and Border Protection (''CBP'') to assess antidumping duties on all appropriate entries. Because the Department is rescinding this administrative review in its entirety, the entries to which this administrative review pertained shall be assessed antidumping duties at rates equal to the cash deposit of estimated antidumping duties required at the time of entry, or withdrawal from warehouse, for consumption, in accordance with 19 CFR 351.212(c)(1)(i). The Department intends to issue appropriate assessment instructions to CBP 15 days after the publication of this notice.

Notifications

This notice serves as a final reminder to importers of their responsibility under 19 CFR 351.402(f)(2) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Department's presumption that reimbursement of the antidumping duties occurred and the subsequent assessment of doubled antidumping duties.

This notice also serves as a final reminder to parties subject to administrative protective order (''APO'') of their responsibility concerning the return or destruction of proprietary information disclosed under APO in accordance with 19 CFR 351.305, which continues to govern business proprietary information in this segment of the proceeding. Timely written notification of the return/destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and terms of an APO is a violation which is subject to sanction.

This notice is issued and published in accordance with sections 751(a)(1) and 777(i)(1) of the Tariff Act of 1930, as amended, and 19 CFR 351.213(d)(4).

[1] *See Initiation of Antidumping and Countervailing Duty Administrative Reviews and Request for Revocation in Part,* 78 FR 53128, 53130 (August 28, 2013).

[2] *See* Memorandum for the Record from Paul Piquado, Assistant Secretary for Enforcement and Compliance, ''Deadlines Affected by the Shutdown of the Federal Government,'' (October 18, 2013).

Dated: March 25, 2014.

Christian Marsh,

Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations.

[FR Doc. 2014–07133 Filed 3–28–14; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

Application(s) for Duty-Free Entry of Scientific Instruments

Pursuant to Section 6(c) of the Educational, Scientific and Cultural Materials Importation Act of 1966 (Pub. L. 89–651, as amended by Pub. L. 106–36; 80 Stat. 897; 15 CFR part 301), we invite comments on the question of whether instruments of equivalent scientific value, for the purposes for which the instruments shown below are intended to be used, are being manufactured in the United States.

Comments must comply with 15 CFR 301.5(a)(3) and (4) of the regulations and be postmarked on or before April 21, 2014. Address written comments to Statutory Import Programs Staff, Room 3720, U.S. Department of Commerce, Washington, DC 20230. Applications may be examined between 8:30 a.m. and 5:00 p.m. at the U.S. Department of Commerce in Room 3720.

Docket Number: 13–053. Applicant: Hofstra University, 114 Hofstra University, Hempstead, NY 11549. Instrument: Electron Microscope. Manufacturer: FEI Company, Czech Republic. Intended Use: The instrument will be used to study the molecular mechanisms underlying an animal's ability to sense changes in nutrient status and alter energy storage and utilization accordingly, to analyze the biological mechanisms that result in the transition from epidermal cell to fiber cell, to study chloride, bromide and sulfate adhesion onto untreated native aluminum samples, and to develop more accurate foraging models for suspension and deposit feeding polychaetes. Justification for Duty-Free Entry: There are no instruments of the same general category manufactured in the United States. Application accepted by Commissioner of Customs: February 18, 2014.

Docket Number: 14–003. Applicant: Western Kentucky University, 1906 College Height Blvd., Bowling Green, KY 42101. Instrument: Electron Microscope. Manufacturer: JEOL Ltd, Japan. Intended Use: The instrument will be used for multiple research projects including the analysis of dimensions, morphologies, and crystal packing of organic ligand-functionalized nanostructures that have potential applicability for energy harvesting applications, the characterization of novel saccharides and antibiotic coated gold nanoparticles for antimicrobial applications, and the production of different shapes and sizes of gold nanoparticles within living plants to monitor the effect of changing reaction parameters of in vitro reactions and changing growth conditions of in vivo experiments. Justification for Duty-Free Entry: There are no instruments of the same general category manufactured in the United States. Application accepted by Commissioner of Customs: March 6, 2014.

Docket Number: 14–004. Applicant: Utah State University, 8300 Old Main Hill, Utah State University, Logan, UT 84322–8300. Instrument: Electron Microscope. Manufacturer: FEI Company, Czech Republic. Intended Use: The instrument will be used to characterize materials for energy conversion, biosensors and bioplastic creation, and basic science on the electron transport, contamination control of soil, and to improve the quality and stability of lipid-based food. Justification for Duty-Free Entry: There are no instruments of the same general category manufactured in the United States. Application accepted by Commissioner of Customs: March 6, 2014.

Dated: March 25, 2014.

Gregory W. Campbell,

Director of Subsidies Enforcement, Enforcement and Compliance.

[FR Doc. 2014–07124 Filed 3–28–14; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XD187

Endangered and Threatened Species; Take of Anadromous Fish

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

ACTION: Correction.

SUMMARY: On March 21, 2014, the **Federal Register** published a notice informing the public that NMFS had received 10 scientific research permit application requests relating to Pacific salmon, sturgeon, rockfish, and eulachon. In that notice, one of the prospective permits was accidentally given an incorrect identifying number: the number given was Permit 18620, the text should have read Permit 18260.

DATES: Comments or requests for a public hearing on the applications must be received at the appropriate address or fax number (see **ADDRESSES**) no later than 5 p.m. Pacific standard time on April 21, 2014.

ADDRESSES: Written comments on the applications should be sent to the Protected Resources Division, NMFS, 1201 NE Lloyd Blvd., Suite 1100, Portland, OR 97232–1274. Comments may also be sent via fax to 503–230–5441 or by email to *nmfs.nwr.apps@noaa.gov.*

FOR FURTHER INFORMATION CONTACT: Rob Clapp, Portland, OR (ph.: 503–231–2314), Fax: 503–230–5441, email: *Robert.Clapp@noaa.gov*). Permit application instructions are available from the address above, or online at *https://apps.nmfs.noaa.gov.*

SUPPLEMENTARY INFORMATION:

Need for Correction

On March 21, 2014, we (NOAA) published a notice (79 FR 15729, FR Doc. 2014–06154) notifying the public that the agency had received 10 scientific research permit applications. Inadvertently, a permit's number was transposed. This document provides the correct permit number.

On page 15730, in the third column, the first heading reads *Permit 18620.* This number is incorrect. The heading should read *Permit 18260.* All other information in this document is correct and remains unchanged.

Dated: March 26, 2014.

Angela Somma,

Chief, Endangered Species Division, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 2014–07117 Filed 3–28–14; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

U.S. Integrated Ocean Observing System (IOOS®) Advisory Committee

AGENCY: National Ocean Service, National Oceanic and Atmospheric Administration (NOAA), Department of Commerce.

ACTION: Notice of open meeting.

SUMMARY: Notice is hereby given of a meeting of the U.S. Integrated Ocean Observing System (IOOS®) Advisory Committee (Committee) in Washington, DC.

DATES AND TIMES: The meeting will be held on Tuesday, April 15, 2014, from 9:00 a.m. to 5:00 p.m. and on Wednesday, April 16, 2014, from 9:00 a.m.–3:00 p.m. These times and the agenda topics described below are subject to change. Refer to the Web page listed below for the most up-to-date meeting agenda.

ADDRESSES: The meeting will be held at the Consortium for Ocean Leadership, 1201 New York Ave. NW., Washington, DC 20005.

FOR FURTHER INFORMATION CONTACT: Jessica Snowden, Alternate Designated Federal Official, U.S. IOOS Advisory Committee, U.S. IOOS Program, 1100 Wayne Ave., Suite 1225, Silver Spring, MD 20910; Phone 301–427–2453; Fax 301–427–2073; Email *jessica.snowden@noaa.gov* or visit the U.S. IOOS Advisory Committee Web site at *http://www.ioos.noaa.gov/advisorycommittee*.

SUPPLEMENTARY INFORMATION: The Committee was established by the NOAA Administrator as directed by Section 12304 of the Integrated Coastal and Ocean Observation System Act, part of the Omnibus Public Land Management Act of 2009 (Pub. L. 111–11). The Committee advises the NOAA Administrator and the Interagency Ocean Observation Committee (IOOC) on matters related to the responsibilities and authorities set forth in section 12302 of the Integrated Coastal and Ocean Observation System Act of 2009 and other appropriate matters as the Under Secretary refers to the Committee for review and advice. The Committee will provide advice on:

(a) Administration, operation, management, and maintenance of the System;

(b) expansion and periodic modernization and upgrade of technology components of the System;

(c) identification of end-user communities, their needs for information provided by the System, and the System's effectiveness in dissemination information to end-user communities and to the general public; and

(d) any other purpose identified by the Under Secretary of Commerce for Oceans and Atmosphere or the Interagency Ocean Observation Committee.

The meeting will be open to public participation with a 15-minute public comment period on April 15, 2014, from 4:15 p.m. to 4:30 p.m. and on April 16, 2014, from 2:30 p.m. to 2:45 p.m. (check agenda on Web site to confirm time.) The Committee expects that public statements presented at its meetings will not be repetitive of previously submitted verbal or written statements. In general, each individual or group making a verbal presentation will be limited to a total time of three (3) minutes. Written comments should be received by the Designated Federal Official by April 1, 2014 to provide sufficient time for Committee review. Written comments received after April 1, 2014, will be distributed to the Committee, but may not be reviewed prior to the meeting date. Seats will be available on a first-come, first-served basis.

Matters To Be Considered: The meeting will focus on two strategic themes: The implementation of the vision for IOOS and the business model of the future for IOOS. The agenda is subject to change. The latest version will be posted at *http://www.ioos.gov/advisorycommittee*.

Special Accomodations: These meetings are physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Jessica Snowden, Alternate Designated Federal Official at 301–427–2453 by March 31, 2014.

Dated: March 17, 2014.

Zdenka S. Willis,

Director, U.S. Integrated Ocean Observing System.

[FR Doc. 2014–07064 Filed 3–28–14; 8:45 am]

BILLING CODE P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XD211

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 public meeting of its Research Steering Committee.

DATES: This meeting will be held on Wednesday, April 16, 2014 at 9:30 a.m.

ADDRESSES:

Meeting address: The meeting will be held at the DoubleTree by Hilton, 50 Ferncroft Road, Danvers, MA 01923; telephone: (978) 777–2500; fax: (978) 750–7959.

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 Committee will develop recommendations for Council-funded groundfish collaborative research projects focused on New England groundfish fisheries. Time-permitting, the Committee also may receive updates on collaborative research projects or plans. Other issues also may be discussed.

Recommendations from this group may be brought to the full Council for consideration and action, if appropriate.

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: March 25, 2014.

Tracey L. Thompson,

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

[FR Doc. 2014–07004 Filed 3–28–14; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

Evaluation of State Coastal Management Program

AGENCY: National Oceanic and Atmospheric Administration (NOAA), Office of Ocean and Coastal Resource Management, National Ocean Service, Commerce.

ACTION: Notice of intent to evaluate.

SUMMARY: The NOAA Office of Ocean and Coastal Resource Management (OCRM) announces its intent to evaluate the performance of the Connecticut Coastal Management Program.

The Coastal Zone Management Program evaluation will be conducted pursuant to section 312 of the Coastal Zone Management Act of 1972, as amended (CZMA) and regulations at 15 CFR Part 923, Subpart L. The CZMA requires continuing review of the performance of states with respect to coastal program implementation. Evaluation of a Coastal Management Program requires findings concerning the extent to which a state has met the national objectives, adhered to its Coastal Management Program document approved by the Secretary of Commerce, and adhered to the terms of financial assistance awards funded under the CZMA. The evaluation will include a public meeting, consideration of written public comments and consultations with interested Federal, state, and local agencies and members of the public. When the evaluation is completed, OCRM will place a notice in the **Federal Register** announcing the availability of the Final Evaluation Findings. Notice is hereby given of the date, local time, and location of the public meeting.

DATES: *Date and Time:* The Connecticut Coastal Management Program public meeting will be held on Tuesday, May 13, 2014, at 6:30 p.m. local time at the South Central Connecticut Regional Water Authority, Welch Room, 90 Sargent Drive, New Haven, Connecticut 06511.

ADDRESSES: Copies of the state's most recent performance report, as well as OCRM's evaluation notification letter to the state, are available upon request from OCRM. Written comments from interested parties regarding these programs are encouraged and will be accepted until May 16, 2014. Please direct written comments to Carrie Hall, Evaluator, National Policy and Evaluation Division, Office of Ocean and Coastal Resource Management, NOS/NOAA, 1305 East-West Highway, 10th Floor, N/ORM7, Silver Spring, Maryland 20910, or *Carrie.Hall@noaa.gov*.

FOR FURTHER INFORMATION CONTACT: Carrie Hall, Evaluator, National Policy and Evaluation Division, Office of Ocean and Coastal Resource Management, NOS/NOAA, 1305 East-West Highway, 10th Floor, N/ORM7, Silver Spring, Maryland 20910, (301) 563–1135, or *Carrie.Hall@noaa.gov*.

Dated: March 24, 2014.

Christopher C. Cartwright,

Associate Assistant Administrator for Management and CFO/CAO, Ocean Services and Coastal Zone Management, National Oceanic and Atmospheric Administration.

Federal Domestic Assistance Catalog 11.419 Coastal Zone Management Program Administration

[FR Doc. 2014–07072 Filed 3–28–14; 8:45 am]

BILLING CODE 3510–08–M

COMMODITY FUTURES TRADING COMMISSION

Sunshine Act Meetings

TIME AND DATE: 10:00 a.m., Friday, April 25, 2014.

PLACE: 1155 21st St. NW., Washington, DC, 9th Floor Commission Conference Room.

STATUS: Closed.

MATTERS TO BE CONSIDERED: Surveillance, Enforcement Matters, and Examinations. In the event that the times, dates, or locations of this or any future meetings change, an announcement of the change, along with the new time and place of the meeting will be posted on the Commission's Web site at *http://www.cftc.gov.*

CONTACT PERSON FOR MORE INFORMATION: Christopher J. Kirkpatrick, 202–418–5964.

Natise Allen,

Executive Assistant.

[FR Doc. 2014–07176 Filed 3–27–14; 11:15 am]

BILLING CODE 6351–01–P

COMMODITY FUTURES TRADING COMMISSION

Sunshine Act Meetings

TIME AND DATE: 10:00 a.m., Friday, April 18, 2014.

PLACE: 1155 21st St. NW., Washington, DC, 9th Floor Commission Conference Room.

STATUS: Closed.

MATTERS TO BE CONSIDERED: Surveillance, Enforcement Matters, and Examinations. In the event that the times, dates, or locations of this or any future meetings change, an announcement of the change, along with the new time and place of the meeting will be posted on the Commission's Web site at *http://www.cftc.gov.*

CONTACT PERSON FOR MORE INFORMATION: Christopher J. Kirkpatrick, 202–418–5964.

Natise Allen,

Executive Assistant.

[FR Doc. 2014–07175 Filed 3–27–14; 11:15 am]

BILLING CODE 6351–01–P

COMMODITY FUTURES TRADING COMMISSION

Sunshine Act Meetings

TIME AND DATE: 10:00 a.m., Friday, April 11, 2014.

PLACE: 1155 21st St. NW., Washington, DC, 9th Floor Commission Conference Room.

STATUS: Closed.

MATTERS TO BE CONSIDERED: Surveillance, Enforcement Matters, and Examinations. In the event that the times, dates, or locations of this or any future meetings change, an announcement of the change, along with the new time and place of the meeting will be posted on the Commission's Web site at *http://www.cftc.gov.*

CONTACT PERSON FOR MORE INFORMATION: Christopher J. Kirkpatrick, 202–418–5516.

Natise Allen,

Executive Assistant.

[FR Doc. 2014–07174 Filed 3–27–14; 11:15 am]

BILLING CODE 6351–01–P

CONSUMER PRODUCT SAFETY COMMISSION

[CPSC Docket No. 14–C0001]

Forman Mills, Inc., Provisional Acceptance of a Settlement Agreement and Order

AGENCY: Consumer Product Safety Commission.

ACTION: Notice.

SUMMARY: It is the policy of the Commission to publish settlements which it provisionally accepts under the Consumer Product Safety Act in the **Federal Register** in accordance with the terms of 16 CFR 1118.20(e). Published below is a provisionally-accepted Settlement Agreement with Forman Mills, Inc., containing a civil penalty of $600,000.00, within twenty (20) days of service of the Commission's final Order accepting the Settlement Agreement.

DATES: Any interested person may ask the Commission not to accept this agreement or otherwise comment on its contents by filing a written request with

the Office of the Secretary by April 15, 2014.

ADDRESSES: Persons wishing to comment on this Settlement Agreement should send written comments to the Comment 14–C0001 Office of the Secretary, Consumer Product Safety Commission, 4330 East West Highway, Room 820, Bethesda, Maryland 20814–4408.

FOR FURTHER INFORMATION CONTACT: Sean R. Ward, Trial Attorney, Division of Compliance, Office of the General Counsel, Consumer Product Safety Commission, 4330 East West Highway, Bethesda, Maryland 20814–4408; telephone (301) 504–7602.

SUPPLEMENTARY INFORMATION: The text of the Agreement and Order appears below.

Dated: March 26, 2014.

Todd A. Stevenson,

Secretary.

UNITED STATES OF AMERICA CONSUMER PRODUCT SAFETY COMMISSION

In the Matter of: Forman Mills, Inc., CPSC Docket No.: 14–C0001

SETTLEMENT AGREEMENT

1. In accordance with the Consumer Product Safety Act (CPSA), 15 U.S.C. 2051–2089 and 16 CFR 1118.20, Forman Mills, Inc. (Forman Mills), and the U.S. Consumer Product Safety Commission (Commission), through its staff (staff), hereby enter into this Settlement Agreement (Agreement). The Agreement and the incorporated attached Order (Order) resolve staff's charges set forth below.

THE PARTIES

2. The Commission is an independent federal regulatory agency established pursuant to, and responsible for, the enforcement of the CPSA. By executing this Agreement, staff is acting on behalf of the Commission, pursuant to 16 CFR 1118.20(b). The Commission issues the Order under the provisions of the CPSA.

3. Forman Mills is a corporation, organized and existing under the laws of the state of Pennsylvania, with its principal corporate office located in Pennsauken, NJ. Forman Mills is a retailer, selling a wide selection of low-priced designer clothing.

STAFF CHARGES

4. Between June 2007 and February 2010, Forman Mills sold and/or held for sale four series of Garments, consisting of approximately 2,105 children's upper outerwear garments with drawstrings (Garments) to consumers. Forman Mills sold the Garments to consumers and/or held the Garments for sale with the intent to ultimately sell to consumers. The Garments were sold at retail stores in the United States for between $5 and $100.

5. The Garments are ''consumer products'' and, at all relevant times, Forman Mills was a ''retailer'' of these consumer products, which were ''distributed in commerce,'' as those terms are defined or used in sections 3(a)(5), (8), and (13) of the CPSA, 15 U.S.C. 2052(a)(5), (8), and (13).

6. In February 1996, staff issued the *Guidelines for Drawstrings on Children's Upper Outerwear* (Guidelines) to help prevent children from strangling or entangling on neck and waist drawstrings. The Guidelines state that drawstrings can cause, and have caused, injuries and deaths when they catch on items, such as playground equipment, bus doors, or cribs. In the Guidelines, staff recommends that no children's upper outerwear in sizes 2T to 12 be manufactured or sold to consumers with hood and neck drawstrings.

7. In June 1997, ASTM adopted a voluntary standard, ASTM F1816–97, incorporating the Guidelines. The Guidelines state that firms should be aware of the hazards associated with drawstrings and should ensure that garments they sell conform to the voluntary standard.

8. On May 19, 2006, the Commission posted on its Web site a letter from the Commission's Director of the Office of Compliance directed to manufacturers, importers, and retailers of children's upper outerwear. The letter urges them to make certain that all children's upper outerwear sold in the United States complies with ASTM F1816–97. The letter also states that staff considers children's upper outerwear with drawstrings at the hood or neck area to be defective and to present a substantial risk of injury to young children under Federal Hazardous Substances Act (FHSA) section 15(c), 15 U.S.C. 1274(c). The letter references the CPSA's section 15(b), 15 U.S.C. 2064(b), reporting requirements.

9. In April 2009, the Commission issued an Order wherein Forman Mills agreed to pay a civil penalty of $35,000 to settle staff's charges that the Firm failed to report children's upper outerwear products with drawstrings that it distributed in commerce. Throughout the course of that civil penalty matter, Forman Mills received repeated reminders about the drawstring hazards and applicable law.

10. Forman Mills' distribution in commerce of the Garments did not comply with the 1996 staff Guidelines, ASTM F1816–97, or staff's May 2006 defect notice, and posed a strangulation hazard to children.

11. Forman Mills' distribution of three of the series of garments with drawstrings (Weeplay Kids, Lollytogs and 5 Star Apparel) occurred in part, during the same period of time as the investigation and negotiation of Forman Mills' 2009 civil penalty matter, which also involved garments with drawstrings.

12. On January 6, 2009 (the unit count was revised February 14, 2011), February 18, 2010, April 8, 2010, and May 27, 2010, the Commission and four U.S. importers announced four separate recalls of the Garments that were distributed in commerce by Forman Mills. Forman Mills was identified as a retailer of the Garments in one of the four press releases announcing the recalls.

13. Based in part on information available through the sources set forth in paragraphs six through eight herein, Forman Mills had presumed and actual knowledge that the Garments distributed in commerce posed a strangulation hazard and presented a substantial risk of injury to children under FHSA section 15(c)(1), 15 U.S.C. 1274(c)(1). Forman Mills obtained information that reasonably supported the conclusion that the Garments contained defects that could create substantial product hazards or that the Garments created unreasonable risks of serious injury or death. Pursuant to CPSA sections 15(b)(3) and (4), 15 U.S.C. 2064(b)(3) and (4), Forman Mills was required to inform the Commission immediately of these defects and risks.

14. Despite having actual and presumed knowledge of the hazards and risks, Forman Mills did not file any report with the Commission regarding the Garments, as required by section 15(b) of the CPSA, 15 U.S.C. § 2064(b).

15. Forman Mills knowingly and repeatedly failed to immediately inform the Commission about the Garments, as required by CPSA sections 15(b)(3) and (4), 15 U.S.C. 2064(b)(3) and (4), and as the term ''knowingly'' is defined in CPSA section 20(d), 15 U.S.C. 2069(d). These knowing failures violated CPSA section 19(a)(4), 15 U.S.C. 2068(a)(4). Pursuant to CPSA section 20, 15 U.S.C. 2069, these knowing failures subjected Forman Mills to civil penalties.

FORMAN MILL'S RESPONSE

16. This Agreement is in settlement of the staff's charges and does not constitute an admission by Forman Mills to the charges set forth in paragraphs 4 through 15, including, but not limited to, the charge that the

Garments contained a defect which could create a substantial product hazard or create an unreasonable risk of serious injury or death, and the contention that Forman Mills failed to notify the Commission in a timely manner, in accordance with section 15(b) of the CPSA, 15 U.S.C. 2064(b).

17. Forman Mills is not a manufacturer, but is a retailer of a wide range of products in many sizes, types, and styles including some children's garments. During the time period covered by the staff allegations, it purchased from thousands of vendors well over 100,000 SKUs and more than 25 million garments annually. Like most retailers, Forman Mills required its suppliers to provide garments that complied fully with all relevant laws, regulations and standards, and relied on its suppliers to abide by these requirements.

18. By December 2008, Forman Mills, rather than relying solely on suppliers to fulfill their contractual obligations, had instituted new buying, receiving and inventory control procedures to reduce the possibility that children's garments with drawstrings might end up on its shelves.

19. All of the Garments cited by the staff in their allegations in paragraphs 4–15 above were purchased before those new procedures went into effect. In fact, CPSC knew about the firm's 2007 purchase of approximately 840 of those Garments by December 2008 when staff was negotiating a civil penalty settlement with Forman Mills. Staff decided not to pursue civil penalties regarding the subsequent violation at that time but reserved the right to reopen this matter and seek civil penalties should there be future violations. Forman Mills' denies that its buyers or other responsible personnel had either actual or constructive knowledge that it had purchased and sold the Garments until it was informed of that by the publically announced recalls on January 6, 2009, February 18, 2010, April 8, 2010, and May 27, 2010.

20. By the time Forman Mills settled the previous civil penalty matter, most of the Garments were already sold. Forman Mills disputes any staff charge that it had knowledge or even a reasonable way to become aware of the remaining Garments, or of previous sales of the Garments. Because it could not reasonably have known about the existence of drawstrings in the Garments, Forman Mills denies the staff allegations that it in fact had an obligation to report and or ''knowingly'' failed to report. Forman Mills has advised the Commission that it is unaware of any reports of incidents or injuries associated with the Garments

21. Forman Mills enters into this agreement to settle this matter without the expense and likely disruptions of its business that might result from litigation. In settling this matter, Forman Mills does not admit any of the staff factual or legal allegations nor concede that a penalty in the amount agreed to is appropriate.

AGREEMENT OF THE PARTIES

22. Under the CPSA, the Commission has jurisdiction over the matter involving the Garments described herein and over Forman Mills.

23. In settlement of staff's charges, and to avoid the cost, distraction, delay, uncertainty, and inconvenience of protracted litigation or other proceedings, Forman Mills shall pay a civil penalty in the amount of six hundred thousand dollars ($600,000.00) within twenty (20) calendar days after receiving service of the Commission's final Order accepting the Agreement. The payment shall be made electronically to the Commission via: *www.pay.gov.*

24. The parties enter into this Agreement for settlement purposes only. The Agreement does not constitute an admission by Forman Mills or a determination by the Commission that Forman Mills violated the CPSA.

25. Following staff's receipt of this Agreement executed on behalf of Forman Mills, staff shall promptly submit the Agreement to the Commission for provisional acceptance. Promptly following provisional acceptance of the Agreement by the Commission, the Agreement shall be placed on the public record and published in the *Federal Register*, in accordance with the procedures set forth in 16 CFR 1118.20(e). If within fifteen (15) calendar days the Commission does not receive any written request not to accept the Agreement, the Agreement shall be deemed finally accepted on the sixteenth (16th) calendar day after the date the Agreement is published in the *Federal Register*, in accordance with 16 CFR 1118.20(f).

26. This Agreement is conditioned upon, and subject to, the Commission's final acceptance, as set forth above, and is subject to the provisions of 16 CFR 1118.20(h). Upon the later of: (i) The Commission's final acceptance of this Agreement and service of the accepted Agreement upon Forman Mills; and (ii) the date of issuance of the final Order, this Agreement shall be in full force and effect and shall be binding upon the parties.

27. Effective upon the later of: (i) The Commission's final acceptance of the Agreement and service of the accepted Agreement upon Forman Mills; and (ii) the date of issuance of the final Order, for good and valuable consideration, Forman Mills hereby expressly and irrevocably waives and agrees not to assert any past, present, or future rights to the following, in connection with the matter described in the Agreement: (a) An administrative or judicial hearing; (b) judicial review or other challenge or contest of the validity of the Order or of the Commission's actions; (c) a determination by the Commission of whether Forman Mills failed to comply with the CPSA and the underlying regulations; (d) a statement of findings of fact and conclusions of law; and (e) any claims under the Equal Access to Justice Act.

28. Forman Mills has already taken steps to reduce the possibility of the purchase and sale of children's garments with drawstrings and shall fully implement and maintain a compliance program designed to ensure compliance with the statutes and regulations enforced by the Commission. That program will include at a minimum, the following elements: (i) Written standards and policies; (ii) procedures for implementing corrective and preventive actions when compliance deficiencies or violations are identified; (iii) a mechanism for confidential employee reporting of compliance-related questions or concerns to either a compliance officer or to another senior manager with authority to act as necessary; (iv) effective communication of company compliance-related policies and procedures to applicable employees through training programs or otherwise; (v) senior manager responsibility for compliance and accountability for violations of the statutes and regulations enforced by the Commission; (vi) board oversight of compliance (if applicable); and (vii) retention of all compliance-related records for at least five (5) years after the Commission has issued the Final Order and availability of such records to staff upon request.

29. Forman Mills shall maintain and enforce a system of internal controls and procedures designed to ensure that: (i) Information required to be disclosed by Forman Mills to the Commission is recorded, processed and reported in accordance with applicable law; (ii) all reporting made to the Commission is timely, truthful, complete and accurate; and (iii) prompt disclosure is made to Forman Mills' management of any significant deficiencies or material weaknesses in the design or operation of

such internal controls that are reasonably likely to adversely affect in any material respect Forman Mills' ability to record, process and report to the Commission in accordance with applicable law.

30. Upon reasonable request of staff, Forman Mills shall provide written documentation of such improvements, processes, and controls, including, but not limited to, the effective dates of such improvements, processes, and controls. Forman Mills shall cooperate fully and truthfully with staff and shall make available all information, materials, and personnel deemed necessary by staff to evaluate Forman Mills' compliance with the terms of the Agreement.

31. The parties acknowledge and agree that the Commission may make public disclosure of the terms of the Agreement and the Order.

32. Forman Mills represents that the Agreement: (i) Is freely and voluntarily entered into, without any degree of duress or compulsion whatsoever; (ii) has been duly authorized; and (iii) constitutes the valid and binding obligation of Forman Mills, and each of its successors and/or assigns, enforceable against Forman Mills in accordance with its terms. The individuals signing the Agreement on behalf of Forman Mills represent and warrant that they are duly authorized by Forman Mills to execute the Agreement.

33. The Commission signatories represent that they are signing the Agreement in their official capacities and that they are authorized to execute this Agreement.

34. The Agreement is governed by the laws of the United States.

35. The Agreement and the Order shall apply to, and be binding upon, Forman Mills and each of its successors, transferees, and assigns, and a violation of the Agreement or Order may subject Forman Mills and each of its successors, transferees, and assigns, to appropriate legal action.

36. The Agreement and the Order constitute the complete agreement between the parties on the subject matter contained therein.

37. The Agreement may be used in interpreting the Order. Understandings, agreements, representations, or interpretations apart from those contained in the Agreement and the Order may not be used to vary or contradict their terms. For purposes of construction, the Agreement shall be deemed to have been drafted by both of the parties and shall not, therefore, be construed against any party for that reason in any subsequent dispute.

38. The Agreement shall not be waived, amended, modified, or otherwise altered, except as in accordance with the provisions of 16 CFR 1118.20(h). The Agreement may be executed in counterparts.

39. If any provision of the Agreement or the Order is held to be illegal, invalid, or unenforceable under present or future laws effective during the terms of the Agreement and the Order, such provision shall be fully severable. The balance of the Agreement and the Order shall remain in full force and effect, unless the Commission and Forman Mills agree that severing the provision materially affects the purpose of the Agreement and Order.

Forman Mills, Inc.

Dated: March 11, 2014.

Richard P. Forman,
CEO and President,
Forman Mills, Inc.,
1070 Thomas Busch Memorial Highway,
Pennsauken, NJ 08110.

Dated: March 12, 2014.

Eric L. Stone,
Law Office of Eric Stone, LLC,
14524 Kings Grant St.,
North Potomac, MD 20878,
Counsel for Forman Mills, Inc.

U.S. Consumer Product Safety Commission Staff.

Stephanie Tsacoumis,
General Counsel,
Mary B. Murphy,
Assistant General Counsel.

Dated: March 12, 2014.

Sean R. Ward,
Trial Attorney,
Division of Compliance,
Office of the General Counsel.

UNITED STATES OF AMERICA CONSUMER PRODUCT SAFETY COMMISSION

In the Matter of: Forman Mills, Inc., CPSC Docket No.: 14–C0001

ORDER

Upon consideration of the Settlement Agreement entered into between Forman Mills, Inc. (Forman Mills), and the U.S. Consumer Product Safety Commission (Commission), and the Commission having jurisdiction over the subject matter and over Forman Mills, and it appearing that the Settlement Agreement and the Order are in the public interest, it is

ORDERED that the Settlement Agreement be, and is, hereby, accepted; and it is

FURTHER ORDERED, that Forman Mills shall comply with the terms of the Settlement Agreement and shall pay a civil penalty of six hundred thousand dollars ($600,000.00) within twenty (20) calendar days after receiving service of the Commission's final Order accepting the Settlement Agreement. The payment shall be made electronically to the CPSC via: *www.pay.gov.* Upon the failure of Forman Mills to make the foregoing payment when due, interest on the unpaid amount shall accrue and be paid by Forman Mills at the federal legal rate of interest set forth at 28 U.S.C. 1961(a) and (b). If Forman Mills fails to make such payment or to comply in full with any other provision as set forth in the Settlement Agreement, such conduct will be considered a violation of the Settlement Agreement and Order.

Provisionally accepted and provisional Order issued on the 26th day of March, 2014.

By Order of the Commission:
Todd A. Stevenson,
Secretary, U.S. Consumer Product Safety Commission.

[FR Doc. 2014–07099 Filed 3–28–14; 8:45 am]

BILLING CODE 6355–01–P

DEPARTMENT OF DEFENSE

Department of the Air Force

[Docket ID USAF–2014–0001]

Submission for OMB Review; Comment Request

ACTION: Notice.

SUMMARY: The Department of Defense has submitted to OMB for clearance, the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

DATES: Consideration will be given to all comments received by April 30, 2014.

FOR FURTHER INFORMATION CONTACT: Fred Licari, 571–372–0493.

SUPPLEMENTARY INFORMATION:

Title, Associated Form and OMB Number: Air Force Family Integrated Results & Statistical Tracking (AFFIRST) automated system; OMB Control Number 0701–0070.

Type of Request: Extension.

Number of Respondents: 60,000.

Responses per Respondent: 1.

Annual Responses: 60,000.

Average Burden per Response: 15 minutes.

Annual Burden Hours: 15,000.

Needs and Uses: The information collection requirement is necessary to record demographic information on Airman & Family Readiness Center (A&FRC) customers, results of the customer's visits, determine customer

needs, service plan, referrals, workshop attendance and other related A&FRC activities and services accessed by the customer. Data is used to determine the effectiveness of A&FRC activities and services (results management) as well as collect and provide return on investment data to leadership. Information is compiled for statistical reporting to base, major commands, Headquarters United States Air Force, Department of Defense and Congress.

Affected Public: Individuals or households.

Frequency: On occasion.

Respondent's Obligation: Voluntary.

OMB Desk Officer: Ms. Jasmeet Seehra.

Written comments and recommendations on the proposed information collection should be sent to Ms. Jasmeet Seehra at the Office of Management and Budget, Desk Officer for DoD, Room 10236, New Executive Office Building, Washington, DC 20503.

You may also submit comments, identified by docket number and title, by the following method:

• *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.

Instructions: All submissions received must include the agency name, docket number and title for this **Federal Register** document. The general policy for comments and other submissions from members of the public is to make these submissions available for public viewing on the Internet at *http://www.regulations.gov* as they are received without change, including any personal identifiers or contact information.

DOD Clearance Officer: Ms. Patricia Toppings.

Written requests for copies of the information collection proposal should be sent to Ms. Toppings at WHS/ESD Information Management Division, 4800 Mark Center Drive, East Tower, Suite 02G09, Alexandria, VA 22350–3100.

Dated: March 26, 2014.

Aaron Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 2014–07098 Filed 3–28–14; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Department of the Army

[Docket ID USA–2014–0001]

Submission for OMB Review; Comment Request

ACTION: Notice.

SUMMARY: The Department of Defense has submitted to OMB for clearance, the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

DATES: Consideration will be given to all comments received by April 30, 2014.

FOR FURTHER INFORMATION CONTACT: Fred Licari, 571–372–0493.

SUPPLEMENTARY INFORMATION:

Title, Associated Form and OMB Number: Army ROTC Referral Information, ROTC Form 155–R, OMB Control Number 0702–0111.

Type of Request: Extension.

Number of Respondents: 16,300.

Responses per Respondent: 1.

Annual Responses: 16,300.

Average Burden per Response: 15 minutes.

Annual Burden Hours: 4,075.

Needs and Uses: The Army ROTC Program produces approximately 75 percent of the newly commissioned officers for the U.S. Army. The Army ROTC must have the ability to attract quality men and women who will pursue college degrees. Currently, there are 13 recruiting teams (Goldminers) located in various places across the United States aiding in this cause. Their mission is to refer quality high school students to colleges and universities offering Army ROTC. Goldminers, two officer personnel, will collect ROTC referral information at a high school campus and document it on ROTC Cadet Command Form 155–R.

Affected Public: Individuals or households.

Frequency: On occasion.

Respondent's Obligation: Voluntary.

OMB Desk Officer: Ms. Jasmeet Seehra.

Written comments and recommendations on the proposed information collection should be sent to Ms. Jasmeet Seehra at the Office of Management and Budget, Desk Officer for DoD, Room 10236, New Executive Office Building, Washington, DC 20503.

You may also submit comments, identified by docket number and title, by the following method:

• *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.

Instructions: All submissions received must include the agency name, docket number and title for this **Federal Register** document. The general policy for comments and other submissions from members of the public is to make these submissions available for public viewing on the Internet at *http://www.regulations.gov* as they are received without change, including any personal identifiers or contact information.

DOD Clearance Officer: Ms. Patricia Toppings.

Written requests for copies of the information collection proposal should be sent to Ms. Toppings at WHS/ESD Information Management Division, 4800 Mark Center Drive, East Tower, Suite 02G09, Alexandria, VA 22350–3100.

Dated: March 26, 2014.

Aaron Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 2014–07095 Filed 3–28–14; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF EDUCATION

[Docket No.: ED–2014–ICCD–0048]

Agency Information Collection Activities; Submission to the Office of Management and Budget for Review and Approval; Comment Request; National Assessment of Education Progress (NAEP) 2014–2016 System Clearance: National Assessment of Education Progress (NAEP) Main 2015 Wave 1

AGENCY: Institute of Education Sciences/National Center for Education Statistics (IES), Department of Education (ED).

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. chapter 3501 *et seq.*), ED is proposing non substantive change to a currently approved information collection.

DATES: Interested persons are invited to submit comments on or before April 30, 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–2014–ICCD–0048 or via postal mail, commercial delivery, or hand delivery. If the regulations.gov site is not available to the public for any reason, ED will temporarily accept comments at *ICDocketMgr@ed.gov.* Please note that comments submitted by fax or email and those submitted after the comment period will not be accepted; ED will only accept comments during the comment period in this mailbox when the regulations.gov site is not available. 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, Mailstop L–OM–2–2E319, Room 2E105, Washington, DC 20202.

FOR FURTHER INFORMATION CONTACT: For specific questions related to collection activities, please contact Kashka Kubzdela, 202–502–7411.

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: National Assessment of Education Progress (NAEP) 2014–2016 System Clearance: National Assessment of Education Progress (NAEP) Main 2015 Wave 1.

OMB Control Number: 1850–0790.

Type of Review: Non substantive change to a currently approved information collection.

Respondents/Affected Public: Individuals or households.

Total Estimated Number of Annual Responses: 683,151.

Total Estimated Number of Annual Burden Hours: 285,945.

Abstract: The National Assessment of Educational Progress (NAEP) is a federally authorized survey of student achievement at grades 4, 8, and 12 in various subject areas, such as mathematics, reading, writing, science, U.S. history, civics, geography, economics, and the arts. In the current legislation that reauthorized NAEP (20 U.S.C. 9622), Congress again mandated the collection of national education survey data through a national assessment program. The 2015 Wave 1 submittal contains: (a) Grades 4, 8, and 12 core (demographic) student questions; (b) grades 4, 8, and 12 reading subject-specific student questions; (c) grades 4, 8, and 12 mathematics subject-specific student questions; (d) grades 4 and 8 KaSA (Knowledge and Skills Appropriate) student questions; (e) grades 4 and 8 teacher reading and mathematics questionnaires; and (f) grades 4, 8, and 12 school reading and mathematics questionnaires.

Dated: March 25, 2014.

Stephanie Valentine,

Acting Director, Information Collection Clearance Division, Privacy, Information and Records Management Services, Office of Management.

[FR Doc. 2014–07029 Filed 3–28–14; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

[Docket No. ED–2014–ICCD–0049]

Agency Information Collection Activities; Comment Request; Student Support Services Annual Performance Report

AGENCY: Office of Postsecondary Education (OPE), Department of Education (ED).

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. chapter 3501 *et seq.*), ED is proposing an extension of an existing information collection.

DATES: Interested persons are invited to submit comments on or before May 30, 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–2014–ICCD–0049 or via postal mail, commercial delivery, or hand delivery. If the regulations.gov site is not available to the public for any reason, ED will temporarily accept comments at *ICDocketMgr@ed.gov*. *Please note that comments submitted by fax or email and those submitted after the comment period will not be accepted; ED will ONLY accept comments during the comment period in this mailbox when the regulations.gov site is not available.* 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, Mailstop L–OM–2–2E319, Room 2E103, Washington, DC 20202.

FOR FURTHER INFORMATION CONTACT: For specific questions related to collection activities, please contact Lavelle Wright, 202–502–7674.

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: Student Support Services Annual Performance Report.

OMB Control Number: 1840–0525.

Type of Review: An extension of an existing information collection.

Respondents/Affected Public: Private Sector.

Total Estimated Number of Annual Responses: 1,027.

Total Estimated Number of Annual Burden Hours: 15,405.

Abstract: Student Support Services Program grantees must submit the report annually. The reports are used to evaluate grantees' performance, and to award prior experience points at the end of each project (budget) period. The Department also aggregates the data to provide descriptive information on the projects and to analyze the impact of the Student Support Services Program on

the academic progress of participating students.

Dated: March 26, 2014.

Kate Mullan,

Acting Director, Information Collection Clearance Division, Privacy, Information and Records Management Services, Office of Management.

[FR Doc. 2014–07056 Filed 3–28–14; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

[Docket No.: ED–2014–ICCD–0005]

Agency Information Collection Activities; Submission to the Office of Management and Budget for Review and Approval; Comment Request; Consolidation Loan Rebate Fee Report

AGENCY: Federal Student Aid (FSA), Department of Education (ED).

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. chapter 3501 *et seq.*), ED is proposing an extension of an existing information collection.

DATES: Interested persons are invited to submit comments on or before April 30, 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–2014–ICCD–0005 or via postal mail, commercial delivery, or hand delivery. If the regulations.gov site is not available to the public for any reason, ED will temporarily accept comments at *ICDocketMgr@ed.gov*. *Please note that comments submitted by fax or email and those submitted after the comment period will not be accepted; ED will ONLY accept comments during the comment period in this mailbox when the regulations.gov site is not available.* 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, Mailstop L–OM–2–2E319, Room 2E105, Washington, DC 20202.

FOR FURTHER INFORMATION CONTACT: For specific questions related to collection activities, please contact Courtney Clemons, 202–377–3673.

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: Consolidation Loan Rebate Fee Report.

OMB Control Number: 1845–0046.

Type of Review: An extension of an existing information collection.

Respondents/Affected Public: Private Sector.

Total Estimated Number of Annual Responses: 10,320.

Total Estimated Number of Annual Burden Hours: 11,180.

Abstract: The Consolidation Loan Rebate Fee Report for payment by check or Electronic Funds Transfer (EFT) will be used by approximately 860 lenders participating in the Title IV, Part B loans program. The information collected is used to transmit interest payment rebate fees to the Secretary of Education.

Dated: March 25, 2014.

Stephanie Valentine,

Acting Director, Information Collection Clearance Division, Privacy, Information and Records Management Services, Office of Management.

[FR Doc. 2014–07028 Filed 3–28–14; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

National Advisory Committee on Institutional Quality and Integrity (NACIQI)

AGENCY: Office of Postsecondary Education, National Advisory Committee on Institutional Quality and Integrity, U.S. Department of Education.

ACTION: Announcement of the time and location of the June 18–19, 2014 National Advisory Committee on Institutional Quality and Integrity (NACIQI) meeting.

ADDRESSES: U.S. Department of Education, Office of Postsecondary Education, 1990 K Street NW., Room 8072, Washington, DC 20006.

NACIQI'S Statutory Authority and Function: The NACIQI is established under Section 114 of the HEA of 1965, as amended, 20 U.S.C. 1011c. The NACIQI advises the Secretary of Education about:

- The establishment and enforcement of the criteria for recognition of accrediting agencies or associations under Subpart 2, Part H, Title IV, of the HEA, as amended.
- The recognition of specific accrediting agencies or associations or a specific State approval agency.
- The preparation and publication of the list of nationally recognized accrediting agencies and associations.
- The eligibility and certification process for institutions of higher education under Title IV, of the HEA, together with recommendations for improvement in such process.
- The relationship between (1) accreditation of institutions of higher education and the certification and eligibility of such institutions, and (2) State licensing responsibilities with respect to such institutions.
- Any other advisory function relating to accreditation and institutional eligibility that the Secretary may prescribe.

SUMMARY: This meeting notice is an update to the previous notice published in the **Federal Register** (79 FR 10508), on Tuesday, February 25, 2014. This notice sets forth the time and location for the June 18–19, 2014, meeting of the National Advisory Committee on Institutional Quality and Integrity (NACIQI).

DATES: *Meeting Date and Place:* The NACIQI meeting will be held on June 18, 2014, from approximately 8:00 a.m. to approximately 5:30 p.m., and on June 19, 2014 from 8:00 a.m. to 5:30 p.m. at the Holiday Inn Capitol, 550 C Street SW., Washington, DC 20024.

Reasonable Accommodations: The meeting site is accessible to individuals with disabilities. If you will need an auxiliary aid or service to participate in the meeting (e.g., interpreting service, assistive listening device, or materials in an alternate format), notify the contact person listed in this notice at least two

weeks before the scheduled meeting date. Although we will attempt to meet a request received after that date, we may not be able to make available the requested auxiliary aid or service because of insufficient time to arrange it.

FOR FURTHER INFORMATION CONTACT: Carol Griffiths, Executive Director, NACIQI, U.S. Department of Education, 1990 K Street NW., Room 8073, Washington, DC 20006–8129, telephone: (202) 219–7035, fax: (202) 219–7005, or email: *Carol.Griffiths@ed.gov*.

Electronic Access to this Document: The official version of this document is the document published in the **Federal Register**. Free Internet access to the official edition of the **Federal Register** and the Code of Federal Regulations is available via the Federal Digital System at: *www.gpo.gov/fdsys*. At this site you can view this document, as well as all other documents of this Department published in the **Federal Register**, in text or Adobe Portable Document Format (PDF). To use PDF, you must have Adobe Acrobat Reader, which is available free at the site.

You may also access documents of the Department published in the **Federal Register** by using the article search feature at: *www.federalregister.gov*. Specifically, through the advanced search feature at this site, you can limit your search to documents published by the Department.

Brenda Dann-Messier,

Acting Assistant Secretary for Postsecondary Education.

[FR Doc. 2014–07107 Filed 3–28–14; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings

Take notice that the Commission has received the following Natural Gas Pipeline Rate and Refund Report filings:

Filings Instituting Proceedings

Docket Numbers: RP14–634–000.
Applicants: Texas Eastern Transmission, LP.
Description: NJRES 910531 4–1–2014 Negotiated Rate to be effective 4/1/2014.
Filed Date: 3/24/14.
Accession Number: 20140324–5078.
Comments Due: 5 p.m. ET 4/7/14.

Docket Numbers: RP14–635–000.
Applicants: Transcontinental Gas Pipe Line Company.
Description: LSS and SS–2 Fuel Tracker Filing 2014 to be effective 4/1/2014.
Filed Date: 3/24/14.
Accession Number: 20140324–5096.
Comments Due: 5 p.m. ET 4/7/14.

Docket Numbers: RP14–636–000.
Applicants: Kern River Gas Transmission Company.
Description: 2014 Clean-up Filing to be effective 4/21/2014.
Filed Date: 3/24/14.
Accession Number: 20140324–5115.
Comments Due: 5 p.m. ET 4/7/14.

Docket Numbers: RP14–637–000.
Applicants: Transcontinental Gas Pipe Line Company.
Description: Negotiated Rates—Sentinel—Hess Energy Mktg, LLC to be effective 4/1/2014.
Filed Date: 3/24/14.
Accession Number: 20140324–5166.
Comments Due: 5 p.m. ET 4/7/14.

Docket Numbers: RP14–639–000.
Applicants: Enable Gas Transmission, LLC.
Description: Fuel Tracker Filing Effective May 2014 to be effective 5/1/2014.
Filed Date: 3/24/14.
Accession Number: 20140324–5178.
Comments Due: 5 p.m. ET 4/7/14.

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: March 25, 2014.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2014–07091 Filed 3–28–14; 8:45 am]

BILLING CODE 6717–01–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: EC14–69–000.
Applicants: Alpaugh North, LLC, Alpaugh 50, LLC, CED White River Solar, LLC.
Description: Application for Authorization Under Section 203 of the Federal Power Act and Request for Waivers, Expedited Action and Shortened Comment Period of Alpaugh North, LLC, et al.
Filed Date: 3/20/14.
Accession Number: 20140320–5142.
Comments Due: 5 p.m. ET 4/10/14.

Take notice that the Commission received the following exempt wholesale generator filings:

Docket Numbers: EG14–33–000.
Applicants: Campo Verde Solar, LLC.
Description: Self-Certification of EG of Campo Verde Solar, LLC.
Filed Date: 3/24/14.
Accession Number: 20140324–5003.
Comments Due: 5 p.m. ET 4/14/14.

Take notice that the Commission received the following electric rate filings:

Docket Numbers: ER13–607–003.
Applicants: Potomac Electric Power Company, Delmarva Power & Light Company, PJM Interconnection, L.L.C.
Description: Pepco & DPL submit compliance filing per 2/28/2014. Settlement Order in ER13–607 to be effective 3/1/2013.
Filed Date: 3/20/14.
Accession Number: 20140320–5118.
Comments Due: 5 p.m. ET 4/10/14.
Docket Numbers: ER14–1552–000.
Applicants: Southern California Edison Company.
Description: EDM Letter Agreement with Riverside Public Utilities Department to be effective 2/27/2014.
Filed Date: 3/21/14.
Accession Number: 20140321–5145.
Comments Due: 5 p.m. ET 4/11/14.

Docket Numbers: ER14–1553–000.
Applicants: PJM Interconnection, L.L.C.
Description: First Revised Service Agreement No. 3159—Queue W2–073 to be effective 2/21/2014.
Filed Date: 3/21/14.
Accession Number: 20140321–5170.
Comments Due: 5 p.m. ET 4/11/14.

Docket Numbers: ER14–1554–000.
Applicants: Southern California Edison Company.

Description: Notices of Cancellation with Several Interconnection Customers for EKWRA Project to be effective 12/15/2013.
Filed Date: 3/24/14.
Accession Number: 20140324–5005.
Comments Due: 5 p.m. ET 4/14/14.

Docket Numbers: ER14–1555–000.
Applicants: Southern California Edison Company.
Description: Amended & Restated IID-Edison Mirage 220 kV Interconnection Agreement to be effective 2/20/2014.
Filed Date: 3/24/14.
Accession Number: 20140324–5006.
Comments Due: 5 p.m. ET 4/14/14.

Docket Numbers: ER14–1556–000.
Applicants: Commonwealth Edison Company.
Description: Request for Construction Work In Progress and Abandonment Incentives of Commonwealth Edison Company.
Filed Date: 3/21/14.
Accession Number: 20140321–5183.
Comments Due: 5 p.m. ET 4/11/14.

Docket Numbers: ER14–1557–000.
Applicants: PacifiCorp.
Description: Termination of IPA Mona Relay Replacement Agreement to be effective 6/8/2014.
Filed Date: 3/24/14.
Accession Number: 20140324–5080.
Comments Due: 5 p.m. ET 4/14/14.

Docket Numbers: ER14–1558–000.
Applicants: PJM Interconnection, L.L.C.
Description: Original Service Agreement No. 3772; Queue No. Y2–088 to be effective 2/20/2014.
Filed Date: 3/24/14.
Accession Number: 20140324–5086.
Comments Due: 5 p.m. ET 4/14/14.

Docket Numbers: ER14–1559–000.
Applicants: PJM Interconnection, L.L.C.
Description: PJM submits Original Service Agreement No. 3792; Queue No. Z1–050 to be effective 2/21/2014.
Filed Date: 3/24/14.
Accession Number: 20140324–5103.
Comments Due: 5 p.m. ET 4/14/14.

Docket Numbers: ER14–1560–000.
Applicants: Southern California Edison Company.
Description: CLGIA and Distrib Service Agmt with Tulare 1, LLC, Tulare 2, LLC, Tulare 3, LLC to be effective 3/25/2014.
Filed Date: 3/24/14.
Accession Number: 20140324–5110.
Comments Due: 5 p.m. ET 4/14/14.

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: March 24, 2014.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2014–07089 Filed 3–28–14; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings

Take notice that the Commission has received the following Natural Gas Pipeline Rate and Refund Report filings:

Filings Instituting Proceedings

Docket Numbers: RP14–631–000.
Applicants: Wyoming Interstate Company, L.L.C.
Description: Transportation Agreements Filing (EnerVest Funds) to be effective 4/1/2014.
Filed Date: 3/20/14.
Accession Number: 20140320–5102.
Comments Due: 5 p.m. ET 4/1/14.

Docket Numbers: RP14–632–000.
Applicants: Texas Gas Transmission, LLC.
Description: Neg Rate Agmt from Perm Cap Release (Aventine 26783 to Valero 33854) to be effective 3/22/2014.
Filed Date: 3/21/14.
Accession Number: 20140321–5080.
Comments Due: 5 p.m. ET 4/2/14.

Docket Numbers: RP14–633–000.
Applicants: Enable Gas Transmission, LLC.
Description: Annual Revenue Crediting Filing of Enable Gas Transmission, LLC.
Filed Date: 3/21/14.
Accession Number: 20140321–5180.
Comments Due: 5 p.m. ET 4/2/14.

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 March 24, 2014.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2014–07090 Filed 3–28–14; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. NJ14–9–000]

Oncor Electric Delivery Company LLC; Notice of Filing

Take notice that on March 19, 2014, Oncor Electric Delivery Company LLC submitted its tariff filing per 35.28(e): Oncor Tex-La Tariff Rate Changes effective September 25, 2011.

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. Such notices, motions, or protests must be filed on or before the comment date. On or before the comment date, it is not necessary to serve motions to intervene or protests on persons other than the Applicant.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov*. Persons unable to file electronically should submit an original and 5 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov*, using the ''eLibrary'' link and is available for

review in the Commission's Public Reference Room in Washington, DC. There is an ''eSubscription'' link on the Web site that enables subscribers to receive email notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please email *FERCOnlineSupport@ferc.gov*, or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Comment Date: 5:00 p.m. Eastern Time on April 9, 2014.

Dated: March 25, 2014.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2014–07094 Filed 3–28–14; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER14–1569–000]

Dynegy Energy Services, 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 Dynegy Energy Services, LLC's application for market-based rate authority, with an accompanying rate tariff, noting that such application includes a request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability.

Any person desiring to intervene or to protest should file with the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant.

Notice is hereby given that the deadline for filing protests with regard to the applicant's request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability, is April 14, 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 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: March 25, 2014.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2014–07093 Filed 3–28–14; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER14–1439–000]

TrailStone 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 TrailStone Power, LLC's application for market-based rate authority, with an accompanying rate tariff, noting that such application includes a request for blanket authorization, under 18 CFR Part 34, of future issuances of securities and assumptions of liability.

Any person desiring to intervene or to protest should file with the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant.

Notice is hereby given that the deadline for filing protests with regard to the applicant's request for blanket authorization, under 18 CFR Part 34, of future issuances of securities and assumptions of liability, is April 14, 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 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: March 25, 2014.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2014–07092 Filed 3–28–14; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER14–1548–000]

Cooper Mountain Solar 3, 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 Cooper Mountain Solar 3, LLC's application for market-based rate authority, with an accompanying rate tariff, noting that such application includes a request for blanket authorization, under 18 CFR Part 34, of future issuances of securities and assumptions of liability.

Any person desiring to intervene or to protest should file with the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426, in accordance with Rules 211 and 214

of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant.

Notice is hereby given that the deadline for filing protests with regard to the applicant's request for blanket authorization, under 18 CFR Part 34, of future issuances of securities and assumptions of liability, is April 14, 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 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: March 24, 2014.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2014–06986 Filed 3–28–14; 8:45 am]

BILLING CODE 6717–01–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–9908–92–OARM; EPA–HQ–OARM–2014–0226]

Public Availability of Environmental Protection Agency FY 2013 Service Contract Inventory

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of Public Availability of FY 2013 Service Contract Inventories.

SUMMARY: In accordance with Section 743 of Division C of the Consolidated Appropriations Act of 2010 (Pub. L. 111–117), the Environmental Protection Agency (EPA) is publishing this notice to advise the public of the availability of the FY 2013 Service Contract Inventory. This inventory provides information on service contract actions over $25,000 that were made in FY 2013. The information is organized by function to show how contracted resources are distributed throughout the Agency. The inventory has been developed in accordance with guidance issued by the Office of Management and Budget's Office of Federal Procurement Policy (OFPP), *Service Contract Inventories (December 19, 2011).* The Environmental Protection Agency has posted its inventory and a summary of the inventory on the EPA's homepage at the following link: *http://www.epa.gov/oam/inventory/inventory.htm*

FOR FURTHER INFORMATION CONTACT: Questions regarding the service contract inventory should be directed to Linear Cherry in the Office of Acquisition Management, Policy, Training, and Oversight Division (3802R), Financial Analysis and Oversight Service Center, Environmental Protection Agency, 1200 Pennsylvania Avenue NW., Washington, DC 20460; telephone number: (202) 564–4403; email address: *cherry.linear@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. General Information

How can I get copies of this docket and other related information?

1. The EPA has established a docket for this action under Docket ID No. EPA–HQ–OARM–2014–0226. Publicly available docket materials are available either electronically through *www.regulations.gov* or in hard copy at the FY 2013 Service Contract Inventory Docket in the EPA Docket Center, (EPA/DC) EPA West, Room 3334, 1301 Constitution Avenue NW., Washington, DC. The EPA Docket Center Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566–1744, and the telephone number for the FY 2013 Service Contract Inventory Docket is (202) 566–1752.

2. *Electronic Access.* You may access this **Federal Register** document electronically through the EPA Internet under the ''**Federal Register**'' listings at *http://www.epa.gov/fedrgstr/.*

Dated: March 21, 2014.

Thomas W. Dussault,

Acting Director, Office of Acquisition Management.

[FR Doc. 2014–07104 Filed 3–28–14; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

Notice of Public Information Collection(s) being Reviewed by the Federal Communications Commission, Comments Requested.

AGENCY: Federal Communications Commission.

ACTION: Notice; 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 (FCC) 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 further ways to 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 Control Number.

DATES: Written Paperwork Reduction Act (PRA) comments should be submitted on or before May 30, 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 FCC contact listed below as soon as possible.

ADDRESSES: Submit your PRA comments to Leslie F. Smith, Office of Managing Director (OMD), Federal

Communications Commission (FCC), via the Internet at *Leslie.Smith@fcc.gov.* To submit your PRA comments by email, send them to *PRA@fcc.gov.*

FOR FURTHER INFORMATION CONTACT: For additional information, contact Leslie F. Smith at (202) 418–0217, or via the Internet at *PRA@fcc.gov.*

SUPPLEMENTARY INFORMATION:

OMB Control Number: 3060–0470.

Title: Section 64.901, Allocation of Cost; Section 64.903, Cost Allocation Manuals; and RAO Letters 19 and 26.

Form Number: N/A.

Type of Review: Extension of a currently approved collection.

Respondents: Business or other for-profit.

Number of Respondents: 1 respondent; 2 responses.

Estimated Time per Response: 200 hours.

Frequency of Response: On occasion and annual reporting requirements.

Obligation to Respond: Required to obtain or retain benefits. Statutory authority for this information collection is contained in 47 U.S.C. 151, 154, 201–205, 215, and 218–220.

Total Annual Burden: 400 hours.

Total Annual Cost: No cost.

Privacy Act Impact Assessment: No impact(s).

Nature and Extent of Confidentiality: The information is not of a confidential nature. Respondents who believe that certain information to be of a proprietary nature may solicit confidential treatment in accordance with 47 CFR 0.459 of the Commission's rules.

Needs and Uses: Section 64.901 requires carriers to separate their regulated costs from nonregulated costs using the attributable cost method of cost allocation. Carriers must follow the principles described in section 64.901. Carriers subject to section 64.901 are also subject to the provisions of 47 CFR 32.23 and 32.27 of the Commission's rules. Section 64.903(a) requires each local exchange carrier with annual operating revenues that equal or exceed the indexed revenue threshold, as defined in 47 CFR 32.9000, to file with the Commission a manual containing information regarding its allocation of costs between regulated and non-regulated activities. Section 64.903(b) requires that carriers update their cost allocation manuals (CAMs) at least annually; except that changes to the cost apportionment table and the description of time reporting procedures must be filed at the time of implementation. Proposed changes in the description of time reporting procedures, the statement concerning affiliate transactions, and the cost apportionment table must be accompanied by a statement quantifying the impact of each change on regulated operations. Changes in the description of time reporting procedures and the statement concerning affiliate transactions must be quantified in $100,000 increments at the account level. Changes in the cost apportionment table must be quantified in $100,000 increments at the cost pool level. Moreover, filing of CAMs and occasional updates are subject to the uniform format and standard procedures specified in Responsible Accounting Officer (RAO) Letter 19. RAO Letter 26 provides guidance to carriers in revising their CAMs to reflect changes to the affiliate transactions rules pursuant to the Accounting Safeguards Order (FCC 96–490). The CAM is reviewed by the Commission to ensure that all costs are properly classified between regulated and nonregulated activity. Uniformity in the CAMs helps improve the joint cost allocation process. In addition, this uniformity gives the Commission greater reliability in financial data submitted by the carriers through the Automated Reporting Management Information System (ARMIS). In a *Memorandum Opinion and Order* in WC Docket No. 07–21 (FCC 08–120) the Commission forbore from many of its cost allocation rules as they apply to the former Bell Operating Companies. As reflected in the May 2011 update to this information collection, this decreased the number of respondents affected by the requirements of these rule sections. We are not changing the number of respondents with this submission.

Federal Communications Commission.

Gloria J. Miles,

Federal Register Liaison, Office of the Secretary, Office of Managing Director.

[FR Doc. 2014–07053 Filed 3–28–14; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

[GN Docket No. 12–268; DA 14–389]

Media Bureau Seeks Comment on Widelity Report and Catalog of Potential Expenses and Estimated Costs

AGENCY: Federal Communications Commission.

ACTION: Notice.

SUMMARY: In this Public Notice, the Federal Communications Commission (Commission) seeks comment on a Report and Catalog produced by a third-party contractor, Widelity Inc. (Widelity), that describes the process and costs associated with the post-Incentive Auction transition. In order to disburse money from the $1.75 billion TV Broadcaster Relocation Fund within the limitations of the Spectrum Act, the Commission seeks further comment on the Report and the Catalog, including both the categories of costs and the prices suggested by Widelity. The record obtained in response to the Public Notice will help develop a final Catalog of Eligible Expenses and other reimbursement provisions that govern disbursement from the Fund to broadcasters and MVPDs in the post-Incentive Auction transition.

DATES: Comments are due on or before April 21, 2014 and reply comments are due on or before May 6, 2014.

ADDRESSES: All filings must be addressed to the Commission's Secretary, Office of the Secretary, Federal Communications Commission, 445 12th Street SW., Washington, DC 20554. Commercial overnight mail (other than U.S. Postal Service Express Mail and Priority Mail) must be sent to 9300 East Hampton Drive, Capitol Heights, MD 20743. U.S. Postal Service first-class, Express, and Priority mail must be addressed to 445 12th Street SW., Washington DC 20554. Parties shall also serve one copy with the Commission's copy contractor, Best Copy and Printing, Inc. (BCPI), Portals II, 445 12th Street SW., Room CY–B402, Washington, DC 20554, (202) 488–5300, or via email to *fcc@bcpiweb.com.*

FOR FURTHER INFORMATION CONTACT: Mary Margaret Jackson, 202–418–3641, Pamela Gallant, 202–418–0614, or Kim Matthews, 202–418–2154.

SUPPLEMENTARY INFORMATION: The Commission engaged Widelity to aid the Commission in understanding the process and costs associated with the post-Incentive Auction transition. Widelity has produced a Report, ''Response to the Federal Communications Commission for the Broadcasters Transition Study Solicitation'' along with a ''Catalog of Potential Expenses and Estimated Costs.'' In producing both of these items, Widelity conducted confidential interviews of a broad range of industry players, including TV broadcast group engineers, radiofrequency and structural engineers, suppliers, support companies, manufacturers, attorneys, and network engineers. The Report recognizes that the post-Incentive Auction repacking process will be complex, but concludes that, with cooperation, patience, creative problem solving, and guidance from the Commission and industry groups, the

transition can be achieved with the desired outcomes. The Catalog, a prior version of which was released in September 2013, now includes Widelity's suggested prices, or range of suggested prices, for many Catalog items. Widelity developed the suggested prices by conducting confidential interviews with buyers and sellers of equipment and services with direct knowledge of pricing. The Commission had no role in the development of the suggested prices. The suggested prices are estimates only and are not meant to indicate that reimbursement will reflect the suggested prices. The Media Bureau seeks additional input from interested parties on the Report and the Catalog, including on the suggested prices, as well as any further comments on the categories of costs included. A final Catalog of Eligible Expenses and Estimated Costs will be released prior to the auction.

Federal Communications Commission.

William T. Lake,

Chief, Media Bureau.

[FR Doc. 2014–07138 Filed 3–28–14; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL DEPOSIT INSURANCE CORPORATION

Agency Information Collection Activities: Proposed Collection Renewals; Comment Request (3064–0083, –0085, & –0120)

AGENCY: Federal Deposit Insurance Corporation (FDIC).

ACTION: Notice and request for comment.

SUMMARY: The FDIC, 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 the renewal of existing information collections, as required by the Paperwork Reduction Act of 1995 (44 U.S.C. chapter 35). Currently, the FDIC is soliciting comment on renewal of the information collections 3064–0083, 3064–0085 & 3064–0120, described below.

DATES: Comments must be submitted on or before May 30, 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 and number of the collection in the subject line of the message.
- *Mail:* Gary A. Kuiper (202.898.3877), Counsel, Room NYA–5046, Federal Deposit Insurance Corporation, 550 17th Street NW., Washington, DC 20429.
- *Hand Delivery:* Comments may be hand-delivered to the guard station at the rear of the 17th Street Building (located on F Street), on business days between 7:00 a.m. and 5:00 p.m.

All comments should refer to the relevant OMB control number. A copy of the comments may also be submitted to the OMB desk officer for the FDIC: Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Gary A. Kuiper, at the FDIC address above.

SUPPLEMENTARY INFORMATION:

Proposal To Renew the Following Currently-Approved Collections of Information

1. Title: Recordkeeping and Disclosure Requirements in Connection with Regulation M (Consumer Leasing).

OMB Number: 3064–0083.

Frequency of Response: On occasion.

Affected Public: State nonmember banks and state savings associations engaging in consumer leasing.

Estimated Number of Respondents: 1,959.

Estimated Time per Response: 75 hours.

Total Annual Burden: 146,925 hours.

General Description of Collection: Regulation M (12 CFR part 213), issued by the Board of Governors of the Federal Reserve System, implements the consumer leasing provisions of the Truth in Lending Act.

2. Title: Recordkeeping and Disclosure Requirements in Connection with Regulation B (Equal Credit Opportunity).

OMB Number: 3064–0085.

Frequency of Response: On occasion.

Affected Public: State nonmember banks and state savings associations engaging in credit transactions.

Estimated Number of Respondents: 4,398.

Estimated Time per Response: 137 hours.

Total Annual Burden: 602,389 hours.

General Description of Collection: Regulation B (12 CFR part 202), issued by the Board of Governors of the Federal Reserve System, prohibits creditors from discriminating against applicants on any of the bases specified by the Equal Credit Opportunity Act, establishes guidelines for gathering and evaluating credit information, and requires creditors to give applicants a written notification of rejection of an application.

3. Title: Flood Insurance.

OMB Number: 3064–0120.

Frequency of Response: On occasion.

Affected Public: Any depository institution that makes one or more loans to be secured by a building located on property in a special flood hazard area.

Estimated Number of Respondents/Recordkeepers: 4,421.

Estimated Reporting Hours: 4,421 × .29 hours = 76,999.

Estimated Recordkeeping Hours: 4,421 × .04 hours = 61,894 hours.

Estimated Total Annual Reporting and Recordkeeping Burden Hours: 76,999 + 61,894 = 138,893 hours.

General Description of Collection: Each supervised lending institution is currently required to provide a notice of special flood hazards to each borrower with a loan secured by a building or mobile home located or to be located in an area identified by the Director of the Federal Emergency Management Agency as being subject to special flood hazards. The Riegle Community Development Act requires that each institution must also provide a copy of the notice to the servicer of the loan (if different from the originating lender).

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 26th day of March 2014.

Federal Deposit Insurance Corporation.

Robert E. Feldman,

Executive Secretary.

[FR Doc. 2014–07088 Filed 3–28–14; 8:45 am]

BILLING CODE 6714–01–P

FEDERAL FINANCIAL INSTITUTIONS EXAMINATION COUNCIL

[Docket No. AS14–03]

Meeting of the Appraisal Subcommittee Advisory Committee for Development of Regulations

AGENCY: Appraisal Subcommittee of the Federal Financial Institutions Examination Council.

ACTION: Notice of open meeting.

SUMMARY: The Appraisal Subcommittee Advisory Committee for Development of Regulations (ASCAC or Committee) will meet in open session on Wednesday, April 16, 2014 from 9:00 a.m. to 5:00 p.m. and Thursday, April 17, 2014 from 9:00 a.m. to 1:00 p.m. All times are in the Eastern time zone. The primary purposes of this meeting are to approve the ASCAC Bylaws, set Committee objectives and priorities, discuss the reporting timeline for reporting to the Appraisal Subcommittee (ASC), and potential sanctions. The final agenda will be posted on the ASC Web site at *https://www.asc.gov*.

DATES: ASCAC will meet on Wednesday, April 16, 2014 from 9:00 a.m. to 5:00 p.m. and Thursday, April 17, 2014 from 9:00 a.m. to 1:00 p.m. All times are in the Eastern time zone. The meeting will be open to the public.

ADDRESSES: The meeting will be held at the Office of the Comptroller of the Currency, 400 7th Street SW., Washington, DC 20219. Please note admittance instructions under the **SUPPLEMENTARY INFORMATION** section of this notice.

FOR FURTHER INFORMATION CONTACT: Ms. Lori Schuster, Designated Federal Officer, Appraisal Subcommittee, 1401 H Street NW., Suite 760, Washington, DC 20005; telephone 202–595–7578; or via email at *Lori@asc.gov*.

SUPPLEMENTARY INFORMATION:

Background: The Committee was established in accordance with the Federal Advisory Committee Act, as amended, 5. U.S.C. App. The Committee is composed of seventeen members nominated by the ASC Executive Director and approved by the Chairman of the ASC in consultation with ASC members. ASCAC members will represent a balance of expertise across the broad range of industry participants, including appraisers, lenders, consumer advocates, real estate agents, and government agencies. All ASCAC members will have extensive experience concerning the appraiser regulatory framework for federally related transactions.

The ASC oversees the real estate appraisal process as it relates to federally related transactions as defined in Title XI of the Financial Institutions Reform, Recovery and Enforcement Act of 1989. The 2010 Dodd-Frank Wall Street Reform and Consumer Protection Act included amendments to Title XI and expanded the ASC's authority to include rulemaking authority in four areas:

(1) Temporary practice; (2) national registries; (3) information sharing; and (4) enforcement. The ASC is primarily seeking independent advice from ASCAC concerning sanctions ASCAC deems advisable for purposes of enforcement of regulations promulgated by the ASC to State appraiser regulatory programs.

Procedures for Attendance and Public Comment: Persons wishing to attend the meeting must notify Ms. Lori Schuster via email at *Lori@asc.gov* or phone at (202) 595–7578 by 5:00 p.m. Eastern time, Monday, April 14, 2014, in order to attend. As the meeting will be held at the OCC, attendees must have a valid government-issued photo ID and must agree to submit to reasonable security measures. Please allow ample time for security screening.

There will be a public comment period, not to exceed thirty minutes, the morning of April 16, 2014. The public comment period is not intended to be a Q&A session. To register to comment, please contact Ms. Lori Schuster at *Lori@asc.gov* or 202–595–7578. Registered speakers/organizations will be allowed a maximum of 5 minutes each and will need to provide written copies of their presentations. Requests to comment at the meeting must be received by 5:00 p.m. Eastern time on April 10, 2014. Written comments also may be provided to Ms. Lori Schuster at *Lori@asc.gov* until 5:00 p.m. Eastern time, Thursday, April 10, 2014.

Dated: March 25, 2014.

James R. Park,

Executive Director.

[FR Doc. 2014–07071 Filed 3–28–14; 8:45 am]

BILLING CODE 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 April 23, 2014.

A. Federal Reserve Bank of St. Louis (Yvonne Sparks, Community Development Officer) P.O. Box 442, St. Louis, Missouri 63166–2034:

1. *Jamesmark Bancshares, Inc.,* Springfield, Missouri; to acquire 80 percent or more of the voting shares of Bank of Ash Grove, Ash Grove, Missouri.

2. *United Holding Company Inc.,* Springdale, Arkansas; to become a bank holding company by converting its subsidiary bank, United Bank, Springdale, Arkansas, from a federal savings bank to a state-charted bank.

Board of Governors of the Federal Reserve System, March 26, 2014.

Michael J. Lewandowski,

Assistant Secretary of the Board.

[FR Doc. 2014–07076 Filed 3–28–14; 8:45 am]

BILLING CODE 6210–01–P

FEDERAL RESERVE SYSTEM

Formations of, Acquisitions by, and Mergers of Savings and Loan Holding Companies

The companies listed in this notice have applied to the Board for approval, pursuant to the Home Owners' Loan Act (12 U.S.C. 1461 *et seq.*) (HOLA), Regulation LL (12 CFR part 238), and Regulation MM (12 CFR part 239), and all other applicable statutes and regulations to become a savings and loan holding company and/or to acquire the assets or the ownership of, control

of, or the power to vote shares of a savings association and nonbanking companies owned by the savings and loan 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 application also will 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 HOLA (12 U.S.C. 1467a(e)). 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 10(c)(4)(B) of the HOLA (12 U.S.C. 1467a(c)(4)(B)). 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 April 23, 2014.

A. Federal Reserve Bank of Philadelphia (William Lang, Senior Vice President) 100 North 6th Street, Philadelphia, Pennsylvania 19105–1521:

1. *Kearny MHC and Kearny Financial Corporation,* both of Kearny, New Jersey; to acquire 100 percent of Atlas Bank, Brooklyn, New York, and merge it with and into Kearny Federal Savings Bank, Kearny, New Jersey.

Board of Governors of the Federal Reserve System, March 26, 2014.

Michael J. Lewandowski,

Assistant Secretary of the Board.

[FR Doc. 2014–07077 Filed 3–28–14; 8:45 am]

BILLING CODE 6210–01–P

GOVERNMENT ACCOUNTABILITY OFFICE

Advisory Council on the Standards for Internal Control in the Federal Government; Meeting

AGENCY: U.S. Government Accountability Office.

ACTION: Notice of meeting.

SUMMARY: The U.S. Government Accountability Office (GAO) is completing the revision of the Standards for Internal Control in the Federal Government ''Green Book'' under our authority in 31 U.S.C. 3512 (c), (d) (commonly known as the Federal Managers' Financial Integrity Act). As part of the revision process, GAO has established and is holding a meeting with the Green Book Advisory Council (GBAC) prior to the release of the revised Green Book. The Comptroller General established the GBAC to provide input and recommendations to the Comptroller General on revisions to the Green Book. The purpose of the meeting is to discuss comments GAO received on the Green Book exposure draft (FR 52532) and proposed revisions to the Green Book in response to the comments.

DATES: The meeting will be held on Wednesday, May 21, 2014, from 9:00 a.m. to 3:00 p.m.

ADDRESSES: The meeting will be held at the U.S. Government Accountability Office, 441 G St. NW., Washington, DC 20548, in the 7th floor Staats Briefing Room, Room 7C13.

FOR FURTHER INFORMATION CONTACT: For information on the Green Book Advisory Council and the Standards for Internal Control in the Federal Government, please contact Kristen Kociolek, Assistant Director, Financial Management and Assurance, telephone 202–512–2989, 441 G Street NW., Washington, DC 20548–0001.

SUPPLEMENTARY INFORMATION: Members of the public will be provided an opportunity to address the Council with a brief (five-minute) presentation in the afternoon on matters directly related to the proposed update and revision. Any interested person who plans to attend the meeting as an observer must contact Kristen Kociolek prior to Friday, May 16, 2014. A form of picture identification must be presented to the GAO Security Desk on the day of the meeting to obtain access to the GAO building. Please enter the building at the G Street entrance.

Authority: 31 U.S.C. 3512 (c), (d).

James Dalkin,

Director, Financial Management and Assurance, U.S. Government Accountability Office.

[FR Doc. 2014–07063 Filed 3–28–14; 8:45 am]

BILLING CODE 1610–02–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Meeting of the National Biodefense Science Board

AGENCY: Office of the Secretary, Department of Health and Human Services.

ACTION: Notice.

SUMMARY: As stipulated by the Federal Advisory Committee Act, the Department of Health and Human Services (HHS) is hereby giving notice that the National Biodefense Science Board (NBSB) will be holding a public teleconference. The meeting is open to the public.

DATES: The NBSB will hold a public meeting on April 23, 2014, tentatively, from 3:00 p.m. to 4:00 p.m. ET. The agenda is subject to change as priorities dictate.

ADDRESSES: Individuals who wish to participate should send an email to *NBSB@HHS.GOV* with ''NBSB Registration'' in the subject line. The meeting will occur by teleconference. To attend via teleconference and for further instructions, please visit the NBSB Web site at *WWW.PHE.GOV/NBSB*.

FOR FURTHER INFORMATION CONTACT: The National Biodefense Science Board mailbox: *NBSB@HHS.GOV*.

SUPPLEMENTARY INFORMATION: Pursuant to section 319M of the Public Health Service Act (*42 U.S.C. 247d–7f*) and section 222 of the Public Health Service Act (*42 U.S.C. 217a*), the Department of Health and Human Services established the National Biodefense Science Board. The NBSB shall provide expert advice and guidance to the Secretary on scientific, technical, and other matters of special interest to the Department of Health and Human Services regarding current and future chemical, biological, nuclear, and radiological agents, whether naturally occurring, accidental, or deliberate. The NBSB may also provide advice and guidance to the Secretary and/or the Assistant Secretary for Preparedness and Response (ASPR) on other matters related to public health emergency preparedness and response.

Background: This public meeting via teleconference will be dedicated to the NBSB's deliberation and vote on the findings from the NBSB's Community Health Resilience Working Group. Subsequent agenda topics will be added as priorities dictate. Any additional agenda topics will be available on the NBSB' April 23, 2014, meeting Web page, available at *WWW.PHE.GOV/NBSB*.

Availability of Materials: The meeting agenda and materials will be posted prior to the meeting on the April meeting Web page at *WWW.PHE.GOV/NBSB*.

Procedures for Providing Public Input: Members of the public are invited to attend by teleconference via a toll-free call-in phone number which is available on the NBSB Web site at *WWW.PHE.GOV/NBSB*. All members of the public are encouraged to provide written comment to the NBSB. All written comments must be received

prior to April 23, 2014, and should be sent by email to *NBSB@HHS.GOV* with ''NBSB Public Comment'' as the subject line. Public comments received by close of business one week prior to each teleconference will be distributed to the NBSB in advance.

Dated: March 20, 2014.

Nicole Lurie,

Assistant Secretary for Preparedness and Response.

[FR Doc. 2014–06996 Filed 3–28–14; 8:45 am]

BILLING CODE P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Agency for Healthcare Research and Quality

Agency Information Collection Activities: Proposed Collection; Comment Request

AGENCY: Agency for Healthcare Research and Quality, HHS.

ACTION: Notice.

SUMMARY: This notice announces the intention of the Agency for Healthcare Research and Quality (AHRQ) to request that the Office of Management and Budget (OMB) approve the proposed changes to the currently approved information collection project: *''Medical Expenditure Panel Survey—Insurance Component.''* In accordance with the Paperwork Reduction Act, 44 U.S.C. 3501–3521, AHRQ invites the public to comment on this proposed information collection.

This proposed information collection was previously published in the **Federal Register** on January 10th, 2014 and allowed 60 days for public comment. One comment was received. The purpose of this notice is to allow an additional 30 days for public comment.

DATES: Comments on this notice must be received by April 30, 2014.

ADDRESSES: Written comments should be submitted to: Doris Lefkowitz, Reports Clearance Officer, AHRQ, by email at *doris.lefkowitz@AHRQ.hhs.gov.*

Copies of the proposed collection plans, data collection instruments, and specific details on the estimated burden can be obtained from the AHRQ Reports Clearance Officer.

FOR FURTHER INFORMATION CONTACT: Doris Lefkowitz, AHRQ Reports Clearance Officer, (301) 427–1477, or by email at *doris.lefkowitz@AHRQ.hhs.gov.*

SUPPLEMENTARY INFORMATION:

Proposed Project

Medical Expenditure Panel Survey—Insurance Component

Employer-sponsored health insurance is the source of coverage for 85 million current and former workers, plus many of their family members, and is a cornerstone of the U.S. health care system. The Medical Expenditure Panel Survey—Insurance Component (MEPS–IC) measures the extent, cost, and coverage of employer-sponsored health insurance on an annual basis. Statistics are produced at the National, State, and sub-State (metropolitan area) level for private industry. Statistics are also produced for State and Local governments. The MEPS–IC was last approved by OMB on November 21st, 2013 and will expire on November 30th, 2016. The OMB control number for the MEPS–IC is 0935–0110. All of the supporting documents for the current MEPS–IC can be downloaded from OMB's Web site at *http://www.reginfo.gov/public/do/PRAViewDocument?ref_nbr=201310-0935-001.*

In order to ensure that the MEPS–IC is able to capture important changes in the employer-sponsored health insurance market due to the implementation of the Patient Protection and Affordable Care Act (PPACA), a group was formed within AHRQ to research and propose revisions to the 2014 survey questionnaires based on the law's provisions. Many of these updates are related to the implementation of the Small Business Health Options Program (SHOP) exchanges/marketplaces that are available to small employers for purchasing health insurance beginning in 2014.

The group's proposals were sent to a variety of federal and private stakeholders to obtain their suggestions and comments. These stakeholders included the U.S. Department of Health and Human Services' Assistant Secretary for Planning and Evaluation (ASPE), the Center for Medicare & Medicaid Services' (CMS) Center for Consumer Information and Insurance Oversight, the CMS Office of the Actuary, the National Center for Health Statistics, the President's Council of Economic Advisors, the Office of Management and Budget, the Bureau of Labor Statistics, the Employee Benefits Security Administration, the Bureau of the Census, and health insurance researchers at various universities and other not-for-profit organizations. These reviewers' comments were invaluable, and are reflected in the questions proposed herein.

In addition to the new questions recommended for 2014, several questions in the 2013 survey are proposed for deletion as part of the 2014 improvements. These deletions are necessary to minimize the burden on survey respondents and are limited to those questions with less analytic value, with poor response rates, or those that are no longer relevant due to changes made under PPACA.

Unlike for previous years' additions to the MEPS–IC questionnaires, the Bureau of the Census—which conducts and processes the survey on AHRQ's behalf—was not able to pretest the proposed 2014 questions. Many of the new questions relate to PPACA requirements or options (such as the SHOP marketplaces) which did not exist prior to the deadline for preparation of the 2014 questionnaires. So employers would not yet have made changes to their health insurance coverage that could be researched to help in the development of the new questions.

For all establishment-level MEPS–IC forms, AHRQ proposes to make the following changes. As noted below, some new questions only will be asked of private-sector establishments with certain firm sizes (defined by number of employees) or comparably-sized government units:

Additions

<=50 firm size only:

- Did you offer health insurance through a small business (SHOP) exchange or marketplace in your State? *Yes/No/Don't Know*

All firm sizes, except very large businesses:

- Last year, did your organization offer health insurance as a benefit to its employees at this location? *Yes, offered in 2013/No, did not offer in 2013/Don't Know*

All firm sizes:

- How many employees reported in Question 2a above worked less than 30 hours per week? _____ *employees*

Check box: No employees worked less than 30 hours

- Are employees' spouses eligible for health insurance coverage through your organization? *All spouses are eligible/Only spouses not eligible through their own employer/No spouses eligible/Don't Know*

Deletions

- Did your organization offer any health insurance as a benefit to its employees at this location between January 1, 2009 and December 31, 2013? *Yes/No*
- What was the last year your organization offered health insurance

coverage to its employees at this location? _____ *Last year offered*

• Did your organization offer health insurance to its temporary or seasonal employees at this location in 2014? *Yes/No/Organization has no temporary or seasonal employees/Don't Know*

For all plan-level MEPS–IC forms, AHRQ proposes to make the following changes. As noted below, some new questions only will be asked of private-sector establishments with certain firm sizes or comparably-sized government units:

Additions

<=50 firm size only:

• Health insurance plans are classified into different metal levels or tiers based on their level of benefits and cost-sharing provisions. Which level or tier was this plan in? *Bronze/Silver/Gold/Platinum/Don't Know*

>50 firm size only:

• What is the actuarial value of this plan?

T*he actuarial value is the percentage of medical expenses paid by the plan, rather than out-of-pocket by a covered person.* _____ %

Check box: Do not know actuarial value

All firm sizes:

• You reported the total premium for a typical employee for SINGLE coverage. Did this premium vary for individual employees depending on their ages? *Yes/No/Don't Know*

• Did the amount individual employees contributed toward their single coverage vary by any of these characteristics?

- *Participation/achievement in fitness/weight loss program*
  - *Yes*
  - *No*
  - *Don't Know*
- *Participation/achievement in smoking cessation program*
  - *Yes*
  - *No*
  - *Don't Know*
- *Participation/achievement in wellness/health monitoring program*
  - *Yes*
  - *No*
  - *Don't Know*
- *Employee age*
  - *Yes: go to question below*
  - *No*
  - *Don't Know*
- *Other*
  - *Yes*
  - *No*
  - *Don't Know*

• How did individual employees' contributions vary by age? *Employer pays same percent of premium, and premiums vary by age/Employer pays the same dollar amount toward premium, and premiums vary by age/Other/Don't Know*

• Did the total premium for FAMILY coverage vary depending on the number of family members covered by the plan? *Yes/No/Don't Know*

• How much and/or what percentage did an enrollee pay out-of-pocket for each type of prescription drug covered?

- *Generic*
  - *$_____ Copay AND/OR _____ % Coinsurance*
- *Preferred Brand Name*
  - *$_____ Copay AND/OR _____ % Coinsurance*
- *Non-preferred Brand Name*
  - *$_____ Copay AND/OR _____ % Coinsurance*

Deletions

• Did the PREMIUMS for this insurance plan vary by any of these characteristics? *Age/Gender/Wage or salary levels/Smoker/Non-smoker status/Other*

• Did the amount an EMPLOYEE CONTRIBUTED toward his/her own coverage vary by any of these employee characteristics? *Hours worked/Union status/Wage or salary levels/Occupation/Length of employment/Participation in a fitness/Weight loss program/Participation in a smoking cessation program/Other*

• How much and/or what percentage did an enrollee pay out-of-pocket for the lowest tier of prescription drug coverage? *$ copayment/% coinsurance*

• Could this plan have refused to cover persons with pre-existing medical or health conditions? *Yes/No*

• Did this plan have a policy requiring a waiting period before covering pre-existing conditions? *Yes/No*

The MEPS Definitions form—MEPS–20(D)—will also be updated with new definitions for terms used in these new questions (and the deletion of terms used only in the deleted questions).

There are no changes to the 2014 MEPS–IC survey estimates of cost and hour burdens due to these proposed question changes. The response rate for the MEPS–IC survey also is not expected to change due to these proposed changes.

The MEPS–IC is conducted pursuant to AHRQ's statutory authority to conduct surveys to collect data on the cost, use and quality of health care, including the types and costs of private health insurance. 42 U.S.C. 299b–2(a).

Method of Collection

There are no changes to the current data collection methods.

Estimated Annual Respondent Burden

There are no changes to the current burden estimates.

Estimated Annual Costs to the Federal Government

There are no changes to the current cost estimates.

Request for Comments

In accordance with the Paperwork Reduction Act, comments on AHRQ's information collection are requested with regard to any of the following: (a) Whether the proposed collection of information is necessary for the proper performance of AHRQ healthcare research and healthcare information dissemination functions, including whether the information will have practical utility; (b) the accuracy of AHRQ's estimate of burden (including hours and costs) of the proposed collection(s) 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 upon the respondents, including the use of automated collection techniques or other forms of information technology.

Comments submitted in response to this notice will be summarized and included in the Agency's subsequent request for OMB approval of the proposed information collection. All comments will become a matter of public record.

Dated: March 21, 2014.

Richard Kronick,

Director.

[FR Doc. 2014–07110 Filed 3–28–14; 8:45 am]

BILLING CODE 4160–90–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Agency for Healthcare Research and Quality

Patient Safety Organizations: Expired Listing From Society of Hospital Medicine PSO

AGENCY: Agency for Healthcare Research and Quality (AHRQ), Department of Health and Human Services (HHS).

ACTION: Notice of Delisting.

SUMMARY: The Patient Safety and Quality Improvement Act of 2005, 42 U.S.C. 299b–21 to b–26, (Patient Safety Act) and the related Patient Safety and Quality Improvement Final Rule, 42 CFR Part 3 (Patient Safety Rule), published in the **Federal Register** on November 21, 2008, 73 FR 70732–70814, provide for the formation of

Patient Safety Organizations (PSOs), which collect, aggregate, and analyze confidential information regarding the quality and safety of healthcare delivery. The Patient Safety Rule authorizes AHRQ, on behalf of the Secretary of HHS, to list as a PSO an entity that attests that it meets the statutory and regulatory requirements for listing. A PSO can be ''delisted'' by the Secretary if it is found to no longer meet the requirements of the Patient Safety Act and Patient Safety Rule, when a PSO chooses to voluntarily relinquish its status as a PSO for any reason, or when a PSO's listing expires. The listing from the Society of Hospital Medicine PSO has expired and AHRQ has delisted the PSO accordingly.

DATES: The directories for both listed and delisted PSOs are ongoing and reviewed weekly by AHRQ. The delisting was effective at 12:00 Midnight ET (2400) on February 15, 2014.

ADDRESSES: Both directories can be accessed electronically at the following HHS Web site: *http://www.pso.AHRQ.gov/index.html*.

FOR FURTHER INFORMATION CONTACT: Eileen Hogan, Center for Quality Improvement and Patient Safety, AHRQ, 540 Gaither Road, Rockville, MD 20850; Telephone (toll free): (866) 403–3697; Telephone (local): (301) 427–1111; TTY (toll free): (866) 438–7231; TTY (local): (301) 427–1130; Email: *pso@AHRQ.hhs.gov*.

SUPPLEMENTARY INFORMATION:

Background

The Patient Safety Act authorizes the listing of PSOs, which are entities or component organizations whose mission and primary activity are to conduct activities to improve patient safety and the quality of health care delivery.

HHS issued the Patient Safety Rule to implement the Patient Safety Act. AHRQ administers the provisions of the Patient Safety Act and Patient Safety Rule relating to the listing and operation of PSOs. The Patient Safety Rule authorizes AHRQ to list as a PSO an entity that attests that it meets the statutory and regulatory requirements for listing. A PSO can be ''delisted'' if it is found to no longer meet the requirements of the Patient Safety Act and Patient Safety Rule, when a PSO chooses to voluntarily relinquish its status as a PSO for any reason, or when the PSO's listing expires. Section 3.108(d) of the Patient Safety Rule requires AHRQ to provide public notice when it removes an organization from the list of federally approved PSOs.

The Society of Hospital Medicine PSO, PSO number P0105, a component entity of the Society of Hospital Medicine, chose to let its listing expire by not seeking continued listing. Accordingly, Society of Hospital Medicine PSO was delisted effective at 12:00 Midnight ET (2400) on February 15, 2014.

More information on PSOs can be obtained through AHRQ's PSO Web site at *http://www.pso.AHRQ.gov/index.html*.

Dated: March 21, 2014.

Richard Kronick,

Director.

[FR Doc. 2014–07097 Filed 3–28–14; 8:45 am]

BILLING CODE 4160–90–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Community Living

Agency Information Collection Activities; Submission for OMB Review; Comment Request; National Survey of Older Americans Act Participants

AGENCY: Administration for Community Living, HHS.

ACTION: Notice.

SUMMARY: The Administration for Community Living (ACL) is announcing that the proposed collection of information listed below has been submitted to the Office of Management and Budget (OMB) for review and clearance under the Paperwork Reduction Act of 1995.

DATES: Submit written comments on the collection of information by April 30, 2014.

ADDRESSES: Submit written comments on the collection of information by fax 202.395.5806 or by email to *OIRA_submission@omb.eop.gov,* Attn: OMB Desk Officer for ACL.

FOR FURTHER INFORMATION CONTACT: Elena Fazio at 202–357–3583 or email: *elena.fazio@acl.hhs.gov.*

SUPPLEMENTARY INFORMATION: In compliance with 44 U.S.C. 3507, ACL has submitted the following proposed collection of information to OMB for review and clearance.

The National Survey of Older Americans Act (OAA) Participants information collection, which builds on earlier national pilot studies and surveys, as well as performance measurement tools developed by ACL grantees in the Performance Outcomes Measures Project (POMP), will include consumer assessment surveys for the Congregate and Home-delivered meal nutrition programs; Case Management, Homemaker, and Transportation Services; and the National Family Caregiver Support Program. This information will be used by ACL to track performance outcome measures; support budget requests; comply with GPRA Modernization Act of 2010 (GPRAMA) reporting requirements; provide national benchmark information; and inform program development and management initiatives. Descriptions of previous National Surveys of OAA Participants can be found under the section on OAA Performance Outcomes on ACL's Web site at: *http://www.aoa.gov/AoARoot/Program_Results/OAA_Performance.aspx.* Copies of the survey instruments and data from previous National Surveys of OAA Participants can be found and queried using the AGing Integrated Database (AGID) at *http://www.agid.acl.gov/.* The proposed Ninth National Survey entitled Ninth National Survey of OAA Participants, draft, March 6, 2014 may be found on the ACL Web site at *http://www.aoa.gov/AoARoot/Program_Results/OAA_Performance.aspx.*

AoA estimates the burden of this collection of information as follows: Respondents: Individuals; Number of Respondents: 6,250; Number of Responses per Respondent: one; Average Burden per Response: 6000 at 40 minutes, 250 at 4 hours: Total Burden: 5,000 hours.

Dated: March 26, 2014.

Kathy Greenlee,

Administrator and Assistant Secretary for Aging.

[FR Doc. 2014–07148 Filed 3–28–14; 8:45 am]

BILLING CODE 4154–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2002–D–0094]

Guidance for the Public, Food and Drug Administration Advisory Committee Members, and Food and Drug Administration Staff: Public Availability of Advisory Committee Members' Financial Interest Information and Waivers; Availability

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the availability of a guidance for the public, FDA advisory committee members, and

FDA staff, entitled ''Guidance for the Public, Food and Drug Administration Advisory Committee Members, and Food and Drug Administration Staff: Public Availability of Advisory Committee Members' Financial Interest Information and Waivers.'' We are issuing the guidance to help the public, FDA advisory committee members, and FDA staff to understand and implement FDA procedures regarding public availability of information regarding certain financial interests and waivers granted by FDA to permit individuals to participate in an advisory committee meeting. This guidance replaces the guidance of the same title dated March 2012.

DATES: Submit either electronic or written comments on Agency guidances at any time.

ADDRESSES: Submit written requests for single copies of this guidance to Advisory Committee Oversight and Management Staff, Office of Special Medical Programs, Office of Medical Products and Tobacco, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 32, Rm. 5103, Silver Spring, MD 20993. Send one self-addressed adhesive label to assist that office in processing your requests. See the **SUPPLEMENTARY INFORMATION** section for electronic access to the guidance document.

Submit electronic comments on the guidance to *http://www.regulations.gov.* Submit written comments to the Division of Dockets Management (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.

FOR FURTHER INFORMATION CONTACT: Michael Ortwerth, Office of Special Medical Programs, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 32, Rm. 5103, Silver Spring, MD 20993, 301–796–8220, email: *Michael.Ortwerth@fda.hhs.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

FDA is announcing the availability of a guidance for the public, FDA advisory committee members, and FDA staff, entitled ''Guidance for the Public, Food and Drug Administration Advisory Committee Members, and Food and Drug Administration Staff: Public Availability of Advisory Committee Members' Financial Interest Information and Waivers.''

FDA's advisory committees provide independent expert advice and recommendations to the Agency on scientific, technical, and policy matters related to FDA-regulated products. In March 2012, FDA published a guidance for the public, FDA advisory committee members, and FDA staff concerning the implementation of Agency-wide procedures regarding disclosure of financial interest information that apply to all special Government employees and regular Government employees invited to participate in FDA advisory committee meetings subject to the Federal Advisory Committee Act.

Effective October 1, 2012, the Food and Drug Administration Safety and Innovation Act amended the statutory provision related to this guidance. The amendments were relatively minor. FDA is revising the March 2012 guidance to reflect these amendments and to make other non-substantive editorial changes.

This level 2 guidance is being issued consistent with FDA's good guidance practices regulation (21 CFR 10.115). The guidance represents the Agency's thinking on the public availability of waivers relating to the disclosure of conflicts of interest for advisory committee members participating in FDA advisory committee meetings. It does not create or confer any rights for or on any person and does not operate to bind FDA or the public. An alternative approach may be used if such approach satisfies the requirements of the applicable statutes and regulations.

II. Comments

Interested persons may submit either electronic comments regarding this document to *http://www.regulations.gov* or written comments to the Division of Dockets Management (see **ADDRESSES**). It is only necessary to send one set of comments. Identify comments with the docket number found in brackets in the heading of this document. Received comments may be seen in the Division of Dockets Management between 9 a.m. and 4 p.m., Monday through Friday, and will be posted to the docket at *http://www.regulations.gov.*

III. Electronic Access

Persons with access to the Internet may obtain the document at either *http://www.fda.gov/RegulatoryInformation/Guidances/ucm122045.htm* or *http://www.regulations.gov.*

Dated: March 25, 2014.

Jill Hartzler Warner,

Acting Associate Commissioner for Special Medical Programs.

[FR Doc. 2014–06997 Filed 3–28–14; 8:45 am]

BILLING CODE 4160–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2014–N–0001]

The Food and Drug Administration and Global Engagement: Progress on the Pathway to Global Product Safety

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice of public workshop.

SUMMARY: The Food and Drug Administration (FDA) Denver District Office, in cosponsorship with the Association of Food and Drug Officials (AFDO), will be hosting the 118th AFDO Annual Educational Conference. During the conference, a 2-day public workshop will be held entitled ''FDA and Global Engagement: Progress on the Pathway to Global Product Safety,'' This 2-day public workshop is intended to provide information about FDA drug and device regulation to the regulated industry.

DATES: *Dates and Times:* The conference will be held from June 21 through June 25. The public workshop, ''FDA and Global Engagement: Progress on the Pathway to Global Product Safety,'' will be held on June 23 and 24, 2014, from 10:30 a.m. to 5 p.m.

Location: The public workshop will be held at the Grand Hyatt Denver, 1750 Welton St., Denver, CO 80202, 1–303–295–1234 or toll free 800–233–1234; *http://granddenver.hyatt.com.* Attendees are responsible for their own accommodations. To make reservations at the Grand Hyatt Denver at the reduced conference rate, please go to *https://resweb.passkey.com/go/afdo2014* or call 1–303–295–1234 and mention ''AFDO Conference'' before May 21, 2014.

AFDO Contact Information: Randy Young, Association of Food and Drug Officials, 2550 Kingston Rd., Suite 311, York, PA 17402, 1–717–757–2888, FAX: 717–650–3650, *ryoung@afdo.org.*

Registration: You are encouraged to register by May 23, 2014. The AFDO registration fees cover the cost of facilities, materials, and breaks. Seats are limited; therefore, please submit your registration as soon as possible. Public workshop space will be filled in order of receipt of registration. Those accepted into the public workshop will receive confirmation. Registration will close after the public workshop is filled. Registration at the site is not guaranteed but may be possible on a space-available basis on the day of the public workshop beginning at 7:30 a.m. The cost of registration follows:

COST OF REGISTRATION *

ADFO Member	$475.00
Non-ADFO Member	575.00

* A $100 registration fee will be added if payment is postmarked after June 1, 2014.

If you need special accommodations due to a disability, please contact Randy Young (see AFDO Contact information) at least 21 days in advance of the workshop.

Registration instructions: To register, please complete and submit an AFDO Conference Registration Form, along with a check or money order payable to ''AFDO.'' Please mail your completed registration form and payment to: AFDO, 2550 Kingston Rd., Suite 311, York, PA 17402. To register online, please visit *http://www.afdo.org/conference.* (FDA has verified the Web site address, but is not responsible for subsequent changes to the Web site after this document publishes in the **Federal Register**.)

The registrar will also accept payment through Visa and MasterCard credit cards. For more information on the public workshop, or for questions about registration, please contact AFDO at 1–717–757–2888, FAX: 717–650–3650, or email: *afdo@afdo.org.*

SUPPLEMENTARY INFORMATION: The public workshop helps fulfill the Department of Health and Human Services' and FDA's important mission to protect the public health. The workshop will provide FDA-regulated drug and device entities with information on a number of topics concerning FDA requirements related to the production and marketing of drugs and/or devices. Topics for discussion include, but are not limited to the following:

- Medical Device Single Audit Program;
- Contract Manufacturing Arrangements for Drugs: Quality Agreements;
- Compliance Question and Answer Panel;
- Draft Guidance: Distinguishing Medical Device Recalls from Product Enhancements and Associated Reporting Requirements;
- Compounding Pharmacies;
- Overview of Global Device/Drug Requirements vs. U.S. System;
- Case for Quality Initiative Update;
- Unique Device Identifier Implementation Update;
- Metric, Data, and Analysis; Biometrics;
- Pharmaceutical Inspection Cooperation Scheme; and
- Biosimilar Regulations.

FDA has made education of the food, feed, drug, and device manufacturing community a high priority to help ensure the quality of FDA-regulated products. The public workshop helps to achieve objectives set forth in section 406 of the Food and Drug Administration Modernization Act of 1997 (21 U.S.C. 393) which includes working closely with stakeholders and maximizing the availability and clarity of information to stakeholders and the public. The workshop also is consistent with the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121), as outreach activities by government agencies to small businesses.

Dated: March 25, 2014.

Leslie Kux,

Assistant Commissioner for Policy.

[FR Doc. 2014–07059 Filed 3–28–14; 8:45 am]

BILLING CODE 4160–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2014–N–0001]

Pediatric 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: Pediatric 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 April 21, 2014, from 8 a.m. to 5 p.m. This is a reschedule of a postponed meeting announced in the **Federal Register** of January 14, 2014 (79 FR 2452), originally scheduled for March 3, 2014.

Location: Bethesda Marriott, 5151 Pooks Hill Rd., Bethesda, MD 20814, 301–897–9400 or visit the hotel's Web site at *http://www.marriott.com/hotels/travel/wasbt-bethesda-marriott/.*

Contact Person: Walter Ellenberg, Office of the Commissioner, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 32, rm. 5154, Silver Spring, MD 20993, 301–796–0885, email: *walter.ellenberg@fda.hhs.gov*, or FDA Advisory Committee Information Line, 1–800–741–8138 (301–443–0572 in the Washington, DC area). A notice in the **Federal Register** about last minute modifications that impact a previously announced advisory committee meeting cannot always be published quickly enough to provide timely notice. Therefore, you should always check the Agency's Web site at *http://www.fda.gov/AdvisoryCommittees/default.htm* and scroll down to the appropriate advisory committee meeting link, or call the advisory committee information line to learn about possible modifications before coming to the meeting.

Agenda: On April 21, 2014, the Pediatric Advisory Committee (PAC) will meet to discuss pediatric-focused safety reviews, as mandated by the Best Pharmaceuticals for Children Act (Pub. L. 107–109) and the Pediatric Research Equity Act (Pub. L. 108–155). The PAC will meet to discuss Activa Dystonia Therapy, ADVATE (antihemophilic factor (recombinant)), FAMVIR (famciclovir), INTELENCE (etravirine), KEPPRA (levetiracetam), MAXALT and MAXALT MLT (rizatriptan), NATAZIA (estradiol valerate and estradiol valerate/dienogest), PERTZYE (pancrelipase), PERZISTA (darunavir), REYATAZ (atazanavir), SKLICE (ivermectin), TISSEEL (fibrin sealant), TORISEL (temsirolimus), ULTRESA (pancrelipase), Vertical Expandable Prosthetic Titanium Rib (VEPTR), and VIREAD (tenofovir disoproxil fumarate).

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 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 April 14, 2014. Oral presentations from the public will be scheduled on April 21, 2014, between approximately 11:30 a.m. and 12:30 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 April 4, 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 April 7, 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 Walter Ellenberg 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: March 26, 2014.

Jill Hartzler Warner,

Acting Associate Commissioner for Special Medical Programs.

[FR Doc. 2014–07112 Filed 3–28–14; 8:45 am]

BILLING CODE 4160–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2011–E–0388]

Determination of Regulatory Review Period for Purposes of Patent Extension; PREVNAR–13

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) has determined the regulatory review period for PREVNAR–13 and is publishing this notice of that determination as required by law. FDA has made the determination because of the submission of an application to the Director of Patents and Trademarks, Department of Commerce, for the extension of a patent which claims that human biological product.

ADDRESSES: Submit electronic comments to *http://www.regulations.gov*. Submit written petitions (two copies are required) and written comments to the Division of Dockets Management (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852. Submit petitions electronically to *http://www.regulations.gov* at Docket No. FDA 2013–S–0610.

FOR FURTHER INFORMATION CONTACT: Beverly Friedman, Office of Management, Center for Drug Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 51, Rm. 6257, Silver Spring, MD 20993–0002, 301–796–3602.

SUPPLEMENTARY INFORMATION: The Drug Price Competition and Patent Term Restoration Act of 1984 (Pub. L. 98–417) and the Generic Animal Drug and Patent Term Restoration Act (Pub. L. 100–670) generally provide that a patent may be extended for a period of up to 5 years so long as the patented item (human drug product, animal drug product, medical device, food additive, or color additive) was subject to regulatory review by FDA before the item was marketed. Under these acts, a product's regulatory review period forms the basis for determining the amount of extension an applicant may receive.

A regulatory review period consists of two periods of time: A testing phase and an approval phase. For human biological products, the testing phase begins when the exemption to permit the clinical investigations of the biological becomes effective and runs until the approval phase begins. The approval phase starts with the initial submission of an application to market the human biological product and continues until FDA grants permission to market the biological product. Although only a portion of a regulatory review period may count toward the actual amount of extension that the Director of Patents and Trademarks may award (for example, half the testing phase must be subtracted as well as any time that may have occurred before the patent was issued), FDA's determination of the length of a regulatory review period for a human biological product will include all of the testing phase and approval phase as specified in 35 U.S.C. 156(g)(1)(B).

FDA has approved for marketing the human biologic product PREVNAR–13 (Pneumococcal 13-valent conjugate vaccine (diphtheria CRM–197 protein)). PREVNAR–13 is indicated for (1) Active immunization for the prevention of invasive disease caused by *Streptococcus pneumoniae* serotypes 1, 3, 4, 5, 6A, 6B, 7F, 9V, 14, 18C, 19A, 19F, and 23F, in patients aged 6 weeks through 17 years of age and in adults 50 years of age and older; and (2) active immunization for the prevention of otitis media caused by *S. pneumoniae* serotypes 4, 6B, 9V, 14, 18C, 19F, and 23F in patients aged 6 weeks through 5 years. Subsequent to this approval, the Patent and Trademark Office received a patent term restoration application for PREVNAR–13 (U.S. Patent No. 5,614,382) from Wyeth Holdings Corp., and the Patent and Trademark Office requested FDA's assistance in determining this patent's eligibility for patent term restoration. In a letter dated July 9, 2012, FDA advised the Patent and Trademark Office that this human biological product had undergone a regulatory review period and that the approval of PREVNAR–13 represented the first permitted commercial marketing or use of the product. Thereafter, the Patent and Trademark Office requested that FDA determine the product's regulatory review period.

FDA has determined that the applicable regulatory review period for PREVNAR–13 is 2,102 days. Of this time, 1,771 days occurred during the testing phase of the regulatory review period, while 331 days occurred during the approval phase. These periods of time were derived from the following dates:

1. *The date an exemption under section 505(i) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355(i)) became effective:* May 26, 2004. The applicant claims April 23, 2004, as the date the investigational new drug application (IND) became effective. However, FDA records indicate that the IND effective date was May 26, 2004, which was 30 days after FDA receipt of the IND.

2. *The date the application was initially submitted with respect to the human biological product under section 351 of the Public Health Service Act (42 U.S.C. 262):* March 31, 2009. The applicant claims October 24, 2008, as the date the biologics license application (BLA) for PREVNAR–13 (BLA 125324) was initially submitted. However, FDA records indicate that BLA 125324 was a rolling submission and the final module was received by FDA on March 31, 2009.

3. *The date the application was approved:* February 24, 2010. FDA has verified the applicant's claim that BLA 125324 was approved on February 24, 2010.

This determination of the regulatory review period establishes the maximum potential length of a patent extension. However, the U.S. Patent and Trademark Office applies several statutory limitations in its calculations of the actual period for patent extension. In its application for patent extension, this applicant seeks 1,312 days of patent term extension.

Anyone with knowledge that any of the dates as published are incorrect may submit to the Division of Dockets Management (see **ADDRESSES**) either electronic or written comments and ask for a redetermination by May 30, 2014. Furthermore, any interested person may petition FDA for a determination regarding whether the applicant for extension acted with due diligence during the regulatory review period by September 29, 2014. To meet its burden, the petition must contain sufficient facts to merit an FDA investigation. (See H. Rept. 857, part 1, 98th Cong., 2d sess., pp. 41–42, 1984.) Petitions should be in the format specified in 21 CFR 10.30.

Interested persons may submit to the Division of Dockets Management (see **ADDRESSES**) electronic or written comments and written or electronic petitions. 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. If you submit a written petition, two copies are required. A petition submitted electronically must be submitted to *http://www.regulations.gov*, Docket No. FDA 2013–S–0610. Comments and petitions that have not been made publicly available on *http://www.regulations.gov* may be viewed in the Division of Dockets Management between 9 a.m. and 4 p.m., Monday through Friday.

Dated: March 25, 2014.

Leslie Kux,

Assistant Commissioner for Policy.

[FR Doc. 2014–07058 Filed 3–28–14; 8:45 am]

BILLING CODE 4160–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2012–E–0019]

Determination of Regulatory Review Period for Purposes of Patent Extension; NULOJIX

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) has determined the regulatory review period for NULOJIX and is publishing this notice of that determination as required by law. FDA has made the determination because of the submission of an application to the Director of Patents and Trademarks, Department of Commerce, for the extension of a patent which claims that human biological product.

ADDRESSES: Submit electronic comments to *http://www.regulations.gov.* Submit written petitions (two copies are required) and written comments to the Division of Dockets Management (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852. Submit petitions electronically to *http://www.regulations.gov* at Docket No. FDA–2013–S–0610.

FOR FURTHER INFORMATION CONTACT: Beverly Friedman, Office of Management, Center for Drug Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 51, Rm. 6257, Silver Spring, MD 20993–0002, 301–796–3602.

SUPPLEMENTARY INFORMATION: The Drug Price Competition and Patent Term Restoration Act of 1984 (Pub. L. 98–417) and the Generic Animal Drug and Patent Term Restoration Act (Pub. L. 100–670) generally provide that a patent may be extended for a period of up to 5 years so long as the patented item (human drug product, animal drug product, medical device, food additive, or color additive) was subject to regulatory review by FDA before the item was marketed. Under these acts, a product's regulatory review period forms the basis for determining the amount of extension an applicant may receive.

A regulatory review period consists of two periods of time: A testing phase and an approval phase. For human biological products, the testing phase begins when the exemption to permit the clinical investigations of the biological becomes effective and runs until the approval phase begins. The approval phase starts with the initial submission of an application to market the human biological product and continues until FDA grants permission to market the biological product. Although only a portion of a regulatory review period may count toward the actual amount of extension that the Director of Patents and Trademarks may award (for example, half the testing phase must be subtracted as well as any time that may have occurred before the patent was issued), FDA's determination of the length of a regulatory review period for a human biological product will include all of the testing phase and approval phase as specified in 35 U.S.C. 156(g)(1)(B).

FDA has approved for marketing the human biologic product NULOJIX (belatacept). NULOJIX is indicated for prophylaxis of organ rejection in adult patients receiving a kidney transplant and is used in combination with basiliximab induction, mycophenolate mofetil, and corticosteroids. Subsequent to this approval, the Patent and Trademark Office received a patent term restoration application for NULOJIX (U.S. Patent No. 7,094,874) from Bristol-Myers Squibb Company, and the Patent and Trademark Office requested FDA's assistance in determining this patent's eligibility for patent term restoration. In a letter dated July 10, 2012, FDA advised the Patent and Trademark Office that this human biological product had undergone a regulatory review period and that the approval of NULOJIX represented the first permitted commercial marketing or use of the product. Thereafter, the Patent and Trademark Office requested that FDA determine the product's regulatory review period.

FDA has determined that the applicable regulatory review period for NULOJIX is 4,479 days. Of this time, 3,764 days occurred during the testing phase of the regulatory review period, while 715 days occurred during the approval phase. These periods of time were derived from the following dates:

1. *The date an exemption under section 505(i) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355(i)) became effective:* March 13, 1999. FDA has verified the applicant's claim that the date the investigational new drug application became effective was on March 13, 1999.

2. *The date the application was initially submitted with respect to the human biological product under section 351 of the Public Health Service Act (42 U.S.C. 262):* July 1, 2009. The applicant claims June 30, 2009, as the date the biologics license application (BLA) for NULOJIX (BLA 125288) was initially submitted. However, FDA records indicate that BLA 125288 was submitted on July 1, 2009.

3. *The date the application was approved:* June 15, 2011. FDA has verified the applicant's claim that BLA 125288 was approved on June 15, 2011.

This determination of the regulatory review period establishes the maximum potential length of a patent extension. However, the U.S. Patent and Trademark Office applies several statutory limitations in its calculations of the actual period for patent extension. In its application for patent extension,

this applicant seeks 789 days of patent term extension.

Anyone with knowledge that any of the dates as published are incorrect may submit to the Division of Dockets Management (see **ADDRESSES**) either electronic or written comments and ask for a redetermination by May 30, 2014. Furthermore, any interested person may petition FDA for a determination regarding whether the applicant for extension acted with due diligence during the regulatory review period by September 29, 2014. To meet its burden, the petition must contain sufficient facts to merit an FDA investigation. (See H. Rept. 857, part 1, 98th Cong., 2d sess., pp. 41–42, 1984.) Petitions should be in the format specified in 21 CFR 10.30.

Interested persons may submit to the Division of Dockets Management (see **ADDRESSES**) electronic or written comments and written or electronic petitions. 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. If you submit a written petition, two copies are required. A petition submitted electronically must be submitted to *http://www.regulations.gov,* Docket No. FDA–2013–S–0610. Comments and petitions that have not been made publicly available on *http://www.regulations.gov* may be viewed in the Division of Dockets Management between 9 a.m. and 4 p.m., Monday through Friday.

Dated: March 25, 2014.

Leslie Kux,

Assistant Commissioner for Policy.

[FR Doc. 2014–07060 Filed 3–28–14; 8:45 am]

BILLING CODE 4160–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration

Agency Information Collection Activities: Submission to OMB for Review and Approval; Public Comment Request

AGENCY: Health Resources and Services Administration, HHS.

ACTION: Notice.

SUMMARY: In compliance with Section 3507(a)(1)(D) of the Paperwork Reduction Act of 1995, the Health Resources and Services Administration (HRSA) has submitted an Information Collection Request (ICR) to the Office of Management and Budget (OMB) for review and approval. Comments submitted during the first public review of this ICR will be provided to OMB. OMB will accept further comments from the public during the review and approval period.

DATES: Comments on this ICR should be received within 30 days of this notice.

ADDRESSES: Submit your comments, including the Information Collection Request Title, to the desk officer for HRSA, either by email to *OIRA_submission@omb.eop.gov* or by fax to 202–395–5806.

FOR FURTHER INFORMATION CONTACT: To request a copy of the clearance requests submitted to OMB for review, email the HRSA Information Collection Clearance Officer at *paperwork@hrsa.gov* or call (301) 443–1984.

SUPPLEMENTARY INFORMATION:

Information Collection Request Title: Reconciliation Tool for the Teaching Health Center Graduate Medical Education Program.

OMB No.: 0915–0342–Extension.

Abstract: The Teaching Health Center Graduate Medical Education (THCGME) program, Section 340H of the Public Health Service (PHS) Act, was established by Section 5508 of Public Law 111–148. The program supports training for primary care residents (including residents in family medicine, internal medicine, pediatrics, internal medicine pediatrics, obstetrics and gynecology, psychiatry, general dentistry, pediatric dentistry, and geriatrics) in community based ambulatory patient care settings.

The statute provides that eligible Teaching Health Centers receive payment for both direct and indirect expenses associated with training residents in community-based ambulatory patient care centers. Direct medical expenses payments are designed to compensate eligible teaching health centers for those expenses directly associated with resident training, while indirect medical expenses payments are intended to compensate for the additional costs of training residents in such programs.

Need and Proposed Use of the Information: THCGME program payments are prospective payments and the statute provides for a reconciliation process, through which overpayments may be recouped and underpayments may be adjusted at the end of the fiscal year. This data collection instrument will gather information relating to the numbers of residents in THCGME training programs in order to reconcile payments for both direct and indirect expenses.

Likely Respondents: The likely respondents to the THCGME Reconciliation Tool are existing THCGME program award recipients.

Burden Statement: Burden in this context means the time expended by persons to generate, maintain, retain, disclose or provide the information requested. This includes the time needed to review instructions; to develop, acquire, install and utilize technology and systems for the purpose of collecting, validating and verifying information, processing and maintaining information, and disclosing and providing information; to train personnel and to be able to respond to a collection of information; to search data sources; to complete and review the collection of information; and to transmit or otherwise disclose the information. The total annual burden hours estimated for this ICR are summarized in the table below.

TOTAL ESTIMATED ANNUALIZED BURDEN HOURS

Form name	Number of respondents	Number of responses per respondent	Total responses	Average burden per response (in hours)	Total burden hours
THCGME Reconciliation Tool	44	1	44	2	88
Total	44	1	44	2	88

Dated: March 11, 2014.

Jackie Painter,

Deputy Director, Division of Policy and Information Coordination.

[FR Doc. 2014–06999 Filed 3–28–14; 8:45 am]

BILLING CODE 4165–15–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Submission for OMB Review; 30-Day Comment Request: Generic Clearance To Support the Safe to Sleep Campaign at the Eunice Kennedy Shriver National Institute for Child Health and Human Development (NICHD)

SUMMARY: Under the provisions of Section 3507(a)(1)(D) of the Paperwork Reduction Act of 1995, the National Institute of Child Health and Human Development, the National Institutes of Health, has submitted to the Office of Management and Budget (OMB) a request for review and approval of the information collection listed below. This proposed information collection was previously published in the **Federal Register** on December 30, 2013, pages 79472–79473 and allowed 60-days for public comment. No public comments were received. The purpose of this notice is to allow an additional 30 days for public comment. The National Institute of Child Health and Human Development, National Institutes of Health, may not conduct or sponsor, and the respondent is not required to respond to, an information collection that has been extended, revised, or implemented on or after October 1, 1995, unless it displays a currently valid OMB control number.

Direct Comments to OMB: Written comments and/or suggestions regarding the item(s) contained in this notice, especially regarding the estimated public burden and associated response time, should be directed to the: Office of Management and Budget, Office of Regulatory Affairs, *OIRA_submission@omb.eop.gov* or by fax to 202–395–6974, Attention: NIH Desk Officer.

Comment Due Date: Comments regarding this information collection are best assured of having their full effect if received within 30 days of the date of this publication.

FOR FURTHER INFORMATION CONTACT: To obtain a copy of the data collection plans and instruments, or request more information on the proposed project, contact: Dr. Sarah L. Glavin, Deputy Director, Office of Science Policy, Analysis and Communication, *Eunice Kennedy Shriver* National Institute of Child Health and Human Development, National Institutes of Health, 31 Center Drive, Room 2A18, Bethesda, Maryland 20892, or call a non-toll free number (301) 496–1877 or Email your request, including your address to *glavins@mail.nih.gov.* Formal requests for additional plans and instruments must be requested in writing.

Proposed Collection: Generic Clearance to Support the Safe to Sleep Campaign at the *Eunice Kennedy Shriver* National Institute for Child Health and Human Development (NICHD), 0925—NEW, *Eunice Kennedy Shriver* National Institute of Child Health and Human Development (NICHD), National Institutes of Health (NIH).

Need and Use of Information Collection: This is a request for a new generic clearance that would be used for submissions specific to the *Eunice Kennedy Shriver* National Institute of Child Health and Human Development (NICHD) Safe to Sleep (STS) public education campaign. Submissions for the STS campaign will be used to assess the understanding and reach of STS campaign materials and messages, and to monitor and improve campaign activities such as training workshops and overall implementation. The purpose of this information collection is to monitor and modify campaign activities, to plan future campaign activities, to develop messages and materials, and to develop distribution and outreach strategies that are effective at communicating their message to bring about the intended response, awareness, and/or behavioral change for the target audiences. This generic clearance will enable the NICHD to: (1) More efficiently assess the implementation of campaign activities; (2) better understand the target audiences' knowledge, attitudes, and beliefs toward STS messages and materials; (3) better understand how the campaign activities have influenced the target audiences' behaviors and practices; and (4) monitor and improve activities such as trainings, and material/message development. Having a way to gather feedback on the STS campaign activities is critical to assessing the reach and effect of campaign efforts. Data collected for the campaign can inform where future STS campaign resources can produce the most meaningful results.

Data collected for the STS campaign generic clearance will be used by a number of audiences, including STS campaign staff, NICHD leadership, STS campaign collaborators, Federal Sudden and Unexpected Infant Deaths (SUID)/Sudden Infant Death Syndrome (SIDS) Workgroup members, SUID/SIDS stakeholders, clinical and maternal/child health professionals, parents and caretakers, and the general public. These audiences may use the information collections to: (1) Develop new campaign messages, materials, and/or training curricula; (2) monitor and improve campaign activities; (3) make decisions about campaign activities; (4) inform current campaign activities; and (5) inform and/or change practices and behaviors of program participants.

Examples of the types of information collections that could be included under this generic clearance include: *Focus groups and in-depth interviews* with parents/caregivers and/or health professionals to get feedback on distribution and outreach activities, and/or campaign messages; and *Surveys* with parents/caregivers and/or health professionals to: (1) Assess the usefulness of the new STS campaign materials, including print and on-line materials and a video, (2) track outreach experiences of program participants, (3) assess training participants' changes in knowledge related to safe infant sleep behavior and implementation of outreach methods taught, and (4) assess program participants' resource needs.

The sub-studies for this generic will be small scale, designed to obtain results frequently and quickly to guide campaign development and implementation, inform campaign direction, and be used internally for campaign management purposes. NICHD's current scope and capacity for STS generic sub-studies is non-existent and this request would fill this gap.

OMB approval is requested for 3 years. There are no costs to respondents other than their time. The total estimated annualized burden hours are 3,000.

Estimated Annualized Burden Hours

TABLE 1—ESTIMATES FOR ANNUAL BURDEN HOURS

Type of data collection instrument	Number of respondents	Frequency of response	Average time per response	Annual hour burden
Focus Groups	500	1	1	500
Pre/Post Test	2,500	1	15/60	625
Survey	2,500	1	15/60	625
Interview	500	1	1	500
Tracking/Feedback Form	1,500	1	30/60	750
Total	7,500			3,000

Dated: March 21, 2014.

Sarah L. Glavin,

Deputy Director, Office of Science Policy, Analysis, and Communications, Eunice Kennedy Shriver National Institute of Child Health and Human Development, National Institutes of Health.

[FR Doc. 2014–07105 Filed 3–28–14; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Prospective Grant of Exclusive License: The Development of a Single Domain Human Anti-Mesothelin Monoclonal Antibody for the Treatment of Human Cancers

AGENCY: National Institutes of Health, HHS.

ACTION: Notice.

SUMMARY: This is notice, in accordance with 35 U.S.C. 209 and 37 CFR part 404, that the National Institutes of Health, Department of Health and Human Services, is contemplating the grant of an exclusive start-up option license to practice the inventions embodied in U.S. Patent Application 61/706,396 entitled ''Mesothelin Antibodies and Methods for Eliciting Potent Antitumor Activity'' [HHS Ref. E–236–2012/0–US–01], PCT Application PCT/US2013/059883 entitled ''Mesothelin Antibodies and Methods for Eliciting Potent Antitumor Activity'' [HHS Ref. E–236–2012/0–PCT–02], and all related continuing and foreign patents/patent applications for the technology family, to H2Bio, Inc. The patent rights in these inventions have been assigned to and/or exclusively licensed to the Government of the United States of America.

The prospective exclusive start-up option licensed territory may be worldwide, and the field of use may be limited to:

The use of the monoclonal antibody SD1 (and glycoengineered variants thereof) as an antibody therapy for the treatment of mesothelioma, pancreatic cancer, ovarian cancer and lung adenocarcinoma. The Licensed Field of Use explicitly excludes the use of the antibody in the form of an immunoconjugate, including, but not limited to, immunotoxins.

Upon the expiration or termination of the exclusive start-up option license, H2Bio, Inc. will have the exclusive right to execute an exclusive commercialization license which will supersede and replace the exclusive start-up option license with no greater field of use and territory than granted in the exclusive start-up option license.

DATES: Only written comments and/or applications for a license which are received by the NIH Office of Technology Transfer on or before April 15, 2014 will be considered.

ADDRESSES: Requests for copies of the patent application, inquiries, comments, and other materials relating to the contemplated exclusive license should be directed to: David A. Lambertson, Ph.D., Senior Licensing and Patenting Manager, Office of Technology Transfer, National Institutes of Health, 6011 Executive Boulevard, Suite 325, Rockville, MD 20852–3804; Telephone: (301) 435–4632; Facsimile: (301) 402–0220; Email: *lambertsond@mail.nih.gov*.

SUPPLEMENTARY INFORMATION: This invention concerns a monoclonal antibody and methods of using the antibody for the treatment of mesothelin-expressing cancers, including mesothelioma, lung cancer, ovarian cancer and pancreatic cancer. The specific antibody covered by this technology is designated SD1, which is a single domain, fully human monoclonal antibody against mesothelin.

Mesothelin is a cell surface antigen that is preferentially expressed on certain types of cancer cells. The SD1 antibody can selectively bind to these cancer cells and induce cell death while leaving healthy, essential cells unharmed. This can result in an effective therapeutic strategy with fewer side effects due to less non-specific killing of cells.

The prospective exclusive start-up option license will be royalty bearing and will comply with the terms and conditions of 35 U.S.C. 209 and 37 CFR part 404. The prospective exclusive start-up option license may be granted unless the NIH receives written evidence and argument that establishes that the grant of the license would not be consistent with the requirements of 35 U.S.C. 209 and 37 CFR part 404 within fifteen (15) days from the date of this published notice.

Complete applications for a license in the field of use filed in response to this notice will be treated as objections to the grant of the contemplated exclusive start-up option license. Comments and objections submitted to this notice will not be made available for public inspection and, to the extent permitted by law, will not be released under the Freedom of Information Act, 5 U.S.C. 552.

Dated: March 27, 2014.

Richard U. Rodriguez,

Director, Division of Technology Development & Transfer, Office of Technology Transfer, National Institutes of Health.

[FR Doc. 2014–07022 Filed 3–28–14; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Prospective Grant of Exclusive License: Multivalent Vaccines for Rabies Virus and Ebola and Marburg (Filoviruses)

AGENCY: National Institutes of Health, HHS.

ACTION: Notice.

SUMMARY: This is notice, in accordance with 35 U.S.C. 209 and 37 CFR 404, that the National Institutes of Health (NIH), Department of Health and Human Services (HHS), is contemplating the grant of a an exclusive license to practice the following invention as embodied in the following patent applications: E–032–2011/0, Blaney *et al.,* ''Multivalent Vaccines for Rabies Virus and Filoviruses,'' U.S. Patent Application Number 61/439,046, filed

on February 3, 2011, PCT Application Number PCT/US2012/23575, filed on February 2, 2012, U.S. Patent Application Number 13/983,545, filed on August 2, 2013, European Patent Application Number 12702953.6, filed on February 2, 2012, and Canadian Patent Application Number 2826594, filed on February 2, 2012, to Exxell BIO, Inc., having a place of business in Shoreview, Minnesota, United States of America. The patent rights in these inventions have been assigned to the United States of America and Thomas Jefferson University.

DATES: Only written comments and/or application for a license which are received by the NIH Office of Technology Transfer on or before April 30, 2014 will be considered.

ADDRESSES: Requests for a copy of the patent application, inquiries, comments and other materials relating to the contemplated license should be directed to: Peter Soukas, Office of Technology Transfer, National Institutes of Health, 6011 Executive Boulevard, Suite 325, Rockville, MD 20852–3804; Email: *ps193c@nih.gov;* Telephone: (301) 435–4646; Facsimile: (301) 402–0220.

SUPPLEMENTARY INFORMATION: No vaccine candidates against Ebola virus (EBOV) or Marburg virus (MARV) are nearing licensure, and the need to develop a safe and efficacious vaccine against filoviruses continues. Whereas several preclinical and clinical vaccine candidates against EBOV or MARV exist (please see below for further elaboration), their further development is a major challenge based on safety concerns, pre-existing vector immunity, issues such as manufacturing, dosage, and marketability, and funding for development. The inventors have developed a new platform based on live or chemically inactivated (killed) rabies virus (RABV) virions containing EBOV glycoprotein (GP) in their envelope. In preclinical trials, immunization with such recombinant RABV virions provided excellent protection in mice against lethal challenge with the mouse adapted EBOV and RABV. More specifically, the inventors have developed a trivalent filovirus vaccine based on killed rabies virus virions for use in humans to confer protection from all medically relevant filoviruses and RABV. Two additional vectors containing EBOV Sudan GP or MARV GP are planned to be constructed in addition to the previously developed EBOV Zaire GP containing vaccine. Live attenuated vaccines have been developed for use in at risk nonhuman primate populations in Africa and inactivated vaccines have been developed for use in humans.

The prospective exclusive license will be royalty bearing and will comply with the terms and conditions of 35 U.S.C. 209 and 37 CFR 404. The prospective exclusive license may be granted unless, within thirty (30) days from the date of this published Notice, NIH receives written evidence and argument that establishes that the grant of the license would not be consistent with the requirements of 35 U.S.C. 209 and 37 CFR 404.

The fields of use may be limited to (1) inactivated vaccines against rabies virus and filoviruses for use in humans and (2) live attenuated vaccines against rabies virus and filoviruses for use in non-human animals.

Properly filed competing applications for a license filed in response to this notice will be treated as objections to the contemplated license. Comments and objections submitted in response to this notice will not be made available for public inspection, and, to the extent permitted by law, will not be released under the Freedom of Information Act, 5 U.S.C. 552.

Dated: March 26, 2014.

Richard U. Rodriguez,

Director, Division of Technology Development and Transfer, Office of Technology Transfer, National Institutes of Health.

[FR Doc. 2014–07023 Filed 3–28–14; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Environmental Health Sciences; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and contract proposals 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 and contract proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Environmental Health Sciences Special Emphasis Panel; NIH Loan Repayment Program (Clinical and Pediatric Researchers).

Date: April 24, 2014.

Time: 8:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate contract proposals.

Place: National Institute of Environmental Health Sciences, Keystone Building, 530 Davis Drive, Room 3094, Morrisville, NC 27560; (Virtual Meeting).

Contact Person: RoseAnne M. McGee, Associate Scientific Review Administrator, Scientific Review Branch, Division of Extramural Research and Training, Nat. Institute of Environmental Health Sciences, P.O. Box 12233, MD EC–30, Research Triangle Park, NC 27709, (919) 541–0752, *mcgee1@niehs.nih.gov.*

Name of Committee: National Institute of Environmental Health Sciences Special Emphasis Panel; Career Grant Applications Review in Environmental Health Sciences.

Date: April 24, 2014.

Time: 1:00 p.m. to 3:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institute of Environmental Health Sciences, Keystone Building, 530 Davis Drive, Room 3118, Morrisville, NC 27560, (Telephone Conference Call).

Contact Person: Leroy Worth, Ph.D., Scientific Review Administrator, Scientific Review Branch, Division of Extramural Research and Training, Nat. Institute of Environmental Health Sciences, P.O. Box 12233, MD EC–30/Room 3171, Research Triangle Park, NC 27709, (919) 541–0670, *worth@niehs.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.115, Biometry and Risk Estimation—Health Risks from Environmental Exposures; 93.142, NIEHS Hazardous Waste Worker Health and Safety Training; 93.143, NIEHS Superfund Hazardous Substances—Basic Research and Education; 93.894, Resources and Manpower Development in the Environmental Health Sciences; 93.113, Biological Response to Environmental Health Hazards; 93.114, Applied Toxicological Research and Testing, National Institutes of Health, HHS)

Dated: March 25, 2014.

Carolyn Baum,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2014–07021 Filed 3–28–14; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Center for Advancing Translational Sciences; Notice of Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of meetings of the National Center for Advancing Translational Sciences.

The meetings will be open to the public as indicated below, with attendance limited to space available. Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should notify the Contact Person listed below in advance of the meeting.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Cures Acceleration Network Review Board.

Date: May 16, 2014.

Time: 8:30 a.m. to 3:00 p.m.

Agenda: Report from the Institute Director.

Place: National Institutes of Health, Building 31, Conference Room 10, 31 Center Drive, Bethesda, MD 20892.

Contact Person: Danilo A Tagle, Ph.D., Executive Secretary, National Center for Advancing Translational Sciences, 1 Democracy Plaza, Room 992, Bethesda, MD 20892, 301–594–8064, *Danilo.Tagle@nih.gov.*

Name of Committee: National Center for Advancing Translational Sciences Advisory Council.

Date: May 16, 2014.

Open: 8:30 a.m. to 3:00 p.m.

Agenda: Report from the Institute Director and other staff.

Place: National Institutes of Health, Building 31, Conference Room 10, 31 Center Drive, Bethesda, MD 20892.

Closed: 3:15 p.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Building 31, Conference Room 10, 31 Center Drive, Bethesda, MD 20892.

Contact Person: Danilo A Tagle, Ph.D., Executive Secretary, National Center for Advancing Translational Sciences, 1 Democracy Plaza, Room 992, Bethesda, MD 20892, 301–594–8064, *Danilo.Tagle@nih.gov.*

In the interest of security, NIH has instituted stringent procedures for entrance onto the NIH campus. All visitor vehicles, including taxicabs, hotel, and airport shuttles will be inspected before being allowed on campus. Visitors will be asked to show one form of identification (for example, a government-issued photo ID, driver's license, or passport) and to state the purpose of their visit.

Dated: March 25, 2014.

David Clary,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2014–07016 Filed 3–28–14; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Biomedical Imaging and Bioengineering; 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 Council for Biomedical Imaging and Bioengineering.

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/or contract proposals 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 and/or contract proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Advisory Council for Biomedical Imaging and Bioengineering; NACBIB May, 2014.

Date: May 20, 2014.

Open: 9:15 a.m. to 12:00 p.m.

Agenda: Report from the Institute Director, other Institute Staff, scientific presentations, and presentation of workgroup report.

Place: The William F. Bolger Center, Franklin Building, Conference Room 1, 9600 Newbridge Drive, Potomac, MD 20854.

Closed: 1:00 p.m. to 3:00 p.m.

Agenda: To review and evaluate grant applications and/or proposals.

Place: The William F. Bolger Center, Franklin Building, Conference Room 1, 9600 Newbridge Drive, Potomac, MD 20854.

Contact Person: Anthony Demsey, Ph.D., Director, National Institute of Biomedical Imaging and Bioengineering, 6707 Democracy Boulevard, Room 241, Bethesda, MD 20892.

Any interested person may file written comments with the committee by forwarding the statement to the Contact Person listed on this notice. The statement should include the name, address, telephone number and when applicable, the business or professional affiliation of the interested person.

Information is also available on the Institute's/Center's home page: *http://www.nibib1.nih.gov/about/NACBIB/NACBIB.htm,* where an agenda and any additional information for the meeting will be posted when available.

Dated: March 25, 2014.

David Clary,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2014–07019 Filed 3–28–14; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Diabetes and Digestive and Kidney Diseases; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Diabetes and Digestive and Kidney Diseases Special Emphasis Panel; Nephrolithiasis Outcomes Studies.

Date: April 16, 2014.

Time: 7:30 p.m. to 10:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Two Democracy Plaza, 6707 Democracy Boulevard, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Carol J. Goter-Robinson, Ph.D., Scientific Review Officer, Review Branch, DEA, NIDDK, National Institutes of Health, Room 748, 6707 Democracy Boulevard, Bethesda, MD 20892–5452, (301) 594–7791, *goterrobinsonc@extra.niddk.nih.gov.*

Name of Committee: National Institute of Diabetes and Digestive and Kidney Diseases Special Emphasis Panel; 2014 LRP Applications.

Date: April 25, 2014.

Time: 2:00 p.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Two Democracy Plaza, 6707 Democracy Boulevard, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: John F. Connaughton, Ph.D., Chief, Training and Mentored Research Section, Review Branch, DEA, NIDDK, National Institutes of Health, Room 753, 6707 Democracy Boulevard, Bethesda,

MD 20892–5452, (301) 594–7797, *connaughtonj@extra.niddk.nih.gov.*

Name of Committee: National Institute of Diabetes and Digestive and Kidney Diseases Special Emphasis Panel; NIDDK Central Repositories Non-Renewable Sample CESS (X01): DPP, HEPC and HEMO Studies.

Date: May 15, 2014.

Time: 2:00 p.m. to 4:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Two Democracy Plaza, 6707 Democracy Boulevard, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Najma Begum, Ph.D., Scientific Review Officer, Review Branch, DEA, NIDDK, National Institutes of Health, Room 749, 6707 Democracy Boulevard, Bethesda, MD 20892–5452, (301) 594–8894, *begumn@niddk.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.847, Diabetes, Endocrinology and Metabolic Research; 93.848, Digestive Diseases and Nutrition Research; 93.849, Kidney Diseases, Urology and Hematology Research, National Institutes of Health, HHS)

Dated: March 25, 2014.

David Clary,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2014–07018 Filed 3–28–14; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Neurological Disorders and Stroke; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable materials, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Neurological Disorders and Stroke Special Emphasis Panel; Clinical R25 Panel.

Date: April 21, 2014.

Time: 2:00 p.m. to 4:00 p.m..

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Neuroscience Center, 6001 Executive Boulevard, Rockville, MD 20852, (Telephone Conference Call).

Contact Person: Shanta Rajaram, Ph.D., Scientific Review Officer, Scientific Review Branch, Division of Extramural Research, NINDS, NIH, NSC, 6001 Executive Blvd., Suite 3208, MSC 9529, Bethesda, MD 20892–9529, 301–435–6033, *saavedrr@ninds.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.853, Clinical Research Related to Neurological Disorders; 93.854, Biological Basis Research in the Neurosciences, National Institutes of Health, HHS)

Dated: March 25, 2014.

Carolyn Baum,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2014–07020 Filed 3–28–14; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Member Conflict: Bioengineering.

Date: April 2, 2014.

Time: 3:00 p.m. to 4:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Kathryn Kalasinsky, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5158 MSC 7806, Bethesda, MD 20892, 301–402–1074, *kalasinskyks@mail.nih.gov.*

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

(Catalogue of Federal Domestic Assistance Program Nos. 93.306, Comparative Medicine; 93.333, Clinical Research, 93.306, 93.333, 93.337, 93.393–93.396, 93.837–93.844, 93.846–93.878, 93.892, 93.893, National Institutes of Health, HHS)

Dated: March 25, 2014.

Michelle Trout,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2014–07017 Filed 3–28–14; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

[USCG–2013–1007]

Collection of Information Under Review by Office of Management and Budget

AGENCY: Coast Guard, DHS.

ACTION: Thirty-day notice requesting comments.

SUMMARY: In compliance with the Paperwork Reduction Act of 1995 the U.S. Coast Guard is forwarding Information Collection Requests (ICRs), abstracted below, to the Office of Management and Budget (OMB), Office of Information and Regulatory Affairs (OIRA), requesting approval of a revision to the following collections of information: 1625–0057, Small Passenger Vessels—Title 46 Subchapters K and T and 1625–0064, Plan Approval and Records for Subdivision and Stability Regulations—Title 46 CFR Subchapter S. Review and comments by OIRA ensure we only impose paperwork burdens commensurate with our performance of duties.

DATES: Comments must reach the Coast Guard and OIRA on or before April 30, 2014.

ADDRESSES: You may submit comments identified by Coast Guard docket number [USCG–2013–1007] to the Docket Management Facility (DMF) at the U.S. Department of Transportation (DOT) and/or to OIRA. To avoid duplicate submissions, please use only one of the following means:

(1) *Online:* (a) To Coast Guard docket at *http://www.regulations.gov.* (b) To OIRA by email via: *OIRA-submission@omb.eop.gov.*

(2) *Mail:* (a) DMF (M–30), DOT, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590–0001. (b) To OIRA, 725 17th Street NW., Washington, DC 20503, attention Desk Officer for the Coast Guard.

(3) *Hand Delivery:* To DMF 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:* (a) To DMF, 202–493–2251. (b) To OIRA at 202–395–6566. To ensure your comments are received in a timely manner, mark the fax, 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, U.S. Coast Guard, 2703 Martin Luther King Jr. Ave. SE., STOP 7710, Washington DC 20593–7710.

FOR FURTHER INFORMATION CONTACT: Anthony Smith, Office of Information Management, telephone 202–475–3532 or fax 202–372–8405, for questions on these documents. Contact Ms. Cheryl Collins, 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 Collection. 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. These comments will help OIRA determine whether to approve the ICRs referred to in this Notice.

We encourage you to respond to this request by submitting comments and related materials. Comments to Coast Guard or OIRA must contain the OMB Control Number of the ICR. They must also contain the docket number of this request, [USCG 2013–1007], and must be received by April 30, 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–2013–1007]; 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 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–2013–1007'' in the ''Search'' 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 ''Search'' box insert ''USCG–2013–1007'' 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.

OIRA posts its decisions on ICRs online at *http://www.reginfo.gov/public/do/PRAMain* after the comment period for each ICR. An OMB Notice of Action on each ICR will become available via a hyperlink in the OMB Control Numbers: 1625–0057 and 1625–0064.

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).

Previous Request for Comments

This request provides a 30-day comment period required by OIRA. The Coast Guard published the 60-day notice (79 FR 4746, January 29, 2014) required by 44 U.S.C. 3506(c)(2). That Notice elicited no comments.

Information Collection Requests

1. *Title:* Small Passenger Vessels—Title 46 Subchapters K and T.

OMB Control Number: 1625–0057.

Type of Request: Revision of a currently approved collection.

Respondents: Owners and operators of small passenger vessels.

Abstract: The information requirements are necessary for the proper administration and enforcement of the program on safety of commercial vessels as it affects small passenger vessels. The requirements affect small passenger vessels (under 100 gross tons) that carry more than 6 passengers.

Forms: CG–841, CG–854, CG–948, CG–949, CG–3752, CG–5256.

Burden Estimate: The estimated burden has increased from 379,784 hours to 399,420 hours a year due to an increase in the estimated annual number of respondents.

2. *Title:* Plan Approval and Records for Subdivision and Stability Regulations—Title 46 CFR Subchapter S.

OMB Control Number: 1625–0064.

Type of Request: Revision of a currently approved collection.

Respondents: Owners, operators, or masters of vessels.

Abstract: This collection of information requires owners, operators, or masters of certain inspected vessels to obtain and/or post various documents as part of the Coast Guard commercial vessel safety program.

Forms: None.

Burden Estimate: The estimated burden has decreased from 13,624 hours to 10,639 hours a year due to a decrease in the average annual number of respondents.

Authority: The Paperwork Reduction Act of 1995; 44 U.S.C. Chapter 35, as amended.

Dated: March 24, 2014.

R.E. Day,

Rear Admiral, U.S. Coast Guard, Assistant Commandant for Command, Control, Communications, Computers and Information Technology.

[FR Doc. 2014–07084 Filed 3–28–14; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

[USCG–2014–0090]

Information Collection Request 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 an Information Collection Request (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: 1625–0092, Sewage and Graywater Discharge Records for Certain Cruise Vessels Operating on Alaskan Waters. Our ICR describes the information we seek to collect from the public. Before submitting this ICR to OIRA, the Coast Guard is inviting comments as described below.

DATES: Comments must reach the Coast Guard on or before May 30, 2014.

ADDRESSES: You may submit comments identified by Coast Guard docket number [USCG–2014–0090] 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 ICR(s) 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. Cheryl Collins, 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 Collection. 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–2014–0090], and must be received by May 30, 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–2014–0090], 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–2014–0090'' in the ''Search'' 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 ''Search'' box insert ''USCG–2014–0090'' 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:* Sewage and Graywater Discharge Records for Certain Cruise Vessels Operating on Alaskan Waters.

OMB Control Number: 1625–0092.

Summary: To comply with the Consolidated Appropriations Act, 2001, Public Law 106–554, 114 Stat. 2763, 2763A–315, this information collection is needed to enforce sewage and graywater discharges requirements from certain cruise ships operating on Alaskan waters.

Need: Title 33 CFR part 159 subpart E prescribes regulations governing the discharge of sewage and graywater from cruise vessels, requires sampling and testing of sewage and graywater discharges, and establishes reporting and recordkeeping requirements.

Forms: N/A.

Respondents: Owners, operators and masters of vessels.

Frequency: On occasion.

Burden Estimate: The estimated burden has decreased from 2,121 hours to 1,215 hours a year due to a decrease in the number of respondents.

Authority: The Paperwork Reduction Act of 1995; 44 U.S.C. Chapter 35, as amended.

Dated: March 25, 2014.

R.E. Day,

Rear Admiral, U.S. Coast Guard, Assistant Commandant for Command, Control, Communications, Computers and Information Technology.

[FR Doc. 2014–07085 Filed 3–28–14; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

[USCG–2014–0091]

Information Collection Request 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 an Information Collection Request (ICRs) to the Office of Management and Budget (OMB), Office of Information and Regulatory Affairs (OIRA), requesting approval of an extension to the following collection of information: 1625–0058, Application for Permit to Transport Municipal and Commercial Waste. Our ICR describes the information we seek to collect from the public. Before submitting this ICR to OIRA, the Coast Guard is inviting comments as described below.

DATES: Comments must reach the Coast Guard on or before May 30, 2014.

ADDRESSES: You may submit comments identified by Coast Guard docket number [USCG–2014–0091] 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 ICR(s) 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. Cheryl Collins, 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 Collection. 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–2014–0091], and must be received by May 30, 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–2014–0091], 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–2014–0091'' in the ''Search'' 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 ''Search'' box insert ''USCG–2014–0091'' 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 Permit to Transport Municipal and Commercial Waste.

OMB Control Number: 1625–0058.

Summary: This information collection provides the basis for issuing or denying a permit, required under 33 U.S.C. 2601 and 33 CFR 151.1009, for the transportation of municipal or commercial waste in the coastal waters of the United States.

Need: In accordance with 33 U.S.C. 2601, the U.S. Coast Guard issued regulations requiring an owner or operator of a vessel to apply for a permit to transport municipal or commercial waste in the United States and to display an identification number or other marking on their vessel.

Forms: N/A.

Respondents: Owners and operators of vessels.

Frequency: Every 18 months.

Burden Estimate: The estimated burden remains unchanged at 13 hours a year.

Authority: The Paperwork Reduction Act of 1995; 44 U.S.C. Chapter 35, as amended.

Dated: March 24, 2014.

R.E. Day,

Rear Admiral, U.S. Coast Guard, Assistant Commandant for Command, Control, Communications, Computers and Information Technology.

[FR Doc. 2014–07087 Filed 3–28–14; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

U.S. Customs and Border Protection

Accreditation and Approval of AmSpec Services, LLC, as a Commercial Gauger and Laboratory

AGENCY: U.S. Customs and Border Protection, Department of Homeland Security.

ACTION: Notice of accreditation and approval of AmSpec Services, LLC, as a commercial gauger and laboratory.

SUMMARY: Notice is hereby given, pursuant to CBP regulations, that AmSpec Services, LLC, has been approved to gauge petroleum and certain petroleum products and accredited to test petroleum and certain petroleum products for customs purposes for the next three years as of May 23, 2013.

DATES: *Effective Dates:* The accreditation and approval of AmSpec Services, LLC, as commercial gauger and laboratory became effective on May 23, 2013. The next triennial inspection date will be scheduled for May 2016.

FOR FURTHER INFORMATION CONTACT: Approved Gauger and Accredited Laboratories Manager, Laboratories and Scientific Services, U.S. Customs and Border Protection, 1300 Pennsylvania Avenue NW., Suite 1500N, Washington, DC 20229, tel. 202–344–1060.

SUPPLEMENTARY INFORMATION: Notice is hereby given pursuant to 19 CFR 151.12 and 19 CFR 151.13, that AmSpec Services, LLC, 174 Cash Street, South Portland, ME 04106, has been approved to gauge petroleum and certain petroleum products and accredited to test petroleum and certain petroleum products for customs purposes, in accordance with the provisions of 19 CFR 151.12 and 19 CFR 151.13. AmSpec Services, LLC is approved for the following gauging procedures for petroleum and certain petroleum products from the American Petroleum Institute (API):

API Chapters	Title
3	Tank gauging.
7	Temperature determination.
8	Sampling.
12	Calculations.
17	Maritime measurement.

AmSpec Services, LLC is accredited for the following laboratory analysis procedures and methods for petroleum and certain petroleum products set forth by the U.S. Customs and Border Protection Laboratory Methods (CBPL)

and American Society for Testing and Materials (ASTM):

CBPL No.	ASTM	Title
27–01	D287	Standard Test Method for API Gravity of crude Petroleum and Petroleum Products.
27–02	D1298	Standard Practice for Density, Relative Density (Specific Gravity), or API Gravity of Crude Petroleum and Liquid Petroleum Products by Hydrometer Meter.
27–03	D4006	Standard Test Method for Water in Crude Oil by Distillation.
27–04	D95	Standard Test Method for Water in Petroleum Products and Bituminous Materials by Distillation.
27–05	D4928	Standard Test Method for Water in Crude Oils by Coulometric Karl Fischer Titration.
27–06	D473	Standard Test Method for Sediment in Crude Oils and Fuel Oils by the Extraction Method.
27–08	D86	Standard Test Method for Distillation of Petroleum Products.
27–11	D445	Standard Test Method for Kinematic Viscosity of Transparent and Opaque Liquids.
27–13	D4294	Standard Test Method for Sulfur in Petroleum and Petroleum Products by Energy-Dispersive X-ray Fluorescence Spectrometry.
27–14	D2622	Standard Test Method for Sulfur in Petroleum Products.
27–23	D975	Standard Specification for Diesel Fuel Oils.
27–26	D4814	Standard Specification for Automotive Spark-Ignition Engine Fuel.
27–48	D4052	Standard Test Method for Density and Relative Density of Liquids by Digital Density Meter.
27–50	D93	Standard Test Methods for Flash-Point by Pensky-Martens Closed Cup Tester.
27–58	D5191	Standard Test Method For Vapor Pressure of Petroleum Products.

Anyone wishing to employ this entity to conduct laboratory analyses and gauger services should request and receive written assurances from the entity that it is accredited or approved by the U.S. Customs and Border Protection to conduct the specific test or gauger service requested. Alternatively, inquiries regarding the specific test or gauger service this entity is accredited or approved to perform may be directed to the U.S. Customs and Border Protection by calling (202) 344–1060. The inquiry may also be sent to *cbp.labhq@dhs.gov*. Please reference the Web site listed below for a complete listing of CBP approved gaugers and accredited laboratories: *http://cbp.gov/linkhandler/cgov/trade/basic_trade/labs_scientific_svcs/commercial_gaugers/gaulist.ctt/gaulist.pdf*.

Date: March 24, 2014.

Ira S. Reese,

Executive Director, Laboratories and Scientific Services.

[FR Doc. 2014–06992 Filed 3–28–14; 8:45 am]

BILLING CODE 9111–14–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–5752–N–33]

30-Day Notice of Proposed Information Collection: Owner's Certification With HUD Tenant Eligibility and Rent Procedures

AGENCY: Office of the Chief Information Officer, HUD.

ACTION: Notice.

SUMMARY: HUD has submitted the proposed information collection requirement described below to the Office of Management and Budget (OMB) for review, in accordance with the Paperwork Reduction Act. The purpose of this notice is to allow for an additional 30 days of public comment.

DATES: *Comments Due Date:* April 30, 2014.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and/or OMB Control Number and should be sent to: HUD Desk Officer, Office of Management and Budget, New Executive Office Building, Washington, DC 20503; fax: 202–395–5806. Email: *OIRA_Submission@omb.eop.gov.*

FOR FURTHER INFORMATION CONTACT: Colette Pollard, Reports Management Officer, QDAM, Department of Housing and Urban Development, 451 7th Street SW., Washington, DC 20410; email Colette Pollard at *Colette.Pollard@hud.gov* or telephone 202–402–3400. Persons with hearing or speech impairments may access this number through TTY by calling the toll-free Federal Relay Service at (800) 877–8339. This is not a toll-free number. Copies of available documents submitted to OMB may be obtained from Ms. Pollard.

SUPPLEMENTARY INFORMATION: This notice informs the public that HUD has submitted to OMB a request for approval of the information collection described in Section A. The **Federal Register** notice that solicited public comment on the information collection for a period of 60 days was published on July 30, 2013.

A. Overview of Information Collection

Title of Information Collection: Owner's Certification with HUD Tenant Eligibility and Rent Procedures.

OMB Approval Number: 2502–0204.

Type of Request Revision of a currently approved collection.

Form Number: HUD9887, 90011, HUD 90100, HUD 90104, HUD 90101, HUD 90102, HUD 90103, HUD 90106, HUD 90167, HUD 90105 a, HUD 90105 c, HUD 90105b, HUD 90105d, HUD 50059, HUD 90166, HUD 27061-h, 90012, HUD 50059.

Description of the need for the information and proposed use: The Department needs to collect this information in order to establish an applicant's eligibility for admittance to subsidized housing, specify which eligible applicants may be given priority over others, and prohibit racial discrimination in conjunction with selection of tenants and unit assignments. The Department must specify tenant eligibility requirements as well as how tenants' incomes, rents and assistance must be verified and computed so as to prevent the Department from making improper payments to owners on behalf of assisted tenants. The Department also must provide annual reports to Congress and the public on the race/ethnicity and gender composition of subsidy program beneficiaries. This information is essential to maintain a standard of fair practices in assigning tenants to HUD Multifamily properties.

Respondents: (i.e. affected public): Individuals or households.

Estimated Number of Respondents: 2,700,895.

Estimated Number of Responses: 4,127,179.

Frequency of Response: Annually.

Average Hours per Response: 2.88 per hour.

Total Estimated Burdens: 41,461,775.

B. Solicitation of Public Comment

This notice is soliciting comments from members of the public and affected parties concerning the collection of information described in Section A on the following:

(1) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) The accuracy of the agency's estimate of the burden of the proposed collection of information;

(3) Ways to enhance the quality, utility, and clarity of the information to be collected; and

(4) Ways to minimize the burden of the collection of information on those who are to respond; including through the use of appropriate automated collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

HUD encourages interested parties to submit comment in response to these questions.

Authority: Section 3507 of the Paperwork Reduction Act of 1995, 44 U.S.C. Chapter 35.

Dated: March 25, 2014.

Colette Pollard,

Department Reports Management Officer, Office of the Chief Information Officer.

[FR Doc. 2014–07067 Filed 3–28–14; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–5752–N–34]

30-Day Notice of Proposed Information Collection: HUD Environmental Review Online System (HEROS)

AGENCY: Office of the Chief Information Officer, HUD.

ACTION: Notice.

SUMMARY: HUD has submitted the proposed information collection requirement described below to the Office of Management and Budget (OMB) for review, in accordance with the Paperwork Reduction Act. The purpose of this notice is to allow for an additional 30 days of public comment.

DATES: *Comments Due Date: April 30, 2014.*

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and/or OMB Control Number and should be sent to: HUD Desk Officer, Office of Management and Budget, New Executive Office Building, Washington, DC 20503; fax: 202–395–5806. Email: *OIRA_Submission@omb.eop.gov.*

FOR FURTHER INFORMATION CONTACT: Colette Pollard, Reports Management Officer, QDAM, Department of Housing and Urban Development, 451 7th Street SW., Washington, DC 20410; email Colette Pollard at *Colette.Pollard@hud.gov* or telephone 202–402–3400. Persons with hearing or speech impairments may access this number through TTY by calling the toll-free Federal Relay Service at (800) 877–8339. This is not a toll-free number. Copies of available documents submitted to OMB may be obtained from Ms. Pollard.

SUPPLEMENTARY INFORMATION: This notice informs the public that HUD has submitted to OMB a request for approval of the information collection described in Section A. The **Federal Register** notice that solicited public comment on the information collection for a period of 60 days was published on December 27, 2013.

A. Overview of Information Collection

Title of Information Collection: HUD Environmental Review Online System (HEROS).

OMB Approval Number: 2506–New.

Type of Request New collection.

Form Number: None.

Description of the need for the information and proposed use: 224 CFR Part 58, ''Environmental Review Procedures for Entities Assuming HUD Environmental Responsibilities'' requires units of general local government receiving HUD assistance to maintain a written environmental review record for all projects receiving HUD funding documenting compliance with the National Environmental Policy Act (NEPA), the regulations of the Council on Environmental Quality, related federal environmental laws, executive orders, and authorities, and Part 58 procedure. Various laws that authorize this procedure are listed in 24 CFR 58.1(b).

In the past, HUD recipients were allowed to prepare their environmental review records using HUD recommended formats or equivalent formats. Now, HUD is developing a new online tool called the HUD Environmental Review Online System (HEROS), which will allow users to complete, store, and submit their environmental review records online. HUD's intention is HEROS will improve HUD's environmental reviews in a number of ways. First, it will replace HUD's many environmental review forms and requirements with one single format housed online with guidance integrated throughout to simplify the process and assist new employees in the preparation of their reviews. Second, HUD plans to increase transparency and overall compliance with NEPA by posting many environmental review records online for public review through HEROS. Finally, storing recipients' records in HEROS will allow HUD to collect data on environmental compliance for the first time. Once completed, HUD intends to make HEROS the only permitted format in most cases.

24 CFR Part 50, ''Protection and Enhancement of Environmental Quality,'' implements procedures for HUD to perform environmental reviews for projects where Part 58 is not permitted by law. Under Part 50, HUD staff complete the environmental review records, but they may use any information supplied by an applicant or contractor, provided HUD independently evaluates the information and is responsible for its accuracy and prepares the environmental finding. There is no current format for applicants and contractors to submit required information, but HEROS would allow these parties to submit environmental information to HUD staff through the system as well. HUD staff will then use HEROS to complete the environmental review record.

Respondents: The respondents are state and local governments receiving HUD funding who are required to complete environmental reviews.

Estimation of the total number of hours to prepare the information collection including number of respondents, frequency of response and hours of response:

Information collection	Number of respondents	Frequency of response	Responses per annum	Burden hour per response	Annual burden hours	Hourly cost per response	Annual cost
Total	2,500	5	12,500	1	12,500	30	$375,000

B. Solicitation of Public Comment

This notice is soliciting comments from members of the public and affected parties concerning the collection of information described in Section A on the following:

(1) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) The accuracy of the agency's estimate of the burden of the proposed collection of information;

(3) Ways to enhance the quality, utility, and clarity of the information to be collected; and

(4) Ways to minimize the burden of the collection of information on those who are to respond; including through the use of appropriate automated collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

HUD encourages interested parties to submit comment in response to these questions.

Authority: Section 3507 of the Paperwork Reduction Act of 1995, 44 U.S.C. Chapter 35.

Dated: March 25, 2014.

Colette Pollard,

Department Reports Management Officer, Office of the Chief Information Officer.

[FR Doc. 2014–07068 Filed 3–28–14; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–5777–N–01]

Multifamily, Health Care Facilities, and Hospital Mortgage Insurance Premiums for Fiscal Year (FY) 2015

AGENCY: Office of the Assistant Secretary for Housing—Federal Housing Commissioner, HUD.

ACTION: Notice.

SUMMARY: In accordance with HUD regulations, this Notice announces the mortgage insurance premiums (MIPs) for Federal Housing Administration (FHA) Multifamily, Health Care Facilities, and Hospital mortgage insurance programs that have commitments to be issued or reissued in FY 2015. FY 2015 MIPs are the same as in FY 2014. This Notice does not apply to loans insured under the Risk Sharing programs of section 542(b) or 542(c) of the Housing and Community Development Act of 1992.

DATES: *Effective Date:* October 1, 2014.

FOR FURTHER INFORMATION CONTACT:

Multifamily Programs: Theodore K. Toon, Director, Office of Multifamily Development, Office of Housing, Department of Housing and Urban Development, 451 7th Street SW., Washington, DC 20410–8000, telephone number 202–402–8386 (this is not a toll free number).

Health Care and Hospital Programs: Roger M. Lukoff, MA, FACHE, Associate Deputy Assistant Secretary, FHA-Office of Healthcare Programs, United States Department of Housing and Urban Development, 451 Seventh Street SW.,—Room 6264, Washington, DC 20410. Telephone: 202–402–4762, FAX: 202–708–0560. Hearing or speech-impaired individuals may access these numbers via TTY by calling the Federal Relay Service at 800–877–8339 (this is a toll-free number).

SUPPLEMENTARY INFORMATION:

I. Background

HUD's mortgage insurance regulations at 24 CFR 207.254 provide as follows:

> Notice of future premium changes will be published in the **Federal Register**. The Department will propose MIP changes for multifamily mortgage insurance programs and provide a 30-day public comment period for the purpose of accepting comments on whether the proposed changes are appropriate.

Under this regulation, HUD is required to publish a notice in the **Federal Register** for public comment only when there are premium changes. This notice announces that the FY 2015 MIPs are the same the FY 2014 MIPs, published in the **Federal Register** on September 20, 2013 (FR–5737–N–01). Since HUD is not seeking to implement any premium changes for FY 2015 for the mortgage insurance programs listed in this notice, HUD is not seeking public comment.

II. Positive Credit Subsidy Programs

The Department will continue to suspend issuance and reissuance of commitments under two programs that have previously required positive credit subsidy: Section 221(d)(3) New Construction/Substantial Rehabilitation (NC/SR) for Nonprofit/Cooperative Mortgagors without LIHTC and Section 223(d) Operating Loss Loans for Apartments.

The MIPs to be in effect for FHA Firm Commitments issued or reissued in FY 2015 are shown in the chart below:

FISCAL YEAR 2015 MIP RATES—MULTIFAMILY, HEALTHCARE FACILITIES AND HOSPITAL INSURANCE PROGRAMS

	Basis points
FHA Multifamily	
207 Multifamily Housing New Construction/Sub Rehab without LIHTC	70
207 Multifamily Housing New Construction/Sub Rehab with LIHTC	45
207 Manufactured Home Parks without LIHTC	70
207 Manufactured Home Parks with LIHTC	45
221(d)(3) New Construction/Substantial Rehabilitation (NC/SR) for Nonprofit/Cooperative mortgagor without LIHTC	N/A
221(d)(3) Limited dividend with LIHTC	45
221(d)(4) NC/SR without LIHTC	65
221(d)(4) NC/SR with LIHTC	45
220 Urban Renewal Housing without LIHTC	70
220 Urban Renewal Housing with LIHTC	45

FISCAL YEAR 2015 MIP RATES—MULTIFAMILY, HEALTHCARE FACILITIES AND HOSPITAL INSURANCE PROGRAMS—Continued

	Basis points
213 Cooperative	70
207/223(f) Refinance or Purchase for Apartments without LIHTC	*60
207/223(f) Refinance or Purchase for Apartments with LIHTC	*45
223(a)(7) Refinance of Apartments without LIHTC	**50
223(a)(7) Refinance of Apartments with LIHTC	**45
223d Operating Loss Loan for Apartments	N/A
231 Elderly Housing without LIHTC	70
231 Elderly Housing with LIHTC	45
241(a) Supplemental Loans for Apartments/coop without LIHTC	95
241(a) Supplemental Loans for Apartments/coop with LIHTC	45
FHA Healthcare Facilities (Nursing Homes, ALF & B&C)	
232 NC/SR Healthcare Facilities without LIHTC	77
232 NC/SR—Assisted Living Facilities with LIHTC	45
232/223(f) Refinance for Healthcare Facilities without LIHTC	*65
232/223(f) Refinance for Healthcare Facilities with LIHTC	*45
223(a)(7) Refinance of Healthcare Facilities without LIHTC	**55
223(a)(7) Refinance of Healthcare Facilities with LIHTC	**45
223d Operating Loss Loan for Healthcare Facilities	95
241(a) Supplemental Loans for Healthcare Facilities without LIHTC	72
241(a) Supplemental Loans for Healthcare Facilities with LIHTC	45
FHA Hospitals	
242 Hospitals	70
223(a)(7) Refinance of Existing FHA-insured Hospital	**55
223(f) Refinance or Purchase of Existing Non-FHA-insured Hospital	*65
241(a) Supplemental Loans for Hospitals	65

*The first-year or upfront MIP fee for loans insured under Section 223(f) for Multifamily, Health Care Facilities, and Hospital programs is 100 basis (one percent) points. The annual MIP amounts are otherwise shown above for the respective Section 223(f) programs.

**The first-year or upfront MIP fee for loans under Section 223(a)(7) for Multifamily, Health Care Facilities, and Hospital programs is 50 basis points. The annual MIP amounts are otherwise shown above for the respective Section 223(a)(7) programs.

III. Information Collection

The information collection requirements contained in this document have been approved by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520) and assigned OMB control number 2502–0500. In accordance with the Paperwork Reduction Act, HUD may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection displays a currently valid OMB control number.

Dated: March 26, 2014.

Carol J. Galante,

Assistant Secretary for Housing—Federal Housing Commissioner.

[FR Doc. 2014–07153 Filed 3–28–14; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–5763–N–04]

Privacy Act of 1974; Notice of a Computer Matching Program Between the Department of Housing and Urban Development (HUD) and the Social Security Administration (SSA): Matching Tenant Data in Assisted Housing Programs

AGENCY: Office of the Chief Information Officer, HUD.

ACTION: Notice of a computer matching program between HUD and SSA.

SUMMARY: Pursuant to the Computer Matching and Privacy Protection Act of 1988, as amended, and the Office of Management and Budget's (OMB) Guidance on the statute (5 U.S.C. 552a, as amended), HUD is notifying the public of its intent to execute, in May 2014, a new computer matching program with SSA, for a recurring matching program with HUD's Office of Public and Indian Housing (PIH) and Office of Housing. The most recent renewal of the current matching agreement expires on May 7, 2014. HUD will obtain SSA data and make the results available to 1) program administrators such as public housing agencies (PHAs) and private owners and management agents (O/As) (collectively referred to as POAs) to enable them to verify the accuracy of income reported by the tenants (participants) of HUD rental assistance programs and 2) contract administrators (CAs) overseeing and monitoring O/A operations as well as independent public auditors (IPAs) that audit both PHAs and O/As.

DATES: *Effective Date:* The effective date of this agreement, and the date the match may begin is the later of the following dates: 40 days after HUD files a report of the subject matching program with the Committee on Oversight and Government Reform of the House of Representatives, the Committee on Homeland Security and Governmental Affairs of the Senate, and the Office of Management and Budget's (OMB), Office of Information and Regulatory Affairs; or 30 days after HUD publishes notice of the computer matching program in the **Federal Register**, unless changes to the matching program are required due to public comments or by Congressional or by Office of Management and Budget objections.

Any public comment must be received before the effective comment due date.

Comments Due Date: April 30, 2014.

ADDRESSES: Interested persons are invited to submit comments regarding this notice to the Rules Docket Clerk, Office of General Counsel, Department of Housing and Urban Development, 451 Seventh Street SW., Room 10276, Washington, DC 20410–0500. Communications should refer to the above docket number and title. Comments sent by facsimile are not acceptable. A copy of each communication submitted will be available for public inspection and copying between 8:00 a.m. and 5:00 p.m. weekdays at the above address.

FOR FURTHER INFORMATION CONTACT: For Privacy Act inquires: Office of the Chief Information Officer, contact Donna Robinson-Staton, Chief Privacy Officer, Department of Housing and Urban Development, 451 Seventh Street SW., CVB4, Washington, DC 20410, telephone number (202) 402–8073. For program information: Office of Public and Indian Housing: Real Estate Assessment Center, contact Victoria Alston, Department of Housing and Urban Development, 451 Seventh Street SW., Room PCFL1, Washington, DC 20410, telephone number (202) 475–7993; Office of Housing, contact Yvette Viviani, Director of the Housing Assistance Policy Division, Department of Housing and Urban Development, 451 Seventh Street SW., Room 6138, Washington, DC 20410, telephone number (202) 708–3000. (These are not toll free telephone numbers). A telecommunications device for hearing- and speech-impaired individuals (TTY) is available at (800) 877–8339 (Federal Information Relay Service).

SUPPLEMENTARY INFORMATION: This notice supersedes a similar notice published in the **Federal Register** (FR) on September 14, 2011, at 76 FR 56781. Administrators of HUD rental assistance programs rely upon the accuracy of tenant-reported income to determine participant eligibility for and level of, rental assistance. The computer matching program may provide indicators of potential tenant unreported or under-reported income, which will require additional verification to identify inappropriate or inaccurate rental assistance, and may provide indicators for potential administrative or legal actions. The matching program will be carried out to detect inappropriate or inaccurate rental assistance under sections 221(d)(3), 221(d)(5), and 236 of the National Housing Act, the United States Housing Act of 1937, section 101 of the Housing and Community Development Act of 1965, section 202 of the Housing Act of 1959, section 811 of the Cranston-Gonzalez National Affordable Housing Act, the Native American Housing Assistance and Self-Determination Act of 1996, and the Quality Housing and Work Responsibility Act (QHWRA) of 1998. On March 11, 2009, Section 239 of HUD's 2009 Appropriations Act modified Section 904 of the Stewart B. McKinney Act of 1988, as amended, to include the Disaster Housing Assistance program (DHAP) as a covered HUD rental assistance program in HUD computer matching activities. The computer matching program will also provide for the verification of social security numbers (SSNs) of tenants participating in covered rental assistance programs. This notice provides an overview of computer matching for HUD's rental assistance programs. Specifically, the notice describes HUD's program for computer matching of its tenant data to SSA's death data, Social Security (SS) and Supplemental Security Income (SSI) benefits data.

The Computer Matching and Privacy Protection Act (CMPPA) of 1988, an amendment to the Privacy Act of 1974 (5 U.S.C. 552a), OMB's guidance on this statute entitled ''Final Guidance Interpreting the Provisions of Public Law 100–503, the CMPPA of 1988'' (OMB Guidance), and OMB Circular No. A–130 requires publication of notices of computer matching programs. Appendix I to OMB's Revision of Circular No. A–130, ''Transmittal Memorandum No. 4, Management of Federal Information Resources,'' prescribes Federal agency responsibilities for maintaining records about individuals. In compliance with the CMPPA and Appendix I to OMB Circular No. A–130, copies of this notice are being provided to the Committee on Government Reform and Oversight of the House of Representatives, the Committee of Homeland Security and Governmental Affairs of the Senate, and OMB's Office of Information and Regulatory Affairs.

I. Authority

This matching program is being conducted pursuant to the Privacy Act of 1974 (5 U.S.C. 552a); 542(b) of the 1998 Appropriations Act (Pub. L. 105–65); section 904 of the Stewart B. McKinney Homeless Assistance Amendments Act of 1988 (42 U.S.C. 3544); section 165 of the Housing and Community Development Act of 1987 (42 U.S.C. 3543); the National Housing Act (12 U.S.C. 1701–1750g); the United States Housing Act of 1937 (42 U.S.C. 1437–1437z); section 101 of the Housing and Community Development Act of 1965 (12 U.S.C. 1701s); the Native American Housing Assistance and Self-Determination Act of 1996 (25 U.S.C. 4101 et seq.); and the QHWRA Act of 1998 (42 U.S.C. 1437a(f)). The Housing and Community Development Act of 1987 authorizes HUD to require participants of HUD rental housing assistance programs to disclose their social security numbers (SSNs) to HUD as a condition of continuing (or initial) eligibility for participation in the programs. The QHWRA of 1998, section 508(d), 42 U.S.C. 1437a(f) authorizes the Secretary of HUD to require disclosure by the tenant to the PHA of income information received by the tenant from HUD as part of the income verification procedures of HUD. The QHWRA was amended by Public Law 106–74, which extended the disclosure requirements to participants in section 8, section 202, and section 811 assistance programs. The participants are required to disclose the HUD-provided income information to owners responsible for determining the participant's eligibility or level of benefits.

The Refinement of Income and Rent Determination Requirements in Public and Assisted Housing Programs: Implementation of the Enterprise Income Verification (EIV) System—Amendments; Final Rule published at 74 FR 68924 on December 29, 2009, requires program administrators to use HUD's EIV system to verify tenant income information during mandatory reexaminations or recertifications of family composition and income; and reduce administrative and subsidy payment errors in accordance with HUD administrative guidance (24 CFR § 5.233).

This computer matching program also assists HUD in complying with the following federal laws, requirements, and guidance related to identifying and reducing improper payments:

1. Improper Payments Elimination and Recovery Act of 2010 (IPERA) (Pub. L. 111–204);
2. Presidential Memorandum on Enhancing Payment Accuracy Through a ''Do Not Pay List'' (June 18, 2010);
3. Office of Management and Budget M–10–13, Issuance of Part III to OMB Circular A–123, Appendix C;
4. Presidential Memorandum on Finding and Recapturing Improper Payments (March 10, 2010);
5. Reducing Improper Payments and Eliminating Waste in Federal Programs (Executive Order 13520, November 2009);
6. Improper Payments Information Act of 2002 (Pub. L. 107–300); and

7. Office of Management and Budget M–03–13, Improper Payments Information Act of 2002 Implementation Guide.

II. Covered Programs

This notice of computer matching program applies to the following rental assistance programs:

A. Disaster Housing Assistance Program (DHAP)
B. Public Housing
C. Section 8 Housing Choice Voucher (HCV)
D. Project-Based Voucher
E. Section 8 Moderate Rehabilitation
F. Project-based Section 8
  1. New Construction
  2. State Agency Financed
  3. Substantial Rehabilitation
  4. Section 202/8
  5. Rural Housing Services Section 515/8
  6. Loan Management Set-Aside (LMSA)
  7. Property Disposition Set-Aside (PDSA)
G. Section 101 Rent Supplement
H. Section 202/162 Project Assistance Contract (PAC)
I. Section 202 Project Rental Assistance Contract (PRAC)
J. Section 811 Project Rental Assistance Contract (PRAC)
K. Section 236 Rental Assistance Program
L. Section 221(d)(3) Below Market Interest Rate (BMIR)

Note: This notice does not apply to the Low Income Housing Tax Credit (LIHTC) or the Rural Housing Services Section 515 without Section 8 programs.

III. Objectives To Be Met By the Matching Program

HUD's primary objective in implementing the computer matching program is to verify the income of individuals participating in the rental assistance programs identified in Section II above, to determine the appropriate level of rental assistance, and to detect, deter, reduce and correct fraud and abuse in rental housing assistance programs. In meeting this objective, HUD also is carrying out its responsibility under 42 U.S.C. 1437f(K) to ensure that income data provided to POAs by household members is complete and accurate. HUD's various assisted housing programs, administered through POAs, require that participants meet certain income and other criteria to be eligible for rental assistance. In addition, tenants generally are required to report the amounts and sources of their income at least annually. However, under the QHWRA of 1998, PHAs must offer public housing tenants the option to pay a flat rent, or an income-based rent annually. Those tenants who select a flat rent will be required to recertify income at least every three years. In addition, the Changes to the Admissions and Occupancy Final Rule (March 29, 2000; 65 FR 16692) specified that household composition must be recertified annually for tenants who select a flat rent or income-based rent.

Other objectives of this computer matching program include: (1) Increasing the availability of rental assistance to individuals who meet the requirements of the rental assistance programs; (2) after removal of personal identifiers, conducting analyses of the Social Security death data and benefit information, and income reporting of program participants; and (3) measure improper payments due to under-reporting of income and/or overpayment of subsidy on behalf of deceased program participants.

IV. Program Description

HUD will disclose to SSA only tenant personal identifiers, i.e., full name, Social Security number, and date of birth. SSA will match the HUD-provided personal identifiers to personal identifiers included in their various systems of records identified in Section IV of this notice. SSA will validate HUD-provided personal identifiers and provide income data to HUD only for individuals with matched personal identifiers. SSA will also provide the date of death or indication of death for any program participant whose HUD-supplied personal identifiers are successfully matched against SSA databases. For any individual whose personal identifiers do not match the personal identifiers in the SSA database, SSA will provide HUD with an error message, which will describe the reason(s) for no match (i.e., incorrect date of birth or surname, or invalid Social Security number). The SSA-provided data will be made available to POAs in HUD's EIV system.

A. Income Verification

Any match (i.e., a ''hit'') will be further reviewed by HUD, the POAs, or the HUD Office of Inspector General (OIG) to determine whether the income reported by tenants to the program administrator is correct and complies with HUD and program administrator requirements. Specifically, current or prior SS and SSI benefit information and other data will be sought directly from tenants. For public housing and Section 8 tenant-based HCV programs, tenants will be required to provide PHAs with original SSA benefit verification letters dated within the last 60 days for comparison to computer matching results for accuracy. For multifamily housing programs, tenants must provide O/As with SSA benefit verification letters dated within the last 120 days. For SS and SSI benefit information for prior years, the tenant may be required to provide POAs with an original benefit history document from SSA if there is a dispute regarding historical income information obtained through the computer matching program.

B. Administrative or Legal Actions

Regarding all the matching described in this notice, POAs will take appropriate action in consultation with tenants to: (1) Resolve income disparities between tenant-reported and SSA-reported data; and (2) Use correct income amounts in determining rental assistance.

POAs must compute the rent in full compliance with all applicable statutes, regulations and administrator policies. POAs must ensure that they use the correct income and correctly compute the rent. In order to protect any individual whose records are used in this matching program, POAs may not suspend, terminate, reduce, or make a final denial of any rental assistance to any tenant, or take other adverse action against the tenant as a result of information produced by this matching program until: (a) The tenant has received notice from the POA of its findings and has been informed of the opportunity to contest such findings; (b) The POA has independently verified the information; and (c) either the notice period provided in applicable regulations of the program, or 30 days, whichever is later, has expired. ''Independently verified'' in item (b) means the specific information relating to the tenant that is used as a basis for an adverse action has been investigated and confirmed by the POA. (5 U.S.C. 552a) As such, POAs must resolve income discrepancies in consultation with tenants. Additionally, serious violations, which POAs, HUD Program staff, or the HUD OIG verify, should be referred for full investigation and appropriate civil and/or criminal proceedings.

With respect to SSA-provided error messages regarding HUD-provided tenant, and matched personal identifiers, the POAs' administrator/agent will confirm its file and system documentation to confirm accuracy of data elements, and make any necessary corrections. If there is no error in the documentation, the POAs'

administrators/agents will notify the individual of the error and request that the individual contact the SSA to correct any SSA data errors. POAs administrators/agents cannot correct such errors.

V. Records To Be Matched

SSA will conduct the matching of tenant SSNs and additional identifiers (surnames and dates of birth) to tenant data that HUD supplies from its systems of records known as the *Tenant Rental Assistance Certification System* (TRACS), a component of HUD's Tenant Housing Assistance and Contract Verification Data System (HUD/H–11), and the *Inventory Management System (IMS),* formerly known as the *Public and Indian Housing Information Center* (PIC) (HUD/PIH.01). The notice for these systems was published at 62 FR 11909 on March 13, 1997, and 77 FR 22337 on April 13, 2012, respectively. Program administrators utilize the form HUD–50058 module within the PIC system and the form HUD–50059 module within the TRACS to provide HUD with the tenant data.

SSA will match the tenant records included in HUD/H–11 and HUD/PIH–4 to their systems of records known as SSA's *Master Files of Social Security Number Holders, and SSN Applications* (60–0058), published at 75 FR 82121 on December 29, 2010; *Master Beneficiary Record* (60–0090), published at 71 FR 1826 on January 11, 2006; and *Supplemental Security Income Record* and Special Veterans Benefits (60–0103), published at 71 FR 1830 on January 11, 2006. The notice for these systems was. HUD will place the resulting matched data into its *Enterprise Income Verification (EIV) system* (HUD/PIH–5). The notice for this system was initially published at 70 FR 41780 on July 20, 2005, and last amended on September 1, 2009 (74 FR 45235). The tenant records (one record for each family member) include these data elements: Full name, SSN, and date of birth.

HUD data will also be matched to the SSA's *Master Files of Social Security Number Holders, and SSN Applications* (60–0058) for the purpose of validating SSNs of participants of HUD rental assistance programs to identify noncompliance with program eligibility requirements. HUD will compare tenant SSNs provided by POAs to reveal duplicate SSNs and potential duplicate rental assistance.

VI. Period of the Match

The computer matching program will become effective and the matching may commence after the respective Data Integrity Boards (DIBs) of both agencies approve and sign the computer matching agreement, and after, the later of the following: (1) 40 days after report of the matching program is sent to Congress and OMB; (2) at least 30 days after publication of this notice in the **Federal Register**, unless comments are received, which would result in a contrary determination. The computer matching program will be conducted according to the computer matching agreement between HUD and SSA. The computer matching agreement for the planned matches will terminate either when the purpose of the computer matching program is accomplished, or 18 months from the effective date of the computer matching agreement. The agreement may be renewed for one 12-month period, with the mutual agreement of all involved parties, if the following conditions are met: (1) Within three months of the expiration date, all DIBs review the agreement, find that the program will be conducted without change, and find a continued favorable examination of benefit/cost results; and (2) All parties certify that the program has been conducted in compliance with the computer matching agreement.

The agreement may be terminated, prior to accomplishment of the computer matching purpose or 18 months from the effective date of the computer matching agreement (whichever comes first), by the mutual agreement of all involved parties within 30 days of written notice.

Authority: 5 U.S.C. 552a, 88 Stat. 1896; 42 U.S.C. 3535(d).

Dated: March 25, 2014.

Kevin R. Cooke, Jr.,

Acting, Chief Information Officer.

[FR Doc. 2014–07151 Filed 3–28–14; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[FWS–HQ–FAC–2014–N038; FXFR133609ANS09–FF09F14000–134]

Aquatic Nuisance Species Task Force Meeting

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of meeting.

SUMMARY: We, the U.S. Fish and Wildlife Service, announce a public meeting of the Aquatic Nuisance Species (ANS) Task Force. The ANS Task Force's purpose is to develop and implement a program for U.S. waters to prevent introduction and dispersal of aquatic invasive species (AIS); to monitor, control, and study such species; and to disseminate related information.

DATES: The ANS Task Force will meet from 8 a.m. to 4:30 p.m. on Wednesday, May 7, through Thursday, May 8, 2014. For security purposes, registration for the meeting is required. If you wish to attend the meeting, you must register by contacting the ANS Task Force Executive Secretary (see **FOR FURTHER INFORMATION CONTACT**) no later than May 1, 2014.

ADDRESSES: The ANS Task Force meeting will take place at the U.S. Fish and Wildlife Service, Room 530, 4401 North Fairfax Drive, Arlington, VA 22203 (telephone: 703–358–2398).

FOR FURTHER INFORMATION CONTACT: Laura Norcutt, Acting Executive Secretary, ANS Task Force, by telephone at (703) 358–2398, or by email at *Laura_Norcutt@fws.gov*. If you use a telecommunications device for the deaf (TDD), please call the Federal Information Relay Service (FIRS) at 800–877–8339.

SUPPLEMENTARY INFORMATION: In accordance with the requirements of the Federal Advisory Committee Act, 5 U.S.C. App., we announce that the ANS Task Force will hold a meeting.

Background

The ANS Task Force was established by the Nonindigenous Aquatic Nuisance Prevention and Control Act of 1990 (Act) (Pub. L. 106–580, as amended), and is composed of 13 Federal and 13 ex-officio members and co-chaired by the U.S. Fish and Wildlife Service and the National Oceanic and Atmospheric Administration. The ANS Task Force provides advice on AIS infesting waters of the United States and other nations, among other duties as specified in the Act.

Meeting Agenda

- Federally Managed Water Bodies and AIS Issues
- Model State Inspection and Decontamination Legislation
- Draft Snakehead and Lionfish Management Plans
- Voluntary Approaches to Developing Semi-Green Boats
- National Invasive Species Awareness Week
- Stop Aquatic Hitchhikers! Update
- Lake Tahoe ANS Management Plan
- Quagga Zebra Action Plan Update
- Report to Congress
- Fracking as an AIS Pathway
- Ballast Water Research
- Great Lakes and Mississippi River Basin Study

- Solutions to the Threat of AIS Through the Chicago Area Water System

The final agenda and other related meeting information will be posted on the ANS Task Force Web site at: *http://anstaskforce.gov.*

Meeting Minutes

Summary minutes of the meeting will be maintained by the Executive Secretary (see **FOR FURTHER INFORMATION CONTACT**). The minutes will be available for public inspection within 60 days after the meeting and will be posted on the ANS Task Force Web site at *http://anstaskforce.gov*.

Dated: March 18, 2014.

David Hoskins,

Co-Chair, Aquatic Nuisance Species Task Force, Assistant Director for Fish and Aquatic Conservation.

[FR Doc. 2014–06974 Filed 3–28–14; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

[134D0102DRDS5B800000DR.5B811.IA000913DLB000000.000000]

Renewal of Agency Information Collection for Tribal Energy Development Capacity Program

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Notice of request for comments.

SUMMARY: In compliance with the Paperwork Reduction Act of 1995, the Assistant Secretary—Indian Affairs is seeking comments on the renewal of Office of Management and Budget (OMB) approval for the collection of information for the Tribal Energy Development Capacity (TEDC) program authorized by OMB Control Number 1076–0177. This information collection expires July 31, 2014.

DATES: Submit comments on or before May 30, 2014.

ADDRESSES: You may submit comments on the information collection to David B. Johnson, Office of Indian Energy and Economic Development, Assistant Secretary—Indian Affairs, 1951 Constitution Avenue NW., MS–20 SIB, Washington, DC 20240; facsimile: (202) 208–4564; email: *DavidB.Johnson@bia.gov.*

FOR FURTHER INFORMATION CONTACT: David Johnson, (202) 208–3026.

SUPPLEMENTARY INFORMATION:

I. Abstract

The Energy Policy Act of 2005 authorizes the Secretary of the Interior to provide assistance to Indian tribes and tribal energy resource development organizations for energy development and appropriates funds for such projects on a year-to-year basis. See 25 U.S.C. 3502. When funding is available, the Office of Indian Energy and Economic Development (IEED) may solicit proposals for projects for building capacity for tribal energy resource development on Indian land from tribal energy resource development organizations and Indian tribes, including Alaska Native regional and village corporations under the TEDC program. For the purposes of this program, ''Indian land'' includes: All land within the boundaries of an Indian reservation, pueblo, or Rancheria; any land outside those boundaries that is held by the United States in trust for a tribe or individual Indian or by a tribe or individual Indian with restrictions on alienation; and land owned by an Alaska Native regional or village corporation.

Those who would like to submit a TEDC project proposal must submit an application that includes certain information and, once funding is received must submit reports on how they are using the funding. A complete application must contain the following:

- A formal signed resolution of the governing body of the tribe or tribal energy resource development organization demonstrating authority to apply;
- A proposal describing the planned activities and deliverable products; and
- A detailed budget estimate, including contracted personnel costs, travel estimates, data collection and analysis costs, and other expenses.

The project proposal must include the information about the tribe or tribal energy resource development organization sufficient to allow IEED to evaluate the proposal based on the following criteria:

(a) Energy resource potential;

(b) Applicant's energy resource development history and current status;

(c) Applicant's existing energy resource development capabilities;

(d) Demonstrated willingness of the applicant to establish and maintain an independent energy resource development business entity;

(e) Intent to develop and retain energy development capacity within the applicant's government or business entities; and

(f) Applicant commitment of staff, training, or monetary resources.

The IEED requires this information to ensure that it provides funding only to those projects that meet the goals of the TEDC and the purposes for which Congress provides the appropriations.

II. Request for Comments

The IEED requests your comments on this collection concerning: (a) The necessity of this information collection for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) The accuracy of the agency's estimate of the burden (hours and cost) of the collection of information, including the validity of the methodology and assumptions used; (c) Ways we could enhance the quality, utility, and clarity of the information to be collected; and (d) Ways we could minimize the burden of the collection of the information on the respondents.

Please note that an agency may not conduct or sponsor, and an individual need not respond to, a collection of information unless it has a valid OMB Control Number.

It is our policy to make all comments available to the public for review at the location listed in the **ADDRESSES** section. 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.

III. Data

OMB Control Number: 1076–0177.

Title: Tribal Energy Development Capacity Program Grants.

Brief Description of Collection: Indian tribes and tribal energy resource development organizations that would like to apply for TEDC funding must submit an application that includes certain information. A complete application must contain a formal signed resolution of the governing body of the tribe or tribal energy resource development organization, a proposal describing the planned activities and deliverable products; and a detailed budget estimate, including contracted personnel costs, travel estimates, data collection and analysis costs, and other expenses. The IEED requires this information to ensure that it provides funding only to those projects that meet the goals of the TEDC program and purposes for which Congress provides the appropriation. Upon acceptance of

an application, the successful applicant must then submit one- to two-page progress reports twice during the grant period summarizing events, accomplishments, problems and/or results in executing the project. A response is required to obtain a benefit.

Type of Review: Extension without change of currently approved collection.

Respondents: Indian tribes and tribal energy resource development organizations under 25 U.S.C. 3502.

Number of Respondents: 26 per year, on average; 18 project participants each year, on average.

Frequency of Response: Once per year for applications; 2 times per year for progress reports.

Estimated Time per Response: 40 hours per application; 1.5 hours per progress report.

Estimated Total Annual Hour Burden: 1,067 hours (1,040 for applications and 27 for progress reports).

Estimated Total Annual Non-Hour Dollar Cost: $0.

Dated: March 25, 2014.

John Ashley,

Acting Assistant Director for Information Resources.

[FR Doc. 2014–07050 Filed 3–28–14; 8:45 am]

BILLING CODE 4310–G1–P

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

[145A2100DD.AADD001000.A0E501010.999900]

Renewal of Agency Information Collection for Home-Living Programs and School Closure and Consolidation

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Notice of request for comments.

SUMMARY: In compliance with the Paperwork Reduction Act of 1995, the Bureau of Indian Education (BIE) is seeking comments on the renewal of Office of Management and Budget (OMB) approval for the collection of information for the Home-living Programs and School Closure and Consolidation. This information collection is currently authorized by OMB Control Number 1076–0164. This information collection expires June 30, 2014.

DATES: Submit comments on or before May 30, 2014.

ADDRESSES: You may submit comments on the information collection Juanita Mendoza, U.S. Department of the Interior, Bureau of Indian Education, 1849 C Street NW., Washington, DC 20240; facsimile: (202) 208–3312; email: *Juanita.Mendoza@bie.edu.*

FOR FURTHER INFORMATION CONTACT: Juanita Mendoza, (202) 208–6123.

SUPPLEMENTARY INFORMATION:

I. Abstract

Public Law 107–110, the No Child Left Behind (NCLB) Act of January 8, 2001, requires all schools including Bureau-funded boarding/residential schools to ensure that all children have a fair, equal, and significant opportunity to obtain a high-quality education and reach, at a minimum, proficiency on challenging academic achievement standards and assessments. The NCLB Act, and implementing regulations at 25 CFR part 36, requires the Bureau to implement national standards for home-living situations in all Bureau-funded residential schools. The Bureau must collect information from all Bureau-funded residential schools in order to assess each school's progress in meeting the national standards. The Bureau is seeking renewal of the approval for this information collection to ensure that minimum academic standards for the education of Indian children and criteria for dormitory situations in Bureau-operated schools and Tribally-controlled contact and grant schools are met.

II. Request for Comments

The Bureau of Indian Education (BIE) requests your comments on this collection concerning: (a) The necessity of this information collection for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) The accuracy of the agency's estimate of the burden (hours and cost) of the collection of information, including the validity of the methodology and assumptions used; (c) Ways we could enhance the quality, utility, and clarity of the information to be collected; and (d) Ways we could minimize the burden of the collection of the information on the respondents.

Please note that an agency may not conduct or sponsor, and an individual need not respond to, a collection of information unless it displays a valid OMB Control Number.

It is our policy to make all comments available to the public for review at the location listed in the **ADDRESSES** section. 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.

III. Data

OMB Control Number: 1076–0164.

Title: Home-living Programs and School Closure and Consolidation.

Brief Description of Collection: Submission of this information allows the Department of the Interior to ensure that minimum academic standards for the education of Indian children and criteria for dormitory situations in Bureau-operated schools and Indian-controlled contract schools are met. Response is required to obtain a benefit.

Type of Review: Extension without change of currently approved collection.

Respondents: Indian tribes.

Number of Respondents: There are 66 schools with residential programs, of which 28 are Bureau-operated and 38 are tribally operated. Thus, the collection of information must be cleared for 38 of the 66 residential schools.

Total Number of Responses: 730 per year, on average.

Frequency of Response: Annual or on occasion, depending on the activity.

Estimated Time per Response: Ranges from 0.02 hours to 40 hours, depending on the activity.

Estimated Total Annual Hour Burden: 1,344 hours.

Estimated Total Annual Non-Hour Dollar Cost: $0.

Dated: March 25, 2014.

John Ashley,

Acting Assistant Director for Information Resources.

[FR Doc. 2014–07051 Filed 3–28–14; 8:45 am]

BILLING CODE 4310–6W–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[LLAK910000–L14100000.PP0000–LXSIARAC0000]

Notice of Public Meeting; BLM-Alaska Resource Advisory Council

AGENCY: Bureau of Land Management, Alaska State Office, Interior.

ACTION: Notice of public meeting.

SUMMARY: In accordance with the Federal Land Policy and Management Act (FLPMA) and the Federal Advisory Committee Act of 1972 (FACA), the U.S. Department of the Interior, Bureau of Land Management (BLM) Alaska Resource Advisory Council (RAC) will meet as indicated below.

DATES: The meeting will be held April 23 & 24, 2014 at the Westmark Hotel located at 813 Noble Street in Fairbanks, Alaska 99701. The meeting starts at 9:00 a.m. on Wednesday, April 23 and 8:30 a.m. on Thursday, April 24 in the Yukon Room. The council will accept comments from the public on Wednesday, April 23 from 3:15–4:15 p.m.

FOR FURTHER INFORMATION CONTACT: Thom Jennings, RAC Coordinator, BLM-Alaska State Office, 222 W. 7th Avenue #13, Anchorage, AK 99513. Telephone 907–271–3335 or email *tjenning@blm.gov*. Persons who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 to contact the above individual during normal business hours. The FIRS is available 24 hours a day, seven days a week, to leave a message or question with the above individual. You will receive a reply during normal business hours.

SUPPLEMENTARY INFORMATION: The 15-member Council advises the Secretary of the Interior, through the Bureau of Land Management, on a variety of planning and management issues associated with public land management in Alaska. At this meeting, topics planned for discussion include:

- Land use planning
- Update on proposed development in the National Petroleum Reserve in Alaska
- Placer mining policies
- Update on Red Devil Mine cleanup
- Other topics of interest to the RAC

All meetings are open to the public. During the public comment period, depending on the number of people wishing to comment and time available, time for individual oral comments may be limited. Please be prepared to submit written comments if necessary. 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. Individuals who plan to attend and need special assistance, such as sign language interpretation, transportation, or other reasonable accommodations, should contact the BLM RAC Coordinator listed above.

Dated: March 24, 2014.

Bud C. Cribley,

State Director.

[FR Doc. 2014–07049 Filed 3–28–14; 8:45 am]

BILLING CODE 4310–JA–P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS–WASO–NAGPRA–15256; PPWOCRADN0–PCU00RP14.R50000]

Notice of Inventory Completion: Tennessee Valley Authority, Knoxville, TN

AGENCY: National Park Service, Interior.

ACTION: Notice.

SUMMARY: The Tennessee Valley Authority (TVA) has completed an inventory of human remains and associated funerary objects in consultation with the appropriate Federally recognized Indian tribes, and has determined that there is no cultural affiliation between the human remains and associated funerary objects and any present-day Federally recognized Indian tribes. Representatives of any Federally recognized Indian tribe not identified in this notice that wish to request transfer of control of these human remains and associated funerary objects should submit a written request to TVA. If no additional requestors come forward, transfer of control of the human remains and associated funerary objects to the Federally recognized Indian tribe stated in this notice may proceed.

DATES: Representatives of any Federally recognized Indian tribe not identified in this notice that wish to request transfer of control of these human remains and associated funerary objects should submit a written request with information in support of the request to TVA at the address in this notice by April 30, 2014.

ADDRESSES: Dr. Thomas O. Maher, TVA, 400 West Summit Hill Drive, WT11D, Knoxville, TN 37902–1401, telephone (865) 632–7458, email *tomaher@tva.gov*.

SUPPLEMENTARY INFORMATION: Notice is here given in accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), 25 U.S.C. 3003, of the completion of an inventory of human remains and associated funerary objects under the control of TVA. The human remains were removed from the Cox site in Jackson County, AL.

This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA, 25 U.S.C. 3003(d)(3) and 43 CFR 10.11(d). The determinations in this notice are the sole responsibility of the museum, institution, or Federal agency that has control of the Native American human remains and associated funerary objects. The National Park Service is not responsible for the determinations in this notice.

Consultation

A detailed assessment of the human remains was made by TVA professional staff in consultation with representatives of the University of Alabama and the Absentee-Shawnee Tribe of Oklahoma; Alabama-Coushatta Tribe of Texas (previously listed as the Alabama-Coushatta Tribes of Texas); Alabama-Quassarte Tribal Town; Cherokee Nation; Eastern Band of Cherokee Indians; Eastern Shawnee Tribe of Oklahoma; Kialegee Tribal Town; Poarch Band of Creeks (previously listed as the Poarch Band of Creek Indians of Alabama); Seminole Tribe of Florida (previously listed as the Seminole Tribe of Florida (Dania, Big Cypress, Brighton, Hollywood & Tampa Reservations)); Shawnee Tribe; The Chickasaw Nation; The Muscogee (Creek) Nation; The Seminole Nation of Oklahoma; Thlopthlocco Tribal Town; and the United Keetoowah Band of Cherokee Indians in Oklahoma.

History and Description of the Remains

From April 27, 1938, to November 10, 1939, human remains representing, at minimum, 90 individuals were removed from the Cox site (1JA176), in Jackson County, AL. The Cox site was excavated as part of TVA's Guntersville reservoir project by the Alabama Museum of Natural History (AMNH) at the University of Alabama, using labor and funds provided by the Works Progress Administration. Excavation of the land commenced after TVA had acquired this land on July 19, 1937 for the Guntersville project. The excavation site was composed of a conical mound believed to have originally been a truncated pyramid, with multiple stratigraphic zones and also a village site containing most of the burial units. This site was occupied during the Woodland period (300 B.C.–A.D.1000) and the Crow Creek phase of the Mississippian culture (ca. A.D. 1400–1600). Details regarding this site may be found in *An Archaeological Survey of Guntersville Basin on the Tennessee River in Northern Alabama* by William S. Webb and Charles G. Wilder. The human remains and associated funerary objects excavated from the Cox site have always been in the physical custody of the AMNH at the University of Alabama. The human remains include

adults, juveniles, and infants of both sexes. No known individuals were identified. The 145 associated funerary objects include 132 shell beads, 1 copper bead, 1 bone awl, 1 steatite sherd, 3 pieces of a shale celt, 3 river pebbles, and 4 bear teeth.

At the time of the excavation and removal of these human remains and associated funerary objects, the land from which the remains and objects were removed was not the tribal land of any Federally recognized Indian tribe. In February 2014, TVA consulted with all Federally recognized Indian tribes who are recognized as aboriginal to the area from which these Native American human remains and associated funerary objects were removed. These tribes are the Cherokee Nation, Eastern Band of Cherokee Indians, and United Keetoowah Band of Cherokee Indians in Oklahoma. None of these Indian tribes agreed to accept control of the human remains and associated funerary objects. After further consultation with the parties that were a part of this overall consultation, TVA has decided to transfer control of the human remains and associated funerary objects to The Muscogee (Creek) Nation.

Determinations Made by the Tennessee Valley Authority

Officials of TVA have determined that:

- Pursuant to 25 U.S.C. 3001(9), the human remains described in this notice are Native American based on their archaeological contexts.
- Pursuant to 25 U.S.C. 3001(9), the human remains described in this notice represent the physical remains of 90 individuals of Native American ancestry.
- Pursuant to 25 U.S.C. 3001(3)(A), the 145 objects described in this notice are reasonably believed to have been placed with or near individual human remains at the time of death or later as part of the death rite or ceremony.
- Pursuant to 25 U.S.C. 3001(2), a relationship of shared group identity cannot be reasonably traced between the Native American human remains and associated funerary objects and any present-day Indian tribe.
- Pursuant to 43 CFR 10.11(c)(2)(i), TVA has decided to transfer control of the culturally unidentifiable human remains to the Muscogee (Creek) Nation.
- Pursuant to 43 CFR 10.11(c)(4), TVA has decided to transfer control of the culturally unidentifiable associated funerary objects to the Muscogee (Creek) Nation of Oklahoma.

Additional Requestors and Disposition

Representatives of any Federally recognized Indian tribe not identified in this notice that wish to request transfer of control of these human remains and associated funerary objects should submit a written request with information in support of the request to Dr. Thomas O. Maher, TVA, 400 West Summit Hill Drive, WT11D, Knoxville, TN 37902–1401, telephone (865) 632–7458, email *tomaher@tva.gov*, by April 30, 2014. After that date, if no additional requestors have come forward, transfer of control of the human remains and associated funerary objects to The Muscogee (Creek) Nation may proceed.

TVA is responsible for notifying the University of Alabama and the Absentee-Shawnee Tribe of Oklahoma; Alabama-Coushatta Tribe of Texas (previously listed as the Alabama-Coushatta Tribes of Texas); Alabama-Quassarte Tribal Town; Cherokee Nation; Eastern Band of Cherokee Indians; Eastern Shawnee Tribe of Oklahoma; Kialegee Tribal Town; Poarch Band of Creeks (previously listed as the Poarch Band of Creek Indians of Alabama); Seminole Tribe of Florida (previously listed as the Seminole Tribe of Florida (Dania, Big Cypress, Brighton, Hollywood & Tampa Reservations)); Shawnee Tribe; The Chickasaw Nation; The Muscogee (Creek) Nation; The Seminole Nation of Oklahoma; Thlopthlocco Tribal Town; and the United Keetoowah Band of Cherokee Indians in Oklahoma, that this notice has been published.

Dated: March 11, 2014.

Sherry Hutt,

Manager, National NAGPRA Program.

[FR Doc. 2014–07130 Filed 3–28–14; 8:45 am]

BILLING CODE 4312–50–P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS–WASO–NAGPRA–15255; PPWOCRADN0–PCU00RP14.R50000]

Notice of Inventory Completion: Tennessee Valley Authority, Knoxville, TN

AGENCY: National Park Service, Interior.

ACTION: Notice.

SUMMARY: The Tennessee Valley Authority (TVA) has completed an inventory of human remains and associated funerary objects, in consultation with the appropriate Federally recognized Indian tribes, and has determined that there is a cultural affiliation between the human remains and associated funerary objects and a present-day Federally recognized Indian tribe. Lineal descendants or representatives of any Federally recognized Indian tribe not identified in this notice that wish to request transfer of control of these human remains and associated funerary objects should submit a written request to TVA. If no additional requestors come forward, transfer of control of the human remains and associated funerary objects to the Federally recognized Indian tribe stated in this notice may proceed.

DATES: Lineal descendants or representatives of any Federally recognized Indian tribe not identified in this notice that wish to request transfer of control of these human remains and associated funerary objects should submit a written request with information in support of the request to TVA at the address in this notice by April 30, 2014.

ADDRESSES: Dr. Thomas O. Maher, TVA, 400 West Summit Hill Drive, WT11D, Knoxville TN 37902–1401, telephone (865) 632–7458, email *tomaher@tva.gov*.

SUPPLEMENTARY INFORMATION: Notice is here given in accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), 25 U.S.C. 3003, of the completion of an inventory of human remains and associated funerary objects under the control of TVA. The human remains and associated funerary objects were removed from the Cox site in Jackson County, AL.

This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA, 25 U.S.C. 3003(d)(3). The determinations in this notice are the sole responsibility of the museum, institution, or Federal agency that has control of the Native American human remains and associated funerary objects. The National Park Service is not responsible for the determinations in this notice.

Consultation

A detailed assessment of the human remains was made by TVA professional staff in consultation with representatives of the University of Alabama and the Absentee-Shawnee Tribe of Oklahoma; Alabama-Coushatta Tribe of Texas (previously listed as the Alabama-Coushatta Tribes of Texas); Alabama-Quassarte Tribal Town; Cherokee Nation; Eastern Band of Cherokee Indians; Eastern Shawnee Tribe of Oklahoma; Kialegee Tribal Town; Poarch Band of Creeks (previously listed as the Poarch Band of Creek Indians of Alabama); Seminole

Tribe of Florida (previously listed as the Seminole Tribe of Florida (Dania, Big Cypress, Brighton, Hollywood & Tampa Reservations)); Shawnee Tribe; The Chickasaw Nation; The Muscogee (Creek) Nation; The Seminole Nation of Oklahoma; Thlopthlocco Tribal Town; and the United Keetoowah Band of Cherokee Indians in Oklahoma.

History and Description of the Remains

From April 27, 1938, to November 10, 1939, human remains representing, at minimum, 19 individuals were removed from the Cox site (1JA176), in Jackson County, AL. The Cox site was excavated as part of TVA's Guntersville reservoir project by the Alabama Museum of Natural History (AMNH) at the University of Alabama, using labor and funds provided by the Works Progress Administration. Excavation of the land commenced after TVA had acquired this land on July 19, 1937 for the Guntersville project. The excavation site was composed of a conical mound believed to have originally been a truncated pyramid, with multiple stratigraphic zones and also a village site containing most of the burial units. This site was occupied during the Crow Creek phase (ca. A.D. 1400–1600) at the end of the Mississippian period. Details regarding this site may be found in *An Archaeological Survey of Guntersville Basin on the Tennessee River in Northern Alabama* by William S. Webb and Charles G. Wilder. The human remains and associated funerary objects excavated from the Cox site have always been in the physical custody of the AMNH at the University of Alabama.

The human remains include adults, juveniles, and infants of both sexes. No known individuals were identified. The 508 associated funerary objects are 6 shell-tempered bowls, 6 shell-tempered jars, 1 shell-tempered water bottle, 1 shell-tempered human effigy pot, 51 shell-tempered pot sherds, 3 pieces of a shell gorget, 3 intact shell gorgets, 422 shell beads, 1 bird bone tool, 1 shell hairpin, 7 bone awls, 1 greenstone celt, 4 projectile points, and 1 stone discoidal.

Although there is no scientific certainty that Native Americans of the Crow Creek phase are directly related to modern Federally recognized tribes, Spanish explorers of the 16th century do indicate the presence of chiefdom level tribal entities in the southeastern United States. The Coosa paramount chiefdom noted in historical chronicles is the most likely entity related to Crow Creek sites in this part of the Guntersville Reservoir. Tribal groups or towns now part of The Muscogee (Creek) Nation claim descent from the Coosa chiefdom. The preponderance of the evidence indicates that in this part of the Guntersville Reservoir area, Crow Creek phase sites are most likely culturally associated with groups now part of the Muscogee (Creek) Nation.

Determinations Made by the Tennessee Valley Authority

Officials of TVA have determined that:

- Pursuant to 25 U.S.C. 3001(9), the human remains described in this notice represent the physical remains of 19 individuals of Native American ancestry.
- Pursuant to 25 U.S.C. 3001(3)(A), the 508 objects described in this notice are reasonably believed to have been placed with or near individual human remains at the time of death or later as part of the death rite or ceremony.
- Pursuant to 25 U.S.C. 3001(2), there is a relationship of shared group identity that can be reasonably traced between the Native American human remains and associated funerary objects and The Muscogee (Creek) Nation.

Additional Requestors and Disposition

Lineal descendants or representatives of any Federally recognized Indian tribe not identified in this notice that wish to request transfer of control of these human remains and associated funerary objects should submit a written request with information in support of the request to Dr. Thomas O. Maher, TVA, 400 West Summit Hill Drive, WT11D, Knoxville, TN 37902–1401, telephone (865) 632–7458, email *tomaher@tva.gov*, by April 30, 2014. After that date, if no additional requestors have come forward, transfer of control of the human remains and associated funerary objects to The Muscogee (Creek) Nation may proceed.

TVA is responsible for notifying the University of Alabama and the Absentee-Shawnee Tribe of Oklahoma; Alabama-Coushatta Tribe of Texas (previously listed as the Alabama-Coushatta Tribes of Texas); Alabama-Quassarte Tribal Town; Cherokee Nation; Eastern Band of Cherokee Indians; Eastern Shawnee Tribe of Oklahoma; Kialegee Tribal Town; Poarch Band of Creeks (previously listed as the Poarch Band of Creek Indians of Alabama); Seminole Tribe of Florida (previously listed as the Seminole Tribe of Florida (Dania, Big Cypress, Brighton, Hollywood & Tampa Reservations)); Shawnee Tribe; The Chickasaw Nation; The Muscogee (Creek) Nation; The Seminole Nation of Oklahoma; Thlopthlocco Tribal Town; and the United Keetoowah Band of Cherokee Indians in Oklahoma, that this notice has been published.

Dated: March 11, 2014.

Sherry Hutt,

Manager, National NAGPRA Program.

[FR Doc. 2014–07135 Filed 3–28–14; 8:45 am]

BILLING CODE 4312–50–P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS–WASO–NAGPRA–15212; PPWOCRADN0–PCU00RP14.R50000]

Notice of Inventory Completion: U.S. Department of Defense, Department of the Navy, Washington, DC

AGENCY: National Park Service, Interior.

ACTION: Notice.

SUMMARY: The U.S. Department of Defense, Department of the Navy (DoN) has completed an inventory of human remains and associated funerary objects, in consultation with the appropriate Indian tribes, and has determined that there is a cultural affiliation between the human remains and associated funerary objects and the Native Village of Barrow Inupiat Traditional Government. Representatives of any Indian tribe not identified in this notice that wish to request transfer of control of these human remains and associated funerary objects should submit a written request to the DoN. If no additional requestors come forward, transfer of control of the human remains and associated funerary objects to the Indian tribe stated in this notice may proceed.

DATES: Representatives of any Indian tribe not identified in this notice that wish to request transfer of control of these human remains and associated funerary objects should submit a written request with information in support of the request to the DoN at the address in this notice by April 30, 2014.

ADDRESSES: Dave M. Grant, Department of the Navy, NAVFAC NW., 1101 Tautog Circle, Suite 102, Silverdale, WA 98315–1101, telephone (360) 396–0919, email *dave.m.grant@navy.mil.*

SUPPLEMENTARY INFORMATION: Notice is here given in accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), 25 U.S.C. 3003, of the completion of an inventory of human remains and associated funerary objects under the control of the U.S. Department of Defense, Department of the Navy (DoN). The human remains and associated funerary objects were removed from sites near Point Barrow in North Slope Borough, AK.

This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA, 25 U.S.C. 3003(d)(3). The determinations in this notice are the sole responsibility of the museum, institution, or Federal agency that has control of the Native American human remains and associated funerary objects. The National Park Service is not responsible for the determinations in this notice.

Consultation

A detailed assessment of the human remains was made by DoN officials in consultation with representatives of the Native Village of Barrow Inupiat Traditional Government.

History and Description of the Remains

Between 1951 and 1953, human remains representing, at minimum, 58 individuals were removed from the sites of Birnirk, Nunavah, Nuvuk, and other locations near Point Barrow in North Slope Borough, AK. The human remains were recovered during archeological excavations authorized under an Antiquities Act permit and directed by Wilbert Carter of the Peabody Museum, Harvard University. The collections from these sites were returned to the Peabody Museum following each field season, were transferred for a time to Tufts University, and were returned to the Peabody Museum by Mr. Carter in 1984. The collections were transferred to a Department of the Navy contract facility in Conshohocken, PA, in 2006, and in 2011, the collections were transferred to the Museum of the North, University of Alaska at Fairbanks. No known individuals were identified in the collection. The 124 associated funerary objects include: 33 wooden objects (miscellaneous objects and fragments, dowel pin, dish, dart shaft, game dispatcher, atlatl, wound plug, float, toy arrow, shafts, scoop, effigy pick handle, paddle blade, seal scratcher); 26 ivory objects (paddle tip, needle case, pins, harpoon head and shaft, dart, point, mouthpiece, fossil object, awl, worked object, composite handle, fragment); 23 bone objects (ice pick, spring trap frame, bola weight, worked objects, harpoon head, points, bow brace); 11 antler or antler/stone objects (points, harpoon heads, dart prongs, worked and un-worked antler); 8 other faunal objects (sewn skin fragments, marine shells, bear teeth and fur, baleen whale effigy); 7 stone objects (spall, burin, point, knife, hearthstone, whetstone); and 16 ceramic sherds.

The majority of the human remains and associated funerary objects were excavated from three mounds at the Birnirk site, two mounds at Nunavah site, and one mound at Nuvuk site. The remains and objects from the Birnirk and Nuvuk sites date from 500 to 1200 A.D. The remains and objects from the Nunavah site are undated.

Determinations Made by the U.S. Department of Defense, Department of the Navy

Officials of the U.S. Department of Defense, Department of the Navy have determined that:

- Pursuant to 25 U.S.C. 3001(9), the human remains described in this notice represent the physical remains of 58 individuals of Native American ancestry.
- Pursuant to 25 U.S.C. 3001(3)(A), the 124 objects described in this notice are reasonably believed to have been placed with or near individual human remains at the time of death or later as part of the death rite or ceremony.
- Pursuant to 25 U.S.C. 3001(2), there is a relationship of shared group identity that can be reasonably traced between the Native American human remains and associated funerary objects and the Native Village of Barrow Inupiat Traditional Government.

Additional Requestors and Disposition

Representatives of any Indian tribe not identified in this notice that wish to request transfer of control of these human remains and associated funerary objects should submit a written request with information in support of the request to Dave M. Grant, Department of the Navy, NAVFAC NW., 1101 Tautog Circle, Suite 102, Silverdale, WA 98315–1101, telephone (360) 396–0919, email *dave.m.grant@navy.mil,* by April 30, 2014. After that date, if no additional requestors have come forward, transfer of control of the human remains and associated funerary objects to the Native Village of Barrow Inupiat Traditional Government may proceed.

The U.S. Department of Defense, Department of the Navy is responsible for notifying the Native Village of Barrow Inupiat Traditional Government that this notice has been published.

Dated: March 10, 2014.

Sherry Hutt,

Manager, National NAGPRA Program.

[FR Doc. 2014–07143 Filed 3–28–14; 8:45 am]

BILLING CODE 4312–50–P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS–WASO–NAGPRA–15182; PPWOCRADN0–PCU00RP14.R50000]

Notice of Inventory Completion: University of Massachusetts Amherst, Department of Anthropology, Amherst, MA

AGENCY: National Park Service, Interior.

ACTION: Notice.

SUMMARY: The University of Massachusetts Amherst, Department of Anthropology, has completed an inventory of human remains and associated funerary objects, in consultation with the appropriate Indian tribes or Native Hawaiian organizations, and has determined that there is a cultural affiliation between the human remains and associated funerary objects and present-day Indian tribes or Native Hawaiian organizations. Lineal descendants or representatives of any Indian tribe or Native Hawaiian organization not identified in this notice that wish to request transfer of control of these human remains and associated funerary objects should submit a written request to the University of Massachusetts Amherst, Department of Anthropology. If no additional requestors come forward, transfer of control of the human remains and associated funerary objects to the lineal descendants, Indian tribes, or Native Hawaiian organizations stated in this notice may proceed.

DATES: Lineal descendants or representatives of any Indian tribe or Native Hawaiian organization not identified in this notice that wish to request transfer of control of these human remains and associated funerary objects should submit a written request with information in support of the request to the University of Massachusetts Amherst, Department of Anthropology, at the address in this notice by April 30, 2014.

ADDRESSES: Rae Gould, Repatriation Coordinator, University of Massachusetts Amherst, Department of Anthropology, 215 Machmer Hall, 240 Hicks Way, Amherst, MA 01003, telephone (413) 545–2702, email *rgould@anthro.umass.edu.*

SUPPLEMENTARY INFORMATION: Notice is here given in accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), 25 U.S.C. 3003, of the completion of an inventory of human remains and associated funerary objects under the control of the University of Massachusetts Amherst,

Department of Anthropology. The human remains and associated funerary objects were removed from the Miacomet Burial Ground, Nantucket, MA.

This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA, 25 U.S.C. 3003(d)(3). The determinations in this notice are the sole responsibility of the museum, institution, or Federal agency that has control of the Native American human remains and associated funerary objects. The National Park Service is not responsible for the determinations in this notice.

Consultation

A detailed assessment of the human remains was made by the University of Massachusetts Amherst, Department of Anthropology professional staff in consultation with representatives of the Wampanoag Repatriation Confederation, representing the Mashpee Wampanoag Tribe (previously listed as the Mashpee Wampanoag Indian Council, Inc.); Wampanoag Tribe of Gay Head (Aquinnah); and the Assonet Band of the Wampanoag Nation, a non-Federally recognized Indian group.

History and Description of the Remains

In 1988, University of Massachusetts (UMass) Archaeological Services assisted with the delineation and partial excavation of the Miacomet Burial Ground, Nantucket, MA, following the disturbance of burials at the site as part of a development project for the Nantucket Housing Authority. UMass Archaeological Services was employed to determine the boundaries of the burial ground and conducted subsurface testing and excavation, including the excavation of two burials. Although excavation of the burials left two individuals *in situ,* some items were recovered from the site, including soil samples from the burials containing human remains representing, at minimum, one individual, and have remained at UMass Archaeological Services in Amherst, MA. No known individuals were identified. A total of 22 associated funerary objects are present: 1 lot quahog shell, 1 lot oyster shell, 1 lot animal bone pieces, 1 lot historic glass pieces, 1 lot of ceramic shards, 1 lot of metal pieces, 1 lot of coffin nails and coffin wood pieces, 3 brass pin pieces, 2 brass buttons, 3 ceramic pipe pieces, 1 piece brick, 1 lot lithic flakes, 3 projectile points, 1 projectile point tip, and 1 partial groundstone artifact.

The Miacomet Burial Ground is documented to have existed in the early Contact period, and used extensively in the early 17th-century in particular. Ethnohistoric documents—including European colonial maps, written documents and missionary accounts—and Wampanoag oral history, indicate that the Wampanoag people and their allies, through marriage and war pacts (e.g. 1675 King Phillip's War), were occupants of Massachusetts and Rhode Island at the time of contact and European colonization. Wampanoag oral history also indicates a maintained, long-term occupation of the region. The present-day Indian tribes and group most closely affiliated with members of the Wampanoag Nation are the Mashpee Wampanoag Tribe (previously listed as the Mashpee Wampanoag Indian Council, Inc.); Wampanoag Tribe of Gay Head (Aquinnah); and the Assonet Band of the Wampanoag Nation, a non-Federally recognized Indian group.

Determinations Made by the University of Massachusetts Amherst, Department of Anthropology

Officials of the University of Massachusetts Amherst, Department of Anthropology, have determined that:

- Pursuant to 25 U.S.C. 3001(9), the human remains described in this notice represent the physical remains of a minimum of one individual of Native American ancestry.
- Pursuant to 25 U.S.C. 3001(3)(A), the 22 objects described in this notice are reasonably believed to have been placed with or near individual human remains at the time of death or later as part of the death rite or ceremony.
- Pursuant to 25 U.S.C. 3001(2), there is a relationship of shared group identity that can be reasonably traced between the Native American human remains and associated funerary objects to the Wampanoag Repatriation Confederation, representing the Mashpee Wampanoag Tribe (previously listed as the Mashpee Wampanoag Indian Council, Inc.); Wampanoag Tribe of Gay Head (Aquinnah); and the Assonet Band of the Wampanoag Nation, a non-Federally recognized Indian group.

Additional Requestors and Disposition

Lineal descendants or representatives of any Indian tribe or Native Hawaiian organization not identified in this notice that wish to request transfer of control of these human remains and associated funerary objects should submit a written request with information in support of the request to Rae Gould, Repatriation Coordinator, University of Massachusetts Amherst, Department of Anthropology, 215 Machmer Hall, 240 Hicks Way, Amherst, MA 01003, telephone (413) 545–2702, email *rgould@anthro.umass.edu,* by April 30, 2014. After that date, if no additional requestors have come forward, transfer of control of the human remains and associated funerary objects to the Wampanoag Repatriation Confederation, representing the Mashpee Wampanoag Tribe (previously listed as the Mashpee Wampanoag Indian Council, Inc.); Wampanoag Tribe of Gay Head (Aquinnah); and the Assonet Band of the Wampanoag Nation, a non-Federally recognized Indian group, may proceed.

The University of Massachusetts Amherst, Department of Anthropology is responsible for notifying the Mashpee Wampanoag Tribe (previously listed as the Mashpee Wampanoag Indian Council, Inc.); Wampanoag Tribe of Gay Head (Aquinnah); and the Assonet Band of the Wampanoag Nation, a non-Federally recognized Indian group that this notice has been published.

Dated: March 4, 2014.

Sherry Hutt,

Manager, National NAGPRA Program.

[FR Doc. 2014–07145 Filed 3–28–14; 8:45 am]

BILLING CODE 4312–50–P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS–WASO–NAGPRA–15214; PPWOCRADN0–PCU00RP14.R50000]

Notice of Inventory Completion: Ball State University Department of Anthropology, Muncie, IN

AGENCY: National Park Service, Interior.

ACTION: Notice.

SUMMARY: The Ball State University Department of Anthropology has completed an inventory of human remains and associated funerary objects, in consultation with the appropriate Indian tribes or Native Hawaiian organizations, and has determined that there is no cultural affiliation between the human remains and associated funerary objects and any present-day Indian tribes or Native Hawaiian organizations. Representatives of any Indian tribe or Native Hawaiian organization not identified in this notice that wish to request transfer of control of these human remains and associated funerary objects should submit a written request to the Ball State University Department of Anthropology. If no additional requestors come forward, transfer of control of the human remains and associated funerary objects to the Indian tribes or Native Hawaiian organizations stated in this notice may proceed.

DATES: Representatives of any Indian tribe or Native Hawaiian organization not identified in this notice that wish to request transfer of control of these human remains and associated funerary objects should submit a written request with information in support of the request to the Ball State University Department of Anthropology at the address in this notice by April 30, 2014.

ADDRESSES: Cailin Murray, Ball State University Department of Anthropology, 2000 University Ave., Muncie, IN 47306, telephone (765) 285–3568, email *cemurray@bsu.edu*.

SUPPLEMENTARY INFORMATION: Notice is here given in accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), 25 U.S.C. 3003, of the completion of an inventory of human remains and associated funerary objects under the control of the Ball State University Department of Anthropology, Muncie, IN. The human remains and associated funerary objects were removed from Tolu, in Crittenden County, KY.

This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA, 25 U.S.C. 3003(d)(3) and 43 CFR 10.11(d). The determinations in this notice are the sole responsibility of the museum, institution, or Federal agency that has control of the Native American human remains and associated funerary objects. The National Park Service is not responsible for the determinations in this notice.

Consultation

A detailed assessment of the human remains was made by the Ball State University Department of Anthropology professional staff in consultation with representatives of the Cherokee Nation; Eastern Band of Cherokee Indians; Peoria Tribe of Indians of Oklahoma; and the United Keetoowah Band of Cherokee Indians in Oklahoma.

History and Description of the Remains

In 1974, human remains representing, at minimum, three individuals were removed from Tolu in Crittenden County, KY. The human remains were collected from the surface during a field trip to the site and have been curated since then at Ball State University Department of Anthropology (accession # 75F). The human remains are identified as comingled cranial and post-cranial fragments with unknown sex and age. No known individuals were identified. The 392 associated funerary objects are 3 cores, 1 stage II biface, 2 stage III bifaces, 26 initial reduction flakes, 51 primary flakes, 97 broken flakes, 51 block flakes, 31 edge-modified flakes, 15 retouched flakes, 6 gravers, 1 perforators, 10 bipolar artifacts, 1 fire-cracked rock, 3 point fragments, 1 Madison point, 22 pottery sherds, 15 animal bones, 52 shell fragments, 2 quartz, 1 charcoal, and 1 field tile.

Determinations Made by the Ball State University Department of Anthropology

Officials of the Ball State University Department of Anthropology have determined that:

- Pursuant to 25 U.S.C. 3001(9), the human remains described in this notice are Native American based on the associated prehistoric artifacts and animal bone.
- Pursuant to 25 U.S.C. 3001(9), the human remains described in this notice represent the physical remains of three individuals of Native American ancestry.
- Pursuant to 25 U.S.C. 3001(3)(A), the 392 objects described in this notice are reasonably believed to have been placed with or near individual human remains at the time of death or later as part of the death rite or ceremony.
- Pursuant to 25 U.S.C. 3001(2), a relationship of shared group identity cannot be reasonably traced between the Native American human remains and associated funerary objects and any present-day Indian tribe.
- According to final judgments of the Indian Claims Commission or the Court of Federal Claims, the land from which the Native American human remains and associated funerary objects were removed is the aboriginal land of the Cherokee Nation; Eastern Band of Cherokee Indians; Peoria Tribe of Indians of Oklahoma; and the United Keetoowah Band of Cherokee Indians in Oklahoma.
- Pursuant to 43 CFR 10.11(c)(1), the disposition of the human remains and associated funerary objects may be to the Cherokee Nation; Eastern Band of Cherokee Indians; Peoria Tribe of Indians of Oklahoma; and the United Keetoowah Band of Cherokee Indians in Oklahoma.

Additional Requestors and Disposition

Representatives of any Indian tribe or Native Hawaiian organization not identified in this notice that wish to request transfer of control of these human remains and associated funerary objects should submit a written request with information in support of the request to Cailin Murray, Ball State University Department of Anthropology, 2000 University Ave., Muncie, IN 47306, telephone (765) 285–3568, email *cemurray@bsu.edu* by April 30, 2014. After that date, if no additional requestors have come forward, transfer of control of the human remains and associated funerary objects to the Cherokee Nation; Eastern Band of Cherokee Indians; Peoria Tribe of Indians of Oklahoma; and the United Keetoowah Band of Cherokee Indians in Oklahoma may proceed.

The Ball State University Department of Anthropology is responsible for notifying the Cherokee Nation; Eastern Band of Cherokee Indians; Peoria Tribe of Indians of Oklahoma; and the United Keetoowah Band of Cherokee Indians in Oklahoma that this notice has been published.

Dated: March 10, 2014.

Sherry Hutt,

Manager, National NAGPRA Program.

[FR Doc. 2014–07141 Filed 3–28–14; 8:45 am]

BILLING CODE 4312–50–P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS–WASO–NAGPRA–15257; PPWOCRADN0–PCU00RP14.R50000]

Notice of Intent To Repatriate Cultural Items: Tennessee Valley Authority, Knoxville, TN

AGENCY: National Park Service, Interior.

ACTION: Notice.

SUMMARY: The Tennessee Valley Authority (TVA), in consultation with the appropriate Federally recognized Indian tribes has determined that the cultural item listed in this notice meets the definition of an unassociated funerary object. Lineal descendants or representatives of any Federally recognized Indian tribe not identified in this notice that wish to claim this cultural item should submit a written request to the TVA. If no additional claimants come forward, transfer of control of the cultural item to the Federally recognized Indian tribe stated in this notice may proceed.

DATES: Lineal descendants or representatives of any Federally recognized Indian tribe not identified in this notice that wish to claim these cultural items should submit a written request with information in support of the claim to TVA at the address in this notice by April 30, 2014.

ADDRESSES: Dr. Thomas O. Maher, TVA, 400 West Summit Hill Drive, WT11D, Knoxville, TN 37902–1401, telephone (865) 632–7458, email *tomaher@tva.gov*.

SUPPLEMENTARY INFORMATION: Notice is here given in accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), 25 U.S.C.

3005, of the intent to repatriate a cultural item under the control of TVA that meets the definition of unassociated funerary objects under 25 U.S.C. 3001.

This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA, 25 U.S.C. 3003(d)(3). The determinations in this notice are the sole responsibility of the museum, institution, or Federal agency that has control of the Native American cultural items. The National Park Service is not responsible for the determinations in this notice.

History and Description of the Cultural Item

From April 27, 1938, to November 10, 1939, 1 cultural item was removed from the Cox site (1JA176), in Jackson County, AL. The Cox site was excavated as part of TVA's Guntersville reservoir project by the Alabama Museum of Natural History (AMNH) at the University of Alabama, using labor and funds provided by the Works Progress Administration. Excavation of the land commenced after TVA had acquired this land for the Guntersville project. The excavation site was composed of a conical mound believed to have originally been a truncated pyramid, with multiple stratigraphic zones and also a village site containing most of the burial units. This site was occupied during the Crow Creek phase (ca. A.D. 1400–1600). Details regarding this site may be found in *An Archaeological Survey of Guntersville Basin on the Tennessee River in Northern Alabama* by William S. Webb and Charles G. Wilder. The unassociated funerary object excavated from the Cox site is 1 shell-tempered ceramic pot, and it has always been in the physical custody of the AMNH at the University of Alabama.

This unassociated funerary object was recovered from one burial feature. The human remains from this burial feature were either not collected during excavation or have been misplaced in the last 74 years. This ceramic pot is shell-tempered and the exterior has multiple nodes. This unassociated funerary object is similar to others in use at the end of the Mississippian period.

Although there is no scientific certainty that Native Americans of the Crow Creek phase are directly related to modern Federally recognized tribes, Spanish explorers of the 16th centuries do indicate the presence of chiefdom level tribal entities in the southeastern United States. The Coosa paramount chiefdom noted in historical chronicles is the most likely entity related to Crow Creek sites in this part of the Guntersville Reservoir. Tribal groups or towns now part of The Muscogee (Creek) Nation claim descent from the Coosa chiefdom. The preponderance of the evidence indicates that in this part of the Guntersville Reservoir area, Crow Creek phase sites are most likely culturally associated with groups now part of the Muscogee (Creek) Nation.

Determinations Made by the Tennessee Valley Authority

Officials of TVA have determined that:

- Pursuant to 25 U.S.C. 3001(3)(B), the 1 cultural item described in this notice is reasonably believed to have been placed with or near individual human remains at the time of death or later as part of the death rite or ceremony and is believed, by a preponderance of the evidence, to have been removed from a specific burial site of a Native American individual.
- Pursuant to 25 U.S.C. 3001(2), there is a relationship of shared group identity that can be reasonably traced between the unassociated funerary object and The Muscogee (Creek) Nation.

Additional Requestors and Disposition

Lineal descendants or representatives of any Federally recognized Indian tribe not identified in this notice that wish to claim these cultural items should submit a written request with information in support of the claim to Dr. Thomas O. Maher, TVA, 400 West Summit Hill Drive, WT11D, Knoxville, TN 37902–1401, telephone (865) 632–7458, email *tomaher@tva.gov,* by April 30, 2014. After that date, if no additional claimants have come forward, transfer of control of the unassociated funerary object to The Muscogee (Creek) Nation may proceed.

TVA is responsible for notifying the University of Alabama and the Absentee-Shawnee Tribe of Oklahoma; Alabama-Coushatta Tribe of Texas (previously listed as the Alabama-Coushatta Tribes of Texas); Alabama-Quassarte Tribal Town; Cherokee Nation; Eastern Band of Cherokee Indians; Eastern Shawnee Tribe of Oklahoma; Kialegee Tribal Town; Poarch Band of Creeks (previously listed as the Poarch Band of Creek Indians of Alabama); Seminole Tribe of Florida (previously listed as the Seminole Tribe of Florida (Dania, Big Cypress, Brighton, Hollywood & Tampa Reservations)); Shawnee Tribe; The Chickasaw Nation; The Muscogee (Creek) Nation; The Seminole Nation of Oklahoma; Thlopthlocco Tribal Town; and the United Keetoowah Band of Cherokee Indians in Oklahoma, that this notice has been published.

Dated: March 11, 2014.

Sherry Hutt,

Manager, National NAGPRA Program.

[FR Doc. 2014–07150 Filed 3–28–14; 8:45 am]

BILLING CODE 4312–50–P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS–WASO–NAGPRA–15213; PPWOCRADN0–PCU00RP14.R50000]

Notice of Intent To Repatriate Cultural Items: U.S. Department of Defense, Department of the Navy, Washington, DC

AGENCY: National Park Service, Interior.

ACTION: Notice.

SUMMARY: The U.S. Department of Defense, Department of the Navy (DoN), in consultation with the Native Village of Barrow Inupiat Traditional Government, has determined that the cultural items listed in this notice meet the definition of unassociated funerary objects and objects of cultural patrimony. Representatives of any Indian tribe not identified in this notice that wish to claim these cultural items should submit a written request to the DoN. If no additional claimants come forward, transfer of control of the cultural items to the Indian tribe stated in this notice may proceed.

DATES: Representatives of any Indian tribe not identified in this notice that wish to claim these cultural items should submit a written request with information in support of the claim to the DoN at the address in this notice by April 30, 2014.

ADDRESSES: Dave M. Grant, Department of the Navy, NAVFAC NW., 1101 Tautog Circle, Suite 102, Silverdale, WA 98315–1101, telephone (360) 396–0919, email *dave.m.grant@navy.mil.*

SUPPLEMENTARY INFORMATION: Notice is here given in accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), 25 U.S.C. 3005, of the intent to repatriate cultural items under the control of the U.S. Department of Defense, Department of the Navy, Washington, DC, that meet the definition of unassociated funerary objects or objects of cultural patrimony under 25 U.S.C. 3001.

This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA, 25 U.S.C. 3003(d)(3). The determinations in this notice are the sole responsibility of the museum, institution, or Federal

agency that has control of the Native American cultural items. The National Park Service is not responsible for the determinations in this notice.

History and Description of the Cultural Item(s)

In 1951 to 1953, unassociated funerary objects and objects of cultural patrimony were removed from the sites of Birnirk, Nuvuk, and the Brower Grave site near Point Barrow in North Slope Borough, AK. The objects were recovered during archeological excavations authorized under an Antiquities Act permit and directed by Wilbert Carter of the Peabody Museum, Harvard University. The collections were returned to the Peabody Museum, were transferred for a time to Tufts University, and were returned to the Peabody Museum by Mr. Carter in 1984. The archeological collections were transferred to a Department of the Navy contract facility in Conshohocken, PA in 2006, and in 2011, the objects were transferred to the Museum of the North, University of Alaska at Fairbanks.

The four unassociated funerary objects were retrieved from the ''Brower Grave Site, Barrow,'' and include three pottery sherds and one antler arrow point. The four objects from the Brower Grave Site were evidently recovered from the surface, as there is no indication that the grave was excavated.

Two objects of cultural patrimony (a wooden mask from Mound 5 and an ivory drum handle with an effigy end from Midden H) were removed in July 1952 from the Nuvuk site on Point Barrow. One object of cultural patrimony (a small wooden mask from Mound Q) was removed in 1951 at the Birnirk site near Point Barrow. All three objects were evaluated during the NAGPRA consultation process and determined to be objects of cultural patrimony.

The wooden mask from Nuvuk Mound 5 was considered during the consultation to have reflected dance ceremonies probably within a *karigi,* a nexus of whale hunting activity and broader social interaction. Robert Spencer (*The North Alaskan Eskimo,* Bureau of American Ethnology Bulletin 171 (1959), pages 293–294) discussed masks as follows: ''These were never too important in the North Alaskan Eskimo areas . . . . The masks which were used were principally dance masks. There may have been a concept of supernatural impersonation but certainly, it is not well developed. A suggestion of this appears in the dances associated with the whaling feasts . . . . The mask was a simple wooden face mask with slits for eyes and mouth. . . .'' The mask from Nuvuk Mound 5 conforms very closely to this description. Spencer noted that John Murdoch (*Ethnological Results of the Point Barrow Expedition,* Ninth Annual Report of the Bureau for Ethnology (1892), pages 366–369) had observed and illustrated such masks in use in the Point Barrow area.

The ivory drum handle with an effigy end from Nuvuk Midden H was considered to be associated with dance celebrations that continue to be practiced on various occasions by modern inhabitants of the region. This continuity was emphasized by Wilbert Carter (*Masterpieces of the Peabody Museum* (1978), page 19): ''Eskimos were also known to carve a lifelike human face on one end of a drum handle, the end obscured from view under the tambourine-type drumhead. Even modern Eskimos immediately interpret this and see no contradiction in the amount of artistic effort exerted to produce a visage that is hidden from view. The hidden head is the ''voice'' of the drum!''

The small wooden mask from Birnirk Mound Q was recovered from an archeological context that suggested association with the early Birnirk period, dating to between A.D. 500 and 700. Such small masks may have served in shamanistic practices or amulet uses; they may also have been masks of ''little people.''

Determinations Made by the U.S. Department of Defense, Department of Navy

Officials of the U.S. Department of Defense, Department of Navy have determined that:

- Pursuant to 25 U.S.C. 3001(3)(B), the four objects from the Brower Grave Site are reasonably believed to have been placed with or near individual human remains at the time of death or later as part of the death rite or ceremony and are believed, by a preponderance of the evidence, to have been removed from a specific burial site of a Native American individual.
- Pursuant to 25 U.S.C. 3001(3)(D), the three objects discussed above that were excavated from the Birnirk and Nuvuk sites have ongoing historical, traditional, or cultural importance central to the Native Village of Barrow Inupiat Traditional Government.
- Pursuant to 25 U.S.C. 3001(2), there is a relationship of shared group identity that can be reasonably traced between the unassociated funerary objects and objects of cultural patrimony and Native Village of Barrow Inupiat Traditional Government.

Additional Requestors and Disposition

Representatives of any Indian tribe not identified in this notice that wish to claim these cultural items should submit a written request with information in support of the claim to Dave M. Grant, Department of the Navy, NAVFAC NW., 1101 Tautog Circle, Suite 102, Silverdale, WA 98315–1101, telephone (360) 396–0919, email *dave.m.grant@navy.mil,* by April 30, 2014. After that date, if no additional claimants have come forward, transfer of control of the unassociated funerary objects and objects of cultural patrimony to the Native Village of Barrow Inupiat Traditional Government may proceed.

The U.S. Department of Defense, Department of the Navy is responsible for notifying the Native Village of Barrow Inupiat Traditional Government that this notice has been published.

Dated: March 10, 2014.

Sherry Hutt,

Manager, National NAGPRA Program.

[FR Doc. 2014–07137 Filed 3–28–14; 8:45 am]

BILLING CODE 4312–50–P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS–WASO–NAGPRA–15181; PPWOCRADN0–PCU00RP14.R50000]

Notice of Intent to Repatriate Cultural Items: Oakland Museum of California

AGENCY: National Park Service, Interior.

ACTION: Notice.

SUMMARY: The Oakland Museum of California, in consultation with the appropriate Indian tribes or Native Hawaiian organizations, has determined that the cultural item listed in this notice meets the definition of a sacred object and an object of cultural patrimony. Lineal descendants or representatives of any Indian tribe or Native Hawaiian organization not identified in this notice that wish to claim this cultural item should submit a written request to the Oakland Museum of California. If no additional claimants come forward, transfer of control of the cultural item to the lineal descendants, Indian tribes, or Native Hawaiian organizations stated in this notice may proceed.

DATES: Lineal descendants or representatives of any Indian tribe or Native Hawaiian organization not identified in this notice that wish to claim this cultural item should submit a written request with information in support of the claim to the Oakland

Museum of California at the address in this notice by April 30, 2014.

ADDRESSES: Lori Fogarty, Director, Oakland Museum of California, 1000 Oak Street, Oakland, CA 94607, (510) 318–8400, email *lfogarty@museumca.org.*

SUPPLEMENTARY INFORMATION: Notice is here given in accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), 25 U.S.C. 3005, of the intent to repatriate a cultural item under the control of the Oakland Museum of California, Oakland, CA that meets the definition of a sacred object and an object of cultural patrimony under 25 U.S.C. 3001.

This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA, 25 U.S.C. 3003(d)(3). The determinations in this notice are the sole responsibility of the museum, institution, or Federal agency that has control of the Native American cultural items. The National Park Service is not responsible for the determinations in this notice.

History and Description of the Cultural Item(s)

Between 1897 and 1928, one cultural item was removed from Wrangell, AK, by Fred W. Carlyon, a local shop owner. Carlyon and his sister, Anna Vaughn, collected the Shtax' Heen Kwaan Kaachadi Frog Hat during their time in Wrangell in the late 19th and early 20th centuries. Later, the hat passed from the collectors to Dorothy K. Haberman, who was Miss Vaughn's daughter. Mrs. Haberman donated the hat to the Oakland Museum of California in 1959. The sacred object/object of cultural patrimony is a clan crest hat in the shape of a frog carved from wood and with copper overlay on formline. The eyes are overlaid with abalone and the hat is topped with five woven spruce root rings.

Oral traditions say that the Tlingit Indians have inhabited Southeast Alaska since time immemorial. They share an identity as a tribe and trace that identity to multiple ancestral groups. The Khaach.ádi clan of Xhíxhch'i Hít (Frog House) of the Shtax Héen Khwaan (''Wrangell People'') have origin stories tracing the group from the Naas Héeni (Naas River) to the Shtax Héen (Stikine River). An ancestress of the clan obtained rights to the Frog crest on the Shtaxh Héen. The Frog Hat is considered a sacred object/object of cultural patrimony because of its status as at.óow—a clan owned object brought out in ceremonies by a clan appointed caretaker and an object that could not be alienated without the consent of the entire clan. The Frog Hat, as clan property, is needed for the present-day clan members to participate in ongoing ceremonies.

Determinations Made by the Oakland Museum of California

Officials of the Oakland Museum of California have determined that:

- Pursuant to 25 U.S.C. 3001(3)(C), the cultural item described above is a specific ceremonial object needed by traditional Native American religious leaders for the practice of traditional Native American religions by their present-day adherents.
- Pursuant to 25 U.S.C. 3001(3)(D), the cultural item described above has ongoing historical, traditional, or cultural importance central to the Native American group or culture itself, rather than property owned by an individual.
- Pursuant to 25 U.S.C. 3001(2), there is a relationship of shared group identity that can be reasonably traced between the sacred object/object of cultural patrimony and the Central Council of the Tlingit & Haida Indian Tribes.

Additional Requestors and Disposition

Lineal descendants or representatives of any Indian tribe or Native Hawaiian organization not identified in this notice that wish to claim this cultural item should submit a written request with information in support of the claim to Lori Fogarty, Director, Oakland Museum of California, 1000 Oak Street, Oakland, CA 94607, (510) 318–8400, email *lfogarty@museumca.org*, by April 30, 2014. After that date, if no additional claimants have come forward, transfer of control of the sacred object/object of cultural patrimony to the Central Council of the Tlingit & Haida Indian Tribes may proceed.

The Oakland Museum of California is responsible for notifying the Central Council of the Tlingit & Haida Indian Tribes that this notice has been published.

Dated: March 4, 2014.

Sherry Hutt,

Manager, National NAGPRA Program.

[FR Doc. 2014–07147 Filed 3–28–14; 8:45 am]

BILLING CODE 4312–50–P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS–WASO–NAGPRA–15187; PPWOCRADN0–PCU00RP14.R50000]

Notice of Intent To Repatriate Cultural Items: Museum of Northern Arizona, Flagstaff, AZ

AGENCY: National Park Service, Interior.

ACTION: Notice.

SUMMARY: The Museum of Northern Arizona, in consultation with the appropriate Indian tribes, has determined that the cultural items listed in this notice meet the definition of unassociated funerary objects. Lineal descendants or representatives of any Indian tribe or Native Hawaiian organization not identified in this notice that wish to claim these cultural items should submit a written request to the Museum of Northern Arizona. If no additional claimants come forward, transfer of control of the cultural items to the Indian tribes stated in this notice may proceed.

DATES: Lineal descendants or representatives of any Indian tribe or Native Hawaiian organization not identified in this notice that wish to claim these cultural items should submit a written request with information in support of the claim to the Museum of Northern Arizona at the address in this notice by April 30, 2014.

ADDRESSES: Elaine Hughes, Collection Manager, Museum of Northern Arizona, 3103 North Fort Valley Road, Flagstaff, AZ 86001, telephone (928) 774–5211 email *ehughes@mna.mus.az.us.*

SUPPLEMENTARY INFORMATION: Notice is here given in accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), 25 U.S.C. 3005, of the intent to repatriate cultural items under the control of the Museum of Northern Arizona, Flagstaff, AZ, that meet the definition of unassociated funerary objects under 25 U.S.C. 3001.

This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA, 25 U.S.C. 3003(d)(3). The determinations in this notice are the sole responsibility of the museum, institution, or Federal agency that has control of the Native American cultural items. The National Park Service is not responsible for the determinations in this notice.

History and Description of the Cultural Items

All of the cultural objects described below were removed from private or state-owned lands in Coconino County,

AZ, between 1932 and 1953. These objects were collected by private individuals without permission or knowledge of the landowners. Records kept by the individuals provide substantive evidence that the objects were recovered in association with human remains from prehistoric archeological sites. The human remains were not collected, so these items are considered unassociated funerary objects. In 1981, these objects were donated to the Museum of Northern Arizona, where they are currently housed. Due to the interspersed nature of the private and state land parcels and the casual nature of the excavation records, it is not possible to accurately establish the location of the sites from which the objects were removed. The site names listed below were used by the private individuals and are not official site designations.

In 1932, 16 ceramic vessels were removed from # 1 Ruin. In 1937, two ceramic vessels were removed from Two Hills. In 1938, one ceramic vessel was removed from Stuck in Cinders. In 1938, three ceramic vessels were removed from Big Apple. In 1941, one ceramic vessel was removed from Kelhem # 1 and four ceramic vessels were removed from Two Hills. In 1942, one ceramic vessel was removed from Lousey. In 1947, one ceramic vessel was removed from an unnamed site and three ceramic vessels were removed from Backache. In 1949, two ceramic vessels were removed from Sheep Fence. In 1953, three ceramic vessels were removed from Birthday. Also in 1953, seven ceramic vessels, one shell bead, and one shell bracelet were removed from Birthday.

The unassociated funerary objects listed in this notice were removed from sites related to the Northern Sinagua archeological culture. The Museum of Northern Arizona is using the cultural affiliation study completed by the USDA Forest Service in 1996 for prehistoric archeological remains in the Coconino County, AZ, region, including lands directly adjacent to the sites listed above. Based on evidence relevant to archeological, anthropological, biological, geographical, oral traditions/folklore and kinship, the USDA Forest Service established that the Northern Sinagua were most closely affiliated with the modern Hopi Tribe of Arizona. In reviewing the 1996 USDA cultural affiliation study, as well as pertinent literature in the site records at the Museum of Northern Arizona and study of the unassociated funerary objects, the Museum of Northern Arizona concurs that the objects are more closely affiliated with the modern Hopi Tribe of Arizona.

Determinations Made by the Museum of Northern Arizona

Officials of the Museum of Northern Arizona have determined that:

- Pursuant to 25 U.S.C. 3001(3)(B), the 46 cultural items described above are reasonably believed to have been placed with or near individual human remains at the time of death or later as part of the death rite or ceremony and are believed, by a preponderance of the evidence, to have been removed from a specific burial site of a Native American individual.
- Pursuant to 25 U.S.C. 3001(2), there is a relationship of shared group identity that can be reasonably traced between the unassociated funerary objects and the Hopi Tribe of Arizona.

Additional Requestors and Disposition

Lineal descendants or representatives of any Indian tribe or Native Hawaiian organization not identified in this notice that wish to claim these cultural items should submit a written request with information in support of the claim to Elaine Hughes, Collection Manager, Museum of Northern Arizona, 3103 North Fort Valley Road, Flagstaff, AZ 86001, telephone (928) 774–5211 email *ehughes@mna.mus.az.us,* by April 30, 2014. After that date, if no additional claimants have come forward, transfer of control of the unassociated funerary objects to the Hopi Tribe of Arizona may proceed.

The Museum of Northern Arizona is responsible for notifying the Havasupai Tribe of the Havasupai Reservation, Arizona; Hopi Tribe of Arizona; Hualapai Indian Tribe of the Hualapai Indian Reservation, Arizona; Navajo Nation of Arizona, New Mexico and Utah; Yavapai-Prescott Indian Tribe; and the Zuni Tribe of the Zuni Reservation, New Mexico, that this notice has been published.

Dated: March 6, 2014.

Sherry Hutt,

Manager, National NAGPRA Program.

[FR Doc. 2014–07144 Filed 3–28–14; 8:45 am]

BILLING CODE 4312–50–P

INTERNATIONAL TRADE COMMISSION

[Investigation Nos. 731–TA–1224–1225 (Final)]

Ferrosilicon From Russia and Venezuela; Scheduling of the Final Phase of Antidumping Investigations

AGENCY: United States International Trade Commission.

ACTION: Notice.

SUMMARY: The Commission hereby gives notice of the scheduling of the final phase of antidumping investigation Nos. 731–TA–1224–1225 (Final) under section 735(b) of the Tariff Act of 1930 (19 U.S.C. 1673d(b)) (the Act) to determine whether 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 less-than-fair-value imports from Russia and Venezuela of ferrosilicon, provided for in subheadings 7202.21.10, 7202.21.50, 7202.21.75, 7202.21.90, and 7202.29.00 of the Harmonized Tariff Schedule of the United States.[1]

For further information concerning the conduct of this phase of the investigations, hearing procedures, 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 C (19 CFR part 207).

DATES: *Effective Date:* March 11, 2014.

FOR FURTHER INFORMATION CONTACT: Christopher J. Cassise (202–708–5408), 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 these investigations may be viewed on the Commission's electronic docket (EDIS) at *http://edis.usitc.gov*.

SUPPLEMENTARY INFORMATION:

Background. The final phase of these investigations is being scheduled as a result of an affirmative preliminary determination by the Department of Commerce that imports of ferrosilicon from Venezuela are being sold in the United States at less than fair value within the meaning of section 733 of the Act (19 U.S.C. 1673b). The investigation

[1] For purposes of these investigations, the Department of Commerce has defined the subject merchandise as ''all forms and sizes of ferrosilicon, regardless of grade, including ferrosilicon briquettes. Ferrosilicon is a ferroalloy containing by weight four percent or more iron, more than eight percent but not more than 96 percent silicon, three percent or less phosphorus, 30 percent or less manganese, less than three percent magnesium, and 10 percent or less any other element. The merchandise covered also includes product described as slag, if the product meets these specifications.''

was requested in a petition filed on July 19, 2013, by Globe Specialty Metals, Inc., New York, NY; CC Metals and Alloys, LLC, Calvert City, KY, the United Steel, Paper and Forestry, Rubber, Manufacturing, Energy, Allied Industrial and Service Workers International Union; and the International Union, United Automobile, Aerospace and Agricultural Implement Workers of America.

Although the Department of Commerce has preliminarily determined that imports of ferrosilicon from Russia are not being and are not likely to be sold in the United States at less than fair value, for purposes of efficiency the Commission hereby waives rule 207.21(b) [2] so that the final phase of the investigation may proceed concurrently in the event that Commerce makes a final affirmative determination with respect to such imports.

Participation in the investigations and public service list. Persons, including industrial users of the subject merchandise and, if the merchandise is sold at the retail level, representative consumer organizations, wishing to participate in the final phase of these investigations as parties must file an entry of appearance with the Secretary to the Commission, as provided in section 201.11 of the Commission's rules, no later than 21 days prior to the hearing date specified in this notice. A party that filed a notice of appearance during the preliminary phase of the investigations need not file an additional notice of appearance during this final phase. The Secretary will maintain a public service list containing the names and addresses of all persons, or their representatives, who are parties to the investigations.

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 the final phase of these investigations available to authorized applicants under the APO issued in the investigations, provided that the application is made no later than 21 days prior to the hearing date specified in this notice. Authorized applicants must represent interested parties, as defined by 19 U.S.C. § 1677(9), who are parties to the investigations. A party granted access to BPI in the preliminary phase of the investigations need not reapply for such access. A separate service list will be maintained by the Secretary for those parties authorized to receive BPI under the APO.

Staff report. The prehearing staff report in the final phase of these investigations will be placed in the nonpublic record on July 14, 2014, and a public version will be issued thereafter, pursuant to section 207.22 of the Commission's rules.

Hearing. The Commission will hold a hearing in connection with the final phase of these investigations beginning at 9:30 a.m. on July 29, 2014, at the U.S. International Trade Commission Building. Requests to appear at the hearing should be filed in writing with the Secretary to the Commission on or before July 22, 2014. A nonparty who has testimony that may aid the Commission's deliberations may request permission to present a short statement at the hearing. All parties and nonparties desiring to appear at the hearing and make oral presentations should attend a prehearing conference to be held at 9:30 a.m. on July 24, 2014, at the U.S. International Trade Commission Building. Oral testimony and written materials to be submitted at the public hearing are governed by sections 201.6(b)(2), 201.13(f), and 207.24 of the Commission's rules. Parties must submit any request to present a portion of their hearing testimony *in camera* no later than 7 business days prior to the date of the hearing.

Written submissions. Each party who is an interested party shall submit a prehearing brief to the Commission. Prehearing briefs must conform with the provisions of section 207.23 of the Commission's rules; the deadline for filing is July 21, 2014. Parties may also file written testimony in connection with their presentation at the hearing, as provided in section 207.24 of the Commission's rules, and posthearing briefs, which must conform with the provisions of section 207.25 of the Commission's rules. The deadline for filing posthearing briefs is August 5, 2014. In addition, any person who has not entered an appearance as a party to the investigations may submit a written statement of information pertinent to the subject of the investigations, including statements of support or opposition to the petition, on or before August 5, 2014. On August 19, 2014, the Commission will make available to parties all information on which they have not had an opportunity to comment. Parties may submit final comments on this information on or before August 21, 2014, but such final comments must not contain new factual information and must otherwise comply with section 207.30 of the Commission's rules. All written submissions must conform with the provisions of section 201.8 of the Commission's rules; any submissions that contain BPI must also conform with the requirements of sections 201.6, 207.3, and 207.7 of the Commission's rules. The Commission's *Handbook on E-Filing,* available on the Commission's Web site at *http://edis.usitc.gov,* elaborates upon the Commission's rules with respect to electronic filing.

Additional written submissions to the Commission, including requests pursuant to section 201.12 of the Commission's rules, shall not be accepted unless good cause is shown for accepting such submissions, or unless the submission is pursuant to a specific request by a Commissioner or Commission staff.

In accordance with sections 201.16(c) and 207.3 of the Commission's 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 207.21 of the Commission's rules.

Issued: March 25, 2014.

By order of the Commission.

Lisa R. Barton,

Acting Secretary to the Commission.

[FR Doc. 2014–07032 Filed 3–28–14; 8:45 am]

BILLING CODE 7020–02–P

[2] Section 207.21(b) of the Commission's rules provides that, where the Department of Commerce has issued a negative preliminary determination, the Commission will publish a Final Phase Notice of Scheduling upon receipt of an affirmative final determination from Commerce.

DEPARTMENT OF JUSTICE

Notice of Lodging of Proposed Consent Decree Under the Comprehensive Environmental Response, Compensation, and Liability Act (''CERCLA'')

On March 25, 2014, the Department of Justice lodged a proposed consent decree with the United States District Court for the Eastern District of Pennsylvania in the lawsuit entitled *United States* v. *the Estate of Jack H. Goodyear, Marie F. Goodyear and Richard W. Baum, as Executors of the Estate of Jack H. Goodyear,* Civil Action No. 2:14–cv–01749.

In this action under Section 107(a) of the Comprehensive Environmental Response, Compensation, and Liability Act, 42 U.S.C. 9607(a) (''CERCLA''), the

United States sought reimbursement of response costs incurred or to be incurred for response actions taken at or in connection with the release or threatened release of hazardous substances at the North Penn 7 Superfund Site, in Montgomery County, Pennsylvania. The proposed decree requires the settling defendants to pay $506,718.25 to the United States in reimbursement of past response and future response costs.

The proposed decree provides the settling defendants with a covenant not to sue under Sections 106 and 107(a) of CERCLA, 42 U.S.C. 9606 and 9607(a).

The publication of this notice opens a period for public comment on the proposed decree. Comments should be addressed to the Assistant Attorney General, Environment and Natural Resources Division, and should refer to *United States* v. *the Estate of Jack H. Goodyear, et al.,* D.J. Ref. No. 90–11–2–09224. All comments must be submitted no later than thirty (30) days after the publication date of this notice. Comments may be submitted either by email or by mail:

To submit comments:	*Send them to:*
By e-mail	*pubcomment-ees.enrd@usdoj.gov.*
By mail	Assistant Attorney General; U.S. DOJ—ENRD; P.O. Box 7611; Washington, DC 20044–7611.

During the public comment period, the consent decree may be examined and downloaded at this Justice Department Web site: *http://www.usdoj.gov/enrd/Consent_Decrees.html.* We will provide a paper copy of the consent decree upon written request and payment of reproduction costs. Please mail your request and payment to: Consent Decree Library, U.S. DOJ—ENRD, P.O. Box 7611, Washington, DC 20044–7611.

Please enclose a check or money order for $7.50 (25 cents per page reproduction cost) payable to the United States Treasury.

Robert Brook,

Assistant Section Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 2014–07031 Filed 3–28–14; 8:45 am]

BILLING CODE 4410–15–P

DEPARTMENT OF LABOR

Office of the Secretary

Agency Information Collection Activities; Submission for OMB Review; Comment Request; Hydrostatic Testing Provision of the Standard on Portable Fire Extinguishers

ACTION: Notice.

SUMMARY: The Department of Labor (DOL) is submitting the Occupational Safety and Health Administration (OSHA) sponsored information collection request (ICR) titled, ''Hydrostatic Testing Provision of the Standard on Portable Fire Extinguishers,'' 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 April 30, 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=201402-1218-001* (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, TTY 202–693–8064, (these are not toll-free numbers) or by email at *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: Michel Smyth by telephone at 202–693–4129, TTY 202–693–8064, (these are not toll-free numbers) or by email at *DOL_PRA_PUBLIC@dol.gov.*

Authority: 44 U.S.C. 3507(a)(1)(D).

SUPPLEMENTARY INFORMATION: This ICR seeks to extend PRA authorization for the recordkeeping requirements related to the hydrostatic testing provision of the standard on portable fire extinguishers codified in regulations 20 CFR 1910.157(f)(16). More specifically, as evidence of completing the test, it is mandatory for the person performing the test to record his or her name, the date of the test, and the identifier of the extinguisher tested. A covered employer must maintain the record in accordance with timeframes set forth in the regulation. The Occupational Safety and Health Act authorizes this information collection. *See* 29 U.S.C. 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 1218–0218.

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 March 31, 2014. 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 November 25, 2013 (78 FR 70324).

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 1218–0218. 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: Hydrostatic Testing Provision of the Standard on Portable Fire Extinguishers.

OMB Control Number: 1218–0218.

Affected Public: Private Sector—businesses or other for-profits.

Total Estimated Number of Respondents: 9,205,000.

Total Estimated Number of Responses: 1,356,203.

Total Estimated Annual Time Burden: 125,986 hours.

Total Estimated Annual Other Costs Burden: $16,952,542.

Dated: March 25, 2014.

Michel Smyth,

Departmental Clearance Officer.

[FR Doc. 2014–07027 Filed 3–28–14; 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; Request for Information on Earnings, Dual Benefits, Dependents, and Third Party Settlements

ACTION: Notice.

SUMMARY: The Department of Labor (DOL) is submitting the Office of Workers' Compensation Programs (OWCP) sponsored information collection request (ICR) revision titled, ''Request for Information on Earnings, Dual Benefits, Dependents, and Third Party Settlements,'' to the Office of Management and Budget (OMB) for review and approval for use in accordance with the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C. 3501 *et seq.*). The OMB and DOL invite public comments on the ICR.

DATES: The OMB will consider all written comments that agency receives on or before April 30, 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=201310-1240-001* (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, TTY 202–693–8064, (these are not toll-free numbers) 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–OWCP, 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, TTY 202–693–8064, (these are not toll-free numbers) or sending an email to *DOL_PRA_PUBLIC@dol.gov.*

Authority: 44 U.S.C. 3507(a)(1)(D).

SUPPLEMENTARY INFORMATION: This ICR seeks PRA approval to revise the ''Request for Information on Earnings, Dual Benefits, Dependents, and Third Party Settlements'' (Form Letter CA–1032) information collection. The form letter obtains information from a claimant receiving workers' compensation benefits over an extended period of time. The OWCP uses this information to determine whether the claimant is entitled to continue receiving benefits and whether the benefit amount should be adjusted. This ICR has been classified as a revision, because the OWCP has made a few changes and minor clarifications to the form letter. These changes and clarifications would help to reduce the chance of respondents providing incorrect information and would augment disclosures the OWCP makes to respondents. More specifically, the changes would align the form with the rights of same sex couples, as specified under *United States* v. *Windsor,* and add information about assistance available to respondents with disabilities.

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 1240–0016. The current approval is scheduled to expire on April 30, 2014; however, the DOL notes that existing information collection requirements submitted to the OMB receive a month-to-month extension while they undergo review. New requirements would only take effect upon OMB approval. For additional substantive information about this ICR, see the related notice published in the **Federal Register** on December 20, 2013 (78 FR 77170).

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 1240–0016. 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–OWCP.

Title of Collection: Request for Information on Earnings, Dual Benefits, Dependents, and Third Party Settlements.

OMB Control Number: 1240–0016.

Affected Public: Individuals or households.

Total Estimated Number of Respondents: 44,800.

Total Estimated Number of Responses: 44,800.

Total Estimated Annual Time Burden: 14,933 hours.

Total Estimated Annual Other Costs Burden: $23,296.

Dated: March 25, 2014.

Michel Smyth,

Departmental Clearance Officer.

[FR Doc. 2014–07073 Filed 3–28–14; 8:45 am]

BILLING CODE 4510–CH–P

DEPARTMENT OF LABOR

Employment and Training Administration

Notice of Availability of Funds and Solicitation for Grant Applications for Indian and Native American Employment and Training Programs

AGENCY: Employment and Training Administration, Labor.

ACTION: Notice of Solicitation for Grant Applications (SGA).

Funding Opportunity Number: SGA/DFA PY 13–02

SUMMARY: The Employment and Training Administration (ETA), U.S. Department of Labor, announces the availability of approximately $58 million in grant funds authorized by the Workforce Investment Act (WIA) Section 166 for the Indian and Native American Program to fund approximately 170 grants—$46 million to fund the Comprehensive Service Program (CSP) serving adult participants and $12 million to fund the Supplemental Youth Service Program (SYSP) serving summer youth participants. Awards under the CSP are anticipated to range from approximately $13,000 to $5 million. Awards for the SYSP are anticipated to range from approximately $1,000 to $2.6 million.

The complete SGA and any subsequent SGA amendments in connection with this solicitation are described in further detail on ETA's Web site at *http://www.doleta.gov/grants/* or on *http://www.grants.gov.* The Web sites provide application information, eligibility requirements, review and selection procedures, and other program requirements governing this solicitation.

DATES: The closing date for receipt of applications under this announcement is April 23, 2014. Applications must be received no later than 4:00:00 p.m. Eastern Time.

FOR FURTHER INFORMATION CONTACT: Serena Boyd, 200 Constitution Avenue NW., Room N–4716, Washington, DC 20210; Telephone: 202–693–3338.

Signed March 25, 2014 in Washington, DC

Eric D. Luetkenhaus,

Grant Officer, Employment and Training Administration.

[FR Doc. 2014–07074 Filed 3–28–14; 8:45 am]

BILLING CODE 4510–FN–P

LEGAL SERVICES CORPORATION

Sunshine Act Meeting Notice

DATE AND TIME: The Legal Services Corporation's Board of Directors and its six committees will meet April 6–8, 2014. On Sunday, April 6, the first meeting will commence at 2:00 p.m., Eastern Daylight Time (EDT), with each meeting thereafter commencing promptly upon adjournment of the immediately preceding meeting. On Monday, April 7, the first meeting will commence at 9:00 a.m., EDT, with the meeting thereafter commencing promptly upon adjournment of the immediately preceding meeting, and the Operations and Regulations Committee meeting will commence at 2:30 p.m. On Tuesday, April 8, the Board meeting will commence at 9:30 a.m., EDT, and will continue until the conclusion of the Board's agenda.

LOCATION: F. William McCalpin Conference Center, Legal Services Corporation, 3333 K Street NW., Washington DC 20007.

PUBLIC OBSERVATION: Unless otherwise noted herein, the Board and all committee meetings will be open to public observation. Members of the public who are unable to attend in person but wish to listen to the public proceedings may do so by following the telephone call-in directions provided below.

CALL-IN DIRECTIONS FOR OPEN SESSIONS:

- Call toll-free number: 1–866–451–4981;
- When prompted, enter the following numeric pass code: 5907707348;
- When connected to the call, please immediately "MUTE" your telephone. Members of the public are asked to keep their telephones muted to eliminate background noises. To avoid disrupting the meeting, please refrain from placing the call on hold if doing so will trigger recorded music or other sound. From time to time, the presiding Chair may solicit comments from the public.

MEETING SCHEDULE

	Time *
Sunday, April 6, 2014	
1. Governance & Performance Review Committee.	2:00 p.m.
2. Institutional Advancement Committee	
3. Finance Committee	
Monday, April 7, 2014	
1. Audit Committee	9:00 a.m.
2. Delivery of Legal Services Committee	
3. Operations & Regulations Committee.	2:30 p.m.
Tuesday, April 8, 2014	
1. Board of Directors	9:30 a.m.

STATUS OF MEETING: Open, except as noted below.

Board of Directors—Open, except that, upon a vote of the Board of Directors, a portion of the meeting may be closed to the public to hear briefings by management and LSC's Inspector General, and to consider and act on the General Counsel's report on potential and pending litigation involving LSC, and act on a list of prospective funders.**

Institutional Advancement Committee—Open, except that, upon a vote of the Board of Directors, the meeting may be closed to the public for a briefing on contributions pledged and received, to discuss prospective funders for LSC's 40th anniversary celebration and development activities, and to consider and act on the recommendation of new prospective funders to the Board of Directors.**

Audit Committee—Open, except that a portion of the meeting may be closed to the public for a briefing by the Office of Compliance and Enforcement on active enforcement matters and follow-up to open investigation referrals from the Office of Inspector General.**

A verbatim written transcript will be made of the closed session of the Board and Institutional Advancement and Audit Committee meetings. The transcript of any portions of the closed

* Please note that all times in this notice are in the Eastern Daylight Time.

** Any portion of the closed session consisting solely of briefings does not fall within the Sunshine Act's definition of the term "meeting" and, therefore, the requirements of the Sunshine Act do not apply to such portion of the closed session. 5 U.S.C. 552(b)(a)(2) and (b). *See also* 45 CFR 1622.2 & 1622.3.

session falling within the relevant provisions of the Government in the Sunshine Act, 5 U.S.C. 552b(c)(6) and (10), will not be available for public inspection. A copy of the General Counsel's Certification that, in his opinion, the closing is authorized by law will be available upon request.

MATTERS TO BE CONSIDERED:

April 6, 2014

Governance and Performance Review Committee

1. Approval of agenda
2. Approval of minutes of the Committee's Open Session meeting on January 24, 2014
3. Report on progress in implementing GAO Recommendation
   - Presentation by Carol Bergman, Director of Government Relations & Public Affairs
4. Report on Public Welfare Foundation grant and LSC research agenda
   - Presentation by Jim Sandman, President
5. Report on evaluation of LSC Comptroller, Vice President for Grants Management, and Vice President for Legal Affairs
   - Presentation by Jim Sandman, President
6. Consider and act on LSC Non-Discrimination & Anti-Harassment Policy
   - Presentation by Ron Flagg, General Counsel
7. Consider and act on other business
8. Public comment
9. Consider and act on motion to adjourn meeting

Institutional Advancement Committee

Open Session

1. Approval of agenda
2. Approval of minutes of the Committee's Open Session meeting of January 25, 2014
3. Discussion of proposed 40th anniversary events
4. Public comment
5. Consider and act on other business

Closed Session

1. Approval of minutes of the Committee's Closed Session meeting of January 24, 2014
2. Briefing on contributions pledged and received
3. Discussion of prospective funders for LSC's 40th anniversary celebration and development activities
4. Consider and act on recommendation of new prospective funders to the Board of Directors
5. Consider and act on adjournment of meeting

Finance Committee

1. Approval of Agenda
2. Approval of minutes of the Committee's Open Session meeting of January 23, 2014
3. Presentation of LSC's Financial Report for the first five months of FY 2014
   - Presentation by David Richardson, Treasurer/Comptroller
4. Consider and act on LSC's Revised Consolidated Operating Budget for FY 2014, Resolution 2014–XXX
   - Presentation by David Richardson, Treasurer/Comptroller
5. Report on the FY 2015 appropriations process
   - Presentation by Carol Bergman, Director of Government Relations & Public Affairs
6. Discussion regarding proposed process and schedule for FY 2016 Budget request
   - Presentation by Jim Sandman, President
   - Carol Bergman, Director of Government Relations & Public Affairs
7. Public Comment
8. Consider and act on other business
9. Consider and act on motion to adjourn the meeting

April 7, 2014

Audit Committee

Open Session

1. Approval of agenda
2. Approval of minutes of the Committee's Open Session meeting of January 23, 2014
3. Quarterly review of 403(b) plan performance 2014
4. Briefing by Inspector General
   - Jeff Schanz, Inspector General
5. Management update regarding risk management
   - Ron Flagg, General Counsel
6. Briefing by the Office of Compliance and Enforcement about follow-up from referrals by the Office of Inspector General regarding audit reports, and annual Independent Public Accountants' audits of grantees
   - Lora Rath, Director, Office of Compliance and Enforcement
   - John Seeba, Acting Assistant Inspector General for Audits
7. Public comment
8. Consider and act on other business

Closed Session

9. Approval of minutes of the Committee's Closed Session meeting on January 23, 2014
10. Briefing by Office of Compliance and Enforcement on active enforcement matter(s) and follow-up to open investigation referrals from OIG
    - Lora M. Rath, Director, Office of Compliance and Enforcement
11. Consider and act on adjournment of meeting

Delivery of Legal Services Committee

1. Approval of agenda
2. Approval of minutes of the Committee's Open Session meeting on January 24, 2014
3. Discussion of Committee's evaluation for 2013 and the Committee's goals for 2014
4. Panel presentation and Committee discussion of LSC's Performance Criteria, Performance Area Four, Criterion 4. Financial administration—challenges of financial planning and budgeting in the face of unpredictable and fluctuating funding
   - César Torres, Executive Director, Northwest Justice Project
   - Steve Pelletier, Financial Director, Northwest Justice Project
   - Ed Marks, Executive Director, New Mexico Legal Aid
   - Lisa Schatz-Vance, Development Director, New Mexico Legal Aid
   - Calvin Harris Jr., CPA, President—Change Management, Harvin Consulting LLC
   - Reginald Haley, Program Analyst, Office of Program Performance, LSC *(Moderator)*
5. Public Comment
6. Consider and act on other business
7. Consider and act on motion to adjourn the meeting

Operations & Regulations Committee

1. Approval of agenda
2. Approval of the minutes of the Committee's Open Session telephonic meeting on March 3, 2014
3. Report on performance management and human capital management
   - Jim Sandman, President
   - Traci Higgins, Director, Office of Human Resources
4. Consider and act on 45 CFR Part 1613—Restrictions on Legal Assistance With Respect to Criminal Proceedings and the Tribal Law and Order Act of 2010, Title II of Public Law 111–211

(a) Final Rule
   - Ron Flagg, General Counsel
   - Stefanie Davis, Assistant General Counsel

(b) Public Comment

5. Consider and act on 45 CFR Part 1626—Restrictions on Legal Assistance to Aliens

(a) Final Rule and Program Letter to replace the current appendix regarding documentation
- Ron Flagg, General Counsel
- Stefanie Davis, Assistant General Counsel

(b) Public Comment

6. Consider and act on 45 CFR Part 1614—Private Attorney Involvement

(a) Proposed Rule
- Ron Flagg, General Counsel
- Stefanie Davis, Assistant General Counsel
- Mark Freedman, Senior Assistant General Counsel

(b) Public Comment

7. Other public comment
8. Consider and act on other business
9. Consider and act on adjournment of meeting

April 8, 2014

Board of Directors

Open Session

1. Pledge of Allegiance
2. Approval of agenda
3. Approval of minutes of the Board's Open Session meeting of January 25, 2014
4. Chairman's Report
5. President's Report
6. Member's Report
7. Inspector General's Report
8. Consider and act on resolution acknowledging the service of Ronald Merryman
9. Consider and act on resolution commending the Office of the Inspector General
10. Consider and act on the report of the Delivery of Legal Services Committee
11. Consider and act on the report of the Finance Committee
12. Consider and act on the report of the Audit Committee
13. Consider and act on the report of the Operations and Regulations Committee
14. Consider and act on the report of the Governance and Performance Review Committee
15. Consider and act on the report of the Institutional Advancement Committee
16. Report on implementation of recommendations of the Pro Bono Task Force Report and Pro Bono Innovation Fund
17. Public Comment
18. Consider and act on other business
19. Consider and act on whether to authorize an executive session of the Board to address items listed below, under Closed Session

Closed Session

20. Approval of minutes of the Board's Closed Session meeting of January 25, 2014
21. Management Briefing
22. Inspector General Briefing
23. Consider and act on General Counsel's report on potential and pending litigation involving LSC
24. Consider and act on list of prospective funders
25. Consider and act on motion to adjourn meeting

CONTACT PERSON FOR FURTHER INFORMATION: Katherine Ward, Executive Assistant to the Vice President & General Counsel, at (202) 295–1500. Questions may be sent by electronic mail to *FR_NOTICE_QUESTIONS@lsc.gov.*

NON-CONFIDENTIAL MEETING MATERIALS: Non-confidential meeting materials will be made available in electronic format at least 24 hours in advance of the meeting on the LSC Web site, at *http://www.lsc.gov/board-directors/meetings/board-meeting-notices/non-confidential-materials-be-considered-open-session.*

ACCESSIBILITY: LSC complies with the Americans With Disabilities Act and Section 504 of the Rehabilitation Act of 1973. Upon request, meeting notices and materials will be made available in alternative formats to accommodate individuals with disabilities. Individuals who need other accommodations due to disability in order to attend the meeting in person or telephonically should contact Katherine Ward, at (202) 295–1500 or *FR_NOTICE_QUESTIONS@lsc.gov,* at least 2 business days in advance of the meeting. If a request is made without advance notice, LSC will make every effort to accommodate the request but cannot guarantee that all requests can be fulfilled.

Dated: March 27, 2014.

Stefanie K. Davis,

Assistant General Counsel.

[FR Doc. 2014–07208 Filed 3–27–14; 11:15 am]

BILLING CODE 7050–01–P

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice: (14–034)]

Aerospace Safety Advisory Panel; Meeting.

AGENCY: National Aeronautics and Space Administration (NASA).

ACTION: Notice of Meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, Public Law 92–463, as amended, the National Aeronautics and Space Administration announces a forthcoming meeting of the Aerospace Safety Advisory Panel.

DATES: Wednesday, April 23, 2014, 11:00 a.m. to 12:30 p.m., Local Time.

ADDRESSES: NASA Kennedy Space Center, Headquarters Building, Room 2201, Kennedy Space Center, FL 32899.

FOR FURTHER INFORMATION CONTACT: Ms. Marian Norris, Aerospace Safety Advisory Panel Administrative Officer, National Aeronautics and Space Administration, Washington, DC 20546, (202) 358–4452 or *mnorris@nasa.gov.*

SUPPLEMENTARY INFORMATION: The Aerospace Safety Advisory Panel (ASAP) will hold its Second Quarterly Meeting for 2014. This discussion is pursuant to carrying out its statutory duties for which the Panel reviews, identifies, evaluates, and advises on those program activities, systems, procedures, and management activities that can contribute to program risk. Priority is given to those programs that involve the safety of human flight. The agenda will include:

—Updates on the Exploration Systems Development
—Updates on the Commercial Crew Program
—Updates on the International Space Station Program
—Kennedy Space Center Safety and Mission Assurance Update

The meeting will be open to the public up to the seating capacity of the room. Seating will be on a first-come basis. This meeting is also available telephonically. Any interested person may call the USA toll free conference call number (800) 857–7040; pass code 5678195. Attendees will be required to sign a visitor's register and to comply with NASA KSC security requirements, including the presentation of a valid picture ID and a secondary form of ID, before receiving an access badge. All U.S. citizens desiring to attend the ASAP 2014 Second Quarterly Meeting at the Kennedy Space Center must provide their full name, date of birth, place of birth, social security number, company affiliation and full address (if applicable), residential address, telephone number, driver's license number, email address, country of citizenship, and naturalization number (if applicable) to the Kennedy Space Center Protective Services Office no later than close of business on April 17, 2014.

All non-U.S. citizens must submit their name; current address; driver's license number and state (if applicable); citizenship; company affiliation (if

applicable) to include address, telephone number, and title; place of birth; date of birth; U.S. visa information to include type, number, and expiration date; U.S. Social Security Number (if applicable); Permanent Resident (green card) number and expiration date (if applicable); place and date of entry into the U.S.; and passport information to include country of issue, number, and expiration date, to the Kennedy Space Center Protective Services Office no later than close of business on April 10, 2014. If the above information is not received by the noted dates, attendees should expect a minimum delay of two (2) hours. All visitors to this meeting will be required to process in through the KSC Badging Office, Building M6–0224, located just outside of KSC Gate 3, on SR 405, Kennedy Space Center, Florida. Please provide the appropriate data required above by email to Tina Hosch at *tina.hosch@nasa.gov* or fax 321–867–7206, noting at the top of the page ''Public Admission to the NASA Aerospace Safety Advisory Panel Meeting at KSC.'' For security questions, please email Tina Hosch at *tina.hosch@nasa.gov*.

At the beginning of the meeting, members of the public may make a verbal presentation to the Panel on the subject of safety in NASA, not to exceed 5 minutes in length. To do so, members of the public must contact Ms. Marian Norris at *mnorris@nasa.gov* or at (202) 358–4452 at least 48 hours in advance. Any member of the public is permitted to file a written statement with the Panel at the time of the meeting. Verbal presentations and written comments should be limited to the subject of safety in NASA. It is imperative that the meeting be held on this date to accommodate the scheduling priorities of the key participants.

Patricia D. Rausch,

Advisory Committee Management Officer, National Aeronautics and Space Administration.

[FR Doc. 2014–07057 Filed 3–28–14; 8:45 am]

BILLING CODE 7510–13–P

NUCLEAR REGULATORY COMMISSION

[Docket No. NRC–2013–0258]

Agency Information Collection Activities: Submission for the Office of Management and Budget (OMB) Review; Comment Request

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice of the OMB review of information collection and solicitation of public comment.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) has recently submitted to OMB for review the following proposal for the collection of information under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35). The NRC hereby informs potential respondents that an agency may not conduct or sponsor, and that a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

The NRC published a **Federal Register** notice with a 60-day comment period on this information collection on November 29, 2013

1. *Type of submission, new, revision, or extension:* Extension.

2. *The title of the information collection:* 10 CFR Part 4, ''Nondiscrimination in Federally Assisted Commission Programs.''

3. *Current OMB approval number:* 3150–0053.

4. *The form number if applicable:* NRC Form 781.

5. *How often the collection is required:* Provisions for this collection are covered in § 4.331 of Title 10 of the *Code of Federal Regulations* (10 CFR) Compliance Reviews, which indicates that the NRC may conduct compliance reviews and Pre-Award reviews of recipients or use other similar procedures that will permit it to investigate and correct violations of the act and these regulations. The NRC may conduct these reviews even in absence of a complaint against a recipient. The reviews may be as comprehensive as necessary to determine whether a violation of these regulations has occurred.

6. *Who will be required or asked to report:* Recipients of Federal Financial Assistance provided by the NRC (including Educational Institutions, Other Nonprofit Organizations receiving Federal Assistance, and Agreement States).

7. *An estimate of the number of annual responses:* 800.

8. *The estimated number of annual respondents:* 200.

9. *An estimate of the total number of hours needed annually to complete the requirement or request:* 3,600 hours (3,000 hrs for reporting (5 hrs per respondent) and 600 hrs for recordkeeping (3 hrs per recordkeeper).

10. *Abstract:* The regulations under 10 CFR Part 4 implement the provisions of Title VI of the Civil Rights Act of 1964, Public Law 88–352; (78 Stat. 241; 42 U.S.C. 2000a note), Title IV of the Energy Reorganization Act of 1974, Public Law 93–438, (88 stat. 1233; 42 U.S.C. 5801 note), which relate to nondiscrimination with respect to race, color, national origin or sex in any program or activity receiving Federal financial assistance from NRC; Section 504 of the Rehabilitation Act of 1973, as amended, Public Law 93–112 (87 Stat. 355; 29 U.S.C. 701 note), Public Law 95–602 (92 Stat. 2955; 29 U.S.C. 701 note) which relates to nondiscrimination with respect to disability in any program or activity receiving Federal financial assistance; and the Age Discrimination Act of 1975, as amended, Public Law 94–135 (89 Stat. 713; 42 U.S.C. 3001 note), Public Law 95–478 (92 Stat. 1513; 42 U.S.C. 3001 note), which relates to nondiscrimination on the basis of age in any program or activity receiving Federal financial assistance.

The public may examine, and have copied for a fee, publicly-available documents, including the final supporting statement, at the NRC's Public Document Room, Room O–1F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852. The OMB clearance requests are available at the NRC's Web site: *http://www.nrc.gov/public-involve/doc-comment/omb/*. The document will be available on the NRC's home page site for 60 days after the signature date of this notice.

Comments and questions should be directed to the OMB reviewer listed below by April 30, 2014. Comments received after this date will be considered if it is practical to do so, but assurance of consideration cannot be given to comments received after this date.

Danielle Jones, Desk Officer, Office of Information and Regulatory Affairs (3150–0053), NEOB–10202, Office of Management and Budget, Washington, DC 20503.

Comments can also be emailed to *Danielle_Y_Jones@omb.eop.gov* or submitted by telephone at 202–395–1741.

The Acting NRC Clearance Officer is Kristen Benney, telephone: 301–415–6355.

Dated at Rockville, Maryland, this 25th day of March 2014.

For the Nuclear Regulatory Commission.

Kristen Benney,

Acting NRC Clearance Officer, Office of Information Services.

[FR Doc. 2014–07025 Filed 3–28–14; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket Nos. 50–277 and 50–278; NRC–2013–0232]

Peach Bottom Atomic Power Station, Units 2 and 3

AGENCY: Nuclear Regulatory Commission.

ACTION: Environmental assessment and finding of no significant impact; issuance.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) is considering issuance of amendments to Renewed Facility Operating License Nos. DPR–44 and DPR–56, issued to Exelon Generation Company, LLC (Exelon, the licensee), for operation of the Peach Bottom Atomic Power Station (PBAPS), Units 2 and 3, located in York and Lancaster Counties, Pennsylvania. The proposed amendments would authorize an increase in the maximum reactor power level from 3514 megawatts thermal (MWt) to 3951 MWt. The NRC staff is issuing a final Environmental Assessment (EA) and final Finding of No Significant Impact (FONSI) associated with the proposed license amendments.

ADDRESSES: Please refer to Docket ID NRC–2013–0232 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–2013–0232. 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. The application for amendments is dated September 28, 2012, and is supplemented by letters dated February 15, 2013, May 7, 2013, May 24, 2013, June 4, 2013, June 27, 2013, July 30, 2013, July 31, 2013, August 5, 2013, August 22, 2013, August 29, 2013, September 13, 2013, October 11, 2013, October 15, 2013, October 31, 2013, December 6, 2013, December 20, 2013, January 17, 2014, January 31, 2014 (two letters), February 20, 2014, February 28, 2014, March 10, 2014, and March 17, 2014 (ADAMS Accession Nos. ML122860201, ML13051A032, ML13129A143, ML13149A145, ML13156A368, ML13182A025, ML13211A457, ML13213A285, ML13217A431, ML13240A002, ML13241A418, ML13260A076, ML13289A191, ML13289A300, ML13308A331, ML13345A687, ML13358A083, ML14023A659, ML14031A422, ML14035A158, ML14051A629, ML14070A141, ML14072A016, and ML14076A082, respectively). The application and some of the supplements contain Sensitive Unclassified Non-Safeguards Information (proprietary information) and, accordingly, the proprietary information has been withheld from public disclosure. Redacted versions of the documents containing proprietary information have been made publicly available and can be accessed via the applicable ADAMS accession numbers listed above.
- 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: Richard B. Ennis, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington DC 20555–001, telephone: 301–415–1420, email: *Rick.Ennis@nrc.gov*.

SUPPLEMENTARY INFORMATION:

I. Introduction

In accordance with § 50.92 of Title 10 of the *Code of Federal Regulations* (10 CFR), the NRC is considering issuance of amendments to Renewed Facility Operating License Nos. DPR–44 and DPR–56, issued to Exelon, for operation of PBAPS, Units 2 and 3, located in York and Lancaster Counties, Pennsylvania. The proposed amendments would increase the maximum licensed thermal power level, for each reactor, from 3,514 MWt to 3,951 MWt. This change, referred to as an extended power uprate (EPU), represents an increase of approximately 12.4 percent above the current licensed thermal power level.

Consistent with the NRC guidance for this type of license amendment, RS–001, ''Review Standard for Extended Power Uprates,'' dated December 2003 (ADAMS Accession No. ML033640024), the NRC staff prepared a draft EA and a draft FONSI. The draft EA and draft FONSI were published in the **Federal Register** on October 24, 2013 (78 FR 63506) with a 30-day period for public comment.

Two sets of comments were received by the NRC staff in response to the **Federal Register** notice dated October 24, 2013. The NRC staff has reviewed and resolved the comments as discussed below. Based on resolution of the comments, the NRC staff has prepared a final EA and a final FONSI for publication in the **Federal Register**, as shown below, pursuant to the requirements in 10 CFR 51.21, 10 CFR 51.32, and 10 CFR 51.35.

In response to the **Federal Register** notice dated October 24, 2013, comments were submitted by: (1) Exelon, in a letter dated November 22, 2013 (ADAMS Accession No. ML13339A807); and (2) the Pennsylvania Department of Environmental Protection (PADEP), in a letter dated November 22, 2013 (ADAMS Accession No. ML13343A150).

Exelon's letter dated November 22, 2013, provided suggested wording changes to clarify the draft EA. The NRC staff incorporated each of these comments into the final EA using the words proposed in Exelon's letter.

PADEP's letter dated November 22, 2013, stated, in part, that ''PADEP does not have specific detailed comments at this time because Exelon just recently submitted a water quality certification request for this project. Under the Clean Water Act, water quality certification is required prior to the issuance of the license amendment. Pennsylvania has detailed regulations concerning water quality certification and it would be premature to comment on this project prior to having an opportunity to review the environmental assessment required by those regulations.'' On January 28, 2014, the NRC staff held a conference call with the PADEP staff to discuss PADEP's letter. The NRC confirmed that PADEP has no comments on the draft EA and draft FONSI and that it has no objections to the NRC staff issuing a final EA and final FONSI.

Based on the results of the EA that follows, the NRC has determined not to prepare an environmental impact statement for the proposed amendments, and is issuing a final FONSI.

II. Environmental Assessment

Plant Site and Environs

PBAPS consists of Units 1, 2, and 3 located on approximately 620 acres of land in Peach Bottom Township, York County, Pennsylvania on the west bank of the Susquehanna River. The site is approximately 38 miles north of Baltimore, Maryland; 19 miles southwest of Lancaster, Pennsylvania; and 30 miles southeast of York, Pennsylvania. The area within 6 miles of the site includes parts of York and Lancaster Counties in Pennsylvania and parts of Harford and Cecil Counties in Maryland. The property around the site is predominantly rural, characterized by farmland and woods.

Units 2 and 3 are General Electric Type 4, Mark I boiling-water reactors. In addition to Units 2 and 3, the site contains turbine buildings, intake and discharge canals, auxiliary buildings, switchyards, an interim spent fuel storage installation, a training center, a public boat ramp, a picnic area, and the retired Unit 1 reactor. Unit 1 is located adjacent to Units 2 and 3. It was a prototype, high-temperature, gas-cooled reactor which operated from 1966 to 1974. Unit 1 is permanently shut down, defueled, and is maintained in a safe storage, surveillance, security, and maintenance condition. It is not part of this application and will be decommissioned in the future.

Units 2 and 3 at PBAPS have a common once-through heat dissipation system that draws water from and discharges to the Conowingo Pond. The Conowingo Pond is a reservoir on the Susquehanna River formed by the Conowingo Dam (located approximately 8.5 miles downstream of the PBAPS site) and the Holtwood Dam (located approximately 6 miles upstream of the PBAPS site). The Conowingo and Holtwood Dams each provide hydroelectric generation.

The Conowingo Pond has a surface area of approximately 9,000 acres with 35 miles of shoreline. It has a width that varies from 0.5 to 1.3 miles and a maximum depth of 98 feet (ft). In addition to providing cooling water for PBAPS, Conowingo Pond is used as a fish and wildlife resource, for recreation, and as a source of public water.

Units 2 and 3 use six circulating water pumps (three per unit), each rated at 250,000 gallons per minute (gpm), which draw water from Conowingo Pond at a rate of 1.5 million gpm when all six pumps are running. Water drawn from Conowingo Pond passes through a series of intake structures before it is circulated through two main condensers. From these condensers, water passes through a series of discharge structures and then flows to Conowingo Pond where the heat is dissipated to the environment. Exelon also maintains three mechanical draft helper cooling towers that have the capacity to handle approximately 60 percent of the cooling water circulating through Units 2 and 3. Water drawn from Conowingo Pond flows into a 487 ft long outer intake structure along the west bank of Conowingo Pond. Trash racks protect 32 outer intake openings and prevent large floating debris and ice floes from reaching 24 traveling screens. This cooling water intake structure is designed to reduce impingement by preventing fish and small debris from entering the system. The intake structure allows fish to avoid the screens by having a low approach velocity. The screens are made of 3/8-inch square mesh and are placed approximately 40 ft. behind the outer trash racks in the outer intake structure. From the outer intake structure, water enters two, 700 ft-long and 200 ft-wide, intake basins. The cooling water for the condensers is drawn from these two intake basins.

Cooling water discharges from the condensers into a 700 ft-long and 400 ft-wide discharge basin where the heated cooling water then flows through a 4,700 ft-long discharge canal. Three discharge gates at the end of the discharge canal control the flow to Conowingo Pond and maintain a discharge velocity between 5 and 8 ft/second.

Description of the Proposed Action

The proposed action is the issuance of amendments to the licenses for PBAPS, Units 2 and 3, which would increase the maximum licensed thermal power level, for each reactor, from 3,514 MWt to 3,951 MWt. This change, referred to as an extended power uprate (EPU), represents an increase of approximately 12.4 percent above the current licensed thermal power level. This change is considered an EPU by the NRC because it exceeds the typical 7 percent power increase that can be accommodated with only minor plant changes. An EPU usually requires significant modifications to major plant equipment. The proposed EPU for PBAPS, Units 2 and 3, will require significant modifications as discussed in Attachment 9 to the licensee's application dated September 28, 2012 (ADAMS Accession No. ML12286A011).

If approved, these amendments would allow the heat output of each reactor to increase, which would increase the flow of steam to the turbines. This would increase the production of electricity, increase the amount of waste heat delivered to the condensers, and slightly raise the temperature of the water discharged into Conowingo Pond.

Plant modifications to implement the EPU are expected to occur during normal refueling outages that occur for each reactor once every 24 months and typically last for 30 to 40 days. If the EPU is approved, Units 2 and 3 are expected to begin operating at the EPU core power level of 3,951 MWt in 2014 and 2015, respectively.

Need for the Proposed Action

The current licenses for PBAPS, Units 2 and 3, contain a maximum authorized thermal power level for each reactor. The licensee desires to increase this power level in order to increase the electrical output of the plant without the need to site and construct new facilities. To allow this to occur, the NRC must amend the licenses for each unit to authorize the proposed new maximum thermal power level.

Environmental Impacts of the Proposed Action

At the time of issuance of the operating license for PBAPS, Units 2 and 3, the NRC staff noted that any activity authorized by the license would be encompassed by the overall action evaluated in the Final Environmental Impact Statement (FEIS) for the operation of the PBAPS reactors. This FEIS was issued in 1973, by the U.S. Atomic Energy Commission (predecessor agency to the NRC). The NRC revisited and updated the FEIS in January 2003, when the NRC published Supplement 10 to NUREG–1437, ''Generic Environmental Impact Statement for License Renewal of Nuclear Power Plants,'' that addressed the license renewal of PBAPS, Units 2 and 3 (ADAMS Accession No. ML030270059).

The radiological and non-radiological impacts on the environment that may result from the proposed EPU are summarized below.

Non-Radiological Impacts

Land Use and Aesthetic Impacts

Potential land use and aesthetic impacts for the proposed action include impacts from construction and plant modifications. All plant modifications will be implemented within existing buildings. No new permanent expansion of buildings, roads, parking lots, equipment storage areas, or transmission facilities on site will be required to either complete the proposed EPU modifications or operate

PBAPS at EPU conditions. Exelon will use existing parking lots, road access, equipment lay-down areas, offices, workshops, warehouses, and restrooms during plant modifications. Therefore, land use conditions and visual aesthetics would not change significantly at PBAPS from EPU plant modifications. The EPU plant modifications are discussed in Attachment 9 to the licensee's application dated September 28, 2012 (ADAMS Accession No. ML12286A011).

The plant cooling towers are not ''routinely used'' (see ''Aquatic Resource Impacts'') and are not planned to be ''routinely used'' during and after implementation of the EPU. Therefore, consistent with the discussion in NUREG–1437, Supplement 10, Section 2.2.8.4, ''Visual Aesthetics and Noise,'' there should not be any significant impacts from the EPU, such as icing, fogging, plume, or noise impacts from the operation of cooling towers. No significant impacts should occur to land use and aesthetic resources in the vicinity of PBAPS from EPU plant modifications.

Non-Radioactive Waste Impacts

As described in NUREG–1437, Supplement 10, Section 2.1.5, ''Nonradioactive Waste Systems,'' the principal non-radioactive effluents from PBAPS, Units 2 and 3, consists of hazardous (chemical) wastes, lubrication oil wastes, and sanitary wastes. The PBAPS site is a small quantity generator of hazardous waste. Lubrication oils are normally injected into the auxiliary boiler fuel feed with a small quantity sent offsite for disposal. Spent batteries and discarded fluorescent lights are recycled. Sanitary waste is sent to the onsite sewage treatment plant. Implementation of the EPU will likely result in a short-term temporary increase in construction related solid waste and sanitary waste. The proposed EPU is not expected to cause a significant impact from the generation of nonradioactive waste.

Air Quality Impacts

Major air pollution emission sources at the PBAPS site are regulated by the Pennsylvania Department of Environmental Protection (PADEP). Nonradioactive emission sources at PBAPS result primarily from diesel generators that are routinely tested and used when needed to supply backup power. The other major source is from boilers used for space heating and to help with unit startups. Emissions from these sources are regulated by Pennsylvania's Permit Operating Program State Only Permit number 67–05020. There will be no changes to the emissions from these sources as a result of the EPU. However, some minor and short duration air quality impacts would occur during implementation of the EPU. The main source of air emissions would come from the vehicles driven by outage workers needed to implement the EPU. This source will be short-term and temporary. Therefore, the proposed EPU is not expected to cause a significant impact on air quality.

Water Use Impacts

The facility is authorized by the Susquehanna River Basin Commission to draw up to 2,363.62 million gallons/day of water from Conowingo Pond and to consume up to 49 million gallons/day. Consumptive water use at PBAPS consists of two key components: Evaporation and drift in the helper cooling towers when the towers are in operation; and in-stream evaporation from Conowingo Pond due to the additional thermal loading from the plant. The PADEP National Pollutant Discharge Elimination System (NPDES) permit issued to PBAPS (PA 0009733) requires that cooling towers must be available to prevent unwanted discharges of high-temperature water. If the three helper cooling towers are operated, water would be lost by evaporation at an approximate rate 5.5 to 22 ft^3/sec. This evaporative loss represents less than 2 percent of the minimum monthly average river flow. Once the EPU has been implemented, water consumption for plant cooling will not significantly change from pre-EPU operation.

The PBAPS site also uses Conowingo Pond as a source of potable water for the PBAPS site. During the planned outages and modifications, the consumption of potable water will increase to support the temporary workforce. After the EPU has been implemented, there should not be any significant increase in the consumption of potable water. Since groundwater is not used as a source of water, there should not be any consumptive use of groundwater as a result of the EPU.

The proposed EPU would not significantly increase water consumption. Therefore, the proposed EPU is not expected to cause a significant impact on water use.

Water Quality Impacts

Since plant modifications will take place inside of existing buildings, construction activities should not result in groundwater or surface water pollution. The intake of water from Conowingo Pond for cooling will not increase as a result of the proposed EPU. Therefore, the discharge rates to Conowingo Pond should not increase. In turn, there should not be any changes to Conowingo Pond from increased turbidity, scouring, erosion, or sedimentation as a result of cooling water discharge. All plant wastewaters are managed in accordance with the NPDES permit issued by the PADEP. Plant wastewaters include discharges from the water treatment wastewater settling basin, auxiliary boiler blowdown, dredging/rehandling basin, and sewage treatment plant. The volume of discharge from the sewage treatment plant may temporarily increase during construction, but will remain within permitted levels. Implementation of the proposed EPU will not alter the quality or quantity of plant waste water discharges. The proposed EPU would not increase the impacts to Conowingo Pond water quality. Therefore, the proposed EPU is not expected to cause a significant impact to water quality.

Aquatic Resource Impacts

The potential impacts to aquatic resources from the proposed action could include impingement of aquatic life on barrier nets, trash racks, and traveling screens; entrainment of aquatic life through the cooling water intake structures and into the cooling water systems; and effects from the discharge of chemicals and heated water. However, the proposed EPU would not affect aquatic resources in a manner or to a degree that exceeds the analysis of effects in NUREG–1437, Supplement 10.

The NRC staff concluded in NUREG–1437, Supplement 10, Section 4.1.3, ''Impingement of Fish and Shellfish,'' that, during the continued operation of PBAPS, the potential impacts caused by the impingement of fish and shellfish on the debris screens of the cooling water intake system would be small (i.e., not detectable or so minor that they will neither destabilize nor noticeably alter any important attribute of the resource) and that impingement losses would not be great enough to adversely affect Susquehanna River aquatic populations. The NRC staff also concluded in NUREG–1437, Supplement 10, Section 4.1.3, that, in the early life stages in the cooling water system, the potential impacts of entrainment of fish and shellfish would be small, and that there are no demonstrated, significant effects to the aquatic environment related to entrainment. Regarding the potential impacts of thermal discharges, in NUREG–1437, Supplement 10, Section 4.1.4, ''Heat Shock,'' the NRC staff concluded that the impacts are small and that the heated water discharged to Conowingo Pond does not change the

temperature enough to adversely impact balanced, indigenous populations of fish and wildlife. Additionally, the NRC has generically determined that the effects from discharge of chlorine or other biocides, as well as accumulation of contaminants in sediments or biota, would be small for continued operations during a renewed license period at all plants as discussed in Section 4.5.1.1, ''Surface Water Resources, Discharge of Biocides, Sanitary Wastes, and Minor Chemical Spills,'' of the ''Generic Environmental Impact Statement for License Renewal of Nuclear Plants,'' NUREG–1437, Volume 1, Revision 1, dated June 2013 (ADAMS Accession No. ML13106A241).

The proposed EPU would not increase the volume or rate of water that is drawn from Conowingo Pond, and water withdrawals and consumptive use would continue to be regulated by the Susquehanna River Basin Commission with no changes to the current withdrawal authorizations. PBAPS's cooling water intake structure (described previously under ''Plant Site and Environs'') is designed to reduce impingement and entrainment of aquatic organisms, and the proposed EPU would not require any modifications to the current cooling system design. Thus, NRC staff concludes that compared to current operations, the proposed EPU would not change the impingement or entrainment rate of fish, shellfish, or other aquatic organisms.

Chemical effluents discharged from PBAPS would not change in type or quantity under EPU conditions, and effluent discharges to Conowingo Pond will continue to be regulated by PADEP under the site's NPDES permit. Thus, NRC staff concludes that compared to current operations, the proposed EPU would not change the type or concentration of chemical effluents that could impact aquatic resources.

The proposed EPU would increase the temperature of discharged water. Under current operating conditions, cooling water passing through the condensers can increase by as much as 22°F. Under the proposed EPU conditions, Exelon estimates that cooling water temperatures would increase by approximately 3°F, which would result in an increase of up to 25°F as water passes through the condensers. The NPDES permit for PBAPS limits the instantaneous maximum effluent temperature in the discharge canal (Outfall 001) to 110°F. Heated effluent water released into the discharge canal travels 4,700 ft south to a spillway, at which point it enters Conowingo Pond. A thermal study at PBAPS, conducted from June through October of 1999 under zero cooling tower operation conditions, reported the daily average water temperatures at the discharge canal outfall ranged from 66.7 °F to 106.5 °F.

Prior to the current NPDES permit (effective January 1, 2011), helper cooling towers at PBAPS were used only during extreme low flow and high temperature conditions in Conowingo Pond. The current NPDES permit requires PBAPS to operate one to three of its cooling towers from June 15 to September 15 as part of the permit's thermal and biological study. Exelon began the required sampling in 2010 and continued the sampling through 2013. The study will, among other things, evaluate the changes in the thermal plume during helper cooling tower operation and create a model of these changes that takes into account proposed EPU conditions and other environmental influences to Conowingo Pond.

In NUREG–1437, Supplement 10, Section 4.1.4, ''Heat Shock,'' the NRC staff concluded that for the continued operation of Units 2 and 3, the impacts from thermal effluents would be small. However, this conclusion was made assuming station conditions under the previous NPDES permit. As discussed on page 4 of Attachment 1 to the licensee's letter dated February 17, 2011 (ADAMS Accession No. ML110490533), which transmitted the current NPDES permit and an evaluation of the modifications to the permit to the NRC, the previous permit did not require an instantaneous maximum effluent temperature action level. However, the current technical specifications in the NRC operating licenses for PBAPS, Units 2 and 3, require that plants be shut down when the instantaneous intake temperature exceeds 92 °F. As discussed in Attachment 1 to the licensee's letter, in this circumstance, and based on the condenser maximum temperature rise of 21.66 °F, the discharge canal should not exceed a maximum of 113.66 °F. Thus, the current NPDES permit, which stipulates an instantaneous maximum effluent temperature action level of 110 °F, is inherently more protective of the environment. The previous NPDES permit did not require the operation of helper cooling towers. Use of helper cooling towers in the summer months has likely reduced this already small impact. Once completed, the thermal and biological studies will determine to what degree the helper cooling towers mitigate effluent temperatures and the character of the thermal plume. After the study is completed and based on the study results, Exelon will submit to PADEP an application to modify the NPDES permit. These modifications may include actions to manage the thermal discharge under EPU conditions. For any such future modifications, the PADEP must, in accordance with Section 316(a) of the Clean Water Act, ensure thermal effluent limitations assure the protection and propagation of a balanced, indigenous community of shellfish, fish, and wildlife in and on Conowingo Pond.

In NUREG–1437, Supplement 10, Section 4.1.5, ''Microbiological Organisms (Public Health),'' the NRC staff concluded that the potential effects of microbiological organisms on human health from the operation of the plant's cooling water discharge to the aquatic environment on or in the vicinity of the site are small. As discussed in NUREG–1437, Supplement 10, Section 4.1.5, discharge temperatures from Units 2 and 3 do not exceed 110 °F in late summer. This is below the temperatures known to be conducive to growth and survival of thermophilic pathogens. The ongoing disinfection of the sewage effluent from PBAPS reduces the likelihood that a seed source or inoculants would be introduced to the station's heated discharge or to Conowingo Pond. As previously discussed, the current NPDES permit will continue to assure that there will not be any significant impacts on human health from microbiological organisms.

The current NPDES permit includes thermal limitations and operating conditions that are more protective than the previous NPDES permit (considered in Section 4.1.4. ''Heat Shock,'' of NUREG–1437, Supplement 10). The PADEP will continue to regulate and enforce PBAPS thermal discharges in a manner that will assure the protection and propagation of a balanced, indigenous community of shellfish, fish, and wildlife in and on Conowingo Pond. Therefore, the increase in thermal effluent under proposed EPU conditions would not result in a significant impact to aquatic resources.

Terrestrial Resource Impacts

During EPU-related upgrades and plant modifications, impacts that could potentially affect terrestrial resources could come from noise, lighting, and other disturbances to wildlife. However, noise and lighting would not impact terrestrial species beyond what would be experienced during normal operations. This is because EPU-related upgrades and plant modifications would take place during normally planned

outage periods, which are already periods of heightened activity. Habitat loss or fragmentation would not occur, because the proposed EPU would not involve any new construction outside of the existing facility footprint (discussed previously under ''Land Use and Aesthetic Impacts'') and would not require transmission system upgrades or modifications. No changes in transmission line maintenance and vegetation removal are anticipated. The EPU will increase electric current flowing through the transmission system. This will increase the strength of the electromagnetic field around the transmission lines. However, as discussed on pages 4–21 and 4–24 of Supplement 10 NUREG–1437, the NRC has determined that a scientific consensus has not been reached on the chronic effects of the electromagnetic field on humans, and that significant impacts to the terrestrial biota have not been identified. Sediment transport and erosion is not a concern because EPU-related activities would only take place on previously developed land. Therefore, the proposed EPU is not expected to cause a significant impact on terrestrial resources.

Threatened and Endangered Species Impacts

Under Section 7 of the Endangered Species Act of 1973, as amended (ESA), Federal agencies, in consultation with the U.S. Fish and Wildlife Service (FWS) or the National Marine Fisheries Service (as appropriate), must ensure that actions the agency authorizes, funds, or carries out are not likely to jeopardize the continued existence of any listed species or result in the destruction or adverse modification of critical habitat.

The NRC staff has identified two federally listed species that occur in York County, Pennsylvania: the bog turtle (*Glyptemys muhlenbergii*) and the Indiana bat (*Myotis sodalis*), which are discussed below. The NRC staff also considered the possibility of the shortnose (*Acipenser brevirostrum*) and Atlantic (*Acipenser oxyrinchus oxyrinchus*) sturgeons to occur above Conowingo Dam in Conowingo Pond because, historically, sturgeon likely inhabited the Susquehanna River upstream of the location of the Conowingo Dam prior to its construction. Currently, sturgeons are known to occur in the lower Susquehanna River and the Maryland Department of Natural Resources has noted the occurrence of sturgeon at Conowingo Dam. However, given the size of the dam and the fact that shortnose and Atlantic sturgeon typically do not use fish lifts that were designed for other species (Conowingo Dam's fish lift was designed for the passage of American shad (*Alosa sapidissima*)), the NRC reasonably concludes that neither the shortnose nor Atlantic sturgeon occur in Conowingo Pond.

The FWS listed the northern population of the bog turtle as threatened under the ESA in 1997 (62 FR 59605). The FWS has not designated critical habitat for this species. Bog turtles inhabit early to mid-successional wetlands fed by groundwater or associated with the headwaters of streams and dominated by emergent vegetation. Pennsylvania counties identified by the FWS as containing extant bog turtle populations occur in the southeastern part of the state, and many occur within the Delaware River and Susquehanna River watersheds. In 2000, Exelon commissioned bog turtle habitat (Phase 1) surveys in the vicinity of PBAPS, but no areas of suitable habitat were identified during the surveys. The potential for adverse effects at the PBAPS site and along transmission line corridors to bog turtles was evaluated in Section 2.2.6, ''Terrestrial Resources,'' of NUREG–1437, Supplement 10. The NRC staff concluded in Section 4.6.2, ''Terrestrial Species,'' that continued operations during the license renewal term would have no effect on bog turtles due to the lack of suitable habitat. The NRC staff requested the FWS's concurrence with this determination in a letter, dated January 17, 2002 (ADAMS Accession No. ML020180445). The FWS concurred with this determination in a letter, dated April 17, 2002 (ADAMS Accession No. ML021510200). The PBAPS site continues to lack suitable habitat for bog turtles, and the proposed EPU would not involve any habitat loss or fragmentation or any other significant impacts to the terrestrial environment. Therefore, the proposed EPU would have no effect on the bog turtle.

The FWS listed the Indiana bat as endangered wherever found in 1967 under the ESA's predecessor, the Endangered Species Preservation Act of 1966 (32 FR 4001). The FWS has not designated critical habitat for the species in Pennsylvania (41 FR 41914). Areas of the PBAPS site that could serve as potential Indiana bat habitat include forested areas, forest edges, and riparian areas. The Pennsylvania Game Commission (PGC) reports that Indiana bats use habitat within York County during the summer. However, no hibernation or maternity sites occur in the county. The Supplemental Environmental Impact Statement did not consider the effects of continued operation of PBAPS during the license renewal term on Indiana bats. The proposed EPU would not disturb or alter any natural habitats on the PBAPS site or along any transmission line corridors, and other impacts such as noise and lighting during EPU-related upgrades. Furthermore, plant modifications would not result in a significant impact on the terrestrial environment. Therefore, the proposed EPU would have no effect on the Indiana bat.

The NRC did not identify any designated critical habitat that could be affected by the proposed EPU, nor has the FWS proposed the listing or designation of any new species or critical habitat that could be affected by the proposed EPU. Therefore, the proposed EPU would have no effect on designated critical habitat, proposed species, or proposed critical habitat.

Essential Fish Habitat

Section 305(b) of the Magnuson-Stevens Fishery Conservation and Management Act includes requirements for Federal agencies to consider the impact of Federal actions on essential fish habitat (EFH) and to consult with the National Marine Fisheries Service (NMFS) if any activities may adversely affect EFH. According to the EFH Mapper and the NMFS's ''Guide to Essential Fish Habitat Designations in the Northeastern United States,'' NMFS has not designated any EFH under the Magnuson-Stevens Fishery Conservation and Management Act within the affected water bodies. Thus, the proposed EPU would have no effect on designated essential fish habitat.

Species Protected by the Commonwealth of Pennsylvania

Within the Commonwealth of Pennsylvania, the PGC, the Pennsylvania Fish and Boat Commission (PFBC), and the Pennsylvania Department of Conservation and Natural Resources (PDCNR) oversee the protection of Commonwealth-listed species under the Pennsylvania Endangered Species Program. The PGC, PFBC, and PDCNR manage the recovery efforts for wild birds and mammals (34 Pa. Code 133); fish, amphibians, reptiles, and aquatic organisms (30 Pa. Code 75); and native plants (17 Pa. Code 45), respectively.

As part of preparing its EPU application, Exelon performed a Pennsylvania Natural Diversity Inventory (PNDI) Environmental Review through the Pennsylvania Natural Heritage Program's Web site. The survey results indicated no known impacts to species of concern within the oversight

of the PGC and FWS. No further review by these two agencies was required. Exelon also directly contacted some of the Pennsylvania agencies listed above to determine potential impacts to Commonwealth-listed species that could result from the proposed EPU. Exelon's PNDI Environmental Review indicated that there would be no impact to species under the PDCNR's jurisdiction and that no further project review from this agency was required. The PNDI Environmental Review indicated three terrestrial plant species under the PDCNR's purview could occur in the vicinity of PBAPS: the lobed spleenwort (*Asplenia pinnatifidum*), the harbinger-of-spring (*Erigenia bulbosa*), and the American holly (*Ilex opaca*). The PNDI Environmental Review also included recommended conservation measures from the PDCNR, which included practices that could avoid the introduction of invasive species. Exelon contacted the PDCNR directly via a letter dated January 23, 2012, requesting that the PDCNR confirm Exelon's conclusion that the proposed EPU would not adversely affect any Commonwealth-listed threatened or endangered species. In their response, dated February 21, 2012, the PDCNR indicated that the proposed EPU would not result in impacts to species under its jurisdiction. For species under the PFBC's purview, the PNDI Environmental Review indicated that further review was required to determine potential impacts. Exelon contacted the PFBC in a letter, dated January 23, 2012. Subsequently, the PFBC indicated in a letter, dated February 24, 2012, that no adverse impacts are expected to species under its jurisdiction from the proposed EPU. Each of the letters referenced in this paragraph are included in Exelon's supplemental environmental report, which was submitted as Attachment 8 to the EPU application.

The NRC staff reviewed the information discussed above in Exelon's EPU application concerning Commonwealth-listed species. The appropriate Pennsylvania agencies have confirmed the proposed EPU would not affect any species under their purview and NRC staff has not identified any impacts to the terrestrial or aquatic environment beyond those previously considered by each Pennsylvania agency in their reviews. Therefore, the proposed EPU would have no significant impacts to Commonwealth-listed species.

Socioeconomics

Currently, approximately 900 permanent workers and 200 contract workers are employed at PBAPS. Exelon's EPU-related plant modifications would occur during the regularly scheduled refueling outages. During normal refueling outages, approximately 800 temporary workers are added to the normal workforce of 1,100 permanent and contract workers. The first phase of EPU modifications is planned to be implemented during the 2014 outage. During that outage, approximately 1,300 additional temporary workers will be added to the normal outage workforce, with the total workforce at PBAPS peaking at approximately 3,200 workers over the modification period. Once EPU-related plant modifications have been completed, the size of workforce at PBAPS would return to normal levels. The PBAPS workforce will remain similar to pre-EPU levels, as will the temporary workforce needed for future refueling outages. The size of the workforce will be unaffected by implementation of the proposed EPU.

The NRC expects most outage and EPU plant modification workers to relocate temporarily to communities in Lancaster or York County, resulting in short-term increases in the local population along with increased demands for public services and housing. As modification work would be temporary, most workers would likely stay in rental homes, apartments, mobile homes, and camper-trailers. The 2011 American Community Survey 1-year estimate for vacant housing units reported 11,509 units in Lancaster County and 12,192 units in York County that could potentially ease the demand for local rental housing. Therefore, while a short duration temporary increase in plant employment would occur, this increase would have little or no noticeable effect on the availability of housing in the region.

The additional number of workers, truck material, and equipment deliveries needed to support EPU-related plant modifications would likely cause short-term level of service impacts (restricted traffic flow and higher incident rates) on secondary roads in the immediate vicinity of PBAPS. Increased traffic volumes would be necessary to support implementation of EPU-related modifications during the refueling outage. As EPU-related plant modifications would occur during a normal refueling outage, there could be noticeable short-term (during certain hours of the day), level-of-service traffic impacts beyond what is experienced during normal outages. During periods of high traffic volume (i.e., morning and afternoon shift changes), work schedules could be staggered and employees and/or local police officials could be used to direct traffic entering and leaving PBAPS to minimize level-of-service impacts.

PBAPS currently pays property taxes and payments in lieu of property taxes to York County, Peach Bottom Township, and the South Eastern School District. The amount of future property taxes and payments in lieu of property taxes paid by PBAPS could be affected by the increased value of PBAPS as a result of the EPU and increased power generation. Due to the short duration of EPU-related plant modification activities, there would be little or no noticeable effect on local tax revenues generated by temporary workers residing in Lancaster and York counties.

Therefore, based on the information presented above, no significant socioeconomic impacts are expected from EPU-related plant modifications and operations under EPU conditions in the vicinity of PBAPS.

Environmental Justice Impacts

An environmental justice impact analysis evaluates the potential for disproportionately high and adverse human health and environmental effects on minority and low-income populations that could result from activities associated with the proposed EPU at PBAPS. Such effects may include biological, cultural, economic, or social impacts. Minority and low-income populations are subsets of the general public residing in the vicinity of PBAPS, and all are exposed to the same health and environmental effects generated from activities at PBPAS.

The NRC considered the demographic composition of the area within a 50-mile radius of PBAPS to determine whether minority populations may be affected by the proposed action. The NRC examined the distribution of minority populations within 50 miles of PBAPS using the U.S. Census Bureau data for 2010.

According to the 2010 Census data, approximately 5 million people live within a 50-mile radius of PBPAS. Minority populations within 50 miles compose 35.6 percent (approximately 1.8 million persons) of the total population. The largest minority group was Black or African-American (approximately, 1.2 million persons or 23.1 percent), followed by Hispanic or Latino (of any race) (approximately 315,000 persons or 6.3 percent). According to 2011 American Community Survey 1-Year Estimates,

minority populations within Lancaster County comprise 10.2 percent of the total population with the largest minority group being Hispanic or Latino (of any race) at 8.9 percent. Minority populations within York County comprise 12.2 percent of the total population with the largest minority group being Black or African-American at 6 percent.

According to 2011 American Community Survey 1-Year Estimates census data for Lancaster and York counties, approximately 10.9 percent of the population residing within Lancaster County and 11.0 percent of the population residing in York County were determined to be living below the 2011 federal poverty threshold. In addition, approximately 7.9 percent of families residing within Lancaster County and 8.2 percent of the families in York County were determined to be living below the Federal poverty threshold. The 2011 Federal poverty threshold was $22,350 for a family of four and $10,890 for an individual. The median household income for Lancaster County was approximately $64,566 and for York County was approximately $66,053. Lancaster County median household income is 28.5 percent higher than the median household income (approximately $50,228) for Pennsylvania, while York County is 31 percent higher.

Potential impacts to minority and low-income populations would mostly consist of human health, environmental, and socioeconomic effects (e.g., noise, dust, traffic, employment, and housing impacts). Radiation doses from plant operations after the EPU are expected to continue to remain well below regulatory limits.

Noise and dust impacts would be temporary and limited to onsite activities. Minority and low-income populations residing along site access roads could experience increased commuter vehicle traffic during outage shift changes. Increased demand for inexpensive rental housing during the EPU-related plant modifications could disproportionately affect low-income populations; however, due to the availability of housing, impacts would be of short duration (approximately 30 to 40 days) and limited. Furthermore, according to the 2011 American Community Survey 1-year estimate, there were 11,509 vacant housing units in Lancaster County and 12,192 vacant housing units in York County available to help alleviate any short-term increased demand.

Based on this information and the analysis of human health and environmental impacts presented in this environmental assessment, the proposed EPU would not have disproportionately high and adverse human health and environmental effects on minority and low-income populations residing in the PBAPS vicinity.

Historic and Cultural Resources Impacts

There are no records of historic and cultural resources being found on PBAPS property. However, there is the potential to find historic and cultural resources at the PBAPS site as the majority of recorded archaeological sites in the region are found within the first terraces above the Susquehanna River. The likelihood of these resources being present at PBAPS has diminished as the terraces near PBAPS were flooded by the formation of Conowingo Pond. Nevertheless, there are nine historic properties listed on the National Register of Historic Places within 6 miles of PBAPS.

As previously discussed, all EPU-related plant modifications would take place within existing buildings and facilities at PBAPS, including the replacement of two electrical transformers on the existing pads. Since no ground disturbance or construction-related activities would occur outside of previously disturbed areas and existing electrical transmission facilities, there would be no significant impact from EPU-related plant modifications on historic and archaeological resources, should they be found on or in the vicinity of PBAPS.

Non-Radiological Cumulative Impacts

The NRC staff considered potential cumulative impacts on the environment resulting from the incremental impact of the proposed EPU when added to other past, present, and reasonably foreseeable future actions in the vicinity of PBAPS. For the purposes of this analysis, past actions are related to the construction and licensing of PBAPS, present actions are related to current operations, and future actions are those that are reasonably foreseeable through the end of station operations including operations under the EPU.

There will not be significant cumulative impacts to the resource areas of air quality, groundwater, threatened and endangered species, or historic and cultural resources in the vicinity of PBAPS, because the contributory effect of ongoing actions within a region are regulated and monitored through a permitting process under State or Federal authority (e.g. NPDES and 401/404 permits under the Clean Water Act). In these cases, impacts are managed as long as these actions are in compliance with their respective permits and conditions of certification.

Surface water and aquatic resources were examined for potential cumulative impacts. The geographic boundary for potential cumulative impacts is the area of the post-EPU thermal mixing zone in Conowingo Pond. If the proposed EPU is approved and is implemented, PBAPS is predicted to have a slightly larger and hotter mixing zone than pre-uprate conditions during full flow and capacity. The NRC staff anticipates that PBAPS will continue to operate post-EPU in full compliance with the requirements of the PADEP. The PADEP would evaluate PBAPS compliance with its individual wastewater facility permit.

Land use, and aesthetics impacts from the EPU are not expected to contribute to cumulative impacts as there will be no construction of new transmission facilities on site, transmission maintenance and vegetation practices will not change, and all plant modifications will be implemented within existing buildings

As discussed in the aquatic biology section, the abundance of aquatic organisms as a source of food for terrestrial organisms should not change. During the construction of the EPU, only minor temporary changes in air emissions from additional workers and construction equipment are expected. No changes to air emission from implementation of the EPU are expected. There will not be any increases to surface water or air that would increase the impact to terrestrial biota as a result of the EPU. Therefore, the NRC staff concludes that impacts to terrestrial biota are not expected to contribute to cumulative impacts to terrestrial resources as a result of the proposed action.

The greatest socioeconomic impacts from the proposed EPU and continued operation of PBAPS would occur during the 2014 outage. The increase in EPU-related construction workforces would have a temporary effect on socioeconomic conditions in local communities from the increased demand for temporary housing, public services (e.g., public schools), and increased traffic, but would not contribute to cumulative impacts. No significant cumulative impacts are expected as a result of the proposed EPU.

Non-Radiological Impacts Summary

As previously discussed, the proposed EPU would not result in any significant non-radiological impacts. Table 1 summarizes the non-

radiological environmental impacts of the proposed EPU at PBAPS.

TABLE 1—SUMMARY OF NON-RADIOLOGICAL ENVIRONMENTAL IMPACTS

Land use and aesthetic	The proposed EPU is not expected to cause a significant impact on land use conditions and aesthetic resources
Non-Radioactive Waste	The proposed EPU is not expected to cause a significant impact from the generation of nonradioactive waste.
Air Quality	The proposed EPU is not expected to cause a significant impact on air quality.
Water Use	The proposed EPU is not expected to cause a significant impact on water use.
Water Quality	The proposed EPU is not expected to cause a significant impact on water quality.
Aquatic Resources	The proposed EPU is not expected to cause a significant impact on aquatic resources.
Terrestrial Resources	The proposed EPU is not expected to cause a significant impact on terrestrial resources.
Threatened and Endangered Species.	The proposed EPU would have no effect on any species or habitats protected under the Endangered Species Act or on designated essential fish habitat protected under the Magnuson-Stevens Fishery Conservation and Management Act. Additionally, the proposed EPU would have no significant impacts on any Pennsylvania-listed species.
Socioeconomics	No significant socioeconomic impacts are expected as a result of the proposed EPU.
Environmental Justice	The proposed EPU is not expected to cause any disproportionately high and adverse human health and environmental effects on minority and low-income populations residing in the PBAPS vicinity.
Historic and Cultural Resources	The proposed EPU is not expected to cause any significant impact to historic and cultural resources.
Non-Radiological Cumulative	No significant non-radiological cumulative impacts are expected as a result of the proposed EPU.

Radiological Impacts

Radioactive Gaseous, Liquid Effluents and Solid Waste

Units 2 and 3 use waste treatment systems to collect, process, recycle, and dispose of gaseous, liquid, and solid wastes that contain radioactive material in a safe and controlled manner within NRC and Environmental Protection Agency (EPA) radiation safety standards. The licensee's evaluation of plant operation at the proposed EPU conditions shows that no physical changes would be needed to the radioactive gaseous, liquid, or solid waste systems.

Radioactive Gaseous Effluents

The gaseous waste management system manages radioactive gases generated during the nuclear fission process. Radioactive gaseous wastes are composed of activation gases and radioactive noble gases from the reactor coolant system, gases from the charcoal treatment system, and gases collected during venting of plant piping. The licensee's evaluation determined that implementation of the proposed EPU would not significantly increase the volume of gases processed in the gaseous waste management system, since plant system functions are not changing and the volume of gases from the plant systems are not expected to change. The analysis also showed the proposed increase in power level would increase the total amount of radioactivity in the gaseous waste management system. However, the licensee's evaluation concluded that the increased radioactivity would not require any changes to the gaseous waste management system. The system would continue to safely control and process the waste in accordance with plant procedures to maintain radioactive gaseous releases within the dose limits of 10 CFR 20.1301 and the as low as is reasonably achievable (ALARA) dose objectives in Appendix I to 10 CFR part 50 and EPA's 40 CFR part 190.

Radioactive Liquid Effluents

The liquid waste management system collects, processes, and prepares radioactive liquid waste for disposal. Radioactive liquid wastes include liquids from plant systems containing reactor coolant and liquids that became contaminated from contact with plant systems containing radioactive liquids. The licensee's evaluation shows that the proposed EPU would not significantly increase the inventory of liquid normally processed by the liquid waste management system. This is because the system functions are not changing and the volume inputs remain approximately the same. The licensee's evaluation showed the proposed EPU would increase the total amount of radioactivity in the liquid waste management system. However, since the composition of the radioactive material in the waste and the volume of radioactive material processed through the system are not expected to significantly change, the licensee's evaluation concluded that no changes are needed to the system's design or operation. The existing equipment and plant procedures will continue to control radioactive liquid releases to the environment within the NRC's dose limits in 10 CFR 20.1301 and ALARA dose standards in Appendix I to 10 CFR part 50 and EPA's 40 CFR part 190.

Public Radiation Doses at EPU Conditions

The primary sources of offsite dose to members of the public from Units 2 and 3 are radioactive gaseous and liquid effluents. As discussed in the radioactive gaseous and liquid effluent sections above, operation at the proposed EPU conditions will not change the radioactive gaseous and liquid waste management systems' abilities to perform its intended functions to safely control and process the waste. There would be no change to the radiation monitoring system and procedures used to control the release of radioactive effluents in accordance with NRC radiation protection standards for the public in 10 CFR 20.1301 and Appendix I to 10 CFR part 50 and EPA's 40 CFR part 190.

The licensee evaluated the projected dose to members of the public from radioactive effluents at the proposed EPU by using actual dose data reported for the period from 2005 through 2008 and recalculated the dose based on the proposed EPU. The following bullets summarize the projected maximum dose to a member of the public located outside the PBAPS site boundary from radioactive gaseous and liquid effluents from the proposed EPU:

- The maximum whole body dose to an offsite member of the public from the combined radioactive liquid effluents from Units 2 and 3 is 1.52×10^{-2} millirem (mrem)/year, which is well below the 6 mrem/year dose criterion in Appendix I to 10 CFR part 50 for two reactor units.

• The maximum organ dose to an offsite member of the public from the combined radioactive liquid effluents from Units 2 and 3 is 1.98×10^{-2} mrem/year, which is well below the 20 mrem/year dose criterion in Appendix I to 10 CFR part 50 for two reactor units.

• The maximum air dose at the site boundary from gamma radiation from the combined gaseous effluents from Units 2 and 3 is 7.27×10^{-1} millirad (mrad)/year, which is well below the 20 mrad/year dose criterion in Appendix I to 10 CFR part 50 for two reactor units.

• The maximum air dose at the site boundary from beta radiation in the combined gaseous effluents from Units 2 and 3 is 1.42×10^{-1} mrad/year, which is well below the 40 mrad/year dose criterion in Appendix I to 10 CFR part 50 for two reactor units.

• The maximum organ (thyroid) dose to an offsite member of the public from radioactive iodine and radioactive material in particulate form from Units 2 and 3 is 5.12 mrem/year, which is well below the 30 mrem/year dose criterion in Appendix I to 10 CFR part 50 for two reactor units.

• Based on the projected annual EPU doses from radioactive gaseous and liquid effluents from Units 2 and 3 being well within the dose criteria in Appendix I to 10 CFR part 50 and the projected negligible direct shine dose contribution from components within the facilities, including the independent spent fuel storage installation, the total dose will be well within the 40 CFR 190 annual whole body dose standard of 25 mrem/year.

Based on the above, the projected radiation doses to members of the public from the proposed EPU are expected to be within Federal regulatory limits and therefore, would not be significant.

Occupational Radiation Doses at EPU Conditions

The licensee's evaluation determined that the radioactivity levels in plant systems are expected to increase with the proposed EPU. Permanent shielding to reduce radiation levels is used throughout the two reactor units to protect workers. The licensee's evaluation of the current shielding design determined that it is adequate to continue to protect the workers from the projected increased radiation levels. In addition to the permanent shielding, the licensee's radiation protection program, through the use of training, protective clothing and equipment, temporary shielding, monitoring radiation levels, and direct oversight by radiation protection personnel at individual job sites, will ensure that radiation exposures to workers will be ALARA, as required by 10 CFR 20.1101. Based on the above information, the NRC staff concludes that the proposed EPU is not expected to significantly affect radiation levels within the plant and would not be a significant radiological impact to the workers.

Radioactive Solid Wastes

Radioactive solid wastes include solids recovered from the reactor coolant systems, solids that come into contact with the radioactive liquids or gases, and solids used in the reactor coolant process system. The licensee evaluated the potential effects of the proposed EPU on the solid waste management system. The results of the evaluation indicate that the proposed EPU will increase the volume and activity of radioactive solid waste by approximately 14 percent. The largest volume of radioactive solid waste generated at Units 2 and 3 is low-level radioactive waste which includes used resins, filters, dry compressible waste, irradiated components, and waste oil and ash.

As stated by the licensee, the proposed EPU would not have a significant effect on the radioactive solid waste system. The proposed EPU would not generate a new type of waste or create a new waste stream. No changes are needed to the system to accommodate the projected additional volume and activity. The equipment used to process the solid waste is designed and operated to ensure that hazards to the workers and the environment are minimized. Waste processing areas are monitored for radiation as part of the radiation protection program to ensure that radiation exposure to workers is maintained within NRC dose limits in 10 CFR 20.1201.

Based on the above, the licensee is expected to continue to safely control and process radioactive solid waste from the proposed EPU in accordance with NRC requirements. Therefore, the impacts from solid waste would not be significant.

Spent Nuclear Fuel

Spent fuel from Units 2 and 3 is stored in the plant's spent fuel pool and in dry casks in the independent spent fuel storage installation (ISFSI). Spent fuel generated after implementation of the proposed EPU will also be stored in the spent fuel pool and the ISFSI. Units 2 and 3 are licensed to use uranium-dioxide fuel up to a maximum enrichment of 5 percent by weight uranium-235. The typical average enrichment is approximately 4.2 percent by weight of uranium-235. The average fuel assembly discharge burnup for the proposed EPU is expected to be approximately 51,000 megawatt days per metric ton uranium (MWd/MTU) with no fuel pins exceeding the maximum fuel rod burnup limit of 62,000 MWd/MTU. The licensee will maintain these fuel characteristics during the proposed EPU. There will be no change to the fuel design or the current 24-month refueling cycle. The fuel characteristics for enrichment and burnup presented above, will ensure that environmental impacts associated with the spent fuel will remain within the impact values contained in: (1) 10 CFR 51.51, Table S–3, ''Table of Uranium Fuel Cycle Environmental Data''; (2) 10 CFR 51.52, Table S–4, ''Environmental Impact of Transportation of Fuel and Waste to and from One Light-Water-Cooled Nuclear Power Reactor''; as supplemented by (3) NUREG–1437, Volume 1, Addendum 1, ''Generic Environmental Impact Statement for License Renewal of Nuclear Plants, Main Report, Section 6.3—Transportation, Table 9.1, Summary of findings on NEPA [National Environmental Policy Act] issues for license renewal of nuclear power plants'' (ADAMS Accession No. ML040690720).

Therefore, there would be no significant impacts resulting from spent nuclear fuel.

Design-Basis Accidents

Design-basis accidents (DBAs) are evaluated by both the licensee and the NRC staff to ensure that Units 2 and 3 can withstand a spectrum of postulated accidents without undue hazard to the health and safety of the public.

Separate from the NRC staff's environmental assessment in this document, the NRC staff is evaluating the licensee's DBA analyses of the potential radiological consequences that may result from the proposed EPU. The results of the NRC staff's evaluation and conclusion will be documented in a Safety Evaluation (SE) that will be made publically available. If the NRC staff concludes in the SE that the radiological consequences of DBAs at the proposed EPU power levels are within NRC requirements, then the proposed EPU will not have a significant impact with respect to the radiological consequences of DBAs.

Radiological Cumulative Impacts

The radiological dose limits for protection of the public and plant workers have been developed by the NRC and EPA to address the cumulative impact of acute and long-term exposure

to radiation and radioactive material. These dose limits are codified in 10 CFR part 20 and 40 CFR part 190.

The cumulative radiation doses are required to be within the limits set forth in the regulations cited previously. The public dose limit of 25 mrem/year in 40 CFR part 190 applies to all reactors that may be on a site and also includes any other nearby nuclear facilities. Currently, there are no other operating nuclear power reactors located near Units 2 and 3. As discussed in the public radiation dose section, the NRC staff reviewed the licensee's projected post-EPU radiation dose data and concluded that the projected dose to members of the public would be well within the limits of 10 CFR part 20 and 40 CFR part 190. The NRC staff expects continued compliance with NRC's and EPA's public dose limits during operation at the proposed EPU power level. Therefore, the NRC staff concludes that there would not be a significant cumulative radiological impact to members of the public from radioactive effluents from Units 2 and 3 at the proposed EPU operating conditions.

As previously discussed, the licensee has a radiation protection program that maintains worker doses within the dose limits in 10 CFR 20.1201. The NRC staff expects continued compliance with the agency's occupational dose limits during operation at the proposed EPU power level.

Radiological Impacts Summary

Based on the radiological evaluations discussed previously, with the exception of the impacts associated with DBAs which the NRC staff is evaluating separately from this EA, the proposed EPU would not result in any significant radiological impacts. If the NRC staff concludes in its SE that the DBAs associated with the proposed EPU meet NRC requirements, then the environmental impacts will not be significant. Table 2 summarizes the radiological environmental impacts of the proposed EPU at PBAPS.

TABLE 2—SUMMARY OF RADIOLOGICAL ENVIRONMENTAL IMPACTS

Radioactive Gaseous Effluents	Radioactive gaseous effluents are expected to be adequately handled by the existing radwaste system.
Radioactive Liquid Effluents	Radioactive liquid effluents are expected to be adequately handled by the existing radwaste system.
Public Radiation Doses at EPU Conditions.	Radiation doses to members of the public from radioactive effluents are expected to remain below NRC (10 CFR 20.1301 and Appendix I) and EPA radiation protection standards (40 CFR part 190).
Occupational Radiation Doses at EPU Conditions.	Radiation doses to workers are expected to remain within NRC dose limits (10 CFR 20.1201).
Radioactive Solid Wastes	Radioactive solid waste is expected to be adequately handled by the existing radwaste system.
Spent Nuclear Fuel	The spent fuel characteristics will remain within the bounding criteria used in the impact analysis in 10 CFR part 51, Table S–3.
Design-Basis Accidents	If the NRC staff concludes in the SE that the radiological consequences of DBAs at the proposed EPU power levels are within NRC requirements, then DBAs will not have a significant radiological consequence.
Radiological Cumulative Impacts	Radiation doses to the public and plant workers would remain below NRC (10 CFR part 20) and EPA (40 CFR part 190) radiation protection standards.

Environmental Impacts of the Alternatives to the Proposed Action

As an alternative to the proposed action, the NRC staff considered denial of the proposed EPU (i.e., the ''no-action'' alternative) for PBAPS, Units 2 and 3. Denial of the application would result in no change in the current environmental impacts. However, if the EPU were not approved, other agencies and electric power organizations might be required to pursue other means of providing electric generation capacity, such as fossil fuel or alternative fuel power generation, to offset future demand. Construction and operation of such a fossil-fueled or alternative-fueled plant may create impacts in air quality, land use, and waste management significantly greater than those identified for the proposed EPU.

Alternative Use of Resources

This action does not involve the use of any different resources (water, air, land, nuclear fuel) not previously considered in NUREG–1437, Supplement 10.

Agencies and Persons Consulted

In accordance with its stated policy, on September 6, 2013, the staff consulted with the Pennsylvania State official, Mr. Brad Fuller of the Pennsylvania Department of Environmental Protection, regarding the environmental impact of the proposed action. The State official had no comments.

III. Finding of No Significant Impact

The NRC is proposing to amend Renewed Facility Operating License Nos. DPR–44 and DPR–56 for PBAPS, Units 2 and 3. The proposed amendments would authorize an increase in the maximum reactor power level from 3514 MWt to 3951 MWt.

The NRC has determined not to prepare an Environmental Impact Statement for the proposed action. The proposed action will not have a significant effect on the quality of the human environment because, amending the licenses with the higher maximum reactor power level, will not result in any significant radiological or non-radiological impacts. Accordingly, the NRC has determined that a Finding of No Significant Impact (FONSI) is appropriate. The NRC's Environmental Assessment (EA), included in Section II above, is incorporated by reference into this finding.

The NRC's FONSI and the related environmental documents listed below are available for public inspection and may be inspected online through the NRC's Agencywide Documents Access and Management System (ADAMS) at *http://www.nrc.gov/reading-rm/adams.html.* You may also inspect these documents at the NRC's Public Document Room as described previously.

The NRC's FONSI and the associated EA are available in ADAMS at Accession No. ML14042A397. Related environmental documents supporting the NRC's FONSI are as follows: (1) Attachment 8, ''Supplemental Environmental Report,'' to Exelon's EPU amendment request dated September 28, 2012 (ADAMS Accession No. ML12286A011); (2) NUREG–1437, Volume 1, Addendum 1, ''Generic Environmental Impact Statement for License Renewal of Nuclear Plants, Main Report, Section 6.3—Transportation, Table 9.1, Summary of findings on NEPA issues for license renewal of nuclear power plants,'' dated August 1999 (ADAMS Accession No. ML040690720); (3) Supplement 10 to NUREG–1437, ''Generic Environmental Impact Statement for the License

Renewal of Nuclear Power Plants, Regarding Peach Bottom Atomic Power Station, Units 2 and 3,'' dated January 2003 (ADAMS Accession No. ML030270059); and (4) ''Generic Environmental Impact Statement for License Renewal of Nuclear Plants,'' NUREG–1437, Volume 1, Revision 1, dated June 2013 (ADAMS Accession No. ML13106A241).

Dated at Rockville, Maryland, this 24th day of March 2014.

For the Nuclear Regulatory Commission.

Meena K. Khanna,

Chief, Plant Licensing Branch I–2, Division of Operating Reactor Licensing, Office of Nuclear Reactor Regulation.

[FR Doc. 2014–07132 Filed 3–28–14; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[NRC–2014–0001]

Sunshine Act Meeting Notice

DATES: Weeks of March 31, April 7, 14, 21, 28, May 5, 2014.

PLACE: Commissioners' Conference Room, 11555 Rockville Pike, Rockville, Maryland.

STATUS: Public and Closed.

Week of March 31, 2014

There are no meetings scheduled for the week of March 31, 2014.

Week of April 7, 2014—Tentative

Thursday, April 10, 2014

9:00 a.m. Meeting with Organization of Agreement States (OAS) and Conference of Radiation Control Program Directors (CRCPD) (Public Meeting) (Contact: Cindy Flannery, 301–415–0223).

This meeting will be webcast live at the Web address—*http://www.nrc.gov/*.

Week of April 14, 2014—Tentative

There are no meetings scheduled for the week of April 14, 2014.

Week of April 21, 2014—Tentative

There are no meetings scheduled for the week of April 21, 2014.

Week of April 28, 2014—Tentative

There are no meetings scheduled for the week of April 28, 2014.

Week of May 5, 2014—Tentative

Thursday, May 8, 2014

9:00 a.m. Briefing on Subsequent License Renewal (Public Meeting) (Contact: William (Butch) Burton, 301–415–6332).

This meeting will be webcast live at the Web address—*http://www.nrc.gov/*.

Friday, May 9, 2014

9:00 a.m. Meeting with the Advisory Committee on the Medical Uses of Isotopes (Public Meeting); (Contact: Sophie Holiday, 301–415–7865).

This meeting will be webcast live at the Web address—*http://www.nrc.gov/*.

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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: March 27, 2014.

Rochelle Bavol,

Policy Coordinator, Office of the Secretary.

[FR Doc. 2014–07223 Filed 3–27–14; 4:15 pm]

BILLING CODE 7590–01–P

OFFICE OF PERSONNEL MANAGEMENT

Notice of Submission for Approval: Information Collection 3206–0165; General Request for Investigative Information (INV 40), Investigative Request for Employment Data and Supervisor Information (INV 41), Investigative Request for Personal Information (INV 42), Investigative Request for Educational Registrar and Dean of Students Record Data (INV 43), and Investigative Request for Law Enforcement Data (INV 44)

AGENCY: U.S. Office of Personnel Management.

ACTION: 30-Day Notice and request for comments.

SUMMARY: The Federal Investigative Services (FIS), U.S. Office of Personnel Management (OPM) is notifying the general public and other Federal agencies that OPM is seeking Office of Management and Budget (OMB) approval of a revised information collection, control number 3206–0165, General Request for Investigative Information (INV 40), Investigative Request for Employment Data and Supervisor Information (INV 41), Investigative Request for Personal Information (INV 42), Investigative Request for Educational Registrar and Dean of Students Record Data (INV 43), and Investigative Request for Law Enforcement Data (INV 44). As required by 44 U.S.C. chapter 35, OPM previously solicited comments for this collection, with a 60-day public comment period, at 79 FR 4762 (January 29, 2014). No comments were received for this information collection. OPM is providing an additional 30 days for public comments.

DATES: Comments are encouraged and will be accepted until April 30, 2014. This process is conducted in accordance with 5 CFR 1320.10.

ADDRESSES: Interested persons are invited to submit written comments on the proposed information collection to the Office of Information and Regulatory Affairs, Office of Management Budget, 725 17th Street NW., Washington, DC 20503, Attention: Desk Officer for the Office of Personnel Management or sent via electronic mail to *oira_submission@omb.eop.gov* or faxed to (202) 395–6974.

FOR FURTHER INFORMATION CONTACT: A copy of this information collection, with applicable supporting documentation, may be obtained by contacting Federal Investigative Services, U.S. Office of Personnel Management, 1900 E Street NW., Washington, DC 20415, Attention:

Donna McLeod or by electronic mail at *FISFormsComments@opm.gov.*

SUPPLEMENTARY INFORMATION: This notice announces that OPM has submitted to OMB a request for review and clearance of a revised information collection, control number 3206–0165, General Request for Investigative Information (INV 40), Investigative Request for Employment Data and Supervisor Information (INV 41), Investigative Request for Personal Information (INV 42), Investigative Request for Educational Registrar and Dean of Students Record Data (INV 43), and Investigative Request for Law Enforcement Data (INV 44). The public has an additional 30-day opportunity to comment.

Section 3(a) of Executive Order (E.O.) 10450, as amended, states that with specified exceptions, ''the appointment of each civilian officer or employee in any department or agency of the Government shall be made subject to investigation,'' and that ''in no event shall the investigation consist of less than a national agency check . . . and written inquiries to appropriate local law enforcement agencies, former employers and supervisors, references, and schools attended by the persons under investigation.'' This minimum investigation for appointment in the civil service is called the National Agency Check with Inquiries (NACI). The INV 40, 41, 42, 43, and 44 are used to conduct the ''written inquiries'' portion of the NACI. They are also used in any investigation requiring the same written inquiries, including suitability investigations under E.O. 10577, as amended and 5 CFR part 731, for employment in positions defined in 5 CFR 731.101(b); investigations for employment in a sensitive national security position under E.O. 10450, as amended and 5 CFR part 732; certain investigations for eligibility for access to classified information pursuant to standards promulgated under E.O. 12968, as amended; certain investigations for fitness for employment in the excepted service or as a contract employee, pursuant to investigative requirements prescribed by employing and contracting agencies; and investigations for identity credentials for long-term physical and logical access to Federally-controlled facilities and information systems, pursuant to standards promulgated under the Federal Information Security Management Act. The INV forms 40 and 44, in particular, facilitate OPM's access to criminal history record information under 5 U.S.C. 9101.

The content of the INV forms is also designed to meet notice requirements for personnel investigations specified by 5 CFR 736.102(c). These notice requirements apply to any ''investigation . . . to determine the suitability, eligibility, or qualifications of individuals for Federal employment, for work on Federal contracts, or for access to classified information or restricted areas.''

None of the forms are used for any purpose other than a personnel background investigation, as described above. The completed forms are maintained by OPM subject to the protections of the Privacy Act of 1974, as amended.

Procedurally, the subject of a personnel background investigation discloses the identity of relevant sources, such as supervisors, coworkers, neighbors, friends, current or former spouses, instructors, relatives, or schools attended, on the standard form (SF) 85, Questionnaire for Non-Sensitive Positions; the SF 85P, Questionnaire for Public Trust Positions; or the SF 86, Questionnaire for National Security Positions. After OPM receives a completed SF 85, SF 85P, or SF 86, the INV forms are distributed in accordance with investigative requirements, to the provided source contacts through an automated mailing operation.

The INV 40 is used to collect records from a Federal or State record repository or a credit bureau. The INV 44 is used to collect law enforcement data from a criminal justice agency. The INV 41, 42, and 43 are sent to employment references, associates, and schools attended. The INV 41, 42, and 43 forms disclose that the source's name was provided by the subject to assist in completing a background investigation to help determine the subject's suitability for employment or security clearance, and request that the source complete the form with information to help in this determination. Generally the subject of the investigation will identify these employment references, associates, and schools on his or her SF 85, SF 85P, or SF 86 questionnaire. However, information omitted on the questionnaire may be provided in a follow-up contact between the subject and an investigator. As indicated by the instructional guidance contained on the INV 41, 42, and 43, the forms are not to be sent to employment references, associates, and schools that have not been identified by the subject of the investigation.

OMB previously approved the OPM proposal to modify INV forms 40, 41, and 42 to provide instruction to the respondent to indicate requests of confidentiality of his or her identity, and to call an office at OPM to receive approval of the request before completing the form. OPM proposes to offer the request for confidentiality only on the INV 41 and INV 42 and alter the instructions to state 'In compliance with title 5 Code of Federal Regulations, part 736.102(c), if you have significant information which you feel unable to furnish without a promise that your identity will be kept confidential, please indicate this in writing on the reverse and only provide your contact information.

Providing additional information on this form will void your request for confidentiality.' The purpose of this change is to more clearly establish the granting of confidentiality as permitted by the Privacy Act of 1974 and OPM's implementing regulations. Changes were not made to the forms at the time of the approval but will be a part of changes implemented with this renewal.

The 60-day notice of the proposed information collection was published in the **Federal Register** on January 29, 2014 (79 FR 4762) as required by 5 CFR 1320.8, affording the public an opportunity to comment on the form. No comments were received.

Analysis

Agency: Federal Investigative Services, U.S. Office of Personnel Management

Title: General Request for Investigative Information (INV 40), Investigative Request for Employment Data and Supervisor Information (INV 41), Investigative Request for Personal Information (INV 42), Investigative Request for Educational Registrar and Dean of Students Record Data (INV 43), and

Investigative Request for Law Enforcement Data (INV 44)

OMB Number: 3206–0165
Affected Public:
- INV 40: Federal and non-federal agencies
- INV 41: Previous and present employers and supervisors
- INV 42: Individuals
- INV 43: Educational institutions
- INV 44: Law enforcement agencies

Number of Respondents: 5,639,700
- INV 40: 339,888
- INV 41: 1,910,463
- INV 42: 1,636,379
- INV 43: 411,444
- INV 44: 1,341,526

Estimated Time Per Respondent: 5 minutes

Total Burden Hours: 469,975
- INV 40: 28,324
- INV 41: 159,205

INV 42: 136,365
INV 43: 34,287
INV 44: 111,794

U.S. Office of Personnel Management.

Katherine Archuleta,

Director.

[FR Doc. 2014–06595 Filed 3–28–14; 8:45 am]

BILLING CODE 6325–53–P

SECURITIES AND EXCHANGE COMMISSION

[OMB Control No. 3235–0067, SEC File No. 270–064]

Submission for OMB Review; Comment Request

Upon Written Request Copies Available From: Securities and Exchange Commission, Office of Investor Education and Advocacy, Washington, DC 20549–0213.

Extension:
Form S–11.

Notice is hereby given that, pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), the Securities and Exchange Commission (''Commission'') has submitted to the Office of Management and Budget (''OMB'') this request for extension of the previously approved collection of information discussed below.

Form S–11 (17 CFR 239.18) is the registration statement form used to register securities issued by real estate investment trusts or by issuers whose business is primarily that of acquiring and holding for investment interests in real estate under the Securities Act of 1933 (15 U.S.C. 77a *et seq.*). The information filed with the Commission permits verification of compliance with securities law requirements and assures public availability and dissemination of such information. Information provided is mandatory. We estimate that Form S–11 takes approximately 779.04 hours per response and is filed by approximately 100 issuers annually. In addition, we estimate that 25% of the 779.04 hours per response (194.76 hours) is prepared by the issuer for an annual reporting burden of 19,476 hours (194.76 hours per response × 100 responses).

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 public may view the background documentation for this information collection at the following Web site, *www.reginfo.gov* . Comments should be directed to: (i) Desk Officer for the Securities and Exchange Commission, Office of Information and Regulatory Affairs, Office of Management and Budget, Room 10102, New Executive Office Building, Washington, DC 20503, or by sending an email to: *Shagufta_Ahmed@omb.eop.gov;* and (ii) Thomas Bayer, Director/Chief Information Officer, Securities and Exchange Commission, c/o Remi Pavlik-Simon, 100 F Street NE., Washington, DC 20549 or send an email to: *PRA_Mailbox@sec.gov.* Comments must be submitted to OMB within 30 days of this notice.

Dated: March 25, 2014.

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2014–07045 Filed 3–28–14; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[OMB Control No. 3235–0064, SEC File No. 270–51]

Submission for OMB Review; Comment Request

Upon Written Request Copies Available From: Securities and Exchange Commission, Office of Investor Education and Advocacy, Washington, DC 20549–0213.

Extension:
Form 10;

Notice is hereby given that, pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), the Securities and Exchange Commission (''Commission'') has submitted to the Office of Management and Budget (''OMB'') this request for extension of the previously approved collection of information discussed below.

Form 10 (17 CFR 249.210) is used by issuers to register a class of securities pursuant to Section 12(b) or Section 12(g) (15 U.S.C. 78l(b) and 78l(g)) of the Exchange Act of 1934. Form 10 requires financial and other information about such matters as the issuer's business, properties, identity and remuneration of management, outstanding securities and securities to be registered and financial condition. The information provided by Form 10 is intended to ensure the adequacy of information available to investors about a company. Form 10 takes approximately 215.21 hours per response to prepare and is filed by approximately 238 respondents. We estimate that 25% of the 215.21 hours per response (53.803 hours) is prepared by the company for an annual reporting burden of 12,805 hours (53.803 hours per response × 238 responses).

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 public may view the background documentation for this information collection at the following Web site, *www.reginfo.gov*. Comments should be directed to: (i) Desk Officer for the Securities and Exchange Commission, Office of Information and Regulatory Affairs, Office of Management and Budget, Room 10102, New Executive Office Building, Washington, DC 20503, or by sending an email to: *Shagufta_Ahmed@omb.eop.gov*; and (ii) Thomas Bayer, Director/Chief Information Officer, Securities and Exchange Commission, c/o Remi Pavlik-Simon, 100 F Street NE., Washington, DC 20549 or send an email to: *PRA_Mailbox@sec.gov*. Comments must be submitted to OMB within 30 days of this notice.

Dated: March 25, 2014.

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2014–07043 Filed 3–28–14; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

Submission for OMB Review; Comment Request

Upon Written Request Copies Available From: Securities and Exchange Commission, Office of Investor Education and Advocacy, Washington, DC 20549–0213.

Extension:
Form S–4, OMB Control No. 3235–0324, SEC File No. 270–287.

Notice is hereby given that, pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), the Securities and Exchange Commission (''Commission'') has submitted to the Office of Management and Budget (''OMB'') a request for extension of the previously approved collection of information discussed below.

Form S–4 (17 CFR 239.25) is the form used for registration under the Securities Act of 1933 (15 U.S.C. 77a *et seq.*) of securities issued in business combination transactions. The information collected is intended to ensure the adequacy of information available to investors in connection with business combination transactions. Form S–4 is a public document and all information provided is mandatory. Form S–4 takes approximately 4,099.68 hours per response to prepare and is filed by 619 registrants annually. We estimate that 25% of the 4,099.68 hours per response (1,024.92 hours) is

prepared by the registrant for an annual reporting burden of 634,425 hours (1,024.92 hours per response x 619 responses).

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 public may view the background documentation for this information collection at the following Web site, *www.reginfo.gov* . Comments should be directed to: (i) Desk Officer for the Securities and Exchange Commission, Office of Information and Regulatory Affairs, Office of Management and Budget, Room 10102, New Executive Office Building, Washington, DC 20503, or by sending an email to: *Shagufta_Ahmed@omb.eop.gov;* and (ii) Thomas Bayer, Director/Chief Information Officer, Securities and Exchange Commission, c/o Remi Pavlik-Simon, 100 F Street NE., Washington, DC 20549 or send an email to: *PRA_Mailbox@sec.gov.* Comments must be submitted to OMB within 30 days of this notice.

Dated: March 25, 2014.

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2014–07044 Filed 3–28–14; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–71798; File No. SR–CBOE–2014–025]

Self-Regulatory Organizations; Chicago Board Options Exchange, Incorporated; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change Relating to the CBSX Clearly Erroneous Policy

March 25, 2014.

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 March 19, 2014, 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.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to extend a pilot program related to CBOE Stock Exchange, LLC (''CBSX'') Rule 52.4 (Clearly Erroneous Policy). 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

The purpose of this filing is to extend the effectiveness of CBSX's current rule applicable to the Clearly Erroneous Policy. Portions of CBSX Rule 52.4, explained in further detail below, are currently operating as a pilot program set to expire on April 8, 2014.[3] The Exchange proposes to extend the pilot program to coincide with the pilot period for the Plan to Address Extraordinary Market Volatility Pursuant to Rule 608 of Regulation NMS under the Act (the ''Limit Up-Limit Down Plan'' or the ''Plan''), including any extensions to the pilot period for the Plan.[4]

On September 10, 2010, the Commission approved, on a pilot basis, changes to CBSX Rule 52.4 to provide for uniform treatment: (1) Of clearly erroneous execution reviews in multi-stock events involving twenty or more securities; and (2) in the event transactions occur that result in the issuance of an individual stock trading pause by the primary listing market and subsequent transactions that occur before the trading pause is in effect on the CBSX.[5] The Exchange also adopted additional changes to Rule 52.4 that reduced the ability of the Exchange to deviate from the objective standards set forth in Rule 52.4,[6] and in 2013, adopted a provision designed to address the operation of the Plan.[7]

The Exchange believes the benefits to market participants from the more objective clearly erroneous executions rule should continue on a pilot basis to coincide with the operation of the Limit Up-Limit Down Plan. The Exchange believes that continuing the pilot will protect against any unanticipated consequences. Thus, the Exchange believes that the protections of the Clearly Erroneous Rule should continue while the industry gains further experience operating the Plan.

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.[8] Specifically, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5) [9] requirements that the rules of an exchange be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest. Additionally, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5)10 requirement that the rules of an exchange not be designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

Although the Limit Up-Limit Down Plan is operational, the Exchange believes that maintaining the pilot will help to protect against unanticipated consequences. Thus, the Exchange believes that the protections of the Clearly Erroneous Rule should continue

[3] *See* Securities Exchange Act Release No. 70509 (Sept. 26, 2013), 78 FR 60971 (Oct. 2, 2013) (SR–CBOE–2013–091).

[4] *See* Securities Exchange Act Release No. 67091 (May 31, 2012), 77 FR 33498 (June 6, 2012) (the ''Limit Up-Limit Down Release'').

[5] Securities Exchange Act Release No. 62886 (Sept. 10, 2010), 75 FR 56613 (Sept. 16, 2010) (SR–CBOE–2010–056).

[6] *Id.*

[7] *See* Securities Exchange Act Release No. 68800 (February 1, 2013), 78 FR 9076 (Feb. 7, 2013) (SR–CBOE–2013–012); *see also* CBOE Rule 52.4(i).

[8] 15 U.S.C. 78f(b).

[9] 15 U.S.C. 78f(b)(5).

while the industry gains further experience operating the Plan. The Exchange also believes that the pilot program promotes just and equitable principles of trade in that it promotes transparency and uniformity across markets concerning review of transactions as clearly erroneous. Thus, the Exchange believes that the extension of the pilot would help assure that the determination of whether a clearly erroneous trade has occurred will be based on clear and objective criteria, and that the resolution of the incident will occur promptly through a transparent process. The proposed rule change would also help assure consistent results in handling erroneous trades across the U.S. markets, thus furthering fair and orderly markets, the protection of investors and the public interest. Based on the foregoing, the Exchange believes the benefits to market participants from the more objective clearly erroneous executions rule should continue on a pilot basis to coincide with the operation of the Limit Up-Limit Down Plan.

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. To the contrary, the Exchange believes that the Financial Industry Regulatory Authority (''FINRA'') and other national securities exchanges are also filing similar proposals, and thus, that the proposal will help to ensure consistency across market centers.

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 proposed rule change does not (i) significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate 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 [11] and Rule 19b–4(f)(6)(iii) thereunder.[12]

The Exchange has asked the Commission to waive the 30-day operative delay so that the proposal may become operative immediately upon filing. The Commission believes that waiving the 30-day operative delay is consistent with the protection of investors and the public interest, as it will allow the clearly erroneous pilot program to continue uninterrupted while the industry gains further experience operating under the Limit Up-Limit Down Plan, and avoid any investor confusion that could result from a temporary interruption in the pilot program. For this reason, the Commission designates the proposed rule change to be operative upon filing.[13]

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–CBOE–2014–025 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–CBOE–2014–025. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of such filing also will be available for inspection and copying at the principal offices of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–CBOE–2014–025, and should be submitted on or before April 21, 2014.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[14]

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2014–07041 Filed 3–28–14; 8:45 am]

BILLING CODE 8011–01–P

[11] 15 U.S.C. 78s(b)(3)(A).

[12] 17 CFR 240.19b–4(f)(6)(iii). 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.

[13] 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).

[14] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–71807; File No. SR–NYSEArca–2014–32)

Self-Regulatory Organizations; NYSE Arca, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Proposing To Extend a Pilot Program Related to Rule 7.10, Entitled ''Clearly Erroneous Executions''

March 26, 2014.

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 March 25, 2014, NYSE Arca, Inc. (the

[1] 15 U.S.C. 78s(b)(1).

[2] 15 U.S.C. 78a.

[3] 17 CFR 240.19b–4.

''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 extend a pilot program related to Rule 7.10, entitled ''Clearly Erroneous Executions. The text of the proposed rule change is available on the Exchange's Web site at *www.nyse.com,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of those statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant parts of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The purpose of this filing is to extend the effectiveness of the Exchange's current rule applicable to Clearly Erroneous Executions. Portions of Rule 7.10, explained in further detail below, are currently operating as a pilot program set to expire on April 8, 2014.[4] The Exchange proposes to extend the pilot program to coincide with the pilot period for the Plan to Address Extraordinary Market Volatility Pursuant to Rule 608 of Regulation NMS under the Act (the ''Limit Up-Limit Down Plan'' or the ''Plan''), including any extensions to the pilot period for the Plan.[5]

On September 10, 2010, the Commission approved, on a pilot basis, changes to Rule 7.10 to provide for uniform treatment: (1) Of clearly erroneous execution reviews in multi-stock events involving twenty or more securities; and (2) in the event transactions occur that result in the issuance of an individual stock trading pause by the primary listing market and subsequent transactions that occur before the trading pause is in effect on the Exchange.[6] The Exchange also adopted additional changes to Rule 7.10 that reduced the ability of the Exchange to deviate from the objective standards set forth in Rule 7.10,[7] and in 2013, adopted a provision designed to address the operation of the Plan.[8]

The Exchange believes the benefits to market participants from the more objective clearly erroneous executions rule should continue on a pilot basis to coincide with the operation of the Limit Up-Limit Down Plan. The Exchange believes that continuing the pilot will protect against any unanticipated consequences. Thus, the Exchange believes that the protections of the Clearly Erroneous Rule should continue while the industry gains further experience operating the Plan.

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] In particular, the proposal is consistent with Section 6(b)(5) of the Act,[10] because it would 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. Although the Limit Up-Limit Down Plan is operational, the Exchange believes that maintaining the pilot will help to protect against unanticipated consequences. Thus, the Exchange believes that the protections of the Clearly Erroneous Rule should continue while the industry gains further experience operating the Plan. The Exchange also believes that the pilot program promotes just and equitable principles of trade in that it promotes transparency and uniformity across markets concerning review of transactions as clearly erroneous. Thus, the Exchange believes that the extension of the pilot would help assure that the determination of whether a clearly erroneous trade has occurred will be based on clear and objective criteria, and that the resolution of the incident will occur promptly through a transparent process. The proposed rule change would also help assure consistent results in handling erroneous trades across the U.S. markets, thus furthering fair and orderly markets, the protection of investors and the public interest. Based on the foregoing, the Exchange believes the benefits to market participants from the more objective clearly erroneous executions rule should continue on a pilot basis to coincide with the operation of the Limit Up-Limit Down Plan.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change implicates any competitive issues. To the contrary, as noted above, the Exchange believes FINRA and other national securities exchanges are also filing similar proposals, and thus, that the proposal will help to ensure consistency across market centers.

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

Because the proposed rule change does not (i) significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate 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 [11] and Rule 19b–4(f)(6)(iii) thereunder.[12]

[4] *See* Securities Exchange Act Release No. 70518 (September 26, 2013), 78 FR 60950 (October 2, 2013) (SR–NYSEArca–2013–100).

[5] *See* Securities Exchange Act Release No. 67091 (May 31, 2012), 77 FR 33498 (June 6, 2012) (the ''Limit Up-Limit Down Release'').

[6] *See* Securities Exchange Act Release No. 62886 (Sept. 10, 2010), 75 FR 56613 (Sept. 16, 2010) (SR–NYSEArca–2010–58).

[7] *Id.*

[8] *See* Securities Exchange Act Release No. 68809 (Feb. 1, 2013), 78 FR 9081 (Feb. 7, 2013) (SR–NYSEArca–2013–12); Securities Exchange Act Release No. 67091 (May 31, 2012), 77 FR 33498 (June 6, 2012) (the ''Limit Up-Limit Down Release''); *see also* Exchange Rule 7.10(i).

[9] 15 U.S.C. 78f(b).

[10] 15 U.S.C. 78f(b)(5).

[11] 15 U.S.C. 78s(b)(3)(A).

[12] 17 CFR 240.19b–4(f)(6)(iii). 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.

The Exchange has asked the Commission to waive the 30-day operative delay so that the proposal may become operative immediately upon filing. The Commission believes that waiving the 30-day operative delay is consistent with the protection of investors and the public interest, as it will allow the clearly erroneous pilot program to continue uninterrupted while the industry gains further experience operating under the Limit Up-Limit Down Plan, and avoid any investor confusion that could result from a temporary interruption in the pilot program. For this reason, the Commission designates the proposed rule change to be operative upon filing.[13]

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–NYSEArca–2014–32 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–NYSEArca–2014–32. 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–2014–32 and should be submitted on or before April 21, 2014.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[14]

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2014–07190 Filed 3–28–14; 8:45 am]

BILLING CODE 8011–01–P

[13] 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).

[14] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–71795; File No. SR–BATS–2014–008]

Self-Regulatory Organizations; BATS Exchange, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change to the Clearly Erroneous Execution Rule for BATS Exchange, Inc.

March 25, 2014.

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 March 18, 2014, BATS Exchange, Inc. (the ''Exchange'' or ''BATS'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. The 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 the Substance of the Proposed Rule Change

The Exchange filed a proposal to extend a pilot program related to Rule 11.17, entitled ''Clearly Erroneous Executions.''

The text of the proposed rule change is available at the Exchange's Web site at *http://www.batstrading.com,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in Sections A, B, and C below, of the most significant parts of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The purpose of this filing is to extend the effectiveness of the Exchange's current rule applicable to Clearly Erroneous Executions. Portions of Rule 11.17, explained in further detail below, are currently operating as a pilot program set to expire on April 8, 2014.[5] The Exchange proposes to extend the pilot program to coincide with the pilot period for the Plan to Address Extraordinary Market Volatility Pursuant to Rule 608 of Regulation NMS under the Act (the ''Limit Up-Limit Down Plan'' or the ''Plan''), including any extensions to the pilot period for the Plan.[6]

[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).

[5] *See* Securities Exchange Act Release No. 70513 (Sept. 26, 2013), 78 FR 60973 (Oct. 2, 2013) (SR–BATS–2013–053).

[6] *See* Securities Exchange Act Release No. 67091 (May 31, 2012), 77 FR 33498 (June 6, 2012) (the ''Limit Up-Limit Down Release'').

On September 10, 2010, the Commission approved, on a pilot basis, changes to BATS Rule 11.17 to provide for uniform treatment: (1) Of clearly erroneous execution reviews in multi-stock events involving twenty or more securities; and (2) in the event transactions occur that result in the issuance of an individual stock trading pause by the primary listing market and subsequent transactions that occur before the trading pause is in effect on the Exchange.[7] The Exchange also adopted additional changes to Rule 11.17 that reduced the ability of the Exchange to deviate from the objective standards set forth in Rule 11.17,[8] and in 2013, adopted a provision designed to address the operation of the Plan.[9]

The Exchange believes the benefits to market participants from the more objective clearly erroneous executions rule should continue on a pilot basis to coincide with the operation of the Limit Up-Limit Down Plan. The Exchange believes that continuing the pilot will protect against any unanticipated consequences. Thus, the Exchange believes that the protections of the Clearly Erroneous Rule should continue while the industry gains further experience operating the Plan.

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.[10] In particular, the proposal is consistent with Section 6(b)(5) of the Act,[11] because it would 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. Although the Limit Up-Limit Down Plan is operational, the Exchange believes that maintaining the pilot will help to protect against unanticipated consequences. Thus, the Exchange believes that the protections of the Clearly Erroneous Rule should continue while the industry gains further experience operating the Plan. The Exchange also believes that the pilot program promotes just and equitable principles of trade in that it promotes transparency and uniformity across markets concerning review of transactions as clearly erroneous. Thus, the Exchange believes that the extension of the pilot would help assure that the determination of whether a clearly erroneous trade has occurred will be based on clear and objective criteria, and that the resolution of the incident will occur promptly through a transparent process. The proposed rule change would also help assure consistent results in handling erroneous trades across the U.S. markets, thus furthering fair and orderly markets, the protection of investors and the public interest. Based on the foregoing, the Exchange believes the benefits to market participants from the more objective clearly erroneous executions rule should continue on a pilot basis to coincide with the operation of the Limit Up-Limit Down Plan.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change implicates any competitive issues. To the contrary, the Exchange believes that the Financial Industry Regulatory Authority (''FINRA'') and other national securities exchanges are also filing similar proposals, and thus, that the proposal will help to ensure consistency across market centers.

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

Because the proposed rule change does not (i) significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate 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[12] and Rule 19b–4(f)(6)(iii) thereunder.[13]

The Exchange has asked the Commission to waive the 30-day operative delay so that the proposal may become operative immediately upon filing. The Commission believes that waiving the 30-day operative delay is consistent with the protection of investors and the public interest, as it will allow the clearly erroneous pilot program to continue uninterrupted while the industry gains further experience operating under the Limit Up-Limit Down Plan, and avoid any investor confusion that could result from a temporary interruption in the pilot program. For this reason, the Commission designates the proposed rule change to be operative upon filing.[14]

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov*. Please include File Number SR–BATS–2014–008 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–BATS–2014–008. 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

[7] Securities Exchange Act Release No. 62886 (Sept. 10, 2010), 75 FR 56613 (Sept. 16, 2010) (SR–BATS–2010–016).

[8] *Id.*

[9] *See* Securities Exchange Act Release No. 68797 (Jan. 31, 2013), 78 FR 8635 (Feb. 6, 2013) (SR–BATS–2013–008); *see also* BATS Rule 11.17(h).

[10] 15 U.S.C. 78f(b).

[11] 15 U.S.C. 78f(b)(5).

[12] 15 U.S.C. 78s(b)(3)(A).

[13] 17 CFR 240.19b–4(f)(6)(iii). 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.

[14] 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).

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 at 100 F Street NE., Washington, DC 20549–1090 on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of such filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–BATS–2014–008, and should be submitted on or before April 21, 2014.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[15]

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2014–07013 Filed 3–28–14; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–71793; File No. SR–NASDAQ–2014–026]

Self-Regulatory Organizations; The NASDAQ Stock Market LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change to the Qualified Market Maker Program and NBBO Setter Incentive Program Under Rule 7014, and To Modify the Rules Governing Fees Assessed for Orders Executed in the NASDAQ Opening Cross Under Rule 7018

March 25, 2014.

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 March 13, 2014, The NASDAQ Stock Market LLC (''NASDAQ'' or the ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') a proposed rule change as described in Items I 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

NASDAQ is proposing to make changes Qualified Market Maker (''QMM'') Program under NASDAQ Rule 7014 and the removal of the NBBO Setter Incentive Program as a separate section thereunder, as well as to modify the rules governing fees assessed for orders executed in the NASDAQ Opening Cross under NASDAQ Rule 7018.

The text of the proposed rule change is available at NASDAQ's principal office, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, NASDAQ included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of 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

NASDAQ is proposing to modify NASDAQ Rule 7014 to effect the restriction of NBBO Setter Incentives exclusively to Qualified Market Makers (''QMMs''). In doing so, the Exchange is proposing to incorporate the relevant language from NASDAQ Rule 7014 relating to NBBO Setter Incentives and QMMs (*i.e.,* NASDAQ Rule 7018(g)(3) into the section relating to QMMs generally (*i.e.,* NASDAQ Rule 7014(e)(1)). The Exchange is also proposing to modify the rules governing fees assessed for orders executed in the NASDAQ Opening Cross and, in particular, to modify the criteria in which executions will be deemed fee liable.

QMM and NBBO Setter Incentive Programs

A QMM is a member that makes a significant contribution to market quality by providing liquidity at the NBBO in a large number of stocks for a significant portion of the day. In addition, the member must avoid imposing the burdens on NASDAQ and its market participants that may be associated with excessive rates of entry of orders away from the inside and/or order cancellation. The designation reflects the QMM's commitment to provide meaningful and consistent support to market quality and price discovery by extensive quoting at the NBBO in a large number of securities. In return for its contributions, certain financial benefits are provided to a QMM with respect to a particular MPID (a ''QMM MPID''), as described under NASDAQ Rule 7014(e).

Currently, one of these benefits pertains to the credits available under NASDAQ's NBBO Setter Incentive Program. The NBBO Setter Incentive Program was intended to provide an incentive to members to set the NBBO or quote at the NBBO on NASDAQ, with the expectation that the additional competition to set the best prices on NASDAQ would improve the quality of the market. Since the introduction of the incentives, however, NASDAQ has not seen a substantial increase in the amount of competition among firms setting the inside market and, as a consequence, has not witnessed a material improvement in market quality (*e.g.,* as defined by quoted spreads). The outcome of the program has been, instead, a simple increase in the average rebate firms collectively receive for providing liquidity. A member currently receives an NBBO Setter Incentive credit of either $0.0001 or $0.0002 per share executed in addition to regularly assessed trading rebates, depending upon certain trading qualifications. Every member is currently eligible to receive at least a $0.0001 credit as long as that member executes an order that at the time of execution either sets the NBBO or causes the NASDAQ BBO to improve to the NBBO.

The Exchange has observed that for the vast majority of participants these rebates do not provide meaningful incentives to modify behavior, (*i.e.,* participants do not quote more aggressively or increase the frequency with which they execute orders at the NBBO). As a consequence, NASDAQ has concluded that providing these rebates without tying them to some additional requirement is ineffective and will thus provide NBBO Setter rebates only to members that qualify for the QMM Program.

Therefore, the Exchange proposes to merge the incentives pertaining to the QMM Program in NASDAQ Rule 7014(e) and delete the remaining portions of NASDAQ Rule 7014(f) and

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[15] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

(g). The method by which the QMMs will attain the additional rebates (the ''Additional Rebate'') in NASDAQ Rule 7014(e)(1) associated with NBBO setting/joining activity will be unchanged. They will be available to those orders under the QMM Program that (a) displayed a quantity of at least one round lot at the time of execution; (b) either established the NBBO or was the first order posted on NASDAQ that had the same price as an order posted at another trading center with a protected quotation that established the NBBO; and (c) were entered through a QMM MPID. Note that these conditions are simply a carryover from the pertinent parts of the NBBO Setter Incentive Program currently set forth in NASDAQ Rule 7014(g)(3)(A)–(C), and that remain applicable to the Additional Rebate and will be included in NASDAQ Rule 7014(e)(1).

NASDAQ Rule 7014, as revised, will remain consistent with the current rule in that the current requirement that a QMM may not receive both an ISP credit and NBBO Setter Incentive credit but only the greater credit of the two, will continue just in an updated form. Specifically, NASDAQ Rule 7014(e)(1) will similarly state that if a QMM participates in the ISP, NASDAQ will only pay the greater of any applicable credit under the ISP or the Additional Rebate, but not both. Additionally, Designated Retail Orders will continue to be ineligible for NBBO Setter Rebates.

NASDAQ Opening Cross

The Exchange is proposing three modifications to its fee structure relating to executions in the NASDAQ Opening Cross (the ''Open''): (1) To adjust the fee cap governing executions in the Open from $15,000 to $20,000; (2) to make the fee cap applicable to all orders in the Open, and not just Market-on-Open and Limit-on-Open (MOO/LOO), Good-till-Cancelled and Immediate-or-Cancel orders; and (3) to eliminate rule language that stipulates that only the buy/sell imbalance of MOO/LOO, Good-till-Cancelled and Immediate-or-Cancel orders are fee liable.

The purpose of the changes above are primarily to rationalize pricing for Imbalance Only orders with pricing for all other executions in the Opening Cross. Imbalance Only orders are orders that, given an imbalance of buy and sell interest in an Opening Cross at the time its [sic] execution, will always buy in the event of a sell imbalance and always sell in the event of a buy imbalance. As a consequence, firms submitting Imbalance Only orders typically act to offset ''natural'' interest in the auction by acting as counterparties for orders specifically marked with buy or sell requirements. The Exchange has traditionally considered such executions conceptually equivalent to liquidity providing orders during the continuous market, since in both instances the firm submitting such orders are providing a benefit to the market as a whole by increasing the ability of firms to trade into and out of positions at a given price. As such, the Exchange seeks to encourage the use of liquidity providing orders and Imbalance Only orders appropriately.

To that end, NASDAQ is proposing to expand the applicability of the fee cap currently available only to orders other than Imbalance Only orders (*i.e.,* Market-on-Open, Limit-on-Open (MOO/LOO), Good-till-Cancelled and Immediate-or-Cancel orders) to Imbalance Only orders. By making this modification, the Exchange believes it will encourage continued use of Imbalance Only orders and rationalize pricing for Imbalance Only orders with all other orders. NASDAQ further proposes to increase the value of the fee cap to $20,000 from $15,000 in light of the increased pool of orders subject to the cap.

Finally, NASDAQ proposes to remove language that makes fee liable only those orders that represent a net buy and sell imbalance in the opening cross. As with the above, NASDAQ seeks to rationalize pricing for Opening Cross executions, in particular, with the other crossing mechanisms currently available (*e.g.,* the Closing Cross) which do not have such a provision. The Exchange believes that in order to appropriately offset the costs of maintaining the technology and infrastructure of the Opening Cross it must assess fees on all executions that it enables. The restriction to buy sell imbalances is both inconsistent with pricing for other mechanisms and prevents the Exchange from appropriately funding the Opening Cross.

2. Statutory Basis

NASDAQ believes that the proposed rule change is consistent with the provisions of Section 6 of the Act,[3] in general, and with Sections 6(b)(4) and 6(b)(5) of the Act,[4] in particular, in that it provides for the equitable allocation of reasonable dues, fees and other charges among members and issuers and other persons using any facility or system which NASDAQ operates or controls, and is not designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

The proposed changes are reflective of NASDAQ's ongoing efforts to use pricing incentive programs to attract orders that NASDAQ believes will improve market quality. The QMM Program is intended to encourage members to promote price discovery and market quality by quoting at the NBBO for a significant portion of each day in a large number of securities, thereby benefitting NASDAQ and other investors by committing capital to support the execution of orders.

Generally, NASDAQ seeks to provide customers with rewards that they deem helpful, and to eliminate those that they do not. By reframing and refocusing the NBBO Incentive Program, NASDAQ believes it will be able to further promote these goals by providing better targeted incentives for market participants to achieve these goals. The proposed changes will immediately improve the incentive to participate in the QMM Program (by making NBBO setter/joiner credits exclusively available to QMMs) while eliminating unsuccessful aspects of the NBBO Setter Incentive Program.

Specifically, the proposed changes are consistent with statutory requirements. The proposal to replace in the QMM Program the NBBO Setter Incentive credit of $0.0002 per share executed with the Additional Rebate for the same amount is consistent with an equitable allocation of fees and is not unfairly discriminatory because the amount of the credit is in essence not being changed and it is continuing to be offered to market participants that make significant contributions to market quality by satisfying the QMM requirements, thereby benefitting other NASDAQ market participants. Additionally, NASDAQ believes that it is an equitable allocation of reasonable fees and is not unfairly discriminatory to convert the restriction on receiving multiple credits currently imposed on QMMs from participating in the ISP and the NBBO Setter Incentive Program (NASDAQ will pay the greater of any applicable credit), to now applying it to QMMs from participating in the ISP and receiving the Additional Rebate, but not both.

The elimination of NASDAQ Rule 7014(g)(1) and (2) is consistent with a fair allocation of reasonable fees and not unfairly discriminatory since the removal of the rule language pertaining to the incentives, as discussed above, impacts all firms equally (to the extent that their activity would result in receiving a benefit) unless the firm has committed to additional quoting

[3] 15 U.S.C. 78f.

[4] 15 U.S.C. 78f(b)(4) and (5).

requirements under NASDAQ Rule 7014(e).

The restriction of NBBO Setter Incentives to QMMs is also consistent with a fair allocation of reasonable fees and not unfairly discriminatory since the QMM Program remains open to all members that satisfy the voluntary trading requirements set forth in NASDAQ Rule 7014(e).

The modifications to the Open are consistent with a fair allocation of reasonable fees and not unfairly discriminatory because they are applied equally across all members with absolutely no exclusions. Moreover, the changes bring the fee structure for the Opening Cross in line with the fee structure for other NASDAQ crosses, which are well-understood and accepted by the marketplace. By expanding the fee cap to include Imbalance Only orders, NASDAQ believes its fee structure will be more fair and equitable, in particular by providing a similar benefit for firms that provide a service to the market by offsetting ''natural'' interest in the Opening Cross that is currently only available to firms trading with non-Imbalance Only orders.

Raising the fee cap from $15,000 to $20,000 is consistent with a fair allocation of reasonable fees and not unfairly discriminatory because it impacts only those firms that trade in the auction, and impacts these firms equally given their usage of the Opening Cross.

The same is true for the elimination of the language stipulating that only the net buy and sell imbalance will be fee liable. This change further improves fairness of the allocation of fees by removing an arbitrary restriction on fee liability that brings fee allocation more in line with actual usage of the Opening Cross.

B. Self-Regulatory Organization's Statement on Burden on Competition

NASDAQ does not believe that the proposed rule changes will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act, as amended.[5] NASDAQ notes that it operates in a highly competitive market in which market participants can readily favor competing venues if they deem fee levels at a particular venue to be excessive, or rebate opportunities available at other venues to be more favorable. In such an environment, NASDAQ must continually adjust its fees to remain competitive with other exchanges and with alternative trading systems that have been exempted from compliance with the statutory standards applicable to exchanges. Because competitors are free to modify their own fees in response, and because market participants may readily adjust their order routing practices, NASDAQ believes that the degree to which fee changes in this market may impose any burden on competition is extremely limited. In this instance, the elimination of portions of the NBBO Setter Incentive Program and changes to the QMM Program, as well as the proposed changes to modify the rules governing fees assessed for orders executed in the Open reflect this.

The QMM Program is entirely voluntary, and as a consequence members may elect to participate in other incentive programs under which they may receive benefits for improving the market. The very fact that the NBBO Setter Incentive credit continues in the form of the Additional Rebate, is itself reflective of the need for exchanges to offer significant financial incentives to attract order flow. In sum, if the changes proposed herein, including the modifications to the fee structure relating to executions in the Open, are unattractive to market participants, it is likely that NASDAQ will lose market share as a result.

Accordingly, NASDAQ does not believe that the proposed changes will impair the ability of members or competing order execution venues to maintain their competitive standing in the financial markets.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Written comments were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing change has become effective pursuant to Section 19(b)(3)(A) of the Act,[6] and paragraph (f)[7] of Rule 19b–4, thereunder. At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov*. Please include File Number SR–NASDAQ–2014–026 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–NASDAQ–2014–026. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml).* Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–NASDAQ–2014–026, and should be submitted on or before April 21, 2014.

[5] 15 U.S.C. 78f(b)(8).

[6] 15 U.S.C. 78s(b)(3)(A).

[7] 17 CFR 240.19b–4(f).

[8] 17 CFR 200.30–3(a)(12).

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[8]

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2014–07038 Filed 3–28–14; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–71792; File No. SR–FINRA–2014–012]

Self-Regulatory Organizations; Financial Industry Regulatory Authority, Inc.; Notice of Filing of a Proposed Rule Change To Amend FINRA Rules 2210 (Communications with the Public) and 2214 (Requirements for the Use of Investment Analysis Tools)

March 25, 2014.

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 March 10, 2014, Financial Industry Regulatory Authority, Inc. (''FINRA'') filed with the Securities and Exchange Commission (''SEC'' or ''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been substantially prepared by FINRA. 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

FINRA is proposing to amend FINRA Rule 2210 (Communications with the Public) to exclude from the filing requirements research reports concerning only securities listed on a national securities exchange, other than research reports which must be filed pursuant to Section 24(b) of the Investment Company Act of 1940 (''1940 Act'').[3] FINRA also is proposing to amend FINRA Rule 2210 to clarify that free writing prospectuses that are exempt from filing with the SEC are not subject to the rule's filing or content standards. Finally, FINRA is proposing to correct a mistaken rule cross-reference in FINRA Rule 2214 (Requirements for the Use of Investment Analysis Tools).

The text of the proposed rule change is available on FINRA's Web site at *http://www.finra.org*, at the principal office of FINRA 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, FINRA 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. FINRA 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

(a) Filing Exclusion for Research Reports on Exchange-Listed Securities

FINRA is proposing to amend the current requirements for members to file certain retail communications with the Advertising Regulation Department (the ''Department''). Under this amendment, members would no longer be required to file research reports that concern only securities listed on a national securities exchange. Between the dedicated protections applied to research reports by other FINRA and SEC rules and the increased liquidity and price transparency associated with exchange-listed securities, FINRA believes the additional investor protection benefit of Department review of those retail communications is minimal in relation to the cost of compliance and administration of the filing requirement. This proposed exemption would not apply to research reports that must be filed under Section 24(b) of the 1940 Act.

(1) Background

On March 29, 2012, the Commission approved new FINRA Rule 2210 (Communications with the Public), which replaced NASD Rules 2210 and 2211 and certain Interpretive Materials that followed NASD Rule 2210, and became effective on February 4, 2013. Among other things, FINRA Rule 2210 contains two new filing requirements. Paragraph (c)(3)(A) of FINRA Rule 2210 requires for the first time that member firms file with the Department all retail communications concerning closed-end investment companies[4] within 10 business days of first use. Previously, NASD Rule 2210 only required that member firms file advertisements and sales literature concerning a closed-end fund during the fund's initial public offering period.

FINRA Rule 2210(c)(3)(E) also requires for the first time that member firms file all retail communications concerning any security that is registered under the Securities Act of 1933 (''Securities Act'')[5] and that is derived from or based on a single security, a basket of securities, an index, a commodity, a debt issuance or a foreign currency. This filing requirement is intended to apply to retail communications concerning so-called ''structured products,'' although the breadth of the provision could arguably include retail communications concerning securities not typically thought of as structured products, including registered investment companies, security futures, public direct participation programs, or collateralized mortgage obligations. FINRA notes that those retail communications are already subject to separate filing requirements, and thus member firms are not required to file these communications a second time under the structured product filing requirement.[6]

(2) Filing Requirements for Research Reports

The Rule 2210 filing requirements apply to research reports[7] to the extent that they constitute retail communications about a product category that requires filing pursuant to the Rule (including the provisions of the Rule referenced above), or to the extent that they are covered by the new member filing requirements of FINRA Rule 2210(c)(1)(A).[8] Therefore, the filing

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 15 U.S.C. 80a–24(b).

[4] For purposes of FINRA Rule 2210, a ''closed-end investment company'' or ''closed-end fund'' refers to a registered ''closed-end company'' as defined in Section 5(a)(2) of the 1940 Act, 15 U.S.C. 80a–5(a)(2).

[5] 15 U.S.C. 77a *et seq.*

[6] *See* FINRA Rule 2210(c)(3)(A) through (D). The ''structured product'' filing requirement specifies that it does not apply to retail communications concerning these other products, as they are already covered by the filing requirements in FINRA Rule 2210(c)(1), (c)(2) and (c)(3)(A) through (D).

[7] Rule 2711(a)(9) defines ''research report'' as ''any written (including electronic) communication that includes an analysis of equity securities of individual companies or industries, and that provides information reasonably sufficient upon which to base an investment decision.'' The definition specifically excludes certain types of communications, such as discussions of broad-based indices or commentaries on economic, political or market conditions.

[8] Under paragraph (c)(1)(A) of FINRA Rule 2210, a new member must file with the Department at least 10 business days prior to use certain retail communications that are published or used in any electronic or public media. These retail

requirements cover research reports concerning certain exchange-listed securities, such as exchange-listed master limited partnerships and registered closed-end funds, as well as research reports concerning any securities to the extent that they are covered by the new member filing requirements.

For the reasons discussed below, FINRA believes that it is appropriate to amend FINRA Rule 2210 to exempt research reports concerning only exchange-listed securities from the filing requirements, other than research reports that must be filed pursuant to Section 24(b) of the 1940 Act. Section 24(b) requires any registered open-end investment company, any registered unit investment trust, or any registered face-amount certificate company, and any underwriter [9] for such companies, to file all advertisements, pamphlets, circulars, form letters and other sales literature addressed to or intended for distribution to prospective investors with the Commission within 10 days of distribution of such material.[10]

An important purpose of FINRA's filing requirements is to help ensure that communications distributed or made available to investors are based on principles of fair dealing and good faith, are fair and balanced, and provide a sound basis for evaluating the facts in regard to any particular security or type of security. FINRA staff review of these communications also helps ensure that they do not contain any material omissions that would cause the communication to be misleading, and do not contain any false, exaggerated, unwarranted, promissory or misleading statements or claims.

FINRA believes that the likelihood of investor harm resulting from the distribution of research reports concerning only exchange-listed securities is significantly lessened due to additional investor protection standards that apply to research reports but do not apply to other types of sales material. In particular, research reports are subject to the comprehensive disclosure, content and analyst independence requirements of NASD Rule 2711 and SEC Regulation Analyst Certification (''Regulation AC'').[11] In addition, the fact that these securities are listed on a national securities exchange reduces the risk that a research report could manipulate a security's trading price, because the ability to trade the security on an exchange provides both increased liquidity and a price discovery mechanism that does not exist for unlisted securities.

For example, if a research report contains a price target, NASD Rule 2711(h)(7) requires a member firm to disclose the valuation methods used to determine the price target, and firms must have a reasonable basis for the price target and must accompany it with a disclosure concerning the risks that may impede achievement of the price target. NASD Rule 2711(h) also requires numerous other conflicts of interest disclosures concerning such issues as individual and member holdings of the issuer's securities, investment banking relationships with and receipt of compensation from the issuer, disclosure of the meanings and distribution of ratings assigned to issuers, inclusion of a price chart showing when the firm assigned or changed a rating or price target, and disclosure of market making activities.

Research analysts also must prepare equity research reports in a controlled environment that is designed to reduce the potential for conflicts of interest. For example, the rules generally prohibit persons not directly responsible for the preparation, content and distribution of research from reviewing or approving research reports prior to publication.[12] In addition, Rule 2711 imposes certain requirements concerning the compensation paid to research analysts that are intended to reduce conflicts of interest.[13]

Regulation AC requires research analysts to provide certifications to research reports to help address the risk that research analysts may issue research reports that do not reflect their true beliefs or communicate views that differ from views expressed to institutional investors.[14] The certifications include a statement certifying that all of the views expressed in the report accurately reflect the analyst's personal views about any and all of the covered securities and issuer, and another statement certifying either (1) that no part of the analyst's compensation was, is, or will be, directly or indirectly, related to the specific recommendations or views expressed by the analyst in the research report or (2) that part or all of the analyst's compensation was, is, or will be directly or indirectly related to the specific recommendations or views contained in the research report. If the analyst certifies to the second alternative, the statement must include the source, amount and purpose of such compensation and must further disclose that it may influence the recommendation in the research report.[15]

FINRA rules also require any person who is primarily responsible for the preparation of the substance of a research report, or whose name appears on a research report, to pass certain qualification examinations and register as a research analyst with FINRA. Pursuant to NASD Rule 1050, research analysts must be registered as a General Securities Representative under NASD Rule 1032, and must pass the qualification examinations for research analysts (Series 86 and 87).[16] In addition, research reports must be approved either by a Supervisory Analyst that has passed the Series 16 qualification examination, or a registered principal that has passed both the Series 24 and Series 87 qualification examinations.[17] Together with the pricing transparency and increased liquidity of exchange-listed securities generally, FINRA believes these additional investor protections minimize the need to have research reports concerning exchange-listed securities subject to filing with FINRA, as it is significantly less likely that these communications will contain false and misleading information or omit

communications include those published on any generally accessible Web site, newspaper, magazine or other periodical, radio, television, telephone or audio recording, video display, sign or billboard. A member is subject to this filing requirement for a period of one year beginning on the date reflected in the Central Registration Depository (CRD®) system as of the date that FINRA membership became effective. A member may file a retail communication that is a free writing prospectus filed with the SEC pursuant to Securities Act Rule 433(d)(1)(ii) within 10 business days of first use rather than at least 10 business days prior to first use.

[9] The 1940 Act defines ''underwriter'' to include ''any person who has purchased from an issuer with a view to, or sells for an issuer in connection with, the distribution of any security, or participates or has a direct or indirect participation in any such undertaking, or participates or has a participation in the direct or indirect underwriting of any such undertaking.'' The term excludes ''a person whose interest is limited to a commission from an underwriter or dealer not in excess of the usual and customary distributor's or seller's commission.'' *See* 1940 Act Section 2(a)(40), 15 U.S.C. 80a–2(a)(40).

[10] Pursuant to Rule 24b–3 under the 1940 Act, 17 CFR 270.24b–3, any sales material shall be deemed filed with the Commission for purposes of Section 24(b) upon filing with FINRA.

[11] 17 CFR 242.500–505.

[12] *See* NASD Rule 2711(b).

[13] *See* NASD Rule 2711(d).

[14] *See* Securities Act Release No. 8193 (February 20, 2003), 68 FR 9482 (February 27, 2003).

[15] *See* 17 CFR 242.501(a).

[16] FINRA may grant a waiver from the analytical portion of the research analyst qualification examination (Series 86) upon verification that the applicant has passed other enumerated examinations. *See* NASD Rule 1050(c).

[17] *See* NASD Rule 1022(a)(5) and FINRA Rule 2210(b)(1)(B); *see also Notice to Members* 07–04 (January 2007).

important risk and conflicts disclosures.[18]

FINRA believes that this filing exclusion is consistent with the approach that FINRA has taken for purposes of other parts of FINRA Rule 2210, such as the exclusion from the recommendation disclosure requirements of FINRA Rule 2210(d)(7) for research reports that include all of the disclosures required by Rule 2711.[19] Because FINRA concluded that Rule 2711's disclosure standards protect investors without the need for additional disclosure, FINRA exempted research reports from certain of Rule 2210's specific content standards. In the same manner, FINRA no longer believes it is necessary for research reports on exchange-listed securities to be filed with FINRA because of the investor protections offered by Rule 2711 and Regulation AC.[20]

FINRA also recognizes the importance of allowing members to publish research on exchange-listed securities in a timely manner. Research that is stale or untimely has far less value to investors than research that is up-to-date. Particularly for new members, which are required to file certain retail communications at least 10 business days prior to first use, the current filing requirements could impose an impediment to publishing timely research on exchange-listed securities.

The Department's staff generally has not seen significant problems with research reports that have been filed with FINRA. The filing requirements for new firms under FINRA Rule 2210(c)(1)(A) are intended to provide an extra level of FINRA staff review for firms that are just beginning their business operations. FINRA is not aware of any firms that, in the past, have produced research subject to filing under the new firm filing requirement. In addition, FINRA believes that the supervisory and certification requirements applicable to research reports decrease the likelihood that a new firm would experience the types of problems that may occur with respect to other retail communications. Accordingly, FINRA believes that exempting research reports on exchange-listed securities from the new firm filing requirement would be consistent with investor protection.

As for reports that have been filed pursuant to other filing requirements, such as the filing requirements for retail communications concerning closed-end funds, public direct participation programs, or structured products, the staff mostly has reviewed these reports for compliance with NASD Rule 2711's disclosure requirements. FINRA believes that it can better employ the Department's resources viewing other types of communications that present a greater risk of investor harm. To the extent a review of members' research reports on exchange-listed securities is necessary, FINRA believes that it can address this need through either its examination program, or conducting a spot check of members' reports.

The proposal would not include research reports that are subject to filing pursuant to Section 24(b) of the 1940 Act, or research concerning securities that are not listed on a national securities exchange, within the proposed filing exclusion. Because the 1940 Act separately requires certain communications concerning registered open-end companies, registered unit investment trusts, and registered face-amount certificate companies to be filed, FINRA does not believe it is appropriate to include research reports that fall within this filing requirement within this proposed exclusion.

Securities that are not listed on a national securities exchange do not possess the same liquidity features and price discovery as exchange-listed securities, and thus at this time FINRA is proposing not to exclude research reports concerning such securities from filing. The increased liquidity and price discovery mechanisms for exchange-listed securities reduce the likelihood that a research report could mislead an investor as to the true value of a security.

In contrast, a report concerning an unlisted security has greater potential to mislead investors. For example, FINRA believes that there are greater risks of investor harm and price manipulation with respect to a research report on a master limited partnership that is not listed on a national securities exchange. Accordingly, FINRA believes that such reports should not be subject to the proposed filing exclusion.

The proposed filing exclusion also would not apply to any retail communication concerning an exchange-listed security that is not a research report for purposes of NASD Rule 2711. Thus, for example, a member firm would still be required to file with FINRA a retail communication that is intended to promote the sale of the securities of an exchange-listed closed-end investment company or direct participation program if the retail communication was not a research report for purposes of Rule 2711. Because the additional investor protections that apply to research reports do not apply to these retail communications, FINRA believes that it is appropriate to continue to require member firms to file these types of retail communications.

(b) Clarification Regarding Free Writing Prospectuses Exempt From SEC Filing

The filing requirements and content standards of FINRA Rule 2210 do not apply to prospectuses and similar documents that have been filed with the SEC, other than investment company advertisements prepared pursuant to Securities Act Rule 482,[21] and free-writing prospectuses that are used or referred to by a broker-dealer and distributed by or on behalf of the broker-dealer in a manner reasonably designed to lead to its broad unrestricted dissemination. FINRA Rule 2210(c)(7)(F) excludes from the rule's filing requirements ''[p]rospectuses, preliminary prospectuses, fund profiles, offering circulars and similar documents that have been filed with the SEC or any state, or that is exempt from such registration, except that an investment company prospectus published pursuant to Securities Act Rule 482 and a free writing prospectus that has been filed with the SEC pursuant to Securities Act Rule 433(d)(1)(ii) will not be considered a prospectus for purposes of this exclusion.'' Similarly, FINRA Rule 2210(d)(8) excludes from the rule's content standards ''[p]rospectuses, preliminary prospectuses, fund profiles and similar documents that have been filed with the SEC,'' but provides that the content standards do apply to ''an investment company prospectus pursuant to Securities Act Rule 482 and a free writing prospectus that has been filed with the SEC pursuant to Securities Act Rule 433(d)(1)(ii).''

Questions have been raised as to whether these exclusions cover a free writing prospectus that is exempt from filing with the SEC pursuant to Securities Act Rule 433.[22] FINRA intended these exclusions to cover prospectuses filed with the SEC as well as free writing prospectuses that are exempt from filing, other than so-called ''omitting prospectuses'' of registered investment companies governed by Securities Act Rule 482, and free writing prospectuses required to be filed with the SEC pursuant to Securities Act Rule

[18] This text is slightly modified from the version filed by FINRA pursuant to a discussion between Joseph Savage and Philip Shaikun of FINRA and Marie-Louise Huth of the SEC on March 24, 2014 (''March 24 Phone Conversation'').

[19] *See* FINRA Rule 2210(d)(7)(D)(i).

[20] *See* March 24 Phone Conversation, *supra* note 18.

[21] 17 CFR 230.482

[22] 17 CFR 230.433

433(d)(1)(ii). Accordingly, a free writing prospectus that is exempt from filing with the SEC pursuant to Securities Act Rule 433 is not subject to the filing requirements and content standards of FINRA Rule 2210.[23] To clarify this intent, FINRA is proposing to amend FINRA Rule 2210(c)(7)(F) and FINRA Rule 2210(d)(8) specifically to exclude from the filing and content standards free writing prospectuses that are exempt from filing with the SEC. FINRA is also proposing to clarify that the filing and content requirements apply to free-writing prospectuses required to be filed with the SEC pursuant to Securities Act Rule 433(d)(1)(ii).

(c) Correction of Rule Cross-Reference in FINRA Rule 2214

Paragraph (a) of FINRA Rule 2214 (Requirements for the Use of Investment Analysis Tools) mistakenly cross-references FINRA Rule 2210(c)(3)(D) (the filing requirement for retail communications concerning collateralized mortgage obligations).[24] Rule 2214(a) should cross-reference Rule 2210(c)(3)(C) (the filing requirement for any template for written reports produced by, or retail communications concerning, an investment analysis tool). FINRA proposes to correct this rule cross-reference.

FINRA will announce the effective date of the proposed rule change in a *Regulatory Notice* to be published no later than 60 days following Commission approval. The effective date will be the date of publication of the *Regulatory Notice* announcing Commission approval.

2. Statutory Basis

FINRA believes that the proposal to exclude research reports concerning only exchange-listed securities from the filing requirements for certain retail communications is consistent with the provisions of Section 15A(b)(6) of the Act,[25] which requires, among other things, that FINRA rules must be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, and, in general, to protect investors and the public interest. FINRA believes that the proposed filing exclusion will reduce the burdens imposed on member firms that would otherwise have to file research reports on exchange-listed securities with FINRA, while continuing to protect investors through the protections provided by FINRA Rule 2210 and NASD Rules 1022, 1050 and 2711.

FINRA also believes that the proposed clarification regarding the application of Rule 2210's filing and content standards to free writing prospectuses that are exempt from filing with the SEC is consistent with the provisions of Section 15A(b)(6) of the Act.[26] The proposal is consistent with FINRA's current interpretation of Rule 2210.

FINRA further believes that the proposed correction of the rule cross-reference in FINRA Rule 2214 is consistent with the provisions of Section 15A(b)(6) of the Act.[27] The correction of the cross-reference is consistent with the Rule's intent and purpose and will reduce any potential confusion due to the current incorrect cross-reference.

B. Self-Regulatory Organization's Statement on Burden on Competition

FINRA does not believe that the proposed rule change would result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The proposed rule change would reduce burdens on members by relieving them of the obligation and expense of filing research reports that are currently subject to filing. The proposed rule change also would clarify for members the intended application of Rule 2210 to free writing prospectuses that are exempt from filing with the SEC, and would not add any burden on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Written comments were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 45 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve or disapprove 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–FINRA–2014–012 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–FINRA–2014–012. 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 a.m. and 3 p.m. Copies of such filing also will be available for inspection and copying at the principal office of FINRA. 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–FINRA–2014–012 and

[23] *See Regulatory Notice* 10–52 (October 2010) (FINRA communication rules ''apply to free writing prospectuses distributed by a broker-dealer in a manner reasonably designed to lead to broad unrestricted dissemination''). FINRA Rule 2210's filing and content standards are intended to apply to free writing prospectuses that are subject to filing with the SEC pursuant to Securities Act Rule 433(d)(1)(ii), but not to other types of free writing prospectuses.

[24] *See* Securities Exchange Act Release No. 66681 (March 29, 2012), 77 FR 20452 (April 4, 2012) (SR–FINRA–2011–035).

[25] 15 U.S.C. 78*o*–3(b)(6).

[26] 15 U.S.C. 78*o*–3(b)(6).

[27] 15 U.S.C. 78*o*–3(b)(6).

should be submitted on or before April 21, 2014.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[28]

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2014–07037 Filed 3–28–14; 8:45 am]

BILLING CODE 8011–01–P

[28] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–71790; File No. SR–ICEEU–2014–01]

Self-Regulatory Organizations; ICE Clear Europe Limited; Order Approving Proposed Rule Change Regarding New Permitted Cover

March 25, 2014.

I. Introduction

On February 4, 2014, ICE Clear Europe Limited (''ICE Clear Europe'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change SR–ICEEU–2014–01 pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'')[1] and Rule 19b–4 thereunder.[2] The proposed rule change was published for comment in the **Federal Register** on February 18, 2014.[3] The Commission received no comment letters regarding the proposed changes. For the reasons discussed below, the Commission is granting approval of the proposed rule change.

II. Description

ICE Clear Europe is proposing to permit Clearing Members of ICE Clear Europe to post certain Japanese Government Bonds (''JGBs''), Japanese Treasury Bills (''JTBs'') and Japanese Treasury Discount Bills (''JTDBs'' together with JGBs and JTBs, the ''New Permitted Cover'') to ICE Clear Europe in order to meet initial margin, original margin and certain other margin requirements, including delivery margin requirements. The New Permitted Cover will not be accepted to satisfy variation margin requirements or guaranty fund requirements.

ICE Clear Europe has stated that the New Permitted Cover will provide its Clearing Members with a greater range of high-quality collateral that can be posted to ICE Clear Europe. Furthermore, ICE Clear Europe has stated that (1) the New Permitted Cover is of minimal credit risk comparable to that of other sovereign debt currently accepted by ICE Clear Europe as permitted cover for margin obligations, and (2) the New Permitted Cover has demonstrated low volatility in stressed and normal market conditions.

ICE Clear Europe has established initial valuation haircut levels and concentration limitations for the New Permitted Cover, and proposes to review and modify such haircuts and limitations from time to time in accordance with the Rules and procedures.

The New Permitted Cover may only constitute up to 10% of a Clearing Member's total initial and original margin requirement, up to a maximum amount of JPY 100 billion. The New Permitted Cover will be subject to a valuation haircut of 3%, except that JGBs with a maturity of more than eleven years will be subject to a valuation haircut of 5%. The concentration limitations apply on an aggregate basis across all product categories. Upon a Clearing Member's use of New Permitted Cover to cover a margin requirement denominated in a different currency, ICE Clear Europe has stated than an additional haircut will apply, in accordance with existing rules, in order to cover exchange rate risk.

ICE Clear Europe has also stated that it has commenced accepting the New Permitted Cover as of June 28, 2013.

III. Discussion and Commission Findings

Section 19(b)(2)(C) of the Act[4] directs the Commission to approve a proposed rule change of a self-regulatory organization if the Commission finds that such proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to such self-regulatory organization. Section 17A(b)(3)(F) of the Act[5] requires, among other things, that the rules of a clearing agency are designed to promote the prompt and accurate clearance and settlement of securities transactions and, to the extent applicable, derivative agreements, contracts, and transactions, to assure the safeguarding of securities and funds which are in the custody or control of the clearing agency and for which it is responsible and, in general, to protect investors and the public interest.

The Commission finds that the proposed rule change is consistent with the requirements of Section 17A of the Act,[6] as Clearing Members of ICE Clear Europe will have access to a greater range of collateral that ICE Clear Europe has determined to be of high quality to satisfy certain margin requirements, and the New Permitted Cover will be subject to appropriate valuation haircuts and concentration limits, which will be reviewed and modified periodically by ICE Clear Europe in accordance with its Rules and procedures. The proposed rule changes will thereby (1) promote the prompt and accurate clearance and settlement of securities transactions and, to the extent applicable, derivatives agreements, contracts, and transactions; and (2) help to protect investors and the public interest, consistent with the requirements of Section 17A(b)(3)(F) of the Act.[7]

IV. Conclusion

On the basis of the foregoing, the Commission finds that the proposal is consistent with the requirements of the Act and in particular with the requirements of Section 17A of the Act[8] and the rules and regulations thereunder.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,[9] that the proposed rule change (File No. SR–ICEEU–2014–01) be, and hereby is, approved.[10]

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[11]

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2014–07035 Filed 3–28–14; 8:45 am]

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[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] Securities Exchange Act Release No. 34–71518 (February 11, 2014), 79 FR 9304 (February 18, 2014) (SR–ICEEU–2014–01).

[4] 15 U.S.C. 78s(b)(2)(C).

[5] 15 U.S.C. 78q–1(b)(3)(F).

[6] 15 U.S.C. 78q–1.

[7] 15 U.S.C. 78q–1(b)(3)(F).

[8] 15 U.S.C. 78q–1.

[9] 15 U.S.C. 78s(b)(2).

[10] In approving the proposed rule change, the Commission considered the proposal's impact on efficiency, competition and capital formation. 15 U.S.C. 78c(f).

[11] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–71791; File No. SR–ICEEU–2014–02]

Self-Regulatory Organizations; ICE Clear Europe Limited; Order Approving Proposed Rule Change Regarding New Permitted Cover

March 25, 2014.

I. Introduction

On February 4, 2014, ICE Clear Europe Limited (''ICE Clear Europe'')

[1] 15 U.S.C. 78s(b)(1).

filed with the Securities and Exchange Commission (''Commission'') the proposed rule change SR–ICEEU–2014–02 pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'') [1] and Rule 19b–4 thereunder.[2] The proposed rule change was published for comment in the **Federal Register** on February 18, 2014.[3] The Commission received no comment letters regarding the proposed changes. For the reasons discussed below, the Commission is granting approval of the proposed rule change.

II. Description

ICE Clear Europe is proposing to permit Clearing Members of ICE Clear Europe to post certain KfW Euro Benchmark Bonds (''KfWs'') and European Investment Bank Euro Area Reference Notes (''EIBs'', together with KfWs, the ''New Permitted Cover'') to ICE Clear Europe in order to meet initial margin, original margin and certain other margin requirements, including delivery margin requirements. The New Permitted Cover will not be accepted to satisfy variation margin requirements or guaranty fund requirements.

ICE Clear Europe has stated that the New Permitted Cover will provide its Clearing Members with a greater range of high-quality collateral that can be posted to ICE Clear Europe. Furthermore, ICE Clear Europe has stated that (1) the New Permitted Cover is of minimal credit risk comparable to that of other sovereign debt currently accepted by ICE Clear Europe as permitted cover for margin obligations, and (2) the New Permitted Cover has demonstrated low volatility in stressed and normal market conditions.

ICE Clear Europe has established initial valuation haircut levels and concentration limitations for the New Permitted Cover, and proposes to review and modify such haircuts and limitations from time to time in accordance with the Rules and procedures.

The New Permitted Cover may only constitute up to 25% of a Clearing Member's total initial and original margin requirement, up to a maximum amount of EUR 30 million. The New Permitted Cover will be subject to a valuation haircut of 3%, except that New Permitted Cover with a maturity of more than eleven years will be subject to a valuation haircut of 5%. The concentration limitations apply on an aggregate basis across all product categories. Upon a Clearing Member's use of New Permitted Cover to cover a margin requirement denominated in a different currency, ICE Clear Europe has stated than an additional haircut will apply, in accordance with existing rules, in order to cover exchange rate risk.

III. Discussion and Commission Findings

Section 19(b)(2)(C) of the Act [4] directs the Commission to approve a proposed rule change of a self-regulatory organization if the Commission finds that such proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to such self-regulatory organization. Section 17A(b)(3)(F) of the Act [5] requires, among other things, that the rules of a clearing agency are designed to promote the prompt and accurate clearance and settlement of securities transactions and, to the extent applicable, derivative agreements, contracts, and transactions, to assure the safeguarding of securities and funds which are in the custody or control of the clearing agency and for which it is responsible and, in general, to protect investors and the public interest.

The Commission finds that the proposed rule change is consistent with the requirements of Section 17A of the Act,[6] as Clearing Members of ICE Clear Europe will have access to a greater range of collateral that ICE Clear Europe has determined to be of high quality to satisfy certain margin requirements, and the New Permitted Cover will be subject to appropriate valuation haircuts and concentration limits, which will be reviewed and modified periodically by ICE Clear Europe in accordance with its Rules and procedures. The proposed rule changes will thereby (1) promote the prompt and accurate clearance and settlement of securities transactions and, to the extent applicable, derivatives agreements, contracts, and transactions; and (2) help to protect investors and the public interest, consistent with the requirements of Section 17A(b)(3)(F) of the Act.[7]

IV. Conclusion

On the basis of the foregoing, the Commission finds that the proposal is consistent with the requirements of the Act and in particular with the requirements of Section 17A of the Act [8] and the rules and regulations thereunder.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,[9] that the proposed rule change (File No. SR–ICEEU–2014–02) be, and hereby is, approved.[10]

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[11]

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2014–07036 Filed 3–28–14; 8:45 am]

BILLING CODE 8011–01–P

[2] 17 CFR 240.19b–4.

[3] Securities Exchange Act Release No. 34–71519 (February 11, 2014), 79 FR 9296 (February 18, 2014) (SR–ICEEU–2014–02).

[4] 15 U.S.C. 78s(b)(2)(C).

[2] 17 CFR 240.19b–4.

[3] Securities Exchange Act Release No. 34–71519 (February 11, 2014), 79 FR 9296 (February 18, 2014) (SR–ICEEU–2014–02).

[4] 15 U.S.C. 78s(b)(2)(C).

[5] 15 U.S.C. 78q–1(b)(3)(F).

[8] 15 U.S.C. 78q–1.

[9] 15 U.S.C. 78s(b)(2).

[10] In approving the proposed rule change, the Commission considered the proposal's impact on efficiency, competition and capital formation. 15 U.S.C. 78c(f).

[11] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–71796; File No. SR–BYX–2014–003]

Self-Regulatory Organizations; BATS Y-Exchange, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change to the Clearly Erroneous Execution Rule for BATS Y-Exchange, Inc.

March 25, 2014.

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 March 18, 2014, BATS Y-Exchange, Inc. (the ''Exchange'' or ''BYX'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. The 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 the Substance of the Proposed Rule Change

The Exchange filed a proposal to extend a pilot program related to Rule 11.17, entitled ''Clearly Erroneous Executions.''

[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 text of the proposed rule change is available at the Exchange's Web site at *http://www.batstrading.com,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in Sections A, B, and C below, of the most significant parts of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The purpose of this filing is to extend the effectiveness of the Exchange's current rule applicable to Clearly Erroneous Executions. Portions of Rule 11.17, explained in further detail below, are currently operating as a pilot program set to expire on April 8, 2014.[5] The Exchange proposes to extend the pilot program to coincide with the pilot period for the Plan to Address Extraordinary Market Volatility Pursuant to Rule 608 of Regulation NMS under the Act (the ''Limit Up-Limit Down Plan'' or the ''Plan''), including any extensions to the pilot period for the Plan.[6]

On October 4, 2010, the Exchange filed an immediately effective filing to adopt various rule changes to bring BYX Rules up to date with the changes that had been made to the rules of BATS Exchange, Inc., the Exchange's affiliate, while BYX's Form 1 Application to register as a national security exchange was pending approval. Such changes included changes to the Exchange's Rule 11.17, on a pilot basis, to provide for uniform treatment: (1) Of clearly erroneous execution reviews in multi-stock events involving twenty or more securities; and (2) in the event transactions occur that result in the issuance of an individual stock trading pause by the primary listing market and subsequent transactions that occur before the trading pause is in effect on the Exchange.[7] The Exchange also adopted additional changes to Rule 11.17 that reduced the ability of the Exchange to deviate from the objective standards set forth in Rule 11.17,[8] and in 2013, adopted a provision designed to address the operation of the Plan.[9]

The Exchange believes the benefits to market participants from the more objective clearly erroneous executions rule should continue on a pilot basis to coincide with the operation of the Limit Up-Limit Down Plan. The Exchange believes that continuing the pilot will protect against any unanticipated consequences. Thus, the Exchange believes that the protections of the Clearly Erroneous Rule should continue while the industry gains further experience operating the Plan.

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.[10] In particular, the proposal is consistent with Section 6(b)(5) of the Act,[11] because it would 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. Although the Limit Up-Limit Down Plan is operational, the Exchange believes that maintaining the pilot will help to protect against unanticipated consequences. Thus, the Exchange believes that the protections of the Clearly Erroneous Rule should continue while the industry gains further experience operating the Plan. The Exchange also believes that the pilot program promotes just and equitable principles of trade in that it promotes transparency and uniformity across markets concerning review of transactions as clearly erroneous. Thus, the Exchange believes that the extension of the pilot would help assure that the determination of whether a clearly erroneous trade has occurred will be based on clear and objective criteria, and that the resolution of the incident will occur promptly through a transparent process. The proposed rule change would also help assure consistent results in handling erroneous trades across the U.S. markets, thus furthering fair and orderly markets, the protection of investors and the public interest. Based on the foregoing, the Exchange believes the benefits to market participants from the more objective clearly erroneous executions rule should continue on a pilot basis to coincide with the operation of the Limit Up-Limit Down Plan.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change implicates any competitive issues. To the contrary, the Exchange believes that the Financial Industry Regulatory Authority (''FINRA'') and other national securities exchanges are also filing similar proposals, and thus, that the proposal will help to ensure consistency across market centers.

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

Because the proposed rule change does not (i) significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate 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[12] and Rule 19b–4(f)(6)(iii) thereunder.[13]

The Exchange has asked the Commission to waive the 30-day operative delay so that the proposal may become operative immediately upon filing. The Commission believes that waiving the 30-day operative delay is consistent with the protection of investors and the public interest, as it will allow the clearly erroneous pilot program to continue uninterrupted while the industry gains further experience operating under the Limit Up-Limit Down Plan, and avoid any

[4] 17 CFR 240.19b–4(f)(6)(iii).

[5] *See* Securities Exchange Act Release No. 70514 (Sept. 26, 2013), 78 FR 60963 (Oct. 2, 2013) (SR–BYX–2013–033).

[6] *See* Securities Exchange Act Release No. 67091 (May 31, 2012), 77 FR 33498 (June 6, 2012) (the ''Limit Up-Limit Down Release'').

[7] Securities Exchange Act Release No. 63097 (Oct. 13, 2010), 75 FR 64767 (Oct. 20, 2010) (SR–BYX–2010–002).

[8] *Id.*

[9] *See* Securities Exchange Act Release No. 68798 (Jan. 30, 2013), 78 FR 8628 (Feb. 6, 2013) (SR–BYX–2013–005); *see also* BYX Rule 11.17(h).

[10] 15 U.S.C. 78f(b).

[11] 15 U.S.C. 78f(b)(5).

[12] 15 U.S.C. 78s(b)(3)(A).

investor confusion that could result from a temporary interruption in the pilot program. For this reason, the Commission designates the proposed rule change to be operative upon filing.[14]

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–BYX–2014–003 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–BYX–2014–003. 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 at 100 F Street NE., Washington, DC 20549–1090 on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of such filing also will be available for inspection and copying at the principal 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–BYX–2014–003, and should be submitted on or before April 21, 2014.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[15]

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2014–07014 Filed 3–28–14; 8:45 am]

BILLING CODE 8011–01–P

[13] 17 CFR 240.19b–4(f)(6)(iii). 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.

[15] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–71794; File No. SR–NASDAQ–2014–025]

Self-Regulatory Organizations; The NASDAQ Stock Market LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Modify NASDAQ's DOT, DOTI, and LIST Routing Strategies

March 25, 2014.

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 March 11, 2014, The NASDAQ Stock Market LLC (''Nasdaq'' or ''Exchange'') filed with the Securities and Exchange Commission (''SEC'' or ''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

NASDAQ proposes to modify Rule 4758 with respect to its DOT, DOTI, and LIST routing strategies. The text of the proposed rule change is available on the Exchange's Web site at *http://nasdaq.cchwallstreet.com*, at the principal office of the Exchange, and at the Commission's Public Reference Room.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, 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 the Statutory Basis for, the Proposed Rule Change

1. Purpose

NASDAQ offers its members optional routing functionality that allows them to use NASDAQ's facilities to access liquidity available on other trading venues. The functionality includes a range of defined routing algorithms—known as strategies—that determine the destinations and pattern of routing. The particular pattern of routing to other venues associated with a particular strategy is referred to in Rule 4758 as the ''System routing table'' for that strategy. All routing is designed to be conducted in a manner consistent with the requirements of Regulation NMS.

NASDAQ currently offers a set of strategies designed to allow market participants to route orders to the primary market on which a security is listed. NASDAQ is proposing minor changes to these strategies to improve their functioning and the clarity of the rule that describes them in certain situations. First, NASDAQ offers the DOT strategy (which includes several variations) as a means of designating an order for routing to the New York Stock Exchange (''NYSE'') or NYSE MKT[3] for participation in their respective opening or closing processes. DOT orders are routed directly to NYSE or NYSE MKT, as appropriate. After attempting to execute in the opening or closing process, if any shares remain unexecuted, DOT orders thereafter check the NASDAQ Market Center System for available shares and are converted into SCAN or STGY orders, depending on the designation of the entering firm.[4]

[3] Formerly, NYSE Amex. NASDAQ is amending Rule 4758 to reflect the change in this exchange's name.

[4] STGY is a routing option under which orders check the System for available shares and

Continued

NASDAQ is proposing to modify the language of the rule to make it clear that a DOT order may be designated to participate in the opening only or in the closing only (as provided by the specifications of the destination market) or to remain in force after the opening or closing, as applicable. An order entered before the open (or close) that is designated as opening only (or closing only) will likely be cancelled by the destination market after the open (or close) in accordance with its terms and therefore will not return to NASDAQ, even if not executed in full. Similarly, if NASDAQ receives a DOT order after the security has opened (or closed) and the order has been designated to participate in the opening only (or closing only), the order will nevertheless be routed to NYSE or NYSE MKT (which would be expected to reject the order based on its designation as opening only or closing only).[5] NASDAQ is also proposing to add language to the rule to make it clear that the conversion of DOT orders into SCAN or STGY orders applies only if the orders are not designated opening or closing only and are not fully executed, rejected, or cancelled by the market to which they are routed. NASDAQ is also modifying a sentence describing the treatment of DOT orders entered after 9:30 a.m. (*i.e.,* orders that are intended to participate in the opening but that are entered after the opening); such orders are not routed to NYSE or NYSE MKT, but rather are immediately converted to SCAN or STGY orders. The modifications make it clear that this processing logic would be applied to an order that is intended to participate in the close but that is entered after the close. The modifications also make it clear that the processing logic would not be applied if the order was designated as opening only or closing only, since, as described above, the order would be routed and would be expected to be rejected. Finally, NASDAQ is modifying the rule to provide that DOT orders that are designated to participate in an opening process and that are received by NASDAQ before the destination market can receive them will be held until such time as the destination market can receive them. Currently, such orders are routed to the destination market and may be rejected.

NASDAQ is proposing similar changes to the DOTI routing strategy. DOTI is a routing option for orders that the entering firm wishes to direct to the NYSE or NYSE MKT without them returning to the Nasdaq Market Center. DOTI orders check the System for available shares and then are sent to destinations on the System routing table before being sent to NYSE or NYSE MKT, as appropriate. Alternatively, the member entering the order may opt to have it check the System and then be sent directly to NYSE or NYSE MKT, without routing to destinations on the System routing table.[6] DOTI orders do not return to the Nasdaq Market Center book after routing.

As is the case with DOT, NASDAQ is modifying the language of the rule to make it clear that a DOTI order may be designated to participate in the opening only or in the closing only (as provided by the specifications of the destination market) or to remain in force after the opening or closing, as applicable. An order entered before the open (or close) that is designated as opening only (or closing only) will likely be cancelled by the destination market after the open (or close) in accordance with its terms and therefore will not return to NASDAQ, even if not executed in full. Similarly, if NASDAQ receives a DOTI order after the security has opened (or closed) and the order has been designated to participate in the opening only (or closing only), the order will nevertheless be routed to NYSE or NYSE MKT (which may reject the order based on its designation as opening only or closing only).[7] NASDAQ is also proposing to modify the rule to provide that DOTI orders that are designated to participate in an opening process and that are received by NASDAQ before the destination market can receive them will be held until such time as the destination market can receive them.

LIST is a routing option designed to allow orders to participate in the opening and/or closing process of the primary listing market for a security, and to follow additional routing logic as described below.[8] A LIST order received before the security has opened on its primary listing market will be routed to the primary listing market for participation in that market's opening process. After the security has opened on its primary listing market, unexecuted shares will be returned to the NASDAQ system.[9] Thereafter, the order will check the System for available shares and simultaneously route the remaining shares to destinations on the System routing table. Any remaining shares will be posted on the book. As with DOT and DOTI, NASDAQ is proposing to modify the rule governing LIST orders to provide that if a LIST order is received by NASDAQ before the destination market is able to receive orders for its opening process, the order will be held until such time as the destination market can receive it.

NASDAQ is also proposing to modify the language of the rule governing LIST orders to make it clear that a LIST order may be designated to participate in the opening only, as provided by the specifications of the destination market. Accordingly, an order entered before the open that is designated as opening only will likely be cancelled by the destination market after the open in accordance with its terms and therefore will not return to NASDAQ, even if not executed in full. Similarly, if NASDAQ receives a LIST order after the security has opened and the order has been designated to participate in the opening only, the order will nevertheless be routed to the primary [sic] market (which would be expected to reject the order based on its designation as opening only).[10]

Otherwise, if an order that has not been designated as opening only[11] is entered after the market open (but before a time that is two minutes before market close),[12] NASDAQ will check

simultaneously route the remaining shares to destinations on the applicable System routing table. If shares remain un-executed after routing, they are posted on the NASDAQ book. Once the order is on the book, if the order is subsequently locked or crossed by another accessible market center, the System routes the order to the locking or crossing market center. SCAN behaves similarly, but once the order is on the NASDAQ book, the System will not route the order to a locking or crossing market center. Although both options are described in Rule 4758 as variations of the DOT strategy, NASDAQ's system specifications refer to the SCAN option as either ''DOTA'' or ''DOTD'' and refer to the STGY option as ''DOTM.''

[5] In the event that an opening or closing only order was returned to NASDAQ after the time of the open or close on the destination market, NASDAQ would cancel the order.

[6] This option is referred to in system specifications as ''DOTZ''.

[7] In the event that an opening or closing only order was returned to NASDAQ after the time of the open or close on the destination market, NASDAQ would cancel the order.

[8] NASDAQ is adding this language to the existing rule text to describe the overall framework for the routing strategy.

[9] NASDAQ is proposing to add language to the rule to make it clear that the order would be returned only to the extent that the order has not been designated opening only and has not been fully executed, rejected, or cancelled by the destination market.

[10] In the event that an opening only order was returned to NASDAQ after the time of the open on the destination market, NASDAQ would cancel the order.

[11] NASDAQ is proposing to add qualifying language to the rule to make it clear that the behavior of orders after the market open would not apply to an order that has been designated as opening only.

[12] NASDAQ is proposing to replace references to specific times, such as 4:00 p.m., in Rule 4758 with more general references to account for the possibility of variation in the precise time of NASDAQ's system hours, the time of the market

the System for available shares and simultaneously route the remaining shares to destinations on the System routing table, with remaining shares posted on the book. Once on the book, if the order is subsequently locked or crossed by another market center, the System will not route the order to the locking or crossing market center.[13] Two minutes before market close, all LIST orders on the book will route to the security's primary listing market for participation in its closing process.[14] Similarly, if a LIST order is received at or after a time that is two minutes before market close but before market close, NASDAQ will check the System for available shares and simultaneously route the remaining shares to destinations on the System routing table; remaining shares will be routed to the security's primary listing market to participate in its closing process.[15] After the security has closed on the primary listing market, a LIST order that has not been designated as closing only and that has not been fully executed, rejected or cancelled by the destination market will be returned to NASDAQ and unexecuted shares will be posted to the NASDAQ book.[16]

NASDAQ is also modifying the language of the rule governing LIST orders to make it clear that a LIST order may be designated to participate in the closing only, as provided by the specifications of the destination market. Accordingly, an order entered before the close that is designated as closing only will likely be cancelled by the destination market after the close in accordance with its terms and therefore will not return to NASDAQ, even if not executed in full. Similarly, if NASDAQ receives a LIST order after the security has closed and the order has been designated to participate in the closing only, the order will nevertheless be routed to the primary [sic] market (which may reject the order based on its designation as closing only).[17]

Currently, any LIST order shares that are received after market close are posted to the NASDAQ book. However, NASDAQ is modifying this behavior, so that rather than posting to the NASDAQ book immediately, the order will check the System for available shares and simultaneously route the remaining shares to destinations on the System routing table. Any remaining shares will then be posted to the NASDAQ book.[18]

2. Statutory Basis

NASDAQ believes that the proposed rule change is consistent with the provisions of Section 6 of the Act,[19] in general, and with Section 6(b)(5) of the Act[20] in particular, in that the proposal 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 mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest. NASDAQ believes that the changes will increase the flexibility of market participants by making it clear that they may designate DOT, DOTI, and LIST orders to participate in the opening only or closing only of a primary listing venue, in accordance with the specifications of the primary market, and by providing that orders entered before a destination market is ready to receive them will be held by NASDAQ until they may be routed. In addition, the change with respect to LIST orders received after a market close will increase the likelihood of such order's executing, by providing that they will be routed before posting to the NASDAQ book. The changes also increase the clarity and precision of the rule text. Collectively, these changes facilitate transactions in securities and perfect the mechanism of a free and open market and a national market system by providing NASDAQ members with greater control over the routing of their orders.

B. Self-Regulatory Organization's Statement on Burden on Competition

NASDAQ does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act, as amended. NASDAQ believes that the changes will promote competition by enhancing the value of NASDAQ's routing functionality to its members. However, since the use of NASDAQ's routing services is optional and members have numerous alternative mechanisms for order routing, the changes will not impair the ability of members to use other means of accessing competitive trading venues.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were either solicited or received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A)(ii) [sic] of the Act[21] and subparagraph (f)(6) of Rule 19b-4 thereunder.[22]

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is: (i) Necessary or appropriate in the public interest; (ii) for the protection of investors; or (iii) otherwise in

open and close, and the periodic occurrence of days when the markets are planned to close early (*e.g.,* the day after Thanksgiving).

[13] If trading in the security is stopped across all markets, LIST orders will be sent to the primary listing market to participate in its re-opening process. When normal trading resumes, unexecuted shares will be removed from the primary listing market and posted on the NASDAQ book. LIST orders may not be assigned a time-in-force of [sic] good-till-cancelled. NASDAQ is proposing to modify the rule language governing this behavior to improve its clarity by replacing the words ''cancelled off of the primary'' with the words ''removed from the primary listing market.''

[14] NASDAQ is proposing to delete language stating that the routed order ''will be cancelled by the System''. The language was intended to reflect the fact that the routed shares would no longer be on the NASDAQ book, but the reference to the order being ''cancelled'' may be confusing and therefore is being deleted.

[15] NASDAQ notes, however, the certain trading venues have established cut-off times for participation in their opening and closing processes. Orders received by NASDAQ before the time of the opening or closing processes will be routed to the primary market; however, if a market receives such orders after its applicable cut-off time, the order may be rejected by the destination market.

[16] NASDAQ is proposing to add language to the existing sentence regarding shares posting to the NASDAQ book to make it clear that it applies after the security has closed on the primary market and applies only if the order has not been designated as closing only and has not been fully executed, rejected, or cancelled by the destination market.

[17] In the event that a closing only order was returned to NASDAQ after the time of the close on the destination market, NASDAQ would cancel the order.

[18] As described above, this logic would not apply if the order was designated as closing only. NASDAQ is proposing to add language to make it clear that the routing of orders entered after market close would not apply if the order was designated as closing only.

[19] 15 U.S.C. 78f.

[20] 15 U.S.C. 78f(b)(5).

[21] 15 U.S.C. 78s(b)(3)(a)(ii) [sic].

[22] 17 CFR 240.19b–4(f)(6). In addition, Rule 19b–4(f)(6) requires a self-regulatory organization to give the Commission written notice of its intent to file the proposed rule change at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this requirement.

furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–NASDAQ–2014–025 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–NASDAQ–2014–025. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–NASDAQ–2014–025, and should be submitted on or before April 21, 2014.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[23]

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2014–07039 Filed 3–28–14; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–71789; File No. SR–CBOE–2014–023]

Self-Regulatory Organizations; Chicago Board Options Exchange, Incorporated; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Amend the Fees Schedule

March 25, 2014.

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 March 12, 2014, 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, II, and III below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend its Fees Schedule. 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

The Exchange proposes to amend its Fees Schedule, specifically regarding the CBOE Command Connectivity Charges. Currently, for every 15 Trading Permits that a Trading Permit Holder (''TPH'') that access CBOE Command via CMI holds, that TPH receives one CAS Server (plus one total backup CAS Server regardless of the number of Trading Permits that the TPH holds). This would mean that a TPH who had, say, 29 Trading Permits would only receive one CAS Server (plus the backup). The Exchange proposes to instead add a chart listing the amounts of Trading Permits and corresponding CAS Servers: [3]

Trading Permits	CAS Servers	Total CAS Servers
1–15	1 + 1 backup	2
16–30	2 + 1 backup	3
31–45	3 + 1 backup	4
46–60	4 + 1 backup	5
61–75	5 + 1 backup	6
76–90	6 + 1 backup	7
91+	7 + 1 backup	8

The effect of this change would be to increase the number of CAS Servers that many TPHs receive (for example, a TPH that has 29 permits would now receive two CAS Servers (plus a backup) before having to pay for an extra CAS Server (which costs $10,000 per month), so TPHs may be able to save $10,000.

The Exchange also proposes to change its calculation of the volume thresholds for its Liquidity Provider Sliding Scale, which provides for reduced transaction fees for Market-Makers that reach certain volume thresholds.[4] Currently, the volume thresholds are based on total national Market-Maker multiply-listed options volume. However, this does not account for products traded solely on

[23] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] Corresponding to this change, the Exchange proposes to delete from the ''Notes'' section regarding this fee the language ''For every 15 Trading Permits that a TPH that accesses CBOE Command via CMI holds, that TPH receives one CAS Server (plus one total backup CAS Server regardless of the number of Trading Permits that the TPH holds).'' That language will be replaced with the statement: ''TPHs will receive CAS Servers based on the number of trading permits a TPH holds.''

[4] The Liquidity Provider Sliding Scale applies in all products except mini-options, SPX, SPXpm, SRO, VIX or other VOLATILITY INDEXES, OEX or XEO (the ''Excluded Products''). For more information regarding the Liquidity Provider Sliding Scale, see the CBOE Fees Schedule.

CBOE (except the Excluded Products), but it does include volume from multiply-listed options that may not be traded on CBOE. Because the Liquidity Provider Sliding Scale provides for transaction fees for transactions that occur on CBOE, the Exchange believes that it makes sense to include towards the volume thresholds transaction volume that occurs on CBOE (even if it is in products traded only on CBOE) and not include towards the volume thresholds transaction volume in products that may not be listed on CBOE. As such, the Exchange proposes to state that, for the Liquidity Provider Sliding Scale, volume thresholds are based on total national Market-Maker volume of any options classes listed on CBOE with traded volume on CBOE during the calendar month. This will continue to exclude the Excluded Products.

The Exchange always strives for clarity in its rules and Fees Schedule, so that market participants may best understand how rules and fees apply. As such, the Exchange proposes a number of changes to clarify its Fees Schedule.

Footnote 22 of the Exchange Fees Schedule states that ''For all non-facilitation business executed in AIM or open outcry, or as a QCC or FLEX transaction, transaction fees for Clearing Trading Permit Holder Proprietary and/or their Non-Trading Permit Holder Affiliates (as defined in footnote 11) in all products except SPX, SPXpm, VIX or other volatility indexes, OEX or XEO, in the aggregate, are capped at $75,000 per month per Clearing Trading Permit Holder.'' The Exchange has never considered surcharges to be ''transaction fees'', as surcharges are assessed on top of transaction fees and often are adopted to offset the costs of licensing and/or developing specific Exchange products and systems. Additionally, surcharges appear separately on the invoices the Exchange provides to TPHs. As such, the Exchange proposes to explicitly state in Footnote 22 that ''Surcharge fees do not count towards the cap.''

The Exchange also proposes to clarify its CBOE Proprietary Products Sliding Scale (the ''Sliding Scale''), pursuant to which Clearing Trading Permit Holder Proprietary transaction fees and transaction fees for Non-Trading Permit Holder Affiliates in OEX, XEO, SPX, SPXpm, VIX and VOLATILITY INDEXES in a month will be reduced provided a Clearing Trading Permit Holder reaches certain ADV thresholds in multiply-listed options on the Exchange in a month. Effective January 2, 2014, the Exchange amended the Sliding Scale to change the different tier thresholds from nominal contracts per month thresholds to relative contracts per month thresholds.[5] Indeed, the Exchange added to the ''Notes'' section of the Sliding Scale table the following language: ''Transaction fees in OEX, XEO, SPX, SPXpm, VIX and VOLATILITY INDEXES will be reduced based on reaching the percentage thresholds in OEX, XEO, SPX, SPXpm, VIX and VOLATILITY INDEXES listed in the table.'' However, the Exchange feels that more clarity can be achieved by more accurately describing what those percentages are of (the denominator in the percentage calculation). As such, the Exchange proposes to add the following language: ''Percentages are calculated by accounting for all volume in OEX, XEO, SPX, SPXpm, VIX and VOLATILITY INDEXES executed with an ''F'' or ''L'' Origin Code.''

The Exchange also proposes to clarify a statement in Footnote 11. The end of Footnote 11 reads: ''For facilitation orders (other than SPX, SPXpm, SRO, VIX or other volatility indexes, OEX or XEO) (''facilitation orders'' for this purpose to be defined as any paired order in which a Clearing Trading Permit Holder (F) origin code or Non-Trading Permit Holder Affiliate (''L'' origin code) is contra to any other origin code, provided the same executing broker and clearing firm are on both sides of the order) executed electronically (including in AIM), open outcry, or as a QCC or FLEX transaction, CBOE will assess no Clearing Trading Permit Holder Proprietary transaction fees.'' However, there are a number of clarifications necessary to that statement. First, there is no way, systematically, for orders that are executed in open outcry to be identified as being ''paired''. The only way to identify an open outcry order as being ''facilitated'' is for it to have the same executing broker and clearing firm on both sides. However, it is inaccurate to say ''both sides of the *order''* when referring to open outcry, as, since they are not paired, they come in separately and therefore the word ''order'' should be replaced with the word ''transaction''.

Further, the only way for a non-FLEX, non-QCC paired facilitation order to be executed electronically is via AIM. The current language could be read to indicate that there are other manners to electronically execute a paired facilitation order. Similarly, the only way for a FLEX paired order to be executed electronically is via the Exchange's CFLEX system. As such, the Exchange proposes to amend the statement at the end of Footnote 11 to read: ''For facilitation orders (other than SPX, SPXpm, SRO, VIX or other volatility indexes, OEX or XEO) executed in open outcry, or electronically via AIM or as a QCC or CFLEX transaction, CBOE will assess no Clearing Trading Permit Holder Proprietary transaction fees. ''Facilitation orders'' for this purpose to be defined as any order in which a Clearing Trading Permit Holder (F) origin code or Non-Trading Permit Holder Affiliate (''L'' origin code) is contra to any other origin code, provided the same executing broker and clearing firm are on both sides of the transaction (for open outcry) or both sides of a paired order (for orders executed electronically).''

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.[6] Specifically, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5)[7] requirements that the rules of an exchange be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest. Additionally, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5)[8] requirement that the rules of an exchange not be designed to permit unfair discrimination between customers, issuers, brokers, or dealers. The Exchange also believes the proposed rule change is consistent with Section 6(b)(4) of the Act,[9] which requires that Exchange rules provide for the equitable allocation of reasonable dues, fees, and other charges among its Trading Permit Holders and other persons using its facilities.

The Exchange believes that the proposed change regarding CAS Servers is reasonable because it will not cause

[5] *See* Securities Exchange Act Release No. 71295 (January 14, 2014), 79 FR 3443 (January 21, 2014) (SR–CBOE–2013–129).

[6] 15 U.S.C. 78f(b).

[7] 15 U.S.C. 78f(b)(5).

[8] *Id.*

[9] 15 U.S.C. 78f(b)(4).

any TPHs to be assessed a greater fee than they currently are, and will allow some TPHs to pay lower fees by avoiding having to purchase an extra CAS Server. The Exchange believes that this change is equitable and not unfairly discriminatory because it will apply to all TPHs equally. The reason that a TPH that has more Trading Permits is provided more CAS Servers is to better distribute and manage bandwidth capacity (as each Trading Permit affords a TPH more bandwidth) in order to ensure better CAS Server performance.

The Exchange believes that the change to the calculation of the volume thresholds for the Liquidity Provider Sliding Scale is reasonable because the current calculation does not account for products traded solely on CBOE (except the Excluded Products), but it does include volume from multiply-listed options that may not be traded on CBOE. Because the Liquidity Provider Sliding Scale provides for transaction fees for transactions that occur on CBOE, the Exchange believes that it is reasonable and makes sense to include towards the volume thresholds transaction volume that occurs on CBOE (even if it is in products traded only on CBOE) and not include towards the volume thresholds transaction volume in products that may not be listed on CBOE. The Exchange believes that this change is equitable and not unfairly discriminatory because it will apply to all market participants who qualify for the Liquidity Provider Sliding Scale. The Exchange believes that it is equitable and not unfairly discriminatory to offer the Liquidity Provider Sliding Scale to Market-Makers only because Market-Makers take on obligations, such as quoting obligations, that other market participants do not have.

The Exchange believes that the proposed changes to clarify the Fees Schedule will serve to eliminate potential confusion regarding the fee programs described. This, in turn, will 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.

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. CBOE does not believe that the proposed rule change will impose any burden on intramarket competition that is not necessary or appropriate in furtherance of the purposes of the Act because the proposed changes apply to all CBOE market participants equally. To the extent that the Liquidity Provider Sliding Scale is offered only to Market-Makers, the Exchange believes that this does not impose a burden on intramarket competition that is not necessary or appropriate in furtherance of the purposes of the Act because Market-Makers take on obligations, such as quoting obligations, that other market participants do not have. CBOE does not believe that the proposed rule change will impose any burden on intermarket competition that is not necessary or appropriate in furtherance of the purposes of the Act because the proposed changes only apply to CBOE. Further, many of the proposed changes are being made not for competitive purposes, but in order to clarify the Fees Schedule. To the extent that the proposed changes may make CBOE a more attractive marketplace for market participants at other exchanges, such market participants may elect to become CBOE market participants.

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

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A) of the Act [10] and paragraph (f) of Rule 19b–4 [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.

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–2014–023 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–CBOE–2014–023. 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.shtmlv).* 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–2014–023 and should be submitted on or before April 21, 2014.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[12]

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2014–07054 Filed 3–28–14; 8:45 am]

BILLING CODE 8011–01–P

[10] 15 U.S.C. 78s(b)(3)(A).

[11] 17 CFR 240.19b–4(f).

[12] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–71799; File No. SR–CME–2014–09]

Self-Regulatory Organizations; Chicago Mercantile Exchange Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Regarding Acceptance of a New Series of Credit Default Swap Index Product

March 25, 2014.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Exchange Act'' or ''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on March 14, 2014, Chicago Mercantile Exchange Inc. (''CME'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule changes described in Items I and II below, which Items have been primarily prepared by CME. CME filed the proposal pursuant to Section 19(b)(3)(A)(iii) of the Act[3] and Rule 19b–4(f)(4)(ii)[4] thereunder so that the proposal was effective upon filing with the Commission. The Commission is publishing this notice to solicit comments on the proposed rule changes from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Changes

CME is filing proposed rule changes that are limited to its business as a derivatives clearing organization. More specifically, the proposed rule changes involve CME's acceptance of a new credit default swap index product series.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Changes

In its filing with the Commission, CME included statements concerning the purpose and basis for the proposed rule changes and discussed any comments it received on the proposed rule changes. The text of these statements may be examined at the places specified in Item IV below. CME has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Changes

CME is registered as a DCO with the Commodity Futures Trading Commission and offers clearing services for many different futures and swaps products, including certain credit default swap index products. Currently, CME offers clearing of the Markit CDX North American Investment Grade Index Series 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20 and 21. CME also offers clearing of the Markit CDX North American High Yield Index Series 11, 12, 13, 14, 15, 16, 17, 18, 19, 20 and 21.

The proposed rule changes would expand CME's Markit CDX North American Investment Grade (''CDX IG'') Index and Markit CDX North American High Yield (''CDX HY'') Index product offerings by incorporating the upcoming Series 22 for both sets of index products.

In addition to the changes to expand CME's CDX offering, CME also proposes to remove from the current list of accepted CDX indices certain products whose termination dates have passed. These products are set forth in the following table:

CDX Index	Series	Termination date (scheduled termination date)
CDX North American Investment Grade (CDX.NA.IG)	11	20 Dec 2013.
CDX North American Investment Grade (CDX.NA.IG)	15	20 Dec 2013.
CDX North American High Yield (CDX.NA.HY)	11	20 Dec 2013.

Although these changes will be effective on filing, CME plans to operationalize the proposed changes as follows: CDX IG 22 will become available for clearing on March 20, 2014; CDX HY 22 will become available for clearing on March 27, 2014; the product deletions will be effective immediately.

The changes that are described in this filing are limited to CME's business as a DCO clearing products under the exclusive jurisdiction of the CFTC and do not materially impact CME's security-based swap clearing business in any way. CME notes that it has also certified the proposed rule changes that are the subject of this filing to its primary regulator, the Commodity Futures Trading Commission (''CFTC''), in a separate filing, CME Submission 14–066.

CME believes the proposed rule changes are consistent with the requirements of the Exchange Act including Section 17A of the Exchange Act.[5] The proposed rule changes would expand CME's CDX IG and CDX HY product offerings by incorporating the upcoming Series 22 for both sets of index products and would therefore provide investors with an expanded range of derivatives products for clearing (and would also remove certain products whose termination dates have passed). As such, the proposed changes are designed to promote the prompt and accurate clearance and settlement of securities transactions and, to the extent applicable, derivatives agreements, contracts, and transactions, to assure the safeguarding of securities and funds which are in the custody or control of the clearing agency or for which it is responsible, and, in general, to protect investors and the public interest consistent with Section 17A(b)(3)(F) of the Exchange Act.[6]

Furthermore, the proposed changes are limited in their effect to swaps products offered under CME's authority to act as a DCO. These products are under the exclusive jurisdiction of the CFTC. As such, the proposed CME changes are limited to CME's activities as a DCO clearing swaps that are not security-based swaps; CME notes that the policies of the CFTC with respect to administering the Commodity Exchange Act are comparable to a number of the policies underlying the Exchange Act, such as promoting market transparency for over-the-counter derivatives markets, promoting the prompt and accurate clearance of transactions and protecting investors and the public interest.

Because the proposed changes are limited in their effect to swaps products

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 15 U.S.C. 78s(b)(3)(A)(iii).

[4] 17 CFR 240.19b–4(f)(4)(ii).

[5] 15 U.S.C. 78q–1.

[6] 15 U.S.C. 78q–1(b)(3)(F).

offered under CME's authority to act as a DCO, the proposed changes are properly classified as effecting a change in an existing service of CME that:

(a) primarily affects the clearing operations of CME with respect to products that are not securities, including futures that are not security futures, and swaps that are not security-based swaps or mixed swaps; and

(b) does not significantly affect any securities clearing operations of CME or any rights or obligations of CME with respect to securities clearing or persons using such securities-clearing service.

As such, the changes are therefore consistent with the requirements of Section 17A of the Exchange Act [7] and are properly filed under Section 19(b)(3)(A) [8] and Rule 19b–4(f)(4)(ii) [9] thereunder.

B. Self-Regulatory Organization's Statement on Burden on Competition

CME does not believe that the proposed rule changes will have any impact, or impose any burden, on competition. The rule changes simply facilitate the offering of two new series of credit default swap index products.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Changes Received From Members, Participants, or Others

CME has not solicited, and does not intend to solicit, comments regarding the proposed rule changes. CME has not received any unsolicited written comments from interested parties.

III. Date of Effectiveness of the Proposed Rule Changes and Timing for Commission Action

The foregoing rule changes has become effective pursuant to Section 19(b)(3)(A) [10] of the Act and Rule 19b–4(f)(4)(ii) [11] thereunder. At any time within 60 days of the filing of the proposed rule changes, the Commission summarily may temporarily suspend such rule changes if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule changes are consistent with the Act.

[7] 15 U.S.C. 78q–1.

[8] 15 U.S.C. 78s(b)(3)(A).

[9] 17 CFR 240.19b–4(f)(4)(ii).

[10] 15 U.S.C. 78s(b)(3)(A).

[11] 17 CFR 240.19b–4(f)(4)(ii).

Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*), or
- Send an email to *rule-comments@sec.gov.* Please include File No. SR–CME–2014–09 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–CME–2014–09. 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 changes 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 also will be available for inspection and copying at the principal office of CME and on CME's Web site at *http://www.cmegroup.com/market-regulation/rule-filings.html.*

All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly.

All submissions should refer to File Number SR–CME–2014–09 and should be submitted on or before April 21, 2014.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[12]

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2014–07042 Filed 3–28–14; 8:45 am]

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[12] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–71797; File No. SR–NSX–2014–07]

Self-Regulatory Organizations; National Stock Exchange, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Extend a Pilot Program Related to Rule 11.19, Titled ''Clearly Erroneous Executions''

March 25, 2014.

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 March 24, 2014, National Stock Exchange, Inc. (''NSX'' or the ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change, as described in Items I and II below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of the Substance of the Proposed Rule Change

The Exchange is proposing to amend Rule 11.19, titled ''Clearly Erroneous Executions'' in order to extend the operation of a pilot program under which certain portions of the Rule are currently operating.

The Exchange has designated this proposal as non-controversial and provided the Commission with the notice required by Rule 19b–4(f)(6)(iii) under the Act.[3]

The text of the proposed rule change is available on the Exchange's Web site at *http://www.nsx.com,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant parts of such statements.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 17 CFR 240.19b–4(f)(6)(iii).

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The purpose of this filing is to extend the effectiveness of the Exchange's current rule applicable to Clearly Erroneous Executions. Portions of Rule 11.19, explained in further detail below, are currently operating as a pilot program set to expire on April 8, 2014.[4] The Exchange proposes to extend the pilot program to coincide with the pilot period for the Plan to Address Extraordinary Market Volatility Pursuant to Rule 608 of Regulation NMS under the Act (the ''Limit Up-Limit Down Plan'' or the ''Plan''), including any extensions to the pilot period for the Plan.[5]

On September 10, 2010, the Commission approved, on a pilot basis, changes to NSX Rule 11.19 to provide for uniform treatment: (1) Of clearly erroneous execution reviews in multi-stock events involving twenty or more securities; and (2) in the event transactions occur that result in the issuance of an individual stock trading pause by the primary listing market and subsequent transactions that occur before the trading pause is in effect on the Exchange.[6] The Exchange also adopted additional changes to Rule 11.19 that reduced the ability of the Exchange to deviate from the objective standards set forth in Rule 11.19,[7] and in 2013, adopted a provision designed to address the operation of the Plan.[8]

The Exchange believes the benefits to market participants from the more objective clearly erroneous executions rule should continue on a pilot basis to coincide with the operation of the Limit Up-Limit Down Plan. The Exchange believes that continuing the pilot will protect against any unanticipated consequences. Thus, the Exchange believes that the protections of the Clearly Erroneous Rule should continue while the industry gains further experience operating the Plan.

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] In particular, the proposal is consistent with Section 6(b)(5) of the Act,[10] because it would 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. Although the Limit Up-Limit Down Plan is operational, the Exchange believes that maintaining the pilot will help to protect against unanticipated consequences. Thus, the Exchange believes that the protections of the Clearly Erroneous Rule should continue while the industry gains further experience operating the Plan. The Exchange also believes that the pilot program promotes just and equitable principles of trade in that it promotes transparency and uniformity across markets concerning review of transactions as clearly erroneous. Thus, the Exchange believes that the extension of the pilot would help assure that the determination of whether a clearly erroneous trade has occurred will be based on clear and objective criteria, and that the resolution of the incident will occur promptly through a transparent process. The proposed rule change would also help assure consistent results in handling erroneous trades across the U.S. markets, thus furthering fair and orderly markets, the protection of investors and the public interest. Based on the foregoing, the Exchange believes the benefits to market participants from the more objective clearly erroneous executions rule should continue on a pilot basis to coincide with the operation of the Limit Up-Limit Down Plan.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change implicates any competitive issues. To the contrary, the Exchange believes that the Financial Industry Regulatory Authority (''FINRA'') and other national securities exchanges are also filing similar proposals, and thus, that the proposal will help to ensure consistency across market centers.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

The Exchange has not solicited, and does not intend to solicit, comments on this proposed rule change. The Exchange has not received any written comments from Equity Trading Permit Holders or other interested parties.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the proposed rule change does not (i) significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate 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 [11] and Rule 19b–4(f)(6)(iii) thereunder.[12]

The Exchange has asked the Commission to waive the 30-day operative delay so that the proposal may become operative immediately upon filing. The Commission believes that waiving the 30-day operative delay is consistent with the protection of investors and the public interest, as it will allow the clearly erroneous pilot program to continue uninterrupted while the industry gains further experience operating under the Limit Up-Limit Down Plan, and avoid any investor confusion that could result from a temporary interruption in the pilot program. For this reason, the Commission designates the proposed rule change to be operative upon filing.[13]

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.

[4] *See* Securities Exchange Act Release No. 70589 (Oct. 1, 2013), 78 FR 62782 (Oct. 22, 2013) (SR–NSX–2013–19).

[5] *See* Securities Exchange Act Release No. 67091 (May 31, 2012), 77 FR 33498 (June 6, 2012) (the ''Limit Up-Limit Down Release'').

[6] Securities Exchange Act Release No. 62886 (Sept. 10, 2010), 75 FR 56613 (Sept. 16, 2010) (SR–NSX–2010–07).

[7] *Id.*

[8] *See* Securities Exchange Act Release No. 68803 (Feb 1, 2013), 78 FR 9078 (Feb. 7, 2013) (SR–NSX–2013–06); *see also* NSX Rule 11.19(j).

[9] 15 U.S.C. 78f(b).

[10] 15 U.S.C. 78f(b)(5).

[11] 15 U.S.C. 78s(b)(3)(A).

[12] 17 CFR 240.19b–4(f)(6)(iii). 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.

[13] 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).

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–NSX–2014–07 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–NSX–2014–07. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549 on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of such filing also will be available for inspection and copying at the principal 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–NSX–2014–07, and should be submitted on or before April 21, 2014.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[14]

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2014–07040 Filed 3–28–14; 8:45 am]

BILLING CODE 8011–01–P

[14] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[File No. 500–1]

In the Matter of Hendrx Corp., Plastinum Polymer Technologies Corp., Vertical Branding, Inc., WHY USA Financial Group, Inc., and XNE, Inc.; Order of Suspension of Trading

March 27, 2014.

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Hendrx Corp. because it has not filed any periodic reports since the period ended September 30, 2008.

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Plastinum Polymer Technologies Corp. because it has not filed any periodic reports since the period ended September 30, 2010.

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Vertical Branding, Inc. because it has not filed any periodic reports since the period ended September 30, 2008.

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of WHY USA Financial Group, Inc. because it has not filed any periodic reports since the period ended June 30, 2009.

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of XNE, Inc. because it has not filed any periodic reports since the period ended September 30, 2008.

The Commission is of the opinion that the public interest and the protection of investors require a suspension of trading in the securities of the above-listed companies.

Therefore, it is ordered, pursuant to Section 12(k) of the Securities Exchange Act of 1934, that trading in the securities of the above-listed companies is suspended for the period from 9:30 a.m. EDT on March 27, 2014, through 11:59 p.m. EDT on April 9, 2014.

By the Commission.

Jill M. Peterson,

Assistant Secretary.

[FR Doc. 2014–07229 Filed 3–27–14; 4:15 pm]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[File No. 500–1]

In the Matter of Citadel EFT, Inc.; Order of Suspension of Trading

March 21, 2014.

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Citadel EFT, Inc. (''Citadel'') because of questions regarding the accuracy of assertions by Citadel in public statements regarding the company's business operations and assets. In particular, there are questions regarding the accuracy, completeness, and validity of Citadel's several recent press releases, Form 8-Ks, and other public statements since January 2014 relating to transactions involving standby letters of credit (''SBLC's''), *see Prime Bank Instrument Fraud,* TreasuryDirect.gov (U.S. Department of the Treasury), *http://www.treasurydirect.gov/instit/statreg/fraud/fraud_primebank.htm* (last visited Mar. 20, 2014) and Brazilian Letras Tesouro Nacional (''LTN's''), *see Frauds Related to Public Bonds,* Tesouro Nacional (Brazil), *https://www.tesouro.fazenda.gov.br/en/about-the-federal-public-debt/frauds-related-to-public-bonds* (last visited Mar. 20, 2014). Citadel is a Wyoming corporation based in Oceanside, California. It is quoted on OTC Link under the symbol CDFT.

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. EDT on March 21, 2014 through 11:59 p.m. EDT, on April 3, 2014.

By the Commission.

Jill M. Peterson,

Assistant Secretary.

[FR Doc. 2014–07230 Filed 3–27–14; 4:15 pm]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[File No. 500–1]

In the Matter of Advanced Cannabis Solutions, Inc.; Order of Suspension of Trading

March 27, 2014.

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Advanced Cannabis Solutions, Inc. (''Advanced Cannabis''), a Colorado corporation headquartered in Colorado Springs, Colorado. Advanced Cannabis is dually-quoted under the stock symbol ''CANN'' on the Over-the-Counter Bulletin Board (''OTC BB'') and OTC Link. There are questions regarding whether certain undisclosed affiliates and shareholders of Advanced Cannabis common stock engaged in an unlawful distribution of securities through the OTC BB and OTC Link.

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 from the period 9:30 a.m. EDT, March 27, 2014, through 11:59 p.m. EDT, on April 9, 2014.

By the Commission.

Jill M. Peterson,

Assistant Secretary.

[FR Doc. 2014–07226 Filed 3–27–14; 4:15 pm]

BILLING CODE 8011–01–P

SMALL BUSINESS ADMINISTRATION

Notice; Interest Rates

The Small Business Administration publishes an interest rate called the optional ''peg'' rate (13 CFR 120.214) on a quarterly basis. This rate is a weighted average cost of money to the government for maturities similar to the average SBA direct loan. This rate may be used as a base rate for guaranteed fluctuating interest rate SBA loans. This rate will be 3.375 (3⅜) percent for the April–June quarter of FY 2014.

Pursuant to 13 CFR 120.921(b), the maximum legal interest rate for any third party lender's commercial loan which funds any portion of the cost of a 504 project (see 13 CFR 120.801) shall be 6% over the New York Prime rate or, if that exceeds the maximum interest rate permitted by the constitution or laws of a given State, the maximum interest rate will be the rate permitted by the constitution or laws of the given State.

Linda S. Rusche,

Director, Office of Financial Assistance.

[FR Doc. 2014–07026 Filed 3–28–14; 8:45 am]

BILLING CODE P

DEPARTMENT OF STATE

[Public Notice 8677]

60-Day Notice of Proposed Information Collection: Statement of Non-Receipt of a U.S. Passport

AGENCY: Department of State.

ACTION: Notice of request for public comment.

SUMMARY: The Department of State is seeking Office of Management and Budget (OMB) for 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 the public comment preceding submission of the collection to OMB.

DATES: The Department will accept comments from the public up to May 30, 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 ####'' in the Search bar. If necessary, use the Narrow by Agency filter option on the Results page.
- *Email: PPTFormsOfficer@state.gov.*
- *Mail:* U.S. Department of State, Bureau of Consular Affairs, Passport Services, Office of Program Management and Operational Support, 2201 C Street NW., Washington, DC 20520.
- *Fax:* (202) 485–6496 (include a cover sheet addressed to ''PPT Forms Officer'' referencing the DS form number, information collection title, and OMB control number).
- *Hand Delivery or Courier:* PPT Forms Officer, U.S. Department of State, Bureau of Consular Affairs, Passport Services, Office of Program Management and Operational Support, 2201 C Street NW., Washington, DC 20520.

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 U.S. Department of State, Bureau of Consular Affairs, Passport Services, Office of Program Management and Operational Support, 2201 C Street NW., Washington, DC 20520, who may be reached on (202) 485–6373 or at *PPTFormsOfficer@state.gov.*

SUPPLEMENTARY INFORMATION:

- *Title of Information Collection:* Statement of Non-Receipt of a U.S. Passport.
- *OMB Control Number:* 1405–0146.
- *Type of Request:* Revision of a Currently Approved Collection.
- *Originating Office:* Bureau of Consular Affairs, Passport Services, Office of Program Management and Operational Support, Program Coordination Division CA/PPT/S/PMO/PC.
- *Form Number:* DS–86.
- *Respondents:* Individuals who have not received the passport for which they originally applied.
- *Estimated Number of Respondents:* 15,005 per year.
- *Estimated Number of Responses:* 15,005 per year.
- *Average Hours per Response:* 15 minutes.
- *Total Estimated Burden:* 3,751 hours.
- *Frequency:* On Occasion.
- *Obligation to Respond:* Required to Obtain 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.

FOR FURTHER INFORMATION CONTACT: You may obtain copies of the proposed information collection and supporting documents from Passport Services, Passport Forms Management and Officer, U.S. Department of State, Office of Program Management and Operational Support, 2201 C Street NW., Washington, DC 20520, who may

be reached on (202) 485–6373 or at *PPTFormsOfficer@state.gov.*

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

The Statement of Non-Receipt of a U.S. Passport, Form DS–0086 is used by the U.S. Department of State to collect information for the purpose of issuing a replacement passport to customers who have not received the passport for which they originally applied.

Methodology

Passport applicants who do not receive their passports are required to complete a Statement of Non-Receipt of a Passport, Form DS–86. Passport applicants may either download the form from the *www.Travel.State.gov* or obtain a copy from an Acceptance Facility/Passport Agency. The form must be completed, signed, and then submitted to the Acceptance Facility/Passport Agency for passport re-issuance.

Dated: March 18, 2014.

Brenda S. Sprague,

Deputy Assistant Secretary for Passport Services, Bureau of Consular Affairs, Department of State.

[FR Doc. 2014–07139 Filed 3–28–14; 8:45 am]

BILLING CODE 4710–06–P

DEPARTMENT OF TRANSPORTATION

Public Availability of the Department of Transportation Fiscal Year (FY) 2013 Service Contract Inventory

AGENCY: Department of Transportation.

ACTION: Notice of Public Availability of FY 2013 Service Contract Inventories.

SUMMARY: In accordance with Section 743 of Division C of the Consolidated Appropriations Act of 2010, Public Law 111–117, Department of Transportation is publishing this notice to advise the public of the availability of the FY 2013 Service Contract Inventory and the FY12 Service Contract Inventory Analysis Report. This inventory provides information on service contract actions over $25,000 awarded in FY 2013. The information is organized by function to show how contracted resources are distributed throughout the agency. The inventory has been developed in accordance with guidance issued on November 5, 2010 by the Office of Management and Budget's Office of Federal Procurement Policy (OFPP). OFPP's guidance is available at *http://www.whitehouse.gov/sites/default/files/omb/procurement/memo/service-contract-inventories-guidance-11052010.pdf*. Department of Transportation has posted its inventory and a summary of the FY13 inventory and the FY12 Service Contract Inventory Analysis Report on the Department of Transportation's homepage at the following link: *http://www.dot.gov/assistant-secretary-administration/procurement/service-contract-inventory*. Questions regarding the service contract inventory should be directed to Diane Morrison in the Office of the Senior Procurement Executive at 202–366–4960 or *diane.morrison@dot.gov*.

Dated: January 29, 2014.

Gregory Cate,

Deputy Director, Office of Senior Procurement Executive.

[FR Doc. 2014–07078 Filed 3–28–14; 8:45 am]

BILLING CODE P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Notice of Request To Release Airport Property

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of Intent to Rule on Request to Release Airport Property at the Sullivan Regional Airport (UUV), Sullivan, Missouri.

SUMMARY: The FAA proposes to rule and invites public comment on the release of land at the Sullivan Regional Airport, Sullivan, Missouri, under the provisions of 49 U.S.C. 47107(h)(2).

DATES: Comments must be received on or before April 30, 2014.

ADDRESSES: Comments on this application may be mailed or delivered to the FAA at the following address: Lynn D. Martin, Airports Compliance Specialist, Federal Aviation Administration, Airports Division, ACE–610C, 901 Locust Room 364, Kansas City, MO 64106.

In addition, one copy of any comments submitted to the FAA must be mailed or delivered to: J.T. Hardy, City Administrator, City of Sullivan, 210 W. Washington, Sullivan, MO 63080, 573–468–4612.

FOR FURTHER INFORMATION CONTACT: Lynn D. Martin, Airports Compliance Specialist, Federal Aviation Administration, Airports Division, ACE–610C, 901 Locust Room 364, Kansas City, MO 64106, (816) 329–2644, *lynn.martin@faa.gov.* The request to release property may be reviewed, by appointment, in person at this same location.

SUPPLEMENTARY INFORMATION: The FAA invites public comment on the request to release approximately 20.7 acres of airport property, at the Sullivan Regional Airport (UUV) under the provisions of 49 U.S.C. 47107(h)(2). On December 26, 2013, the City Administrator of the City of Sullivan, MO requested from the FAA that approximately 20.7 acres of property, be released for sale to Aerofil Technology, Inc. for use as a light packaging, warehousing and distributing operation. On March 14, 2014, the FAA determined that the request to release property at the Sullivan Regional Airport (UUV) submitted by the Sponsor meets the procedural requirements of the Federal Aviation Administration and the release of the property does not and will not impact future aviation needs at the airport. The FAA may approve the request, in whole or in part, no sooner than thirty days after the publication of this Notice.

The following is a brief overview of the request:

Sullivan Regional Airport (UUV) is proposing the release of one parcel, containing 20.7 acres. The release of land is necessary to comply with Federal Aviation Administration Grant Assurances that do not allow federally acquired airport property to be used for non-aviation purposes. The sale of the subject property will result in the land at the Sullivan Regional Airport (UUV) being changed from aeronautical to non-aeronautical use and release the lands from the conditions of the Airport Improvement Program Grant Agreement Grant Assurances. In accordance with 49 U.S.C. 47107(c)(2)(B)(i) and (iii), the airport will receive fair market value for the property, which will be subsequently reinvested in another eligible airport improvement project for general aviation facilities at the Sullivan Regional Airport.

Any person may inspect, by appointment, the request in person at the FAA office listed above under **FOR FURTHER INFORMATION CONTACT**. In addition, any person may, upon appointment and request, inspect the application, notice and other documents determined by the FAA to be related to the application in person at the Sullivan Regional Airport.

Issued in Kansas City, MO, on March 21, 2014.

Edward A. Hyatt,

Acting Manager Airports Division.

[FR Doc. 2014–07113 Filed 3–28–14; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

Federal Transit Administration

[FHWA ZRIN–2125–ZA04; FTA ZRIN–2132–ZA01]

MAP–21 Section 1306 Financial Penalties Guidance

AGENCY: Federal Highway Administration (FHWA), Federal Transit Administration (FTA), Department of Transportation (DOT).

ACTION: Notice of availability.

SUMMARY: The Federal Highway Administration (FHWA) and the Federal Transit Administration (FTA) are issuing joint guidance on the implementation of the financial penalty provisions contained in Section 1306 of the Moving Ahead for Progress in the 21st Century Act (MAP–21). The financial penalty provisions require Federal agencies of jurisdiction (Reviewing Agency) to render a decision on a permit, license, or other approval related to a transportation project within 180 days from the later of the date FHWA or FTA issue a Record of Decision or Finding of No Significant Impacts for a project, or the date on which an application for a permit, license, or approval for the project is complete. If the Reviewing Agency does not render a decision by the 180-day deadline, it is subject to a rescission of funds of $10,000 or $20,000 per week until the Reviewing Agency renders a decision. The FHWA and FTA have the authority to grant ''no-fault'' certifications if the Reviewing Agency's failure to decide was due to circumstances beyond its control. You may review the guidance by visiting FHWA's Web site at *http://www.fhwa.dot.gov/map21,* or FTA's Web site at *http://www/fta.dot.gov/map21.*

DATES: This Guidance is effective on March 31, 2014.

FOR FURTHER INFORMATION CONTACT: For FHWA: Bruce Bender, Office of Project Delivery and Environmental Review, (202) 366–2851, or Jomar Maldonado, Office of the Chief Counsel, (202) 366–1373, Federal Highway Administration, 1200 New Jersey Ave. SE., Washington, DC 20590–0001. For FTA: Elizabeth Patel, Office of Planning and Environment, (202) 366–0244, or Dana Nifosi, Office of Chief Counsel, (202) 366–4011, Federal Transit Administration, 1200 New Jersey Ave. SE., Washington, DC 20590–0001. Office hours are from 8:00 a.m. to 4:30 p.m. e.t., Monday through Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION: Section 1306 of MAP–21 (Pub. L. 112–141, 126 Stat. 535) codified in 23 U.S.C. 139 that ''[a] Federal agency of jurisdiction over an approval required for a project under applicable laws shall complete any required approval on an expeditious basis using the shortest existing applicable process.'' 23 U.S.C. 139(h)(6)(A). If a Reviewing Agency fails to decide within a specific timeframe, an amount shall be rescinded from the applicable office of the head of the agency not later than 1 day after the applicable date and once each week thereafter until a final decision is rendered. The rescission amount is equal to $20,000 per week if the project will be funded under Title 23, U.S. Code, and is estimated to cost more than $100 million, or $10,000 per week for any other projects requiring an environmental assessment or environmental impact statement under FHWA's or FTA's procedures implementing the National Environmental Policy Act of 1969 (NEPA). The applicable date is described as the later of (I) the date that is 180 days after the date on which an application for the permit, license, or approval is complete; and (II) the date that is 180 days after the date on which the Federal lead agency issues a decision on the project under NEPA. 23 U.S.C. 139(h)(6)(B)(ii).

The FHWA and FTA developed this guidance in coordination with the Reviewing Agencies that are most likely to be affected by this provision; however, it is not intended to guide their implementation specifically. The guidance provides a framework for FHWA and FTA personnel to make ''no-fault'' certifications and serves as a consensus document to help inform agency-specific implementation by the Reviewing Agencies. The guidance is available online at *www.fhwa.dot.gov/map21,* and *www.fta.dot.gov/map21.*

Authority: Sec. 1306, Pub. L. 112–141, 126 Stat. 535 (2012).

Issued on: March 25, 2014.

Gregory G. Nadeau,

Deputy Administrator, Federal Highway Administration.

Therese McMillan,

Deputy Administrator, Federal Transit Administration.

[FR Doc. 2014–07052 Filed 3–28–14; 8:45 am]

BILLING CODE 4910–22–P

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

Sunshine Act Meetings

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 April 10, 2014, from 12:00 Noon to 3:00 p.m., Eastern Daylight Time.

PLACE: This meeting will be open to the public via conference call. Any interested person may call 1–877–422–1931, 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: March 18, 2014.

Larry W. Minor,

Associate Administrator, Office of Policy, Federal Motor Carrier Safety Administration.

[FR Doc. 2014–07218 Filed 3–27–14; 4:15 pm]

BILLING CODE 4910–EX–P

DEPARTMENT OF TRANSPORTATION

Federal Transit Administration

Limitation on Claims Against a Proposed Public Transportation Project

AGENCY: Federal Transit Administration (FTA), DOT.

ACTION: Notice.

SUMMARY: This notice announces final environmental actions taken by the Federal Transit Administration (FTA) for a project in Montgomery County and

Prince George's County, MD. The purpose of this notice is to announce publicly the environmental decisions by FTA on the subject project and to activate the limitation on any claims that may challenge these final environmental actions.

DATES: By this notice, FTA is advising the public of final agency actions subject to Section 139(l) of Title 23, United States Code (U.S.C.). A claim seeking judicial review of FTA actions announced herein for the listed public transportation project will be barred unless the claim is filed on or before August 28, 2014.

FOR FURTHER INFORMATION CONTACT: Nancy-Ellen Zusman, Assistant Chief Counsel, Office of Chief Counsel, (312) 353–2577 or Terence Plaskon, Environmental Protection Specialist, Office of Human and Natural Environment, (202) 366–0442. FTA is located at 1200 New Jersey Avenue SE., Washington, DC 20590. Office hours are from 9:00 a.m. to 5:30 p.m., Monday through Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION: Notice is hereby given that FTA has taken final agency actions by issuing certain approvals for the public transportation project listed below. The actions on the project, as well as the laws under which such actions were taken, are described in the documentation issued in connection with the project to comply with the National Environmental Policy Act (NEPA) and in other documents in the FTA administrative record for the project. Interested parties may contact either the project sponsor or the relevant FTA Regional Office for more information on the project. Contact information for FTA's Regional Offices may be found at *http://www.fta.dot.gov.*

This notice applies to all FTA decisions on the listed project as of the issuance date of this notice and all laws under which such actions were taken, including, but not limited to, NEPA [42 U.S.C. 4321–4375], Section 4(f) of the Department of Transportation Act of 1966 [49 U.S.C. 303], Section 106 of the National Historic Preservation Act [16 U.S.C. 470f], and the Clean Air Act [42 U.S.C. 7401–7671q]. This notice does not, however, alter or extend the limitation period for challenges of project decisions subject to previous notices published in the **Federal Register**. The project and actions that are the subject of this notice are:

Project name and location: Purple Line Project, Montgomery County and Prince George's County, MD. *Project sponsor:* Maryland Transit Administration (MTA). *Project description:* The proposed project is a 16.2-mile east-west light rail transit (LRT) line between the Bethesda Washington Metropolitan Area Transit Authority (WMATA) Metro Station in Montgomery County and the New Carrollton WMATA Metro Station in Prince George's County, Maryland. The LRT line will be at-grade except for one short tunnel section and three sections elevated on structures. It will operate mainly in dedicated or exclusive lanes. System elements also include 21 stations, two storage and maintenance facilities, 20 traction power substations, 14 signal bungalows, and other ancillary facilities. *Final agency actions:* Section 4(f) *de minimis* impact determination; a Section 106 Programmatic Agreement, dated March 14, 2014; project-level air quality conformity; and Record of Decision (ROD), dated March 19, 2014. *Supporting documentation:* Final Environmental Impact Statement, dated August 2013.

Issued on: March 25, 2014.

Lucy Garliauskas,

Associate Administrator Planning and Environment.

[FR Doc. 2014–07079 Filed 3–28–14; 8:45 am]

BILLING CODE 4910–57–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

Reports, Forms and Record Keeping Requirements; Agency Information Collection Activity Under OMB Review

AGENCY: National Highway Traffic Safety Administration, DOT.

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), this notice announces that the Information Collection Request (ICR) abstracted below has been forwarded to the Office of Management and Budget (OMB) for review and comment. The ICR describes the nature of the information collections and their expected burden. The **Federal Register** Notice with a 60-day comment period was published on December 3, 2013 (78 FR 72750).

DATES: Comments must be submitted on or before April 30, 2014.

FOR FURTHER INFORMATION CONTACT: Coleman Sachs, Office of Vehicle Safety Compliance (NVS–223), National Highway Traffic Safety Administration, West Building, 4th Floor, Room W43–481, 1200 New Jersey Avenue SE., Washington, DC 20590.

SUPPLEMENTARY INFORMATION:

National Highway Traffic Safety Administration.

Title: 49 CFR part 566 *Manufacturer Identification.*

OMB Number: 2127–0043.

Type of Request: Extension of a Currently Approved Collection.

Abstract: The National Highway Traffic Safety Administration (NHTSA) has requested OMB to extend that agency's approval of the information collection that is incident to NHTSA's administration of the regulations at 49 CFR part 566 *Manufacturer identification.* Those regulations require manufacturers of motor vehicle or motor vehicle equipment, other than tires, to which a Federal motor vehicle safety standard (FMVSS) applies, to submit to NHTSA, on a one-time basis, identifying information on themselves and a description of the products that they manufacture to those standards. The information that must be submitted includes: (a) The full individual, partnership, or corporate name of the manufacturer; (b) the residence address of the manufacturer and State of incorporation, if applicable; and (c) a description of each type of motor vehicle or of covered equipment manufactured by the manufacturer, including, for motor vehicles, the approximate ranges of gross vehicle weight ratings (GVWR) for each type. The information must be submitted no later than 30 days after the manufacturer begins to manufacture motor vehicles or motor vehicle equipment subject to the FMVSS. No specific form need be used for the submission of this information. A suggested form that can be used to submit the required information is included on pages 35 and 36 of a handbook entitled *Requirements for Manufacturers of Motor Vehicles and Motor Vehicle Equipment* that can be accessed on the agency's Web site at *www.nhtsa.gov/cars/rules/maninfo.* Manufacturers who have previously submitted identifying information must ensure that the information on file is accurate and complete by submitting revised information no later than 30 days after a change in the business that affects the validity of that information has occurred.

This information collection is necessary to ensure that manufacturers of motor vehicles and motor vehicle equipment subject to the Federal motor vehicle safety standards identify themselves and their products to NHTSA so that NHTSA may contact them in the event that one of their products is suspected or found to contain a defect related to motor vehicle safety or fails to comply with an

applicable FMVSS. Manufacturers of defective or noncompliant motor vehicles or replacement motor vehicle equipment are required under 49 U.S.C. 30118 to furnish notification of the defect or noncompliance to the Secretary of Transportation, and as well as to owners, purchasers, and dealers of the motor vehicle or replacement equipment, and to remedy the defect or noncompliance without charge to the owner.

Affected Public: New manufacturers of of motor vehicles and motor vehicle equipment, other than tires, subject to the Federal motor vehicle safety standards.

Estimated Total Annual Burden: 133 hours; $3,990.

ADDRESSES: Send comments, within 30 days, to the Office of Information and Regulatory Affairs, Office of Management and Budget, 725–17th Street NW., Washington, DC 20503, Attention NHTSA Desk Officer.

Comments are invited on: Whether the proposed collection of information is necessary for the proper performance of the functions of the Department, including whether the information will have practical utility; the accuracy of the Department's estimate of the burden of the proposed information collection; 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, including the use of automated collection techniques or other forms of information technology.

A Comment to OMB is most effective if OMB receives it within 30 days of publication.

Jeffrey Giuseppe,

Acting Director, Office of Vehicle Safety, Compliance.

[FR Doc. 2014–07081 Filed 3–28–14; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket No. NHTSA–2013–0038; Notice 2]

RECARO Child Safety, LLC, Denial of Petition for Decision of Inconsequential Noncompliance

AGENCY: National Highway Traffic Safety Administration (NHTSA), Department of Transportation (DOT).

ACTION: Denial of petition.

SUMMARY: This document denies RECARO Child Safety, LLC's (RECARO) [1] petition for an exemption from the notification and remedy requirements of 49 U.S.C. Chapter 301 on the basis that a noncompliance with Federal Motor Vehicle Safety Standard (FMVSS) No. 213, *Child Restraint Systems,* is inconsequential to motor vehicle safety. NHTSA has decided that RECARO has not met its burden of persuasion that the FMVSS No. 213 noncompliance is inconsequential to motor vehicle safety. Accordingly, RECARO must notify owners, purchasers, and dealers pursuant to 49 U.S.C. 30118 and provide a remedy in accordance with 49 U.S.C. 30120.

ADDRESSES: To view the petition and all supporting documents, log onto the Federal Docket Management System (FDMS) Web site at: *http://www.regulations.gov/.* Then follow the online search instructions to locate docket number ''NHTSA–2013–0038.''

Contact Information: For further information on this decision contact Mr. Zack Fraser, Office of Vehicle Safety Compliance, the National Highway Traffic Safety Administration (NHTSA), telephone (202) 366–5754, facsimile (202) 366–7002.

SUPPLEMENTARY INFORMATION: RECARO determined that certain RECARO brand ProSport child restraint systems produced between June 16, 2010 and January 31, 2013 do not fully comply with Federal Motor Vehicle Safety Standard (FMVSS) No. 213, *Child Restraint Systems.* RECARO filed a report with NHTSA dated February 6, 2013, pursuant to 49 CFR part 573, *Defect and Noncompliance Responsibility and Reports.*

Pursuant to 49 U.S.C. 30118(d) and 30120(h) (see implementing rule at 49 CFR part 556), RECARO submitted a petition for an exemption from the notification and remedy requirements of 49 U.S.C. Chapter 301 on the basis that this noncompliance is inconsequential to motor vehicle safety.

NHTSA published a notice of receipt of the petition, with a 30-day public comment period, on June 3, 2013, in the **Federal Register** (78 FR 33150). NHTSA did not receive any comments in response to the petition.

Equipment Involved: Affected are approximately 39,181 RECARO brand ProSport child restraint systems produced between June 16, 2010, and January 31, 2013.

Rule Text: Paragraph S5.3.1(a)(1) of FMVSS No. 213 lays out head excursion requirements for child restraint systems. This paragraph states, in relevant part:

S5.1.3.1 *Child restraint systems other than rear-facing ones and car beds.*

Each child restraint system, other than a rear-facing child restraint system or a car bed, shall retain the test dummy's torso within the system.

(a) For each add-on child restraint system:

(1) No portion of the test dummy's head shall pass through a vertical transverse plane that is 720 mm or 813 mm (as specified in the table in this S5.1.3.1) forward of point Z on the standard seat assembly, measured along the center SORL (as illustrated in figure 1B of this standard) . . .

Paragraph S5.3.2 of FMVSS No. 213 identifies the various installation configurations (i.e. with a lap belt only, with a lap belt and upper torso restraint, etc.) that must be tested for each type of child restraint system. This paragraph states, in relevant part:

S5.3.2 Each add-on child restraint system shall be capable of meeting the requirements of this standard when installed solely by each of the means indicated in the following table for the particular type of child restraint system.

This is followed by Table S5.3.2 which lists the different child restraint systems (''Harness . . .,'' ''Other harnesses,'' ''Car beds,'' ''Rear-facing restraints,'' ''Belt-positioning seats,'' and ''All other child restraints''). For each type of child restraint system, the table identifies various means of installation (''Type 1 seat belt assembly,'' ''Type 1 seat belt assembly plus a tether anchorage, if needed,'' ''Child restraint anchorage system,'' ''Type II seat belt assembly,'' and ''Seat back mount''). The ProSport, which is a forward facing only child restraint system, falls under the category of ''All other child restraints'' in table S5.3.2 of FMVSS No. 213. According to Paragraph S5.3.2 of FMVSS No. 213, the ProSport must meet FMVSS No. 213's requirements when installed with a ''Type 1 seat belt assembly'' or a lap belt only, among other things. *See* 49 CFR § 571.209 S.3, Seat Belt Assemblies (A ''[t]ype 1 seat belt assembly is a lap belt for pelvic restraint'').

The test procedure for restraint systems installed with a lap belt only is set forth in Paragraph S6.1.2(a)(1)(i)(D) of FMVSS No. 213, which states, in relevant part:

S6.1.2 *Dynamic Test Procedure.*

(a) Activate the built-in child restraint or attach the add-on child restraint to the seat assembly as described below:

1. *Test Configuration I.*

i. *Child restraints other than belt-positioning seats.* Attach the child restraint in any of the following manners specified in S6.1.2(a)(1)(i)(A) through (D), unless otherwise specified in this standard.

* * * * *

[1] RECARO Child Safety, LLC is a manufacturer of motor vehicle equipment and is registered under the laws of the state of Michigan.

(D) Install the child restraint system using only the lower anchorages of the child restraint system as in S6.1.2(a)(1)(i)(C). No tether strap (or any other supplemental device) is used.

The other test configurations (described in Paragraph S6.1.2(a)(1)(i)(A)–(C)) do not correspond to the lap belt only test.

Summary of RECARO's Position: RECARO explains that its ProSport child restraint system does not comply with the head excursion requirements of FMVSS 213 S5.1.3.1(a)(1) when subjected to the dynamic test requirements of S6.1.2(a)(1)(i)(D) of FMVSS No. 213, using a six year old test dummy secured to the test bench by lower anchors and no tether. RECARO believes that this noncompliance is inconsequential to motor vehicle safety, and requests an exemption from the notification requirements of 49 U.S.C. 30118 and the remedy requirements of 49 U.S.C. 30120.

In support of its petition for exemption, RECARO submits the following comments and data:

1. The dynamic test requirements of FMVSS No. 213 S6.1.2(a)(1)(i)(D) require using a six year old test dummy secured to the test bench using lower anchors and no tether. This test procedure is a direct violation of the instructions and warnings in the instruction manual included with each ProSport child restraint system and would constitute a major misuse of the child restraint by the consumer. (RECARO provided the entire manual as part of its petition.)

2. RECARO has received over 9,000 registration cards returned by purchasers of the ProSport. Using the online survey system Survey Monkey, RECARO instituted a survey of 3,690 registered owners by emailing each purchaser the following survey questions:

a. Are you currently using your ProSport child restraint?

b. How is (was) your ProSport installed in the vehicle?

i. Vehicle lap/shoulder belt

ii. Lower anchors provided with child restraint (LATCH)

c. Did you use the top tether included on the ProSport to install the child restraint into the vehicle?

RECARO noted that 929 registered owners responded to the survey by confirming that they installed the child restraint with lower LATCH anchors. Of those responding, 837 or 90.1% confirmed that the top tether was being used to install their ProSport when installing the child restraint with lower LATCH anchors. (RECARO included a copy of the survey details and results as part of its petition.) RECARO stated its belief that the survey is a statistically significant confirmation that a very small percentage of ProSport consumers are misusing the child restraint by not using the top tether when installing the child restraint with lower LATCH anchors and that the effectiveness of any noncompliance notification campaign will be minimal, given the historically low response rate to technical noncompliance notification campaigns of child restraints. For example, the survey results indicate that only those ProSport consumers not properly using the top tether when installing the child restraint with lower LATCH anchors are likely to respond to a noncompliance notification. Assuming a response rate of 10% by this group, only 400 of the estimated 4,000 consumers misusing the child restraint are likely to respond. This statistically insignificant response renders the technical noncompliance at issue inconsequential.

3. All vehicles equipped with lower child restraint (LATCH) anchors are also equipped with top tether anchors. RECARO has received 82 consumer calls regarding the ProSport. (RECARO included copies of consumer call reports as part of its petition.) No consumer has questioned the use of the tether when securing the ProSport with the lower anchors. RECARO has no information of this misuse actually occurring in the field or of any injuries sustained by a child when restrained in a ProSport in this misuse condition.

4. RECARO has received notice of three crashes involving four children seated in ProSport child restraint systems. In these incidents, the ProSport performed well and the occupant was not injured. It is not known if the ProSports involved were installed using the lower LATCH anchors, whether the top tethers were used, or both.

5. RECARO has implemented an engineering/structural modification to the ProSport. Dynamic tests of the modified ProSport using a Hybrid II six year old test dummy secured to the test bench using lower anchors and no tether confirm that the head excursion requirements of FMVSS No. 213 S5.1.3.1(a)(1) are met. (RECARO included copies of the test reports as part of its petition.)

6. RECARO stated its belief that the ProSport outperforms any comparable child restraint with regards to head excursions when installed with the lap/shoulder belt.

7. Given the relative small number of ProSport child restraints distributed since introduction in June 2010 (39,181), the effectiveness of any notification campaign regarding this technical noncompliance will be limited. Additionally, any noncompliance notice campaign may result in consumers deciding to discontinue using their ProSport for a period of time, increasing the risk of injury to a higher degree than the risk resulting from the small number of consumers misusing the child restraint by not using the top tether when installing the child restraint with lower LATCH anchors.

RECARO has additionally informed NHTSA that it has stopped production of the ProSport as of January 31, 2013.

Standard of Review: Federal motor vehicle safety standards are adopted only after the agency has determined, following notice and comment, that the performance requirements are objective and practicable and ''meet the need for motor vehicle safety.'' 49 U.S.C. 30111(a). Thus, there is a general presumption that the failure of a motor vehicle or item of motor vehicle equipment to comply with a FMVSS increases the risk to motor vehicle safety beyond the level deemed appropriate by NHTSA through the rulemaking process. *General Motors Corp; Ruling on Petition for Determination of Inconsequential Noncompliance,* 69 FR 19897 (April 14, 2004). To protect the public from such risks, manufacturers whose products fail to comply with a FMVSS are normally required to conduct a safety recall under which they must notify owners, purchasers, and dealers of the noncompliance and provide a remedy without charge. 49 U.S.C. 30118–30120.

However, Congress recognized that under some limited circumstances, a noncompliance may be ''inconsequential'' to motor vehicle safety. It established a procedure under which NHTSA may consider whether it is appropriate to exempt the manufacturer from the duty to conduct a notification and remedy (recall) campaign. 49 U.S.C. 30118(d) and 30120(h). The agency's regulations governing the filing and consideration of petitions for inconsequentiality exemptions are set out in 49 CFR Part 556. The manufacturer bears the burden of demonstrating that the noncompliance is inconsequential to motor vehicle safety. *General Motors,* 69 FR 19899.

NHTSA rarely grants inconsequentiality petitions for noncompliance of performance standards. The majority of the inconsequentiality petitions NHTSA has granted have been for noncompliances with labeling requirements. For a performance-related petition to be granted, NHTSA has determined the issue to be ''whether [the] particular noncompliance is likely to increase the risk to safety.'' *Cosco, Inc.: Denial of Application for Decision of Inconsequential Noncompliance,* 64 FR 29408 (June 1, 1999). In evaluating whether there is an increased safety risk, NHTSA examines the motor vehicles or equipment exhibiting the noncompliance at issue. *Cosco,* 64 FR 29409.

NHTSA's Decision: NHTSA has reviewed RECARO's arguments and is not convinced that the ProSport child restraint's noncompliance is inconsequential to motor vehicle safety. The petition is denied. Below, we address each of RECARO's arguments in the order presented.

In its petition, RECARO first characterizes the installation of the ProSport without a top tether as misuse, citing the ProSport instruction manual. The instruction manual, however, does

not exempt the ProSport from the requirements of FMVSS No. 213. Independent of any instruction manual, FMVSS No. 213 requires that the ProSport meet FMVSS No. 213's dynamic test requirements when installed without the top tether. The ProSport's head excursion measurements were above the acceptable limit prescribed in paragraph S5.1.3.1(a) of FMVSS No. 213. The head excursion limit is 813 millimeters. When tested, ProSport had a head excursion measurement of 907 millimeters according to NHTSA's test, and an even greater deviation according to RECARO's test. Failure of a child restraint system in this manner increases the likelihood of head injury to the occupant, which is not insignificant or inconsequential to safety. *See Cosco,* 64 FR 29409–29410. NHTSA requires child restraint systems to be tested without the tether strap attached to the vehicle to ''ensure that a minimum level of safety is provided by child restraints which have safety features likely to be misused or unused by some owners.'' *See* Notice of Proposed Rulemaking, 50 FR 27634 (July 5, 1985); Final Rule, 51 FR 5335 (February 13, 1986) (amending FMVSS No. 213 by requiring child restraints equipped with a tether strap to pass the 30 mile per hour (mph) test without attaching the tether strap due to evidence of misuse by owners). Because the test the ProSport failed was intended to protect those children whose parents misused the child restraint system by not attaching the top tether strap, Recaro's argument is unavailing. NHTSA has concerns that there is an unreasonable risk of head injury to children in the event of a crash when the ProSport is not installed properly. The head excursion limit is a fundamental requirement that represents basic parameters of survival in a crash environment. *California Strolee, Inc.; Denial of Petition for Determination of Inconsequential Noncompliance,* 51 FR 13389 (April 2, 1986). Any relaxation would reduce child safety below an acceptable level. *Id.*

Second, RECARO conducted a survey which found that 9.9% of ProSport consumers do not use the top tether when installing the child restraint system.[2] Based on this statistic, RECARO concludes that a ''very small percentage'' of ProSport consumers do not use the top tether. This survey does not convince NHTSA that the ProSport's noncompliance is inconsequential to motor vehicle safety. While 9.9% of 39,181 child restraint systems is by no means a small number, arguments that only a small number of items of motor vehicle equipment are affected by a noncompliance will not justify granting an inconsequentiality petition. *General Motors,* 69 FR 19990. The key issue in determining inconsequentiality is not the aggregate safety consequence among all drivers, but rather, ''whether the noncompliance is likely to increase the safety risk to the individual occupants who experience the type of injurious events against which the standard is designed to protect.'' *Id.; See also Cosco,* 64 FR 29409.

Third, RECARO states that based on 82 consumer calls regarding the ProSport (presumably out of a population of 39,181 child restraint systems), it has no information that a consumer has (1) failed to use the top tether; or (2) sustained injury due to failure to use the top tether. This claim does not advance RECARO's argument. RECARO's own survey indicated that 9.9% of survey respondents failed to use the top tether. More importantly, the statute does not require children to sustain injuries for a manufacturer to conduct a recall. The statue calls for notification and remedy when the manufacturer ''decides in good faith that the . . . equipment does not comply with an applicable motor vehicle safety standard . . .'' 49 U.S.C. 30118(c)(2); 49 U.S.C. 30120.

Fourth, RECARO indicated in its petition that it received notice of three crashes involving four children seated in the subject child restraint systems. The children survived the crashes without injury. However, this information does not advance RECARO's position that the ProSport's noncompliance is inconsequential to motor vehicle safety because RECARO has not proven that the top tether was not attached in those cases.

Fifth, RECARO also stated that it implemented engineering/structural modifications to the ProSport. RECARO performed dynamic tests of the modified ProSport and confirmed that the modified child seats met the requirements of FMVSS No. 213. However, these modifications were not made to the 39,181 restraints that are the subject of this petition. This argument is not relevant to RECARO's petition. If anything, it may indicate that RECARO recognizes that the noncompliance in its earlier ProSport models must be rectified.

Sixth, RECARO contends that a recall campaign would have limited effectiveness based on its survey results. However, RECARO has presented no evidence to support this claim. NHTSA does not agree that optional responses to a survey are indicative of responsiveness to a recall campaign, which has direct safety consequences.

Finally, RECARO contends that a recall campaign may result in consumers deciding to discontinue use of their ProSport child restraints. RECARO claims that non-use of the ProSport increases the risk of injury to a higher degree than misuse of the ProSport. Yet RECARO has provided no evidence that owners will discontinue use of a child restraint system altogether in the face of a RECARO recall. Further, child restraint recall campaign notices for similar noncompliances have generally instructed owners to continue using a restraint until a remedy is available (rather than not using any child restraint). NHTSA does not consider this to be a compelling argument.

In consideration of the foregoing, NHTSA has decided that the ProSport's noncompliance is likely to increase the risk to safety, and is therefore not inconsequential. Recaro has not met its burden of persuasion that the FMVSS No. 213 noncompliance identified in RECARO's noncompliance information report is inconsequential to motor vehicle safety. Accordingly, RECARO's petition is hereby denied, and RECARO must notify owners, purchasers, and dealers pursuant to 49 U.S.C. 30118 and provide a remedy in accordance with 49 U.S.C. 30120.

Authority: (49 U.S.C. 30118, 30120: delegations of authority at 49 CFR 1.95 and 501.8).

Issued on: March 25, 2014.

Nancy Lummen Lewis,

Associate Administrator for Enforcement.

[FR Doc. 2014–07108 Filed 3–28–14; 8:45 am]

BILLING CODE 4910–59–P

[2] RECARO noted that 929 registered owners responded to the survey by confirming that they installed the child restraint with lower LATCH anchors. Of those responding, 837 or 90.1% confirmed that the top tether was being used to install their ProSport. The remaining 89 individuals, or 9.9% of respondents indicated that they did not use the top tether.

DEPARTMENT OF TRANSPORTATION

Pipeline and Hazardous Materials Safety Administration

[Docket No. PHMSA–2014–0018]

Pipeline Safety: Information Collection Activities, Revisions to Operator Identification (OPID) Assignment Request and Operator Registry Notification

AGENCY: Pipeline and Hazardous Materials Safety Administration (PHMSA), DOT.

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, the Pipeline and Hazardous Materials Safety Administration (PHMSA) invites comments on its intention to revise two forms, PHMSA F 1000.1—OPID Assignment Request and PHMSA F 1000.2—Operator Registry Notification, and its intention to request approval from the Office of Management and Budget (OMB) for revised information collection burdens.

DATES: Interested persons are invited to submit comments on or before May 30, 2014.

ADDRESSES: Comments may be submitted in the following ways:

E-Gov Web site: http://www.regulations.gov. This site allows the public to enter comments on any **Federal Register** notice issued by any agency.

Fax: 1–202–493–2251.

Mail: Docket Management Facility; U.S. Department of Transportation (DOT), 1200 New Jersey Avenue SE., West Building, Room W12–140, Washington, DC 20590–0001.

Hand Delivery: Room W12–140 on the ground level of DOT, West Building, 1200 New Jersey Avenue SE., Washington, DC, between 9:00 a.m. and 5:00 p.m., Monday through Friday, except Federal holidays.

Instructions: Identify the docket number, PHMSA–2014–0018, at the beginning of your comments. Note that all comments received will be posted without change to *http://www.regulations.gov*, including any personal information provided. You should know that anyone is able to search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). Therefore, you may want to review DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000, (65 FR 19477) or visit *http://www.regulations.gov* before submitting any such comments.

Docket: For access to the docket or to read background documents or comments, go to *http://www.regulations.gov* at any time or to Room W12–140 on the ground level of DOT, West Building, 1200 New Jersey Avenue SE., Washington, DC, between 9:00 a.m. and 5:00 p.m., Monday through Friday, except Federal holidays. If you wish to receive confirmation of receipt of your written comments, please include a self-addressed, stamped postcard with the following statement: ''Comments on: PHMSA–2014–0018.'' The Docket Clerk will date stamp the postcard prior to returning it to you via the U.S. mail. Please note that due to delays in the delivery of U.S. mail to Federal offices in Washington, DC, we recommend that persons consider an alternative method (internet, fax, or professional delivery service) of submitting comments to the docket and ensuring their timely receipt at DOT.

FOR FURTHER INFORMATION CONTACT: Angela Dow by telephone at 202–366–1246, by email at *Angela.Dow@dot.gov*, by fax at 202–366–4566, or by mail at DOT, PHMSA, 1200 New Jersey Avenue SE., PHP–30, Washington, DC 20590–0001.

SUPPLEMENTARY INFORMATION:

I. Background

Section 1320.8(d), Title 5, Code of Federal Regulations (CFR), requires PHMSA to provide interested members of the public and affected agencies an opportunity to comment on information collection and recordkeeping requests. This notice identifies a revised information collection request that PHMSA will be submitting to OMB for approval. The information collected from OPID Assignment Request forms and Operator Registry Notification forms is an important tool for identifying new operators and changes to existing pipeline systems as set forth in 49 CFR 191.22 and 195.64.

A. Proposed Changes to the OPID Request Form

PHMSA is proposing to revise the OPID Assignment Request Form (PHMSA F 1000.1) to:

(1) Align the gas distribution and gas transmission commodity choices with those found on the annual and incident reports. Consistent commodity categories across all report forms would enhance PHMSA and our state partners' understanding of gas pipeline facilities.

(2) Modify the list for types of gas distribution operators to reflect the ownership structure of the operator. The current list is a mix of ownership structure and commodity. Commodity values are entered elsewhere on the form. This change would allow PHMSA and our state partners to better determine ownership structure without commodity data mixed in to ensure regulatory efforts are directed to the proper entities.

(3) Collect the miles of pipe and facility descriptions for each state. PHMSA and our state partners would gain a better understanding of the new operators' pipeline facilities through this state-by-state reporting.

(4) Eliminate liquefied natural gas (LNG) plans and procedures as a separate safety program type. LNG plans and procedures are equivalent to the operating, maintenance, and emergencies program type. The pipeline system types (i.e., LNG, gas distribution, hazardous liquid, etc.) are collected elsewhere on the form. This change would remove a redundancy from this form.

(5) Collect business cell phone numbers for contacts in addition to office phone numbers. Having both phone numbers would enhance the ability of PHMSA and our state partners to communicate with new operators.

Several changes are proposed for the instructions to enable the changes listed above, provide additional clarity, and reflect that the validation process has ended. These changes would allow operators to complete the form quickly and accurately.

B. Proposed Changes to the Operator Registry Notification

PHMSA is proposing to revise the Operator Registry Notification Form (PHMSA F 1000.2) to:

(1) Remove and revise instructions regarding pipeline safety program information submissions at several locations in the form and instructions. For example, over the past year, PHMSA has found many operators erroneously submitted Type C notifications based on these confusing instructions. These revisions would help operators avoid submitting unnecessary notifications that must later be retracted.

(2) Reduce the number of notification types and the text describing each type to enhance clarity. The current form provides a type for each regulatory requirement for notification submission. Instead of selecting one of three types for gas or liquid construction, we are proposing a single type. Details about the construction project are collected in Step 3 of the form. This would reduce

operator confusion about which notification type should be submitted and eliminate a needless distinction in PHMSA's data.

(3) Require Type B notifications to indicate whether the operator is assuming or ceasing operatorship of pipeline facilities. PHMSA has to rely on the ''reason for change'' text field to determine which applies to the Type B notifications submitted to date. In some cases, the text field does not explain the type of change. This change would require operators to submit the information needed by PHMSA to process the operator's notification properly.

(4) Require separate notifications for an acquisition and a divestiture. Only one set of gas distribution pipeline facilities can be reported in Step 3 of the current form. If an operator were to select both acquisition and divestiture in Step 2, we would not know which gas distribution pipeline facilities were acquired and which were divested. In Step 3, gas gathering, gas transmission, and hazardous liquid pipeline facilities can be reported as acquired or divested. By restricting each notification to either acquisition or divestiture, we can eliminate half of the data fields required for gas gathering, gas transmission, and hazardous liquid pipeline facilities in Step 3 and insure that we are interpreting an operator's notification accurately.

(5) Allow an operator submitting a divestiture to request the deactivation of their OPID. If an operator no longer has regulated pipeline facilities, PHMSA deactivates the OPID. This informs our internal staff and our state partners that the OPID is no longer responsible for any regulated pipeline facilities. Under the current form and instructions, such operators are encouraged to contact PHMSA regarding deactivation. Including the ability to request deactivation in the notification would result in more efficient communication about operators with no remaining regulated pipeline facilities.

(6) Align the gas distribution and gas transmission commodity choices with those found on the annual and incident reports. Consistent commodity categories across all report forms would enhance PHMSA's and our state partners' understanding of gas pipeline facilities.

(7) Collect data about miles of pipeline separate from facilities, such as breakout tanks, storage fields, and compressor stations, in Step 3. This change is proposed in conjunction with reducing the number of construction notification types. Instead of selecting a type corresponding to facilities, the operator would select the ''generic'' construction type and provide data about the facilities in Step 3. Under the current form, two separate notifications would be required. This change would allow an operator to submit a single construction notification for both pipeline miles and facilities, making compliance easier for operators.

(8) Require operators to provide data about pipeline facilities (Step 3) when they submit a change in entity operating (Type B) notification. Currently, an operator provides notification of a change in the entity operating but submits no information about the pipeline facilities affected by the change. By collecting pipeline facility information, PHMSA and our state partners would understand the scope of the operating entity change.

(9) Collect the miles of pipe and facility descriptions for each state. PHMSA and our state partners would gain a better understanding of the pipeline facilities covered by a notification through this state-by-state reporting.

Several changes are proposed for the instructions to enable the changes listed above and provide additional clarity.

(10) Add a ''Guidance for Selecting the Appropriate Notification Type'' section to the instructions. The current instructions, both on the form and in the instruction document, have resulted in many operators submitting the incorrect type of notification. The new section summarizes the purpose of notification types and contains flow charts to guide operators to the correct type of notification based on the action they are taking. This new section would eliminate wasted time for operators submitting unnecessary notifications and needless PHMSA reviews.

II. Summary of Impacted Collection

The following information is provided for this information collection: (1) Title of the information collection; (2) OMB control number; (3) Current expiration date; (4) Type of request; (5) Abstract of the information collection activity; (6) Description of affected public; (7) Estimate of total annual reporting and recordkeeping burden; and (8) Frequency of collection. PHMSA requests comments on the following information collection, including the proposed revisions addressed in this notice. Copies of the proposed forms associated with this information collection can be found in Docket Number PHMSA–2014–0018.

Title: National Registry of Pipeline and LNG Operators.

OMB Control Number: 2137–0627.

Current Expiration Date: 12/31/2014.

Type of Request: Revision.

Abstract: The National Registry of Pipeline and LNG Operators serves as the storehouse for the reporting requirements for an operator regulated or subject to reporting requirements under 49 CFR Parts 192, 193, or 195. PHMSA is seeking to revise the forms associated with assigning and maintaining OPID information, the Operator Assignment Request Form (PHMSA F 1000.1) and the Operator Registry Notification Form (PHMSA F 1000.2).

Affected Public: Natural gas, LNG, and liquid pipeline operators.

Annual Reporting and Recordkeeping Burden:

Total Annual Responses: 630.

Total Annual Burden Hours: 630.

Frequency of Collection: On occasion.

Comments are invited on:

(a) The need for the proposed collection of information for the proper performance of the functions of the agency, including whether the information will have practical utility;

(b) The accuracy of the agency's estimate of the burden 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 those who are to respond, including the use of appropriate automated, electronic, mechanical, or other technological collection techniques.

Issued in Washington, DC on March 26, 2014.

Alan K. Mayberry,

Deputy Associate Administrator for Policy and Programs.

[FR Doc. 2014–07075 Filed 3–28–14; 8:45 am]

BILLING CODE 4910–60–P

DEPARTMENT OF TRANSPORTATION

Pipeline and Hazardous Materials Safety Administration

Office of Hazardous Materials Safety; Notice of Application for Special Permits

AGENCY: Pipeline and Hazardous Materials Safety Administration (PHMSA), DOT.

ACTION: List of applications for special permits.

SUMMARY: In accordance with the procedures governing the application for, and the processing of, special permits from the Department of

Transportation's Hazardous Material Regulations (49 CFR Part 107, Subpart B), notice is hereby given that the Office of Hazardous Materials Safety has received the application described herein. Each mode of transportation for which a particular special permit is requested is indicated by a number in the ''Nature of Application'' portion of the table below as follows: 1—Motor vehicle, 2—Rail freight, 3—Cargo vessel, 4—Cargo aircraft only, 5—Passenger-carrying aircraft.

DATES: Comments must be received on or before April 30, 2014.

Address Comments To: Record Center, Pipeline and Hazardous Materials Safety Administration, U.S. Department of Transportation, Washington, DC 20590.

Comments should refer to the application number and be submitted in triplicate. If confirmation of receipt of comments is desired include a self-addressed stamped postcard showing the special permit number.

FOR FURTHER INFORMATION CONTACT: Copies of the applications are available for inspection in the Records Center, East Building, PHH–30, 1200 New Jersey Avenue Southeast, Washington DC or at *http://regulations.gov.*

This notice of receipt of applications for special permit is published in accordance with Part 107 of the Federal hazardous materials transportation law (49 U.S.C. 5117(b); 49 CFR 1.53(b)).

Issued in Washington, DC, on March 19, 2014.

Donald Burger,

Chief, General Approvals and Permits.

Application No.	Docket No.	Applicant	Regulation(s) affected	Nature of special permits thereof
		NEW SPECIAL PERMITS		
16086–N		Alliant Techsystems Inc., Elkton, MD.	49 CFR 173.51, 173.56(b) 173.61 and 173.63.	To authorize the transportation in commerce of samples of a Division 1.3 material as Limited Quantity when transported to a destruction facility. (modes 1, 3).
16088–N		Golden Eagle Outfitters Inc., Delta Jct, AK.	49 CFR 49 CFR 172.101 Column (8C), 173.241, 173.242, 175.310.	To authorize the transportation in commerce of certain flammable and combustible liquids in alternative packaging having a capacity of 119 gallons or more by air. (mode 4).
16091–N		Four Turkeys LLC, De Witt, NE.	49 CFR § 177.834(h) and § 178.700(c)(1).	To authorize the manufacture, mark and sale of 50 gallon to 105 gallon refueling tanks as intermediate bulk containers a system for use in transporting various Class 3 hazardous materials. (mode 1).
16092–N		Swift River Air, LLC, Anchorage, AK.	49 CFR 49 CFR 172.101 Column (8C), 173.241, 173.242, 175.310.	To authorize the transportation in commerce of certain flammable and combustible liquids in alternative packaging having a capacity of 119 gallons or more by air. (mode 4).
16094–N		U.S. Department of Defense (DOD), Scott AFB, IL.	49 CFR § 171.22(e) and 173.62.	To authorize the transportation in commerce of certain Class 1 materials in alternative packaging that are forbidden for transport by cargo air. (modes 1, 2, 3, 4).
16095–N		Clay & Bailey Manufacturing Company, Kansas City, MO.	49 CFR 178.345–1	To authorize the manufacture, mark, sale and use of manways constructed from Ultra High Molecular Weight Pole Ethylene for use on cargo tank motor vehicles in transporting certain hazardous materials. (mode 1).
16098–N		EQ Industrial Services, Inc., Wayne, MI.	49 CFR 173.56	To authorize the transportation in commerce of an estimated 2,2000,000 pounds of extracted aluminum material from the Explo Systems Inc. Site located on the Camp Minden, Louisiana National Guard Grounds in Minden, LA. (mode 1).
16099–N		EQ Industrial Services, Inc., Wayne, MI.	49 CFR 173.56	To authorize the transportation in commerce of an estimated 5,425 pounds of Tritonal Powder from the Explo Systems Inc. Site located on the Camp Minden, Louisiana National Guard Grounds in Minden, LA. (mode 1).
16100–N		EQ Industrial Services, Inc., Wayne, MI.	49 CFR 173.56	To authorize the transportation in commerce of an estimated 130,330 pounds of Tritonal with Wax/Tar Debris from the Explo Systems Inc. Site located on the Camp Minden, Louisiana National Guard Grounds in Minden, LA without an EX classification approval. (mode 1).
16101–N		EQ Industrial Services, Inc., Wayne, MI.	49 CFR 49 CFR 173.56	To authorize the transportation in commerce of an estimated 3,300 pounds of Tritonal with miscellaneous Debris from the Explo Systems Inc. Site located on the Camp Minden, Louisiana National Guard Grounds in Minden, LA. (mode 1).

Application No.	Docket No.	Applicant	Regulation(s) affected	Nature of special permits thereof
16102–N		Brenntag Mid-South, Inc., Henderson, KY.	49 CFR 173.3(e)(2)	To authorize the transportation in commerce of a DOT 106A500 multi-unit tank car tank containing chlorine or sulfik dioxide that has developed a leak in the valve or fusible plug that has been temporarily repaired using a Chlorine Institute "B" Kit, Edition 11. (mode 1).
16103–N		Insituform Technologies, LLC, Chesterfield, MO.	49 CFR 173.203 and 173.242.	To authorize the transportation in commerce of resin-impregnated, coated polyester felt tubing used as a means of restoring structural integrity to aging or damaged wastewater, potable water and industrial pipelines through use of a trenchless, cured-in-place pipe ("CIPP") technology. (mode 1).
16106–N		New England Primate Research Center, Southborough, MA.	49 CFR 173.199(a)(1)	To authorize the one-time one-way transportation in commerce of lice, non-human primates (NHPs) infected with Division 6.2 (infectious substance) materials. (mode 1).
16107–N		DAHER–TLI	49 CFR 173.420(a)(2)(i); 173.420(b).	To authorize the one time one way transportation in commerce of 14 heeled cylinders that are not ANSI N14.1 compliant. (mode 1).
16108–N		Carleton Technologies Inc., Westminster, MD.	49 CFR 173.302a, 173.304a and 180.205.	To authorize the manufacture, marking, sale and-use of carbon and glass fiber reinforced, aluminum-lined composite cylinders for use in transporting certain Division 2.1 and 2.2 hazardous materials. (modes 1, 2, 3, 4, 5).
16109–N		CST Enterprises, LLC dba Colibri Group, New York, NY.	49 CFR 173.304a(d)(3)(ii)	To authorize the transportation in commerce of certain non-DOT specification non-refillable inside containers similar to a DOT 2P containing certain Division 2.1 gases the hot water bath test and which are not fitted with a pressure relief device. (modes 1, 2, 3).
16111–N		Allen Institute for Brain Science, Seattle, WA.	49 CFR 173.24(b)(1)	To authorize the transportation in commerce of living human brain tissue continuously fed by oxidizing compressed gas. (mode 1).
16115–N		Advanced Cooling Technologies, Inc., Lancaster, PA.	49 CFR 173.301(f), 137.302(a)(1), 173.304(a)(2).	To authorize the transportation of anhydrous ammonia in alternative packaging (heat pipes). (modes 1, 3, 4).

[FR Doc. 2014–06864 Filed 3–28–14; 8:45 am]

BILLING CODE 4909–60–M

DEPARTMENT OF TRANSPORTATION

Pipeline and Hazardous Materials Safety Administration

Office of Hazardous Materials Safety

AGENCY: Pipeline and Hazardous Materials Safety Administration (PHMSA), DOT.

ACTION: Notice of actions on special permit applications.

SUMMARY: In accordance with the procedures governing the application for, and the processing of, special permits from the Department of Transportation's Hazardous Material Regulations (49 CFR Part 107, Subpart B), notice is hereby given of the actions on special permits applications in (February to February 2014). The mode of transportation involved are identified by a number in the "Nature of Application" portion of the table below as follows: 1—Motor vehicle, 2—Rail freight, 3—Cargo vessel, 4—Cargo aircraft only, 5—Passenger-carrying aircraft. Application numbers prefixed by the letters EE represent applications for Emergency Special Permits. It should be noted that some of the sections cited were those in effect at the time certain special permits were issued.

Issued in Washington, DC, on March 19, 2014.

Donald Burger,

Chief, Special Permits and Approvals Branch.

S.P. No.	Applicant	Regulation(s)	Nature of special permit thereof
Modification Special Permit Granted			
11947–M	Patts Fabrication, Inc. Midland, TX.	49 CFR 173.202; 173.203; 173.241; 173.242.	To modify the special permit to authorize additional Class 3 and 8 materials.
14232–M	Luxfer Gas Cylinders, Riverside, CA.	49 CFR 173.302a(a), 173.304a(a), and 180.205.	To modify the special permit to authorize a 30 year service life as specified in ISO 11119–2 and update the acceptance criteria.
New Special Permit Granted			
15869–N	Mercedes-Benz USA, LLC (MBUSA) Montvale, NJ.	49 CFR 172.102, Special Provision A54.	To authorize the transportation in commerce of lithium batteries exceeding the 35 Kg maximum weight authorized for transportation by cargo air. (mode 4)

S.P. No.	Applicant	Regulation(s)	Nature of special permit thereof
15870–N	Ram Systems, Jefferson, OR	49 CFR 49 CFR Table § 172.101, Column(9B), § 172.204(c)(3), § 173.27(b)(2), § 175.30(a)(1), § 172.200, 172.300, and 172.400.	To authorize the transportation in commerce of certain hazardous materials by 14 CFR Part 133 Rotorcraft External Load Operations transporting hazardous materials attached to or suspended from an aircraft, in remote areas of the US only, without being subject to hazard communication requirements, quantity limitations and certain loading and stowage requirements. (mode 4)
15864–N	Agfa HealthCare Corporation, Greenville, SC.	49 CFR 173.213	To authorize the transportation of an Environmentally hazardous substance in non-DOT specification packaging. (modes 1, 4)
15881–N	Chart Industries, Inc., Ball Ground, GA.	49 CFR 180.211(c)(2)(i)	To authorize the repair of certain DOT 4L cylinders without requiring pressure testing. (mode 1)
15873–N	JiangXi Oxygen Plant Co., Ltd., Jiangxi Province.	49 CFR 178.274(b) and 178.276(b)(1).	To authorize the manufacture, marking, sale and use of UN portable tanks conforming to portable tank code 150 that have been designed, constructed and stamped in accordance with Section VIII, Division 2 of the ASME Code for the transportation in commerce Division 2.1 and 2.2 materials. (modes 1, 2, 3, 4)
15874–N	Summit Helicopter, Incorporated, Pacoima, CA.	49 CFR 49 CFR Table § 172.101, Column (9B), § 172.204(c)(3), § 173.27(b)(2) § 175.30(a)(1) § 172.200, 172.300, and 172.400.	To authorize the transportation in commerce of certain hazardous materials by 14 CFR Part 133 Rotorcraft External Load Operations transporting hazardous materials attached to or suspended from an aircraft, in remote areas of the US only, without being subject to hazard communication requirements, quantity limitations and certain loading and stowage requirements. (mode 4)
15876–N	JiangXi Oxygen, Plant Co., Ltd., Jiangxi Province.	49 CFR 178.274(b) and 178.276(b)(1).	To authorize the manufacture, marking, sale and use of UN portable tanks conforming to portable tank code T50 that have been designed, constructed and stamped in accordance with Section VIII, Division 1 of the ASME Code with a design margin of 3.5:1 for the transportation in commerce Division 2.1 and 2.2 materials. (modes 1, 2, 3, 4)
15987–N	TG Missouri Corp., Perryville, MO.	49 CFR 173.301(a)(1), 173.302(a)(1), 178.65(f)(2), and 178.65(i)(3).	To authorize the manufacture, mark, sale and use of non-DOT specification cylinders for use as components of automotive vehicle safety systems. (modes 1, 2, 3, 4, 5)
16002–N	Sky Aviation, Inc., Worland, WY.	49 CFR 175.9(a)	To authorize the transportation in commerce of certain hazardous materials by external load. (mode 4)
Emergency Special Permit Granted			
15652–M	Vertical Solutions LLC, Valdez, AK.	49 CFR 172.101 Column (9B), 172.204(c)(3), 173.27(6)(2), 172.200, 172.300, Part 173, 175.30(a)(1) and 175.75.	To authorize additional Class 1.1 and 1.4 explosives to be transported to remote areas for avalanche relief. (mode 4)
16090–N	Arkema, Inc., King of Prussia, PA.	49 CFR 173.227	To authorize the transportation in commerce of a TIH hazmat in non-approved spec packages overpacked in 85 gallon steel drums. (mode 1)
16083–N	Linde Gas, North America LLC, NEW PROVIDENCE, NJ.	49 CFR 171.23(a)(1) and (3) ..	To authorize the transportation in commerce of certain non-DOT specification foreign cylinders containing Dichlorosilane by motor vehicle and cargo vessel. (modes 1, 3)
16077–N	SDV Logistique, Internationale, Colomiers.	49 CFR 49 CFR Parts 106, 107 and 171–180.	The purpose of this letter is to request a Special Permit and/or Competent Authority Approval only for transporting the forbidden HazMat—the Anhydrous Ammonia (UN 1005) which is contained in the heat pipes of the satellite as per description detailed in the packing approval certificate no. 13–020 enclosed. This document was granted by French competent authority the DGAC. This approval issued by the French Government authorize the carriage by air of the Anhydrous Ammonia in the heatpipes within the satellite, as well as the other dangerous goods in the approved packaging and quantities that are listed on the Shippers Declaration for Dangerous Goods. We confirm that all other items are not forbidden and are within quantity limits as per IATA dangerous goods regulations. (mode 4)
Emergency Special Permit Withdrawn			
16085–N	Brenntag, Mid-South, Inc., Henderson, KY.	49 CFR 173.3(e)(2)	To authorize a new adjustable bar assembly kit for chlorine cylinders.

S.P. No.	Applicant	Regulation(s)	Nature of special permit thereof
		Denied	
15961–N	Request by Arktis Radiation Detectors Ltd. Malvern, PA February 26, 2014. To authorize the transportation in commerce of radiation detectors containing a Division 2.2 material that exceed the pressure authorized.		

[FR Doc. 2014–06865 Filed 3–28–14; 8:45 am]
BILLING CODE 4909–60–P

DEPARTMENT OF TRANSPORTATION

Pipeline and Hazardous Materials Safety Administration

Office of Hazardous Materials Safety

AGENCY: Pipeline and Hazardous Materials Safety Administration (PHMSA), DOT.

ACTION: List of applications delayed more than 180 days.

SUMMARY: In accordance with the requirements of 49 U.S.C. 5117(c), PHMSA is publishing the following list of special permit applications that have been in process for 180 days or more. The reason(s) for delay and the expected completion date for action on each application is provided in association with each identified application.

FOR FURTHER INFORMATION CONTACT: Ryan Paquet, Director, Office of Hazardous Materials Special Permits and Approvals, Pipeline and Hazardous Materials Safety Administration, U.S. Department of Transportation, East Building, PHH–30, 1200 New Jersey Avenue Southeast, Washington, DC 20590–0001, (202) 366–4535.

Key to "Reason for Delay"

1. Awaiting additional information from applicant
2. Extensive public comment under review
3. Application is technically complex and is of significant impact or precedent-setting and requires extensive analysis
4. Staff review delayed by other priority issues or volume of special permit applications

Meaning of Application Number Suffixes

N—New application

M—Modification request

R—Renewal Request

P—Party To Exemption Request

Issued in Washington, DC, on March 19, 2014.

Donald Burger,

Chief, General Approvals and Permits.

Application No.	Applicant	Reason for delay	Estimated date of completion
	Modification to Special Permits		
15577–M	Olin Corporation, Oxford, MS	4	03–31–2014
12184–M	Weldship Corporation, Bethlehem, PA	4	04–30–2014
11373–M	Marlin Company, Inc., Lenoir, NC	4	03–31–2014
15642–M	Praxair Distribution, Inc., Danbury, CT	4	04–30–2014
14867–M	GTM Manufacturing LLC, Amarillo, TX	4	03–31–2014
9610–M	ATK Small Caliber Systems, Independece, MO	4	03–31–2014
15854–M	Colmac Coil Manufacturing, Inc., Colville WA	4	03–31–2014
	New Special Permit Applications		
15863–N	Baker Hughes Oilfield Operations Inc., Houston, TX	3	03–31–2014
15882–N	Ryan Air, Anchorage, AK	4	03–31–2014
15883–N	The Boeing Company, Canoga Park, CA	4	03–31–2014
15767–N	Union Pacific Railroad Company, Omaha, NE	1	03–31–2014
15853–N	Praxair, Inc., Danbury, CT	4	03–31–2014
15847–N	Safariland, LLC, Jacksonville, FL	4	03–31–2014
15880–N	Viking Packing Specialist, Catoosa, OK	4	03–31–2014
15954–N	Rooney Oilfield Services, Odessa, TX	4	04–15–2014
15972–N	Heil Trailer International, Co., Athens, TN	4	04–30–2014
15955–N	Thompson Tank, Inc., Lakewood, CA	4	04–15–2014
15962–N	U.S. Department of Defense (DOD), Scott AFB, IL	4	03–31–2014
16120–N	Pacific Helicopter Tours, Inc.	4	04–30–2014
	Party to Special Permits Applications		
15647–P	Allied Universal Corporation, Miami, FL	3	03–31–2014
15647–P	SUINCA C.A., Caracas	4	03–31–2014
	Renewal Special Permits Applications		
14155–R	American Promotional Events, Inc., North-West dba/TNT Fireworks, Florence, AL	2, 3	02–28–2014
7954–R	Linde LLC, Murray Hill, NJ	4	03–31–2014
14267–R	LATA Environmental Services of Kentucky, LLC (LATA Kentucky), Kevil, KY	3	03–31–2014
15392–R	Brim Equipment Leasing, Inc., dba Brim Aviation, Ashland, OR	4	03–31–2014
8971–R	Baker Hughes Oilfield Operations Inc., Houston, TX	4	03–31–2014
11602–R	East Tennessee Iron & Metal, Inc., Rogersville, TN	4	04–30–2014
11583–R	Alaska Railroad Corporation, Anchorage, AK	4	03–15–2014
13548–R	Hartel Services, Inc., dba Interstate Battery System of North Dakota, Fargo, ND	4	03–31–2014

Application No.	Applicant	Reason for delay	Estimated date of completion
13548–R	C & S Sutton Co. Inc., St. Clairsville, OH	4	03–31–2014

[FR Doc. 2014–06868 Filed 3–28–14; 8:45 am]

BILLING CODE 4910–60–M

DEPARTMENT OF TRANSPORTATION

Pipeline and Hazardous Materials Safety Administration

Office of Hazardous Materials Safety, Notice of Applications for Modification of Special Permit

AGENCY: Pipeline and Hazardous Materials Safety Administration (PHMSA), DOT.

ACTION: List of Applications for Modification of Special Permits.

SUMMARY: In accordance with the procedures governing the application for, and the processing of, special permits from the Department of Transportation's Hazardous Material Regulations (49 CFR Part 107, Subpart B), notice is hereby given that the Office of Hazardous Materials Safety has received the applications described herein. This notice is abbreviated to expedite docketing and public notice. Because the sections affected, modes of transportation, and the nature of application have been shown in earlier **Federal Register** publications, they are not repeated here. Requests for modification of special permits (e.g. to provide for additional hazardous materials, packaging design changes, additional mode of transportation, etc.) are described in footnotes to the application number. Application numbers with the suffix ''M'' denote a modification request. These applications have been separated from the new application for special permits to facilitate processing.

DATES: Comments must be received on or before April 15, 2014.

ADDRESSES: *Address Comments To:* Record Center, Pipeline and Hazardous Materials Safety Administration, U.S. Department of Transportation, Washington, DC 20590.

Comments should refer to the application number and be submitted in triplicate. If confirmation of receipt of comments is desired, include a self-addressed stamped postcard showing the special permit number.

FOR FURTHER INFORMATION CONTACT: Copies of the applications are available for inspection in the Records Center, East Building, PHI–J–30, 1200 New Jersey Avenue Southeast, Washington DC or at *http://regulations.gov*.

This notice of receipt of applications for modification of special permit is published in accordance with Part 107 of the Federal hazardous materials transportation law (49 U.S.C. 5117(b); 49 CFR 1.53(b)).

Issued in Washington, DC, on March 19, 2014.

Donald Burger,

Chief, General Approvals and Permits.

Application No.	Docket No.	Applicant	Regulation(s) affected	Nature of special permit thereof
MODIFICATION SPECIAL PERMITS				
14808–M		Amtro Alfa Metalomecanica SA Portugal.	49 CFR 178.51(b), (f)(1) and (2), and (g)	To modify the special permit to authorize an increase in the maximum water capacity to 10 gallons.
15036–M		UTLX Manufacturing, Incorporated Alexandria, LA.	49 CFR 173.31(e)(2), 173.244, 173.314, 179.102–2, 179.102–3.	To modify the special permit to authorize an increase of the inspection interval to five years.
15832–M		Baker Petrolite (BPC) Corporation Sugar Land, TX.	49 CFR 172.102(c) Special Provision B14 and TP38.	To modify the special permit to authorize an additional tank design.

[FR Doc. 2014–06866 Filed 3–28–14; 8:45 am]

BILLING CODE 4909–60–M

DEPARTMENT OF THE TREASURY

Submission for OMB Review; Comment Request

March 26, 2014.

The Department of the Treasury will submit 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, Public Law 104–13, on or after the date of publication of this notice.

DATES: Comments should be received on or before April 30, 2014 to be assured of consideration.

ADDRESSES: Send comments regarding the burden estimate, or any other aspect of the information collection, including suggestions for reducing the burden, to (1) Office of Information and Regulatory Affairs, Office of Management and Budget, Attention: Desk Officer for Treasury, New Executive Office Building, Room 10235, Washington, DC 20503, or email at *OIRA_Submission@OMB.EOP.gov* and (2) Treasury PRA Clearance Officer, 1750 Pennsylvania Ave. NW., Suite 8140, Washington, DC 20220, or email at *PRA@treasury.gov.*

FOR FURTHER INFORMATION CONTACT: Copies of the submission(s) may be obtained by calling (202) 927–5331, email at *PRA@treasury.gov,* or the entire information collection request may be found at *www.reginfo.gov.*

Internal Revenue Service (IRS)

OMB Number: 1545–0056.

Type of Review: Revision of a currently approved collection.

Title: Application for Recognition of Exemption Under Section 501(c)(3) of the Internal Revenue Code.

Form: 1023 and 1023–EZ.

Abstract: Forms 1023 and 1023–EZ are filed by applicants seeking Federal income tax exemption as organization described in section 501(c)(3). IRS uses the information to determine if the applicant is exempt and whether the applicant is a private foundation. Form 1023–EZ is a simplified version of Form 1023, to be filed by organization who meets certain criteria.

Affected Public: Private Sector: Not-for-profit institutions.

Estimated Number of Annual Respondents: 80,000.

Estimated Annual Burden Hours: 6,936,420.

Reason for Change: The Internal Revenue Service is introducing an ''EZ'' version of the Form 1023 as an alternative in applying for recognition of exemption from federal income tax under section 501(c)(3). The Form 1023–EZ is a shorter, less burdensome version of the 25-page Form 1023, which may be used if an organization meets specific criteria, as identified in the instructions.

There is an overall increase in the estimated annual burden hours requested due to an increase in the number of respondents, as well as changes to the Form 1023 *(as described in IRS Notice 1382).* It is estimated that approximately 17 percent of the 80,000 respondents will apply using Form 1023–EZ, which will take 14 hours to complete (compared to 101 hours for the Form 1023).

Dawn D. Wolfgang,

Treasury PRA Clearance Officer.

[FR Doc. 2014–07066 Filed 3–28–14; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Art Advisory Panel of the Commissioner of Internal Revenue

AGENCY: Internal Revenue Service, Treasury.

ACTION: Notice of determination of necessity for renewal of the Art Advisory Panel.

SUMMARY: It is in the public interest to continue the existence of the Art Advisory Panel. The current charter of the Art Advisory panel will be renewed for a period of two years.

FOR FURTHER INFORMATION CONTACT: Ruth Vriend, C:AP:SO:ART, 1111 Constitution Ave. NW., Washington, DC 20005, Telephone No. (202) 317–8853 (not a toll free number).

Pursuant to the Federal Advisory Committee Act, 5 U.S.C. App. (2000), the Commissioner of Internal Revenue announces the renewal of the following advisory committee:

Title. The Art Advisory Panel of the Commissioner of Internal Revenue.

Purpose. The Panel helps the Internal Revenue Service review and evaluate the acceptability of property appraisals submitted by taxpayers in support of the fair market value claimed on works of art involved in Federal Income, Estate or Gift taxes in accordance with sections 170, 2031, and 2512 of the Internal Revenue Code of 1986.

For the Panel to perform this function, Panel records and discussions must include tax return information. Therefore, the Panel meetings will be closed to the public since all portions of the meetings will concern matters that are exempted from disclosure under the provisions of section 552b(c)(3), (4), (6) and (7) of Title 5 of the U.S. Code. This determination, which is in accordance with section 10(d) of the Federal Advisory Committee Act, is necessary to protect the confidentiality of tax returns and return information as required by section 6103 of the Internal Revenue code.

Statement of Public Interest. It is in the public interest to continue the existence of the Art Advisory Panel. The Secretary of Treasury, with the concurrence of the General Services Administration, has also approved renewal of the Panel. The membership of the Panel is balanced between museum directors and curators, art dealers and auction representatives to afford differing points of view in determining fair market value.

Authority for this Panel will expire two years from the date the Charter is approved by the Assistant Secretary for Management and filed with the appropriate congressional committees unless, prior to the expiration of its Charter, the Panel is renewed.

The Commissioner of Internal Revenue has determined that this document is not a major rule as defined in Executive Order 12291 and that a regulatory impact analysis therefore is not required. Neither does this document constitute a rule subject to the Regulatory Flexibility Act (5 U.S.C. Chapter 6).

John A. Koskinen,

Commissioner of Internal Revenue.

[FR Doc. 2014–07154 Filed 3–28–14; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Art Advisory Panel—Notice of Closed Meeting

AGENCY: Internal Revenue Service, Treasury.

ACTION: Notice of closed meeting of Art Advisory Panel.

SUMMARY: Closed meeting of the Art Advisory Panel will be held in New York, NY.

DATES: The meeting will be held April 16, 2014.

ADDRESSES: The closed meeting of the Art Advisory Panel will be held at 110 West 44th Street, New York, NY.

FOR FURTHER INFORMATION CONTACT: Ruth M. Vriend, C:AP:SO:AAS, 1111 Constitution Avenue NW., Washington, DC 20224. Telephone (202) 317–8853 (not a toll free number).

SUPPLEMENTARY INFORMATION: Notice is hereby given pursuant to section 10(a)(2) of the Federal Advisory Committee Act, 5 U.S.C. App., that a closed meeting of the Art Advisory Panel will be held at 110 West 44th Street, New York, NY.

The agenda will consist of the review and evaluation of the acceptability of fair market value appraisals of works of art involved in Federal income, estate, or gift tax returns. This will involve the discussion of material in individual tax returns made confidential by the provisions of 26 U.S.C. 6103.

A determination as required by section 10(d) of the Federal Advisory Committee Act has been made that this meeting is concerned with matters listed in section 552b(c)(3), (4), (6), and (7), of the Government in Sunshine Act and that the meeting will not be open to the public.

Kirsten B. Wielobob,

Chief, Appeals.

[FR Doc. 2014–07171 Filed 3–28–14; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF VETERANS AFFAIRS

Special Medical Advisory Group; Notice of Meeting

The Department of Veterans Affairs (VA) gives notice under the Federal Advisory Committee Act, 5 U.S.C. App. 2, that the Special Medical Advisory Group will meet on May 1, 2014, in Room 830 at VA Central Office, 810 Vermont Avenue NW., Washington, DC, from 8:30 a.m. to 3 p.m. The meeting is open to the public.

The purpose of the Group is to advise the Secretary of Veterans Affairs and the Under Secretary for Health on the care and treatment of disabled Veterans, and other matters pertinent to the Department's Veterans Health Administration (VHA).

The agenda for the meeting will include discussions on Opioid Safety/Pain Management, Substance Use Disorders, State Prescription Drug Monitoring Programs, Academic Detailing, Interagency Collaboration Panel Discussion, Women Veterans Programs, Ethics Training for Special

Government Employees, and Military Sexual Trauma.

No time will be allocated for receiving oral presentations from the public. However, members of the public may submit written statements for review by the Committee to Jennifer Adams, Department of Veterans Affairs, Office of the Principal Deputy Under Secretary for Health (10A), Veterans Health Administration, 810 Vermont Avenue NW., Washington, DC 20420, or by email at *Jennifer.adams@va.gov*. Because the meeting is being held in a government building, a photo I.D. must be presented at the Guard's Desk as a part of the clearance process. Therefore, you should allow an additional 15 minutes before the meeting begins. Any member of the public wishing to attend the meeting or seeking additional information should contact Ms. Adams at (202) 461–6515 or by email.

Dated: March 26, 2014.

Jelessa Burney,

Federal Advisory Committee Management Officer.

[FR Doc. 2014–07062 Filed 3–28–14; 8:45 am]

BILLING CODE 8320–01–P

FEDERAL REGISTER

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Part II

Department of Transportation

Federal Railroad Administration

49 CFR Part 239

Revisions to Passenger Train Emergency Preparedness Regulations; Final Rule

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

49 CFR Part 239

[Docket No. FRA–2011–0062, Notice No. 2]

RIN 2130–AC33

Revisions to Passenger Train Emergency Preparedness Regulations

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

ACTION: Final rule.

SUMMARY: FRA is amending its existing regulation entitled Passenger Train Emergency Preparedness by revising or clarifying various provisions. The final rule clarifies that railroad personnel who communicate or coordinate with first responders during emergency situations must receive certain initial and periodic training and be subject to operational tests and inspections related to the railroad's emergency preparedness plan. The final rule also clarifies that railroads must develop procedures in their emergency preparedness plans that specifically address the safety of passengers with disabilities during actual and simulated emergency situations, such as during train evacuations. The rule also limits the need for FRA to formally approve certain purely administrative changes to approved emergency preparedness plans. In addition, the final rule requires that operational tests and inspections be conducted in accordance with a program that meets certain minimum requirements. Finally, the rule removes as unnecessary the provision discussing the preemptive effect of the regulations.

DATES: This final rule is effective July 29, 2014. Petitions for reconsideration must be received on or before May 30, 2014. Comments in response to petitions for reconsideration must be received on or before July 14, 2014.

ADDRESSES: *Petitions for reconsideration and comments on petitions for reconsideration:* Any petitions for reconsideration or comments on petitions for reconsideration related to this Docket No. FRA–2011–0062, Notice No. 2, may be submitted by any of the following methods:

- *Web site:* The Federal eRulemaking Portal, *www.regulations.gov.* Follow the Web site's online instructions for submitting comments.
- *Fax:* 202–493–2251.
- *Mail:* Docket Management Facility, U.S. Department of Transportation, 1200 New Jersey Avenue SE., Room W12–140, Washington, DC 20590.
- *Hand Delivery:* Docket Management Facility, Room W12–140 on the ground level of the West Building, U.S. Department of Transportation, 1200 New Jersey Avenue SE., Washington, DC between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

Instructions: All submissions must include the agency name and docket number or Regulatory Identification Number (RIN) for this rulemaking (2130–AC33). Note that all petitions and comments received will be posted without change to *http://www.regulations.gov,* including any personal information provided. Please see the Privacy Act heading in the **SUPPLEMENTARY INFORMATION** section of this document for Privacy Act information related to any submitted petitions, comments or materials.

Docket: For access to the docket to read background documents, petitions for reconsideration, or comments received, go to *http://www.regulations.gov* at any time or visit the Docket Management Facility, U.S. Department of Transportation, 1200 New Jersey Avenue SE., Room W12–140 on the Ground level of the West Building, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Daniel Knote, Staff Director, Passenger Rail Division, Office of Railroad Safety, Mail Stop 25, Federal Railroad Administration, 1200 New Jersey Avenue SE., Washington, DC 20590 (telephone: 631–727–5172); or Anna Nassif Winkle, Trial Attorney, Office of Chief Counsel, Mail Stop 10, Federal Railroad Administration, 1200 New Jersey Avenue SE., Washington, DC 20590 (telephone: 202–493–6166).

SUPPLEMENTARY INFORMATION:

Abbreviations of Terms Frequently Used in This Final Rule

AIS Abbreviated Injury Scale
CFR Code of Federal Regulations
DREDF Disability Rights Education and Defense Fund
e-prep plan a passenger train emergency preparedness plan under 49 CFR 239.101
ERCC emergency response communications center as defined by 49 CFR 239.7
FR Federal Register
NPRM notice of proposed rulemaking
PTES passenger train emergency systems
PV present value
RSAC Railroad Safety Advisory Committee
U.S.C. United States Code

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I. Executive Summary

Having considered the public comments in response to the notice of proposed rulemaking (NPRM) in this proceeding, which was published on June 27, 2012 (*see* 77 FR 38248), FRA issues this final rule amending the passenger train emergency preparedness regulations at 49 CFR part 239 (part 239). This final rule is intended to clarify certain requirements and address issues that have arisen since the regulations were first published in May 1998. This final rule is based on language developed by the General Passenger Safety Task Force (Task Force), a subgroup of FRA's Railroad Safety Advisory Committee (RSAC), to resolve four main issues involving the regulations. The Task Force developed recommendations principally to (1) ensure that railroad personnel who communicate and coordinate with first responders during emergency situations receive initial and periodic training and are subject to operational tests and inspections under part 239; (2) clarify that railroads must develop procedures in their passenger train emergency preparedness plans under part 239 (e-

prep plans) that address the safe evacuation of passengers with disabilities during an emergency situation; (3) limit the need for FRA to formally approve certain purely administrative changes to approved e-prep plans; and (4) specify new operational testing and inspection requirements for both operating and non-operating personnel for railroads covered by part 239. The recommendations developed by the Task Force were approved by the full RSAC, and they formed the basis of the NPRM and this final rule.

The main provisions of the final rule—

- Clarify the types of railroad personnel who are required to be trained or be subjected to operational testing and inspections under part 239, by explicitly including railroad personnel who directly coordinate with emergency responders;
- Clarify that railroads must include procedures in their e-prep plans specifically addressing the safety of persons with disabilities during actual emergency situations as well as during full-scale simulations of emergency situations, such as during train evacuations;
- Allow certain purely administrative changes to e-prep plans to be excluded from the formal review and approval process required for more substantive amendments to e-prep plans under part 239;
- Require that operational tests and inspections be conducted in accordance with a program that meets the minimum requirements specified in this part and provides for such tests and inspections on appropriate courses of action in response to various potential emergency situations;
- Clarify that operational testing and inspections under part 239 may be conducted under, and considered part of, the railroad's operational testing and inspection program under 49 CFR part 217 (part 217); and
- Remove as unnecessary the provision discussing the preemptive effect of part 239.

In analyzing the economic impacts of this final rule, FRA found that the rule's provisions will enhance the emergency planning process currently in place in part 239. FRA has quantified the costs associated with this final rule. Any additional costs associated with amending part 239 will be mostly related to the inclusion of additional personnel in the testing and training programs required by part 239. The industry will also be subject to additional burden from minor new requirements for the submission of e-prep plans to make the review and approval of e-prep plans more efficient. Total costs over the next 10 years are estimated to be $1,492,792 (undiscounted) with a present value (PV) of $1,073,755 when discounted at 7 percent.

The following table presents the estimated discounted costs of the final rule, broken down by section of the rule:

10-YEAR ESTIMATED COST OF FINAL RULE *

Emergency Preparedness Plan (§ 239.101)	$495,530
Debriefing and Critique (§ 239.105)	200,273
Emergency Preparedness Plan; Filing and Approval (§ 239.201)	16,911
Operational Tests and Inspections (§ 239.301)	361,060
Total	1,073,775

* Dollars are discounted at a present value rate of 7 percent.

FRA has analyzed the benefits associated with this final rule. Benefits will accrue from the expedited arrival of emergency responders to accident scenes, and from the ability of ERCC personnel to minimize health and safety risks through improved internal and external communications. FRA utilized a break-even analysis to quantify the minimum safety benefits necessary for the final rule to be cost-beneficial, considering the estimated quantified costs. The break-even point was found to be a reduction in severity of 5.47 injuries from Abbreviated Injury Scale (AIS) level 2 to AIS level 1. Safety benefits are estimated to total $1,636,800 (undiscounted) when six injuries are prevented from increasing in severity from AIS 1 to AIS 2. Total discounted benefits are estimated to be $1,149,620 (PV, 7 percent). The benefits for this final rule will exceed the estimated costs when six injuries are prevented from increasing in severity from AIS 1 to AIS 2. FRA believes that implementation of the amendments in this rulemaking will more than exceed the break-even estimate.

II. Background

A. Overview of FRA's Prior Rulemakings Concerning Passenger Train Emergency Preparedness and Passenger Train Emergency Systems [1]

1. 1998 Final Rule Primarily on Passenger Train Emergency Preparedness and Partly on Passenger Train Emergency Systems

On May 4, 1998, FRA published a final rule primarily on passenger train emergency preparedness that was codified at new part 239, Passenger Train Emergency Preparedness, and that also revised 49 CFR part 223, Safety Glazing Standards. *See* 63 FR 24630. That final rule addresses passenger train emergencies of various kinds, including security situations, and sets minimum Federal safety standards for the preparation, adoption, and implementation of e-prep plans by certain railroads connected with the operation of passenger trains on standard gage track on the general railroad system of transportation. The rule requires e-prep plans to include seven elements addressing communication, employee training and qualification, joint operations, special circumstances (*e.g.,* identifying tunnels, elevated and depressed track sections, bridges, electrified track sections, where evacuation would be difficult and developing specific evacuation plans for those areas), liaison with emergency responders, on-board emergency equipment, and passenger safety information. Under the requirements of the rule, each covered railroad is required to instruct certain employees on the e-prep plan and their responsibilities under the plan. In addition, the plan adopted by each railroad is subject to formal review and approval by FRA. The rule also requires each railroad operating passenger train service to conduct emergency simulations to determine its capability to execute the e-prep plan under the variety of emergency scenarios that could reasonably be expected to occur.

In promulgating the rule, FRA also established specific requirements for passenger train emergency systems at § 239.101(a)(6) and at § 239.107, Emergency exits,[2] as well as in FRA's Safety Glazing Standards. Among these obligations are requirements that all

[1] A "passenger train emergency system" may be defined briefly as installed or moveable equipment, equipment components, or materials, or a combination thereof, that is capable of being used to address an emergency on a passenger train.

[2] Note that, effective January 28, 2014, § 239.107 is removed and reserved, and the requirements have been revised and moved to 49 CFR part 238. *See* 78 FR 71786 (November 29, 2013).

emergency window exits and windows intended for rescue access by emergency responders be marked accordingly and that instructions be provided for their use. In addition, FRA established requirements that all door exits intended for egress be lighted or marked, all door exits intended for rescue access by emergency responders be marked, and that instructions be provided for their use.

2. 2008 Passenger Train Emergency Systems (PTES) Final Rule

In 2008, FRA revisited requirements for emergency systems on passenger trains by enhancing existing requirements for emergency window exits under FRA's Safety Glazing Standards and establishing new requirements for rescue access windows used by emergency responders to evacuate passengers under FRA's Passenger Equipment Safety Standards (49 CFR part 238). *See* 73 FR 6369 (February 1, 2008). While this 2008 final rule did not make any changes to part 239, the rule expanded other existing requirements that were previously only applicable to passenger trains operating at speeds in excess of 125 mph but not exceeding 150 mph (Tier II passenger trains) to passenger trains operating at speeds not exceeding 125 mph (Tier I passenger trains), *see* § 238.5. Specifically, Tier I passenger trains were required to be equipped with public address and intercom systems for emergency communication, as well as provide emergency roof access for use by emergency responders. FRA applied certain requirements to both existing and new passenger equipment, while other requirements applied only to new passenger equipment.

3. 2013 Passenger Train Emergency Systems (PTES II) Final Rule

On November 29, 2013, FRA published a final rule that became effective January 28, 2014, amending FRA's Passenger Equipment Safety Standards by enhancing existing requirements for passenger train emergency systems as well as creating new requirements for passenger train emergency systems. *See* 78 FR 71786. The final rule adds emergency passage requirements for interior vestibule doors as well as enhances emergency egress and rescue access signage requirements. The final rule also adds requirements for low-location emergency exit path markings, creates minimum emergency lighting standards for existing passenger cars, and enhances existing requirements for the survivability of emergency lighting systems in new passenger cars.

Additionally, the final rule amends FRA's passenger train emergency preparedness regulations in part 239. In addition to moving the ''emergency exits'' provision of part 239, as previously noted, these amendments include clarifying existing requirements for participation in debriefing and critique sessions following both actual passenger train emergency situations and full-scale simulations. Under the current regulation, a debriefing and critique session is required after each passenger train emergency situation or full-scale simulation to determine the effectiveness of the railroad's e-prep plan. *See* § 239.105. The railroad is then required to improve or amend its plan, or both, in accordance with the information gathered from the session. The language added in the PTES II final rule clarifies that, to the extent practicable, all on-board personnel, control center personnel, and any other employee involved in the emergency situation or full-scale simulation shall participate in the debriefing and critique session. The final rule also clarifies that employees be provided flexibility to participate in the debriefing and critique sessions through a variety of different methods.

B. Proceedings to Date in the Present Rulemaking

1. The Need for Additional Revisions to the Passenger Train Emergency Preparedness Regulations

Among FRA's reasons for initiating the present rulemaking, FRA learned that there was confusion regarding certain requirements within FRA's passenger train emergency preparedness regulations. For example, FRA learned that some passenger railroads were confused as to which types of railroad personnel were required to be trained or be subjected to operational testing and inspections under part 239. Specifically, these railroads were unclear whether part 239 required certain railroad personnel who directly coordinate with emergency responders and other outside organizations during emergency situations to be trained or be subjected to operational testing and inspections. As a result, FRA believes that it is necessary to clarify the regulatory language in part 239 to ensure that railroad personnel who directly coordinate with emergency responders actually receive the proper training and are subject to operational testing and inspections. FRA also learned that many railroads were unclear whether operational testing under part 239 was permitted to be considered as part of the railroad's operational testing and inspection program required under part 217. In addition, as a result of FRA's experience in reviewing and approving passenger railroads' e-prep plans that are updated periodically, FRA realized that a number of the changes were purely administrative in nature. While part 239 currently subjects all changes to an e-prep plan to a formal review and approval process, FRA believes that certain purely administrative changes should be excluded from the process so that the agency can focus its resources on more substantive matters.

Finally, FRA believes it is necessary to clarify part 239 to address the requirements of Executive Order 13347. *See* 69 FR 44573 (July 26, 2004). Executive Order 13347 requires, among other things, that Federal agencies encourage State, local, and tribal governments, private organizations, and individuals to consider in their emergency preparedness planning the unique needs of individuals with disabilities whom they serve. While part 239 already requires railroads' e-prep plans to consider the unique needs of passengers with disabilities (as each railroad subject to part 239 is required to address the safety of each of its passengers in its e-prep plan), this final rule makes this requirement more explicit and clarifies the railroads' responsibilities in that regard.

2. RSAC Overview

In March 1996, FRA established RSAC as a forum for collaborative rulemaking and program development. RSAC includes representatives from all of the agency's major stakeholder groups, including railroads, labor organizations, suppliers and manufacturers, and other interested parties. A list of member groups follows:

- American Association of Private Railroad Car Owners (AAPRCO);
- American Association of State Highway and Transportation Officials (AASHTO);
- American Chemistry Council;
- American Petroleum Institute;
- American Public Transportation Association (APTA);
- American Short Line and Regional Railroad Association (ASLRRA);
- American Train Dispatchers Association (ATDA);
- Association of American Railroads (AAR);
- Association of Railway Museums;
- Association of State Rail Safety Managers (ASRSM);
- Brotherhood of Locomotive Engineers and Trainmen (BLET);
- Brotherhood of Maintenance of Way Employees Division (BMWED);
- Brotherhood of Railroad Signalmen (BRS);

- Chlorine Institute;
- Federal Transit Administration (FTA); *
- Fertilizer Institute;
- High Speed Ground Transportation Association;
- Institute of Makers of Explosives;
- International Association of Machinists and Aerospace Workers;
- International Brotherhood of Electrical Workers;
- Labor Council for Latin American Advancement; *
- League of Railway Industry Women; *
- National Association of Railroad Passengers (NARP);
- National Association of Railway Business Women; *
- National Conference of Firemen & Oilers;
- National Railroad Construction and Maintenance Association (NRCMA);
- National Railroad Passenger Corporation (Amtrak);
- National Transportation Safety Board (NTSB); *
- Railway Supply Institute (RSI);
- Safe Travel America (STA);
- Secretaria de Comunicaciones y Transporte; *
- Sheet Metal Workers International Association (SMWIA);
- Tourist Railway Association, Inc.;
- Transport Canada; *
- Transport Workers Union of America (TWU);
- Transportation Communications International Union/BRC (TCIU/BRC);
- Transportation Security Administration (TSA); * and
- United Transportation Union (UTU).

* Indicates associate, non-voting membership.

When appropriate, FRA assigns a task to RSAC, and after consideration and debate, RSAC may accept or reject the task. If the task is accepted, RSAC establishes a working group that possesses the appropriate expertise and representation of interests to develop recommendations to FRA for action on the task. These recommendations are developed by consensus. A working group may establish one or more task forces to develop facts and options on a particular aspect of a given task. The individual task force then provides that information to the working group for consideration. When a working group comes to unanimous consensus on recommendations for action, the package is presented to the full RSAC for a vote. If the proposal is accepted by a simple majority of RSAC, the proposal is formally recommended to FRA. FRA then determines what action to take on the recommendation. Because FRA staff members play an active role at the working group level in discussing the issues and options and in drafting the language of the consensus proposal, FRA is often favorably inclined toward the RSAC recommendation. However, FRA is in no way bound to follow the recommendation, and the agency exercises its independent judgment on whether the recommended rule achieves the agency's regulatory goal, is soundly supported, and is in accordance with policy and legal requirements. Often, FRA varies in some respects from the RSAC recommendation in developing the actual regulatory proposal or final rule. Any such variations would be noted and explained in the rulemaking document issued by FRA. However, to the maximum extent practicable, FRA utilizes RSAC to provide consensus recommendations with respect to both proposed and final agency action. If RSAC is unable to reach consensus on a recommendation for action, the task is withdrawn and FRA determines the best course of action.

3. Passenger Safety Working Group

The RSAC established the Passenger Safety Working Group (Working Group) to handle the task of reviewing passenger equipment safety needs and programs and recommending consideration of specific actions that could be useful in advancing the safety of rail passenger service and develop recommendations for the full RSAC to consider. Members of the Working Group, in addition to FRA, include the following:

- AAR, including members from BNSF Railway Company (BNSF), CSX Transportation, Inc. (CSXT), and Union Pacific Railroad Company (UP);
- AAPRCO;
- AASHTO;
- Amtrak;
- APTA, including members from Bombardier, Inc., Herzog Transit Services, Inc., Interfleet Technology, Inc. (Interfleet, formerly LDK Engineering, Inc.), Long Island Rail Road (LIRR), Maryland Transit Administration (MTA), Metro-North Commuter Railroad Company (Metro-North), Northeast Illinois Regional Commuter Railroad Corporation (NIRCRC), Southern California Regional Rail Authority (Metrolink), and Southeastern Pennsylvania Transportation Authority (SEPTA);
- ASLRRA;
- BLET;
- BRS;
- FTA;
- NARP;
- NTSB;
- RSI;
- SMWIA;
- STA;
- TCIU/BRC;
- TSA;
- TWU; and
- UTU.

In 2007, the Working Group tasked the Task Force (General Passenger Safety Task Force) to resolve four issues involving FRA's regulations related to passenger train emergency preparedness. The issues taken up by the Task Force were as follows: (1) Ensure that railroad personnel who communicate and coordinate with first responders during emergency situations receive initial and periodic training and are subject to operational tests and inspections under part 239; (2) clarify that railroads must develop procedures in their e-prep plans addressing the safety of passengers with disabilities during an emergency situation, such as during a train evacuation; (3) limit the need for FRA to formally approve certain purely administrative changes to approved e-prep plans and update FRA headquarters' address; and (4) specify new operational testing and inspection requirements for both operating and non-operating employees for railroads covered by part 239.

While the Task Force was initially also charged with updating FRA headquarters' address as it appeared in various regulations found in part 239, FRA has already amended its regulations to update the address of the physical headquarters of FRA and the U.S. Department of Transportation in Washington, DC. *See* 74 FR 25169 (May 27, 2009).

4. General Passenger Safety Task Force

Members of the Task Force include representatives from various organizations that are part of the larger Working Group. Members of the Task Force, in addition to FRA, include the following:

- AAR, including members from BNSF, CSXT, Norfolk Southern Railway Co., and UP;
- AASHTO;
- Amtrak;
- APTA, including members from Alaska Railroad Corporation, Peninsula Corridor Joint Powers Board (Caltrain), LIRR, Massachusetts Bay Commuter Railroad Company, Metro-North, MTA, New Jersey Transit Corporation, New Mexico Rail Runner Express, Port Authority Trans-Hudson, SEPTA, Metrolink, and Utah Transit Authority;
- ASLRRA;
- ATDA;
- BLET;
- FTA;

- NARP;
- NRCMA;
- NTSB;
- Transport Canada; and
- UTU.

The full Task Force met together on the following dates and in the following locations to discuss the four e-prep-related issues charged to the Task Force:

- July 18–19, 2007, in Chicago, IL;
- December 12, 2007, in Ft. Lauderdale, FL;
- April 23–24, 2008, in San Diego, CA; and
- December 3, 2008, in Cambridge, MA.

Minutes of each of these Task Force meetings are part of the docket in this proceeding and are available for public inspection.

5. Development of the NPRM

The NPRM was developed to address a number of the concerns raised and issues discussed during the various Task Force and Working Group meetings. Staff from the DOT's Volpe National Transportation Systems Center in Cambridge, MA, attended many of the meetings and contributed to the technical discussions through their comments and presentations. To aid the Task Force in its delegated task, FRA drafted regulatory text for discussion purposes and made various changes to the draft text based upon input from Task Force members, as reflected in the meeting minutes. The Task Force reached consensus on all four assigned tasks and adopted the draft text created from its meetings as a recommendation to the Working Group on December 4, 2008.

FRA revised the Task Force's recommendation to conform to technical drafting guidelines and to clarify the intent of the recommendation. On June 8, 2009, the Task Force presented both its initial consensus language as well as the consensus language revised by FRA to the Working Group. The Working Group approved the Task Force's initial and revised consensus language at its June 8, 2009 meeting in Washington, DC. The consensus language was then presented before the full RSAC on June 25, 2009, where it was approved by unanimous vote. Thus, the Working Group's recommendation was adopted by the full RSAC as a recommendation to FRA.

While the RSAC's recommendation provided a strong basis for the proposed rule, the language FRA proposed in the NPRM varied from the recommendation principally in one substantive way: FRA declined to adopt the RSAC's recommendation that FRA add language to § 239.101(a)(2)(ii) that would require control center and emergency response communications center (ERCC) personnel to receive initial and periodic training only on those portions of the railroad's e-prep plan that relate to their specific duties under the plan. FRA explained this decision in the section-by-section analysis. FRA had also proposed minor changes for purposes of clarity and formatting in the **Federal Register**, but these changes were not intended to affect the RSAC's consensus recommendation.

6. Development of the Final Rule and Response to General Comments on the NPRM

FRA notified the public of its options to submit written comments on the NPRM and to request a public, oral hearing on the NPRM as well. No request for a public hearing was received. However, a number of interested parties did submit written comments to the docket in this proceeding, and FRA considered all of these comments in preparing this final rule. Specifically, written comments were received from the Commuter Rail Division of the Regional Transportation Authority (Metra) and its operating company NIRCRC; MTA; the Disability Rights Education and Defense Fund (DREDF); individual commenter Jeffrey Scott Moore; and the Transportation Communications Union/IAM (TCU/IAM), TWU, UNITE–HERE, and UTU (jointly).

FRA notes that throughout the preamble discussion of this final rule, FRA refers to comments, views, suggestions, or recommendations made by members of the Task Force, Working Group, or full RSAC, as they are identified or contained in meeting minutes or other materials in the public docket. FRA does so to show the origin of certain issues and the nature of discussions concerning those issues at the Task Force, Working Group, and full RSAC level. FRA believes this serves to illuminate factors it has weighed in making its regulatory decisions, as well as the rationale for those decisions.

The majority of the comments received appear to address specific provisions proposed in the NPRM. FRA's response to such comments can be found in the section-by-section analysis of the specific provisions to which the comments apply. However, as there were two comments that were more general in nature and did not directly relate to a particular proposed provision, FRA is discussing these comments in this section.

The first general comment is from an individual, Mr. Jeffrey Scott Moore. Mr. Moore suggests that FRA redefine what ''railroad'' means in part 239 and which railroads are subject to part 239. He believes that passenger density should be the driving force for meeting the definition of a passenger railroad covered by part 239, rather than the items currently listed in the definition of ''railroad'' in part 239 and the applicability section at § 239.3 (*e.g.,* whether the passenger service is a commuter railroad), and recommends that FRA apply the same standard to all passenger railroads, ''right down to the first aid kits.'' Mr. Moore's comment appears to be requesting that FRA reconsider both the definition of ''railroad'' and the general applicability of part 239, neither of which was raised as an issue in the NPRM. Accordingly, FRA believes that Mr. Moore's comment is outside of the scope of this rulemaking proceeding. FRA's rationale for defining the term ''railroad'' as it is used in § 239.7 and for the criteria determining part 239's applicability can be found in the preamble to the 1998 final rule at 63 FR 24630, 24643–24645 (May 4, 1998).

The second general comment is a joint comment from TCU/IAM, TWU, UNITE–HERE, and UTU (collectively, the Unions) urging FRA to further modify § 239.7 by eliminating the exclusion of persons performing ''food, beverage, or security service'' from the definition of ''crewmember.'' [3] The Unions assert that on-board service employees may be called upon, and have been called upon, to assist passengers in an emergency, and note that such employees are often in a unique position to assist passengers with special needs. Further, the Unions submit that passengers do not often differentiate between uniformed employees and, due to more regular interaction with on-board service employees that are on the train point-to-point with passengers, are more likely to go to them for assistance during an emergency situation. While recognizing that ''the vast majority of these [on-board service] employees are already trained in safety and emergency procedures (via Amtrak required training),'' the Unions assert that training of ''all'' on-board service employees (including food, beverage, and security workers, and employees of

[3] The term ''crewmember'' means ''a person, other than a passenger, who is assigned to perform either: (1) On-board functions connected with the movement of the train (*i.e.,* an employee of a railroad, or of a contractor to a railroad, who is assigned to perform service subject to the Federal hours of service laws during a tour of duty) or (2) On-board functions in a sleeping car or coach assigned to intercity service, other than food, beverage, or security service.''

contractors and subcontractors) should be required, not voluntary, and conclude that this ''loophole'' in the definition of ''crewmember'' in § 239.7 has resulted in ''a missed opportunity to enhance safety.''

Although the NPRM did raise the issue of which employees needed to be trained on a railroad's emergency preparedness plan, it did so in the limited context of certain employees that were already assigned a formal and key role in the railroad's execution of its e-prep plan (*i.e.,* establishing, coordinating, or maintaining communication with emergency responders, representatives of adjacent modes of transportation, or appropriate railroad officials during a passenger train emergency), but that were not technically subject to the training requirements simply because they were not located within a ''control center'' as that term is defined in § 239.7. The Unions, however, appear to be requesting that FRA mandate that all on-board service employees receive training on a railroad's e-prep plan (which may be more extensive than the training that Amtrak is currently providing such employees) without regard as to whether these employees have been assigned a formal or key role under the plan. Accordingly, FRA believes that this comment is outside of the scope of this rulemaking proceeding. However, FRA reiterates that in the 1998 final rule, FRA recognized ''the practical limits of an expansive definition of ''crewmember,'' and anticipated that railroads would ''voluntarily elect to train most, if not all, on-board personnel in emergency response procedures.'' *See* 63 FR 24630, 24636 (May 4, 1998). FRA remains concerned regarding the cost-effectiveness of requiring that training be provided to persons performing food, beverage, or security service where such persons may not be assigned a key role under the e-prep plan in precipitating passenger evacuation during the aftermath of an emergency. *See* 63 FR 24630, 24636–24637 (May 4, 1998).

FRA understands that the overwhelming majority of railroads subject to part 239 have not assigned key roles in their e-prep plans to contractor employees performing food, beverage, or security service. Based on the likelihood that contractor employees performing food, beverage, or security service are either being voluntarily trained by the railroad, as applicable, or are merely performing incidental functions, FRA believes that no further changes to the definition or training requirements, other than those included in this final rule (*see e.g.,* § 239.101(a)(2)(iii)), are necessary at this time.

III. Section-by-Section Analysis, Including Response to Other Comments on the NPRM

Subpart A—General

Section 239.5 Preemptive Effect

FRA is eliminating this section on the preemptive effect of part 239, the passenger train emergency preparedness regulations. FRA believes that this section is unnecessary because it is duplicative of statutory law at 49 U.S.C. 20106 and case law, which sufficiently address the preemptive scope of FRA's regulations. FRA is retaining the section number itself rather than deleting it.

Section 239.7 Definitions

FRA is amending this section in one major and two minor ways. Most importantly, FRA is adding a definition for the new term ''emergency response communications center'' (ERCC) as will be explained in detail below. In addition, FRA is adding a definition for two existing terms ''on-line emergency responder'' (*see* § 239.101(a)(5)) and ''outside emergency responder'' (*see* § 239.101(a)(1)(ii)) to clarify that FRA intends those terms to have the same meaning as that of the existing, and defined, term ''emergency responder.'' Finally, FRA is updating the definition of the existing term ''crewmember'' for technical reasons to reflect that most individuals assigned to be engaged in or connected with the movement of a passenger train are not subject to ''the Federal hours of service laws'' as the definition presently reads, but are subject to the obligations encompassed by the more generic term, ''the Federal hours of service requirements.''

Under the final rule, the new term ''ERCC'' is defined, in part, as ''a central location, or a group of individuals, designated by a railroad with responsibility for establishing, coordinating, or maintaining communication with outside emergency responders, representatives of adjacent rail modes of transportation, or appropriate railroad officials during a passenger train emergency.'' The definition continues that the ERCC may be part of the railroad's ''control center,'' which has already been defined as ''a central location on a railroad with responsibility for directing the safe movement of trains.'' *See* current § 239.7. A control center is commonly called a ''train dispatch center.'' FRA believes this new definition of ''ERCC'' is necessary for the reasons stated below.

Currently, the requirements of part 239 do not specifically apply to all personnel assigned to perform the above-described emergency response communication functions, but rather to personnel in the railroad's control center. The individuals working in these control centers are subject to e-prep plan training and operational tests. *See* current § 239.101. However, requiring only responsible control center personnel (in addition to on-board personnel (''crewmembers'' within the meaning of § 239.7)) to receive training on a railroad's e-prep plan may be problematic because, in many railroads' operational structures, train dispatchers only notify internal railroad officials (as opposed to ''outside emergency responders'') about an emergency situation and provide block protection for the affected train(s) or equipment involved in the incident. While an ERCC may be part of a railroad's dispatch center, many railroads maintain a separate center within their organizational structure that establishes and maintains communications with outside emergency responders, adjacent rail modes of transportation, and appropriate railroad officials. In addition, ERCC personnel often assist in coordinating the actual emergency response with outside emergency responders.

This final rule defines an ''ERCC,'' which provides vital services during an emergency situation, and includes the term in various provisions of part 239 that address training, testing, and inspection requirements. By including this definition and inserting this term in the existing regulation, FRA is expressly requiring that ERCC personnel, who directly interact with outside emergency responders and perform other key emergency response communications functions, receive the proper training, testing, and oversight under the regulation to appropriately prepare for and respond to an emergency situation.

The definition of ''ERCC'' that FRA is adopting in this final rule provides the railroads with maximum flexibility in designating what centers or groups of individuals within the railroad's organizational structure are responsible for communicating with the outside emergency responders and other outside entities during an emergency situation on the railroad and would therefore qualify as ERCCs or ERCC personnel. With this flexibility, each affected railroad is permitted to ensure that the correct center or group of individuals within the railroad's organizational structure responsible for such emergency response communications receives training on the railroad's e-prep

plan, and that the personnel in that center or group of individuals is subject to operational tests and inspections regardless of how the center or group of individuals is organized within the railroad.

For clarity, and in recognizing that a railroad has the flexibility to assign ERCC functions to a group of individuals (*see* above and 77 FR 38248, 38252 (June 27, 2012)) that, pursuant to its organizational structure, may not necessarily be centrally located, FRA is modifying the definition of ''ERCC'' that was recommended by the RSAC and proposed by FRA in the NPRM in four ways. The first modification is adding the phrase '', or a group of individuals,'' after ''a central location'' to encompass a group of individuals that are not centrally located, but that nevertheless have an assigned role within the scope of the term ''ERCC'' in carrying out the railroad's emergency response communications and who, therefore, have to be properly trained and tested under this part to ensure that they would be able to execute their assigned roles. The second modification of the definition of ''ERCC'' is changing the word ''and,'' in front of ''appropriate railroad officials,'' to ''or'' in order to ensure that a central location or a group of individuals designated to perform some, but not all of the functions described in the definition would still be considered an ERCC for purposes of this part. The third and fourth modifications are for clarity and consistency with terms used in current § 239.101(a)(1)(ii) regarding the required notifications to ''outside'' emergency responders and adjacent ''rail'' modes of transportation. Accordingly, FRA has added ''outside'' in front of ''emergency responders'' and ''rail'' in front of ''modes of transportation'' in the definition of the term ''ERCC.''

As noted above, FRA is also making two minor revisions to this section. First, FRA is defining the existing term ''outside emergency responder,'' which currently lacks a definition, to have the same meaning as the already defined term ''emergency responder'' for purposes of this part. This final rule includes both terms at the beginning of the definition of ''emergency responder,'' and the rest of the definition remains the same. Second, FRA is making a technical update to the definition of ''crewmember'' by replacing the word ''laws'' in the phrase ''Federal hours of service laws'' with ''requirements[.]'' This change is necessary for two reasons: (1) The Federal substantive hours of service regulatory scheme applicable to the crews of passenger trains no longer includes only laws passed by Congress (*i.e.,* 49 U.S.C. chapter 211), but also includes regulations issued by FRA (*i.e.,* 49 CFR part 228, subpart F); and (2) currently, train employees providing passenger service are subject to these FRA substantive hours of service regulations at 49 CFR part 228, subpart F and are not subject to the hours of service laws at 49 U.S.C. chapter 211 except in fairly rare situations where both the hours of service regulations and the hours of service laws apply to the same period of service. *See* Second Interim Statement of Agency Policy and Interpretation on the Hours of Service Law as Amended in 2008; 78 FR 58,830, 58,838 (September 24, 2013) (discussing the applicability of statutory and regulatory hours of service requirements to employees performing multiple types of covered service).

Subpart B—Specific Requirements

Section 239.101 Emergency Preparedness Plan

Each railroad subject to part 239 is required to establish an e-prep plan under this section that is designed to manage emergencies effectively and efficiently and to minimize subsequent trauma and injury to passengers and on-board personnel. FRA is revising this section in several different ways, namely, by adding language to paragraphs (a)(1)(ii) and (a)(2)(ii) through (v), removing language from paragraph (a)(2)(ii), and creating an entire, new paragraph (a)(8). Each change to this section is addressed below, by paragraph or subparagraph.

Paragraph (a)(1)(ii). As currently written, paragraph (a)(1)(ii) requires railroad control center personnel (who may be entirely comprised of railroad dispatchers) to notify outside emergency responders, adjacent rail modes of transportation, and appropriate railroad officials when a passenger train emergency has occurred. However, a number of railroads have found it inefficient to use the control center or railroad dispatcher to perform these duties during an emergency situation because the personnel are likely providing block protection for the incident as well as performing their usual dispatching duties for other parts of the railroad unaffected by the emergency event. Instead, many railroads currently maintain in their organizational structure a separate center or desk within, or even completely separate from, the railroad dispatch center that is made up of a group of individuals responsible for establishing and maintaining communications with internal and external organizations during a railroad emergency. *See* the discussion of ERCCs in § 239.7, above. Consequently, FRA is adding specific language to this paragraph that permits railroads to have the flexibility to decide which individuals or which part of the railroad's organizational structure should handle these duties during an emergency situation.

Paragraph (a)(2)(ii). Similar to the change being made to paragraph (a)(1)(ii), FRA is adding language to paragraph (a)(2)(ii) that requires ERCC personnel to receive initial and periodic training on appropriate courses of action for each potential emergency situation. As currently written, this paragraph already requires initial and periodic training for ''responsible'' control center personnel (*i.e.,* those who are assigned responsibilities under the plan that are more than incidental functions). FRA notes for clarification that a clerk or a dispatcher that is performing merely an incidental function, such as receiving a call from a stalled train, but who does not have an assigned role under the plan, is not required to be trained. *See* 63 FR 24630, 24651 (May 4, 1998).

FRA is also adding language to this paragraph clarifying that control center or ERCC personnel can be employees of the railroad, as well as contractors, subcontractors, or employees of a contractor or subcontractor to the railroad. FRA notes that contractors, subcontractors, and employees of a contactor or subcontractor to the railroad are already subject to the requirements of part 239 when performing functions under this part per the requirements of § 239.9. Nonetheless, it appears that there is some confusion as to the training of such employees, as is evident in the joint comment from the Unions indicating that the current regulation excludes contractors from the training requirements and expressing support for applying the same training requirements to contractors, subcontractors, and railroad employees. Accordingly, for clarity, and in response to the joint comment from the Unions, FRA is revising the rule text in paragraph (a)(2)(ii) and the text in various other paragraphs of this part to make clear that contractors, subcontractors, and employees of a contractor or subcontractor are indeed covered under the requirements of this part and must be properly trained. In situations where a contractor is providing training on a railroad's e-prep plan to its covered employees or to the covered employees of a railroad or another contractor to a railroad, FRA has the authority to cite either the railroad, the contractor, or

both for any failure to provide e-prep training required by this part, as the railroad's e-prep plan must provide for such training, and a contractor performing any function under part 239 must perform that function in accordance with this part and is subject to a civil penalty for failure to perform the function in accordance with this part. *See* §§ 239.101(a)(2), 239.9, and 239.11. In making the determination as to whether to assess a civil penalty against the railroad or contractor or both under such situations, FRA will consider the criteria listed in Appendix A to part 209.

FRA notes that the RSAC reached consensus on adding language that would have required that control center and ERCC personnel receive initial and periodic training only on those portions of the railroad's e-prep plan that relate to their specific duties under the plan. However, FRA declined to propose adding such language to this paragraph in the NPRM, due to the concern that a railroad's entire emergency response could be hindered if specific individuals happen to be absent during an actual emergency situation. For example, if a specific control center or ERCC employee is required under the railroad's e-prep plan to notify internal railroad personnel during an emergency situation that an emergency situation on the railroad has occurred, and that employee is absent or incapacitated during an actual emergency, then the railroad's emergency response may be hindered if the remaining individuals had received training only on the very specific parts of the railroad's e-prep plan for which they were directly responsible during an emergency situation. By ensuring that control center and ERCC personnel receive broader initial and periodic training on appropriate courses of action on potential emergency situations beyond the individual's specific duties under the railroad's e-prep plan, these individuals will have a more holistic view of the railroad's emergency response and therefore be better prepared to respond to an emergency situation regardless of the specific circumstances. Although MTA submitted a comment urging FRA to adopt the RSAC recommendation (and suggesting that such training would be consistent with existing protocol and would not compromise passenger safety), the comment did not address the safety concerns that FRA expressed in the NPRM.

FRA believes that training control center and ERCC personnel on the railroad's entire e-prep plan, not just the specific portions of the plan that relate to their specific duties, will not add substantial cost to the railroads because most railroads are already providing this broader level of training to their employees, as the current training requirements are not limited to an employee's specific duties, and specifically require training on coordination of functions. *See* current § 239.101(a)(2)(ii). Many railroads provide this holistic training on the railroad's e-prep plan through an informational video, which provides useful information to the employees on all levels of the railroad's emergency response. In addition, FRA understands that the RSAC language that would have only required training specific to the employee's duties under the plan was included in the consensus language in response to concerns that, under the current requirement in§ 239.101(a)(2)(ii)(A), some railroads were training control center personnel that were not also dispatchers to be familiar with a territory to the same level as a dispatcher. As further discussed below, FRA has already addressed this concern elsewhere in the training requirements by removing the word ''dispatch'' from the requirement that training include ''Dispatch territory familiarization.'' Accordingly, for the reasons expressed in the NPRM and above, FRA declines to add to this provision the RSAC-recommended language regarding providing training to individuals only on their specific duties under the e-prep plan.

FRA is also amending paragraphs (a)(2)(ii)(A) through (D). In paragraph (a)(2)(ii)(A), FRA is removing the word ''dispatch'' before ''territory familiarization,'' as noted above. The Task Force recommended that the word ''dispatch'' be removed from this paragraph so that control center and ERCC personnel who are not railroad dispatchers would not be required to be as familiar with a territory as dispatchers are required to be under current railroad operating rules. For example, to conduct their duties efficiently and safely, railroad dispatchers are required to memorize the physical characteristics of the railroad territory over which they control train movements. While this is necessary for a railroad dispatcher, the Task Force believed, and FRA agrees, that this level of familiarity with railroad territory is not necessary for individuals working in a control center or ERCC who are not railroad dispatchers.

No comments were received on this amendment. Therefore, for the reasons noted in the NPRM and above, FRA has removed the word ''dispatch'' from ''Dispatch territory familiarization'' in paragraph (a)(2)(ii)(A). This amendment clarifies that individuals working in control centers or ERCCs who are not also railroad dispatchers are not required to have complete dispatch territory familiarization in their capacity to assist in emergency situations. Instead, for the purposes of this paragraph, ''Territory familiarization'' will focus on, but not be limited to the following: access points for emergency responders along the railroad's right-of-way; special circumstances (*e.g.,* tunnels); parallel operations; and other operating conditions (*e.g.,* elevated structures, bridges, and electrified territory) including areas along the railroad's right-of-way that are remote and that would likely present challenges for individuals responding to a passenger train emergency.

To complement the language being adopted in paragraph (a)(2)(ii)(A), paragraph (a)(2)(ii)(B) is being amended to require initial and periodic training for responsible control center and ERCC personnel on how to access and retrieve information that would aid emergency personnel in responding to an emergency situation. (Current paragraph (a)(2)(ii)(B) is being redesignated as paragraph (a)(2)(ii)(C), below.) Under the amended provision, responsible control center and ERCC personnel are required to receive sufficient training to be able to retrieve information to assist emergency personnel in their emergency response. For example, under a railroad's e-prep plan, a railroad employee designated as part of an ERCC might be required to be trained on how to electronically retrieve a map of railroad property, read it properly, and identify and describe important points of access to emergency responders. No comments were received on this amendment, and, except for adding an explanation of ''Territory familiarization,'' FRA has adopted the provision as proposed in the NPRM for the reasons stated above.

FRA is also adding language to paragraph (a)(2)(ii)(C) (redesignated from (a)(2)(ii)(B)). This new language requires responsible control center and ERCC personnel to receive initial and periodic training on the railroad's e-prep plan, including what protocols govern internal communications between these two groups when an actual emergency situation occurs. The language ''as applicable under the plan,'' is also being added to the regulatory text to emphasize that, due to the variety of possible organizational designs on how railroads handle emergency responses, it is ultimately each individual railroad's decision on

what protocols will be followed to govern internal communication between control center and ERCC personnel. No comments were received on this amendment, and FRA is adopting the provision as proposed in the NPRM for the reasons stated above.

Finally, FRA is adding a new paragraph (a)(2)(ii)(D). This new paragraph reflects the Task Force's recommendation that initial and periodic e-prep plan training should include the protocols for establishing and maintaining external communications between the railroad's control center or ERCC, or both, and emergency responders. The Task Force recommended, and FRA agrees, that adding this requirement will ensure that responsible control center and ERCC personnel receive initial and periodic training on what protocols need to be followed to establish and maintain communications with external organizations assisting in the emergency response. Like the Task Force, FRA believes that it is just as important for control center and ERCC personnel to learn the protocols for establishing and maintaining communications with external organizations as for the protocols governing internal communications between centers in newly-designated paragraph (a)(2)(ii)(C). No comments were received on this amendment, and FRA is adopting the provision as proposed in the NPRM for the reasons stated above.

FRA also realizes that railroads may have to amend their e-prep plans in order to comply with the new requirements. FRA noted in the NPRM that it intended to provide railroads sufficient time to have their amended e-prep plans submitted to FRA for review after the issuance of this final rule, and invited comment as to whether FRA should lengthen the usual period before the final rule would become effective. No comments were received on this issue. FRA believes that a total of 120 days should provide railroads with sufficient time to amend their plans and submit them to FRA for review, and has therefore decided to make the rule effective on July 29, 2014.

Paragraph (a)(2)(iii). FRA is adding language to paragraph (a)(2)(iii) that requires ERCC personnel to be included in the initial training after the e-prep plan is approved under § 239.201(b)(1). It is important that ERCC personnel be included in this training because, depending on the organizational structure of the railroad, the actions of ERCC personnel during an emergency response situation may be more pivotal to the successful implementation of the plan than the actions of control center personnel. FRA is also adding clarifying language to paragraph (a)(2)(iii) to specify that responsible control center and ERCC personnel are subject to the training requirements regardless of whether they are railroad employees, railroad contractors and subcontractors, or employees of these contractors and subcontractors. This clarification addresses the joint comment from the Unions, as discussed in the section-by-section analysis of paragraph (a)(2)(ii) of this section, above. No further comments were received on these amendments, and other than a simplification of the heading (*i.e.,* replacing ''employees of the railroad, current employees of contractors and subcontractors to the railroad, and individuals who are contracted or subcontracted by the railroad'' with ''personnel''), FRA is adopting the provision as proposed in the NPRM for the reasons stated above.

Paragraph (a)(2)(iv). For the same reasons that FRA is adding language to paragraph (a)(2)(iii), FRA is adding similar language to paragraph (a)(2)(iv), namely, to ensure that ERCC personnel hired after the e-prep plan is approved by FRA receive initial training within 90 days after the individual's initial date of service with the railroad. Currently, this paragraph expressly requires that only on-board and control center personnel receive initial training within 90 days after their initial date of service with the railroad. Depending on how a railroad has chosen to organize its response to a specific emergency situation, failure to train a new ERCC employee within 90 days of starting his or her service on the railroad could create inefficiencies in the railroad's response to an emergency situation.

In addition, FRA is adding language to paragraph (a)(2)(iv) clarifying that the requirements of this paragraph are not limited to on-board and control center personnel that are railroad employees, but include ERCC personnel that are railroad employees, as well as on-board, control center, and ERCC personnel that are contractors, subcontractors, and employees of contractors or subcontractors. This clarification also addresses the joint comment from the Unions, as discussed in the section-by-section analysis of paragraph (a)(2)(ii) of this section, above. No further comments were received on these amendments. Other than three minor edits (*i.e.,* the modification of the header for simplicity and consistency with § 239.101(a)(2)(iii), the addition of the word ''responsible'' in front of ''control center personnel'' for consistency with its use in the training requirements in § 239.101(a)(2), and the revision of ''and'' to ''as well as'' in front of ''any emergency response communications center personnel'' for consistency with § 239.101(a)(2)(v)), FRA is adopting the provision as proposed in the NPRM for the reasons stated above.

Paragraph (a)(2)(v). FRA is adding language to this paragraph to clarify that railroads need to develop testing procedures not only for employees, but also for contractors and subcontractors, as well as employees of contractors and subcontractors who are being evaluated for qualification under the railroad's e-prep plan. The current regulatory text expressly requires railroads to develop testing procedures for railroad employees only. This final rule clarifies that employees, as well as contractors, subcontractors, and employees of contractors and subcontractors, are required to be evaluated for qualification under the railroad's e-prep plan using appropriate testing procedures. The heading of this paragraph is also being amended for simplicity (and consistency with paragraphs (a)(2)(iii) and (a)(2)(iv)) and to clarify that railroads need to develop testing procedures for ERCC personnel as well as on-board and control center personnel.

Finally, FRA is modifying paragraph (a)(2)(v)(A) to require that testing procedures developed by the railroads accurately measure an individual's, rather than an individual employee's, knowledge of his or her responsibilities under the railroad's e-prep plan. Currently, paragraph (a)(2)(v)(A) expressly applies only to railroad employees, and this modification ensures that railroad contractors and subcontractors are covered by the provision as well. This clarification addresses the joint comment from the Unions, as discussed in the section-by-section analysis of paragraph (a)(2)(ii) of this section, above. No further comments were received on these amendments, and FRA is adopting the provision as proposed in the NPRM for the reasons stated above.

Paragraph (a)(8). For the reasons stated below, FRA has adopted the provision as proposed in the NPRM, except that FRA has added an explanation of the term ''knowledge.'' Executive Order 13347 (''Individuals with Disabilities in Emergency Preparedness'') requires the Federal government to appropriately support safety and security for individuals with disabilities in all types of emergency situations. *See* 69 FR 44573 (July 26, 2004). Currently, each railroad subject to part 239 is required to address the safety of each of its passengers in its emergency preparedness planning.

Nonetheless, FRA is adding a new paragraph (a)(8) that clarifies that these railroads must include in their e-prep plans specific procedures addressing the safety of persons with one or more disabilities during emergency situations and full-scale simulations (such as while evacuating a train, while moving passengers from car to car in the same train, or while ensuring that the passengers remain in place), and for notifying emergency responders of the presence and general location of any person with a disability when the railroad has knowledge that the passenger is on board the train. FRA expects the railroads to address the responsibilities of on-board personnel to carry out these specific procedures on their own until response personnel arrive. For example, if a train has a failure or is involved in an incident and an evacuation or other action is deemed necessary, a crewmember in the body of the train, most likely someone other than the engineer as he or she would typically be in the cab managing communications, would need to search for and identify those passengers who cannot reasonably be evacuated by stairs or steps.

This new paragraph does not require a railroad to maintain any list of train passengers (nor does any other language currently in part 239 require this), whether or not they have a disability. At the same time, the railroad must have a process for notifying emergency response personnel in an emergency situation about the presence and general location of persons with disabilities when the railroad has knowledge that such passengers are on board a train.

In particular, the railroad must have in place procedures calling on a crewmember (who is generally stationed in the body of the train) to identify the locations of any persons with a discernable disability on board its trains and, in the event of an emergency, to notify emergency responders, to the extent of the crewmember's knowledge, of the presence and general whereabouts of such passengers. Further, the railroad must have ''readiness procedures designed to ensure passenger safety'' addressing how any such person(s) with a disability can be evacuated during a potential emergency situation that would require evacuation in conditions that could reasonably be expected to occur, including in conditions identified under the ''Special Circumstances'' portion of the railroad's e-prep plan, when applicable, as required by paragraph (a)(4) of this section. In this regard, the railroad's readiness procedures must address what protocol on-board personnel should follow in situations requiring immediate passenger evacuation either with or without the assistance of emergency response personnel or railroad personnel not on board its trains, as the non-availability of emergency responders in a situation requiring immediate action would be a ''condition on the railroad's property that is likely to affect emergency response.'' *See* § 239.101(a).

FRA received comments from MTA and Metra indicating that this paragraph, as proposed in the NPRM, presents a practical challenge in that some passengers may have cognitive, emotional, or other disabilities that are not readily identifiable to on-board crewmembers. While both MTA and Metra note that the voluntary participation in Reduced Fare or Ride Free programs by some passengers with disabilities may help crews identify such passengers, other passengers with disabilities may outwardly appear as any other passenger. Therefore, Metra asks FRA to clarify that the railroad's obligation to implement procedures that would identify the general location of passengers with disabilities be based on the on-board crew's actual knowledge of the disability.

DREDF commented in support of proposed paragraph (a)(8), and encouraged FRA to include additional provisions. Specifically, DREDF suggests that FRA (1) mandate that staff receive training on the major categories of disability and the types of assistance associated with each; (2) develop more specific procedures for addressing the safe evacuation of persons with disabilities during emergency situations; (3) designate an individual with ''formal authority'' for the evacuation of persons with disabilities; (4) require that training include ''people from the disability community'' and emphasize that assistance provided to persons with disabilities during an emergency should take into account individual needs as expressed by the passenger or by the passenger's companions, if the passenger cannot express his or her own needs; and (5) provide that mobility equipment utilized by persons with disabilities should be evacuated with the person when at all possible. Additionally, DREDF acknowledges the difficulty in identifying some passengers with disabilities, as raised by MTA and Metra, but urges FRA and the railroads to continue to identify such passengers to the greatest extent possible, including by using the information available from Disability Reduced Fare Cards and Disabled Ride Free Cards.

The language in paragraph (a)(8) requires that the railroads have a process for notifying emergency responders in an emergency situation about the presence and general location of each passenger with a disability ''when the railroad has knowledge that the passenger is on board the train.'' For purposes of this paragraph, FRA notes that a railroad would have ''knowledge'' when a reasonable person should have known that a passenger has a disability, such as under circumstances where the passenger is participating in a reduced fare or ride free program for persons with disabilities, or due to the presence of a mobility device (*e.g.,* wheelchair, scooter, walker, cane, or crutches) or a service animal that is plainly visible. Metra's comment indicates that their crewmembers have been able to identify passengers with disabilities that are visible, but expresses concern that the rule may be requiring their crewmembers to identify each passenger with a disability, including those disabilities that are not visible.

In response to the comments from MTA and Metra, FRA has added language to this paragraph that makes it clear that under circumstances where a passenger's disability is not readily apparent (*e.g.,* where the passenger may not outwardly appear to have a disability and is not participating in any reduced fare or ride free program), the railroad would not be considered to have knowledge that the passenger has a disability unless the crewmember has actual knowledge, such as where a passenger (or his or her companion or fellow passenger) has expressly informed a crewmember on the train of the disability. Regarding the additional provisions proposed by DREDF, FRA strongly encourages railroads to consider adopting the suggested provisions in their plans where possible and appropriate under the circumstances of the emergency situation, but FRA notes that the comments have not provided enough of a safety justification to mandate such provisions as written. For example, evacuating a person with his or her mobility equipment may be considered ''possible,'' but should not be required if there is a fire and a quick exit is needed such that leaving the mobility equipment behind would speed the exit of any person. In addition, while FRA believes railroads would benefit from having one or more participants from the disability community present during the training, just as railroads benefit from having emergency responders participate in emergency simulations

(*see* 63 FR 24630, 24656 (May 4, 1998)), such participation is clearly voluntary.

Section 239.105 Debriefing and Critique

This section requires a railroad operating passenger train service to conduct debriefing and critique sessions after each of its passenger train emergency situations or full-scale emergency simulations to determine the effectiveness of the railroad's e-prep plan. FRA is adding language to paragraph (c)(3) of this section so that the debriefing and critique session will be designed to determine whether the ERCC, as well as the control center, promptly initiated the required notifications. In addition, FRA makes clear that the plan's effectiveness in the evacuation of any passengers with a disability must be addressed during debrief and critique sessions as part of the assessment already required by paragraph (c)(5) of this section (regarding how efficiently the passengers exited from the car through the emergency exits). To ensure that railroads will be mindful of discussing how efficiently the evacuation was for all passengers, including any passengers with a disability or injury (when the railroad has knowledge of any such passengers), FRA has revised paragraph (c)(5) by adding the above clarifying language to the end of the existing language in paragraph (c)(5). The paragraph now reads ''How efficiently the passengers exited from the car through the emergency exits, including any passengers with a disability or injury (when the railroad has knowledge of any such passengers).''

Subpart C—Review, Approval, and Retention of Emergency Preparedness Plans

Section 239.201 Emergency Preparedness Plan; Filing and Approval

This section specifies the process for review and approval by FRA of each passenger railroad's e-prep plan. As proposed in the NPRM, FRA is dividing paragraph (a) of this section into paragraphs (a)(1) and (a)(2). Paragraph (a)(1) contains the regulatory requirements on how to file an e-prep plan, while paragraph (a)(2) contains the requirements on how to file an amendment to an FRA-approved plan. Paragraph (a)(2) is then further subdivided. Paragraph (a)(2)(i) describes what procedures a railroad must follow when filing amendments, other than certain purely administrative changes, to its e-prep plan with FRA. Paragraph (a)(2)(ii) lists the limited circumstances in which a railroad is permitted to implement an amendment to its approved e-prep plan without first obtaining FRA approval of the amendment. Consistent with this exception, FRA is also adding language to paragraph (b)(3) to clarify that FRA will not formally review the limited purely administrative amendments that are permitted to be implemented without prior FRA approval as described in paragraph (a)(2)(ii). Each of these changes is discussed in further detail, below.

Specifically, FRA is modifying paragraph (a)(1) in four minor ways. First, FRA is updating the title of the FRA official who must receive a railroad's e-prep plan, from ''Associate Administrator for Safety'' to the current title of ''Associate Administrator for Railroad Safety and Chief Safety Officer.'' Additionally, since the time part 239 was issued, FRA's ''Office of Safety'' was officially renamed the ''Office of Railroad Safety.'' Therefore, FRA is updating the language in paragraph (a)(1) to reflect the name change of this FRA office. The RSAC also recommended that FRA modify the time period that new-start passenger railroads have to submit their e-prep plans to FRA before commencing passenger service. Currently, e-prep plans must be submitted by these passenger railroads no less than 45 days prior to commencing passenger operations. Consistent with the RSAC's consensus recommendation, and with what FRA proposed in the NPRM, FRA is requiring that such railroads submit their plans to FRA no less than 60 days prior to commencing passenger operations. This change provides FRA safety officials more time to review a railroad's e-prep plan, identify any safety concerns, and notify the railroad of any such concerns so that changes to the plan can be made before passenger operations commence. FRA notes that the original filing deadline for passenger railroads in operation during the time part 239 went into effect was ''not more than 180 days after May 4, 1998.'' For those passenger railroads then in existence and for those passenger railroads that have commenced operations since and have already filed and received approval on their plans as of the effective date of the rule (July 29, 2014, which has been specifically added to this paragraph of the final rule for easy reference), FRA considers that those plans are timely filed. Finally, regarding the requirement that the e-prep plan must include the ''address'' of the primary person on each affected railroad to be contacted with regard to review of the plan, FRA is adding ''(street address and, if available, email address)'' following the word ''address'' in order to facilitate communication between FRA and the railroad concerning review of the plan.

FRA is also redesignating as paragraph (a)(2)(i) the regulatory requirement (currently part of paragraph (a)) that all amendments to approved e-prep plans be filed with FRA 60 days prior to the effective date of the amendment. As discussed above, FRA is permitting an exception to this requirement for the limited purely administrative amendments that are permitted to be implemented without FRA approval, as listed in paragraph (a)(2)(ii). Although these limited types of amendments to e-prep plans must continue to be filed with FRA, they are permitted to become effective immediately, and do not require formal approval from FRA.

However, pursuant to paragraph (a)(2)(i), e-prep plan amendments that do not qualify for the exception in paragraph (a)(2)(ii) must be submitted to FRA with a written summary of what the proposed amendment would change in the approved e-prep plan and, as applicable, a training plan describing how and when current and new employees and contractors would be trained on any amendment. For example, if the amendment would affect how current and new railroad employees and contractors assist emergency responders, then under this paragraph the railroad must also submit a training plan with the amendment stating how and when these employees and contractors would be trained on these changes to the railroad's e-prep plan. As another example, if the railroad wants to identify new access roads to railroad property in its e-prep plan, then a training plan for employees and contractors must be included with the proposed amendment. Requiring railroads to include a summary with their proposed e-prep plan amendments that are not exempted by paragraph (a)(2)(ii) is necessary to permit FRA to review the plan amendments more efficiently. Currently, railroads have been submitting their entire approved e-prep plans with the amendment changes already incorporated in the plan without identifying to FRA what changes the railroad is specifically seeking to make to its approved e-prep plan. This has delayed FRA's ability to review the railroad's proposed amendment(s) and respond to the railroad within the 45 days specified in paragraph (b)(3)(i). Requiring the railroads to include such summaries will help FRA efficiently review the proposed amendments and respond

back to the railroad normally within 45 days; nevertheless, some reviews may take longer. This paragraph has been slightly modified from what was proposed in the NPRM for clarity, namely by adding ''of the amendment'' after ''effective date'' and changing ''contractors'' to ''others within the scope of the training requirement at § 239.101(a)(2).''

As previously stated, FRA is adding a new paragraph (a)(2)(ii) under which qualifying amendments are not subject to FRA's formal approval process as outlined in paragraph (b)(3)(i). As proposed in the NPRM, amendments that add or amend the name, title, address, or telephone number of the e-prep plan's primary contact person qualify for the exception in paragraph (a)(2)(ii). In this final rule, FRA has adopted the above proposal and added ''email address'' as another amendment that FRA considers to be purely administrative in nature, and FRA has changed ''address'' to ''street address'' for clarity. In addition, FRA has added a requirement that a summary of the purely administrative changes be filed with FRA (in addition to the existing requirement to file the amendment itself), in order to assist FRA in determining whether the amendment is in fact subject to the exception. Railroads filing amendments under this paragraph are permitted to implement each amendment upon filing the amendment and a written summary of the changes with FRA's Associate Administrator for Railroad Safety and Chief Safety Officer. All other e-prep plan amendments not covered by paragraph (a)(2)(ii) are required to be filed in accordance with paragraph (a)(2)(i) and are subject to the formal approval process in paragraph (b)(3)(i). FRA believes that paragraph (a)(2)(ii) is necessary in order to limit the need for FRA to formally approve certain purely administrative changes to previously-approved e-prep plans. This new paragraph allows these specific types of amendments to become effective immediately upon filing with FRA and thereby help to streamline the approval process.

FRA is also modifying paragraph (b)(3) in order to clarify that the limited types of amendments containing only the administrative changes described in paragraph (a)(2)(ii) are exempt from the formal FRA review that is described in this paragraph.

Subpart D—Operational Tests and Inspections; Records, Recordkeeping, and Availability of Records

Although not proposed in the NPRM, conforming, non-substantive revisions are being made to the title of subpart D. Before these revisions, the title read ''Operational (Efficiency) Tests; Inspection of Records and Recordkeeping.'' FRA notes that one such revision to the title was to delete the parenthetical reference to the term ''Efficiency'' in the phrase ''Operational (Efficiency) Tests.'' The word ''efficiency'' as used in this context is a vernacular term that was originally included in the rule to ensure that railroads would not interpret the requirement to conduct ''tests'' to mean that classroom-style written exams were required by this subpart. As the regulated community is now much more familiar with operational tests and inspections, FRA believes that the parenthetical reference to ''efficiency'' tests in the title to subpart D is no longer necessary. Accordingly, FRA has decided to delete this parenthetical reference to ''efficiency'' tests in the title, as well as throughout § 239.301, for consistency with 49 CFR part 217 (part 217) and for easier readability.

Section 239.301 Operational Tests and Inspections

This section requires a railroad to monitor the routine performance of personnel who have one or more responsibilities under its e-prep plan to verify that they can perform the duties required under the plan in a safe and effective manner. FRA is modifying this section in several ways. First, FRA is amending the title and subsequent references within this section to include not only operational tests, but also inspections. These amendments better reflect the broader types of monitoring for compliance that many railroads have already been implementing (in addition to the operational tests currently required) and that are now explicitly required under this section, as well as under part 217, after which this section is modeled. In doing so, FRA has deleted all parenthetical references to ''efficiency'' tests throughout § 239.301, for the reasons noted above in the discussion regarding the revisions to the title of subpart D. Second, FRA is adding headings to each main paragraph for clarity and readability. Third, FRA is adding language clarifying that railroads are required to state in their e-prep plans the specific intervals at which they will, per the requirement in paragraph (a), periodically conduct operational tests and inspections of individuals with responsibilities under the e-prep plans. Fourth, FRA is adding language to paragraph (a) that requires any ERCC personnel, railroad contractors or subcontractors, or employees of railroad contractors or subcontractors, to which part 239 applies, to be subject to operational tests and inspections. Note that this paragraph has been slightly modified from that proposed in the NPRM by changing the words ''on-board, control center'' to ''on-board personnel, responsible control center personnel'' to better reflect the scope of the current requirement. Additionally, FRA is adding language to paragraphs (c) and (d) in response to comments in order to clarify that the records required to be kept by paragraphs (a)(1) and (b) and retained by paragraphs (c) and (d) of this section may be retained either in hard copy or electronically, provided that the records are retained pursuant to the conditions set forth in § 239.303. Finally, FRA is adding new paragraphs (a)(1), (a)(1)(i) through (vi), (a)(2), (d), (e), and (f). The specific requirements being adopted in each new paragraph are discussed below.

In paragraph (a), FRA is adding the heading, ''Requirement to conduct operational tests and inspections.'' FRA believes that this heading will help the regulated community identify that paragraph (a) of this section specifically addresses operational test and inspection requirements. Additionally, FRA is adding language to paragraph (a) that requires ERCC personnel, railroad contractors or subcontractors, as well as employees of railroad contractors to be subject to the same periodic operational tests (and inspections) as those to which on-board and control center employees are subject under the current regulation. Adding this language to the regulation is necessary to ensure that all individuals who are assigned a role in the railroad's emergency response are subject to operational tests and inspections. As modified, this requirement will help railroads determine whether they are prepared to provide an appropriate response in the event of an emergency situation, and, when railroads take measures to address any shortfalls discovered through these tests and inspections, will ultimately help ensure that they will be prepared for the various emergency situations that may arise.

Paragraph (a)(1). New paragraph (a)(1) requires that the operational tests and inspections be conducted in accordance with the railroad's program that must include, at a minimum, the six basic elements identified in new paragraphs (a)(1)(i) through (a)(1)(vi). RSAC recommended that FRA adopt these requirements, which were modeled from regulations found in § 217.9, Program of operational tests and inspections; recordkeeping. In fact, in several instances, the language in these

new paragraphs mirrors existing language in various provisions of § 217.9—specifically, § 217.9(c)(3) through (c)(5). While part 217 prescribes processes for railroad operating employees only (*e.g.,* train and engine crews), its approach to operational tests and inspections in the above-cited provisions is useful for governing individuals covered by FRA's emergency preparedness requirements in part 239. However, the employees subject to these part 239 tests and inspections include not only certain railroad operating employees (*e.g.,* train and engine crewmembers that are assigned to passenger trains), but all on-board ''crewmembers'' within the meaning of § 239.7, control center, and ERCC employees, as well as contractors and sub-contractors in these roles, regardless of whether the employees are operating employees, as applicable under the railroad's e-prep plan. In adopting this paragraph, FRA varied from the language proposed in the NPRM in two minor ways for clarity, namely, by changing ''pursuant to a'' to ''in accordance with the railroad's'' and changing ''New railroads'' to ''A new railroad.''

Before discussing the six new paragraphs under paragraph (a)(1) that detail the basic elements required in a railroad's program of operational tests and inspections, FRA believes it would be helpful to note the potential overlap of part 217 and part 239 tests, inspections, and programs, and explain its effect on compliance with the requirements in part 239. For clarification, FRA notes that part 239 operational tests and inspections also qualify as operational tests and inspections under § 217.9 if the employee, contractor, or subcontractor being tested is also performing functions that are covered by part 217. Likewise, operational tests and inspections conducted under part 217 also qualify as operational tests and inspections under part 239 as long as the criteria for operational tests and inspections in part 239 are met. For example, passenger train conductors are subject to operational testing under both parts 217 and 239. An operational test of a passenger train conductor that involves the procedures for passenger train emergency preparedness would satisfy requirements under both parts 217 and 239. In contrast, an operational test of a passenger train conductor that involves the procedures for operating derails would satisfy the requirements under part 217 only.

Further, operational testing and inspection under part 239 may be conducted as part of a railroad's operational testing and inspection program under § 217.9 or in an entirely separate program. However, as adopted in this final rule, the operational testing and inspection requirements for part 239 have a broader applicability and include several more categories of employees, rather than just those employees covered by § 217.9, as noted above. For example, these requirements also cover such individuals as passenger car attendants (who are considered to be ''crewmembers'' under § 239.7, as they are ''person[s], other than a passenger, who [are] assigned to perform . . . 2) On-board functions in a sleeping car or coach assigned to intercity service, other than food, beverage, or security service.'') and ERCC employees, who are not covered under part 217. Therefore, a railroad that would prefer to conduct its operational testing required by part 239 as part of its efficiency testing program under § 217.9 would need to modify its program to ensure that the additional tests are included and conducted for all of the individuals required to be covered under part 239, and that the program includes all six of the basic elements set forth in paragraphs (a)(1)(i) through (a)(1)(vi).

Paragraph (a)(1)(i). The first basic element, described in paragraph (a)(1)(i), is that the program must provide for operational testing and inspection of all covered individuals that addresses the appropriate courses of action in response to various potential emergency situations, as well as the responsibilities of these individuals under the railroad's e-prep plan. For example, railroads should address how railroad personnel on board a passenger train should respond in the event of a fire. They should also address what each on-board employee's, contractor's, or subcontractor's individual responsibilities are during such an emergency situation, and should also test to see if the crewmember(s) have the emergency equipment (*e.g.,* flash light). FRA believes that these requirements help to reduce confusion during an actual emergency situation and ensure that the railroad's on-board, control center, and ERCC personnel undergo operational tests and inspections on actions they would be performing during an emergency event.

Regarding the applicability of this section, MTA submitted a comment requesting that FRA modify the language proposed in the NPRM to make clear that the training and efficiency testing requirements would not apply to police officers who are not contractors, subcontractors, or employees of contractors or subcontractors and who also are not employees of a railroad. As justification for this request, MTA notes that MTA Police have more extensive emergency preparedness training than railroad employees, and that it would be appropriate for MTA Police to monitor compliance with their own internal emergency protocols. In response to this comment, FRA makes clear that only railroad employees, railroad contractor and subcontractors, and employees of railroad contractors and subcontractors who are covered by and have responsibilities under the railroad's e-prep plan are subject to operational tests and inspections from the railroad. Further, FRA notes that hired or contracted employees working for the railroad who do not have any responsibilities under the railroad's e-prep plan (*e.g.,* a clerk in the control center that is performing an incidental function, such as receiving a call from a stalled train, but who does not have an assigned role under the plan; *see* 63 FR 24630, 24651 (May 4, 1998)) are not required to be subject to operational tests and inspections.

Paragraph (a)(1)(ii). Paragraph (a)(1)(ii) requires that railroads describe each type of operational test and inspection required for passenger train emergency preparedness. The description must also specify the means and procedures used to carry out these operational tests and inspections. For example, an operational test intended for an on-board employee may be conducted as a challenge question posed by a supervisor. In this example, the supervisor may ask the employee what his or her responsibilities are for the evacuation of passengers, including passengers with disabilities, in specific circumstances, such as a passenger car filling with smoke. In another instance, a supervisor may ask an ERCC employee to identify a special circumstance (*e.g.,* a tunnel or bridge) located in his or her territory and demonstrate how the employee would direct emergency responders to the location during an actual emergency. Overall, operational tests and inspections adopted for passenger train emergency preparedness should cover all affected employees and be comprehensive.

Paragraph (a)(1)(iii). Paragraph (a)(1)(iii) requires railroads to state in their e-prep plans the purpose of each type of operational test and inspection conducted. For example, an operational test intended for on-board employees may be conducted to determine if the employees are familiar with passenger evacuation procedures. As another example, such tests intended for ERCC employees may be conducted to

determine if the ERCC employees are familiar with special circumstances on their territory and if they know how to direct emergency responders to these locations. In particular, conducting operational tests on ERCC employees to determine their knowledge of the railroad's e-prep plan, special circumstances, and access points is necessary to ensure that they are familiar with emergency procedures and capable of directing emergency responders to a passenger train in the event of an emergency.

Paragraph (a)(1)(iv). New paragraph (a)(1)(iv) clarifies that each railroad must state in its operational testing program the specific intervals at which it will periodically conduct operational tests and inspections of individuals covered by paragraph (a). This information must be listed according to operating division, where applicable. FRA believes that this additional language is necessary after reviewing various railroads' submitted e-prep plans, some of which simply copied the language directly from § 239.301(a) and placed it into their e-prep plans or stated that the railroad would periodically conduct operational tests and inspections without indicating a specific interval by which these tests or inspections would be administered. By adding a requirement to specify a frequency, FRA is not mandating any specific interval by which the railroad must conduct these tests and inspections, as FRA believes that the regulated community should continue to have the flexibility to decide the appropriate periodic interval based on the individual circumstances of each railroad and its e-prep plan and operational testing program. However, FRA is requiring the railroad to provide more information to the agency so that FRA can better verify that these types of tests and inspections are in fact occurring as planned, and that the railroads are properly carrying out their responsibilities in preparing to deal with various emergency situations.

Paragraph (a)(1)(v). Paragraph (a)(1)(v) requires the railroad to identify in its e-prep plan each officer by name, job title, and division or system, who is responsible for ensuring that the program of operational tests and inspections is properly implemented. For railroads that have multiple divisions or systems, the regulation requires that each railroad identify at least one officer at the railroad's system headquarters who is responsible for overseeing the entire railroad's program and the e-prep plan implementation. This individual should be knowledgeable about the current state of the railroad's operational test and inspection requirements as well as the current state of the railroad's e-prep program system-wide. If more than one individual is responsible for ensuring that the program is properly implemented on a railroad that has multiple divisions or systems, the e-prep plan should make clear which individual is responsible for overseeing the program and implementation on which division(s) or system(s), and require that such individuals coordinate results and jointly prepare the annual summary required by paragraph (f) of this section.

Paragraph (a)(1)(vi). The final basic element of the program, in paragraph (a)(1)(vi), is that the program must require that railroad officers conducting operational tests and inspections be trained on the elements of the railroad's e-prep plan that are relevant to the tests and inspections that the officers will be conducting. In addition, the railroad officers conducting the operational tests and inspections must be qualified on the procedures for administering such tests and inspections in accordance with the railroad's program.

Paragraphs (b) and (c). FRA is also adding headings to both paragraphs (b) and (c) of this section. FRA believes that adding the heading ''Maintaining records of operational test and inspection records'' to paragraph (b) will help clarify that paragraph (b) addresses what types of records need to be created for each operational test or inspection performed. Similarly, the heading ''Retaining operational test and inspection records'' is being added to paragraph (c). This heading clarifies that paragraph (c) addresses the requirements for how long records of operational tests and inspections need to be retained by the railroad. Note that these headings differ slightly from those proposed in the NPRM. For the header in paragraph (b), FRA changed the word ''Keeping'' to ''Maintaining'' to be consistent with the use of the word ''maintain'' within the body of that paragraph. For paragraph (c), FRA changed the words ''Retention of'' to ''Retaining'' in order to be more consistent stylistically with the language used in the heading of paragraph (b). In addition, FRA is modifying the cross-reference to paragraph (a) in the first sentence to reflect that the requirement in paragraph (c) to retain each record ''required by paragraph (a)'' is actually required by paragraph (b), not paragraph (a). Paragraph (a) requires railroads to conduct the tests and inspections that are the subject of the records required to be kept by paragraph (b) and retained by paragraph (c). FRA believes that these headings and clarifying amendments will be useful guides for the regulated community, especially those who are unfamiliar with part 239 and its requirements.

Paragraphs (c) and (d). Regarding the record-retention requirements in revised paragraph (c) and new paragraph (d) (*see also,* new paragraphs (e) and (f)), MTA and Metra commented that requiring railroads to retain copies of the operational test and inspection records, program and summaries at both the railroad's headquarters and divisional headquarters is unnecessary. Metra suggests that FRA modify paragraphs (c) and (d) of this section to eliminate the proposed requirement to retain a copy at the divisional headquarters. MTA suggests that requiring a copy of each record at the headquarters only, coupled with a provision that electronic copies be available at divisional headquarters, would be sufficient to ensure compliance, while reducing redundancy and paperwork. In response to these comments, FRA is modifying the language proposed in the NPRM for existing paragraph (c) and new paragraph (d) (and using conforming language in other similarly-worded or related paragraphs, as further discussed below) to clarify that records required by paragraphs (a)(1) and (b) and required to be retained by paragraphs (c) and (d) of this section may be retained either in hard copy or electronically, provided that the electronic records are retained pursuant to the conditions set forth in § 239.303.

Paragraph (d) contains a new requirement that each railroad retain one copy of its current operational testing and inspection program required by paragraph (a) of this section and each subsequent amendment to the program. Railroads are required to retain such records at the railroad's system headquarters and, as applicable, at each division headquarters for three calendar years after the end of the calendar year to which the program relates. As noted above, the records may be retained electronically, subject to the conditions set forth in § 239.303, and must also be made available for inspection and copying during normal business hours by representatives of FRA and States participating under 49 CFR part 212 (part 212).

Paragraph (e). In the NPRM, FRA requested comment as to whether the periodic review and analysis requirements of § 217.9(e) should be adopted in this final rule amending part 239 to more appropriately fulfill the intended purpose of providing FRA

with a clear understanding of how operational tests and inspections are being applied and how successful these programs are being implemented from a systems perspective. FRA noted that, under § 217.9(e), railroads should already be reviewing and analyzing operational test and inspection data conducted for passenger train emergency preparedness on individuals subject to part 217. Further, FRA indicated that the requirements of the paragraph might be broadened to cover individuals subject to part 239, and indicated that a railroad would be permitted to consolidate such a review and analysis required by part 239 with one required under § 217.9(e). If such requirements were adopted and a consolidation of reviews was made, then a railroad would be required to retain the consolidated reviews for a period of one year after the end of the calendar year to which the reviews relate (assuming that FRA did not adopt in part 239 a more stringent record-retention requirement for such reviews than what is required by § 217.9(e)(3)) and make the reviews available to representatives of FRA and States participating under part 212.

FRA received comments from Metra and MTA. Both railroads suggest that the timing of periodic review and analysis be left to the discretion of the railroad. Metra notes that integrating part 239 analysis with that of part 217 may be problematic in that the railroad may designate separate administrators for the requirements of each respective part, and that integration would require incorporating ''non-operating'' employees into the part 217 program.

After carefully considering the comments, FRA has decided to adopt a new paragraph (e) in § 239.301 requiring railroads to conduct a six-month review and analysis that is modeled after the similar review in § 217.9(e). Railroads have the option of combining the part 239 program with their part 217 program; however, if that option is not convenient given a particular railroad's designation of administrators for the respective programs, this alone should not be an impediment to FRA's adopting such a provision. In fact, the railroads are not objecting to the requirement to perform such a review and analysis, but have simply stated a preference, without further explanation as to the potential impacts or burdens, that FRA not mandate a specific timeframe by which such periodic reviews and analyses must be performed. FRA notes that the purpose of the six-month review and analysis is to make certain that officers are conducting the minimum number of each type of test or inspection required, and that any necessary adjustments have been made to the distribution of tests and inspections. FRA believes that, without a six-month periodic review and analysis, railroads may not realize that they are not compliant regarding operational testing until the end of the year. The six-month review is critical to assist the railroad regarding compliance with part 239 operational testing requirements.

In furtherance of this purpose, paragraph (e) requires the individuals designated pursuant to paragraph (a)(1)(v) of this section to conduct periodic reviews and analyses not less than once every six months, prepare records of the reviews, and retain one copy of these records at the system headquarters, and, as applicable, at each division headquarters. The review records must be completed no later than 30 days after the time period being reviewed and retained for one year. Such review records may be retained in hard copy or electronically, if pursuant to § 239.303, and must be made available to representatives of FRA for inspection and copying during normal business hours. In particular, the designated officer(s) must prepare a record of the review of three aspects of the program of operational tests and inspections. The first aspect of the program to be reviewed and analyzed (*see* paragraph (e)(1)) is the operational testing and inspection data to determine compliance by the railroad testing officers with its program, and the review record must include the name of each railroad testing officer, the number of tests and inspections conducted by each officer, and whether the officer conducted the minimum number of each type of test or inspection required by the railroad's program. The second aspect required to be reviewed and analyzed (*see* paragraph (e)(2)) is the accident/incident data, the results of prior operational tests and inspections under this section, and other pertinent safety data to identify the relevant operating rules related to those accidents/incidents that occurred during the period. Note that paragraph (e)(2) requires railroads to make any necessary adjustments to the tests and inspections required of railroad officers for the subsequent period(s), based upon the results of the review of the data, and that if the railroad has divisions, the review must analyze each division's data separately. The third aspect to be reviewed and analyzed (*see* paragraph (e)(3)) is the implementation of the program from a system perspective, to ensure that the program is being utilized as intended, that the other reviews provided for in this paragraph have been properly completed, that appropriate adjustments have been made to the distribution of tests and inspections required, and that the railroad testing officers are appropriately directing their efforts.

Paragraph (f). Finally, FRA is adding a new paragraph (f) to this section (which was proposed as paragraph (e) in the NPRM). As recommended by RSAC and adopted by FRA with one minor revision, this paragraph requires each railroad subject to this part to prepare and retain an annual summary of the number, type, and result of each operational test and inspection that was conducted in the previous year as required by paragraph (a) of this section. Note that FRA added the words ''prepare and'' in front of ''retain,'' for clarity. For railroads with operating divisions, the summaries must be organized by operating division. The requirement to organize the summaries by operating division, where applicable, is intended to provide FRA with a clearer understanding of how each railroad is applying its program of operational tests and inspections and whether the railroad is successfully applying its program over different railroad divisions.

Each railroad is required by this paragraph to complete its annual summary and make it available (to FRA and States participating under part 212 for inspection and copying during normal business hours) at the railroad's system headquarters by March 1 of the year following the year covered by the summary. For a railroad with operating divisions, copies of the annual summaries must also be retained and made available at each of its division headquarters. In each case, the railroad must retain the annual summary (in hard copy or electronically, if pursuant to § 239.303) for three calendar years after the end of the calendar year covered by the summary. For example, a railroad's annual summary of the operational tests and inspections conducted in calendar year 2013 must be retained through calendar year 2016. FRA specifically invited comment on the appropriateness of proposed paragraph (e) (now paragraph (f)). No comments were received, other than regarding the retention of records in hard copy, as noted in the discussion of paragraph (c), above. As also noted above, railroads may retain such records either in hard copy or electronically, subject to the conditions set forth in § 239.303.

Appendix A to Part 239—Schedule of Civil Penalties

Finally, FRA is revising the schedule of civil penalties in Appendix A to part 239 in three ways. The first is by adding new entries under §§ 239.101, 239.105, 239.201, 239.301 (as more specifically noted in the amendatory language of the penalty schedule), some of which are new requirements set forth in this final rule, and others that are existing requirements that lacked an entry in the penalty schedule. The second way is by revising the existing entries, mostly to reflect the addition or deletion of terms, such as by adding the term ERCC and deleting the term ''(efficiency).'' The third way is by revising footnote no. 1 to reflect the new maximum civil penalty ($105,000) that FRA is permitted to assess per violation and to delete language that will be added as a part of a new footnote no. 2, which uses a more up-to-date explanation for noting that FRA may use penalty codes to facilitate assessment of civil penalties, which may or may not correspond to any subsection designation(s). As the penalty schedule is a statement of agency policy, it is not required to be subject to notice and comment, and was therefore not proposed in the NPRM.

IV. Regulatory Impact and Notices

A. Executive Orders 12866 and 13563 and DOT Regulatory Policies and Procedures

This final rule has been evaluated in accordance with existing policies and procedures under both Executive Orders 12866 and 13563 and DOT policies and procedures. *See* 44 FR 11034 (February 26, 1979). FRA has prepared and placed in the docket (FRA–2011–0062, Notice No. 2) a regulatory impact analysis addressing the economic impact of this final rule.

As part of the regulatory impact analysis, FRA has assessed quantitative measurements of the cost streams expected to result from the implementation of this final rule. For the 10-year period analyzed, the estimated quantified cost that will be imposed on industry totals $1,492,792 with a present value (PV, 7 percent) of $1,073,775. The largest cost burdens are from the new requirements related to the operational tests in § 239.301 of the final rule. The table below presents the estimated discounted costs associated with the final rule, broken down by section of the rule:

10-Year Estimated Cost of Final Rule*

Emergency Preparedness Plan (§ 239.101)	$495,530
Debriefing and Critique (§ 239.105)	200,273
Emergency Preparedness Plan; Filing and Approval (§ 239.201)	16,911
Operational Tests and Inspections (§ 239.301)	361,060
Total	1,073,775

* Dollars are discounted at a present value rate of 7 percent.

As part of the regulatory impact analysis, FRA has explained what the likely benefits for this final rule will be, and provided assessments of the potential value of such benefits. This final rule will generate safety benefits by preventing injuries in passenger rail accidents from becoming more severe. FRA uses the Abbreviated Injury Scale (AIS) as a measure of the severity for injuries with an AIS 1 injury being defined as minor and an AIS 5 as the most severe, *i.e.,* critical.[4] Benefits will accrue from the expedited arrival of emergency responders to accident scenes, and from the ability of the ERCC personnel to minimize health and safety risks through improved internal and external communications. This final rule will ensure that passenger railroads' emergency preparedness planning and implementation is more flexible and provides the required emergency preparedness training.

Additionally, this final rule will allow passenger railroads to adjust to future personnel reorganizations and to incorporate technological innovations by affording the railroad's management flexibility in determining which part of the organization to designate as the ERCC.

Given the nature of the final rule amendments, FRA believes that the most appropriate methodology to estimate the safety benefits is a break-even analysis. A break-even analysis quantifies the minimum safety benefits necessary for the final rule to be cost-beneficial, considering the estimated quantified costs. For this final rule, the analysis estimates that the break-even point is met when 5.47 injuries are prevented from increasing in severity from AIS 1 (minor) to AIS 2 (moderate).

The table below presents the estimated benefits necessary for this final rule to break-even with the estimated costs. For the 10-year period analyzed, the safety benefits would total $1,492,792 (undiscounted) with a present value (PV, 7 percent) of $1,073,775 at the break-even point.

10-Year Estimated Benefits of Final Rule

Number of injuries prevented from increasing in severity from AIS 1 to AIS 2	Undiscounted	Discounted (PV, 7 percent)
5.47 (Break-Even Point)	$1,492,792	$1,073,775
6 (Break-Even Point Rounded Up)	1,636,800	1,149,620

The benefits for this final rule would exceed the estimated costs when six injuries are prevented from increasing in severity from an AIS 1 to an AIS 2. FRA believes the amendments in this final rule will more than exceed the break-even estimate.

B. Regulatory Flexibility Act and Executive Order 13272; Certification of No Significant Economic Impact on a Substantial Number of Small Entities

FRA developed this final rule in accordance with Executive Order 13272, ''Proper Consideration of Small Entities in Agency Rulemaking'' (67 FR 53461 (August 16, 2002)), and DOT's procedures and policies to promote compliance with the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) to ensure potential impacts of rules on small entities are properly considered. The Regulatory Flexibility Act requires an agency to review regulations to assess their impact on small entities. An agency must conduct a regulatory flexibility analysis unless it determines and certifies that a rule does not have a significant economic impact on a substantial number of small entities.

[4] Association for the Advancement of Automotive Medicine. *http://www.aaam1.org/ais/#.*

FRA initiated this rulemaking through RSAC in part upon learning that in the regulated community there was some confusion regarding existing requirements on passenger train emergency preparedness (49 CFR part 239). As a result, the General Passenger Safety Task Force (Task Force), a subgroup of the RSAC, was tasked to resolve these issues. The Task Force found that, as currently written, part 239 expressly requires only the railroad's control center employees (along with on-board personnel) to be subject to training and operational tests. However, in many instances, control center employees were not found to be the primary points of contact for outside emergency responders during a passenger train emergency. Instead, control center employees were carrying out other important duties related to ordinary train operations and the emergency at hand, such as providing block protection and diverting trains to other parts of the railroad's network. This regulation is adding a definition for the new term ''emergency response communications center'' (ERCC) to § 239.7 and providing for the incorporation of the term ERCC in relevant sections of part 239 (*see e.g.,* §§ 239.101, 239.105, 239.201, and 239.301). The amendments in the regulation will help to ensure that all personnel involved in emergency preparedness under part 239 are subject to appropriate training as well as operational tests and inspections. While, the regulation differs slightly from the consensus language, the need for this rulemaking is backed by the RSAC and is improving passenger train emergency preparedness by clarifying training and testing requirements.

In addition, as a result of FRA's experience in the periodic review and approval of passenger railroads' e-prep plans, FRA realized that a number of the changes submitted were purely administrative in nature. While part 239 currently subjects all changes to an e-prep plan to a formal review and approval process, FRA believes that certain purely administrative changes should be excluded from the formal approval process so that the agency can focus its resources on more substantive matters. Accordingly, this final rule is streamlining the approval of such minor modifications to e-prep plans.

Further, Executive Order 13347 (''Individuals with Disabilities in Emergency Preparedness'') requires the Federal government to appropriately support safety and security for individuals with disabilities in all types of emergency situations. *See* 69 FR 44573 (July 26, 2004). Currently, each railroad subject to part 239 is required to address the safety of each of its passengers in its emergency preparedness planning. Nonetheless, FRA is clarifying that these railroads must include procedures in their e-prep plans addressing the safe evacuation of persons with disabilities during emergency situations (and full-scale simulations of them).

1. Description of Regulated Entities

The ''universe'' of the entities to be considered generally includes only those small entities that are reasonably expected to be directly regulated by this action. This final rule will directly affect commuter and intercity passenger railroads, and freight railroads hosting passenger rail operations.

''Small entity'' is defined in 5 U.S.C. 601. Section 601(3) defines a ''small entity'' as having the same meaning as ''small business concern'' under Section 3 of the Small Business Act. This includes any small business concern that is independently owned and operated, and is not dominant in its field of operation. Section 601(4) likewise includes within the definition of ''small entities'' not-for-profit enterprises that are independently owned and operated, and are not dominant in their field of operation. The U.S. Small Business Administration (SBA) stipulates in its size standards that the largest a railroad business firm that is ''for profit'' may be and still be classified as a ''small entity'' is 1,500 employees for ''Line Haul Operating Railroads'' and 500 employees for ''Switching and Terminal Establishments.'' Additionally, 5 U.S.C. 601(5) defines as ''small entities'' governments of cities, counties, towns, townships, villages, school districts, or special districts with populations less than 50,000.

Federal agencies may adopt their own size standards for small entities in consultation with SBA and in conjunction with public comment. Pursuant to that authority FRA has published a final statement of agency policy that formally establishes ''small entities'' or ''small businesses'' as being railroads, contractors, and hazardous materials shippers that meet the revenue requirements of a Class III railroad as set forth in 49 CFR 1201.1–1, which is $20 million or less in inflation-adjusted annual revenues, and commuter railroads or small governmental jurisdictions that serve populations of 50,000 or less. *See* 68 FR 24891 (May 9, 2003), codified at appendix C to 49 CFR part 209. The $20-million limit is based on the Surface Transportation Board's revenue threshold for a Class III railroad. Railroad revenue is adjusted for inflation by applying a revenue deflator formula in accordance with 49 CFR 1201.1–1. FRA is using this definition for this rulemaking.

2. Railroads Impacted

There are only two intercity passenger railroads, Amtrak and the Alaska Railroad. Neither is a small entity. Amtrak is a Class I railroad and the Alaska Railroad is a Class II railroad. Additionally, both railroads are owned by public entities that exceed the population threshold of 50,000.

There are 28 commuter or other short-haul passenger railroad operations in the U.S. Most of these railroads are part of larger transit organizations that receive Federal funds and serve major metropolitan areas with populations greater than 50,000. However, two of these railroads do not fall in this category and are considered small entities that do not conduct exclusively tourist, scenic, historic, or excursion railroad service within the meaning of the exception to part 239 at § 239.3(b)(3).

The Hawkeye Express is owned and operated by the Iowa Northern Railway Company (IANR). In 2012, Hawkeye Express transported approximately 5,000 passengers per game over a seven-mile round-trip distance to and from the University of Iowa (University) football games. IANR has approximately 110 employees and is primarily a freight operation totaling 184,385 freight train miles in 2010. The service is on a contractual arrangement with the University, a State of Iowa institution. (The population of Iowa City, Iowa is approximately 69,000.) IANR, which is a Class III railroad, owns and operates the six bi-level passenger cars used for this passenger operation which runs an average seven days over a calendar year. FRA expects that any costs imposed on the railroad by this regulation will likely be passed on to the University as part of the transportation cost.

The SNC began operation in the summer of 2011 and currently provides daily rail service over a 57-mile line between Saratoga Springs and North Creek, New York. The SNC, a Class III railroad, is a limited liability company, wholly owned by San Luis & Rio Grande Railroad (SLRG). SLRG is a Class III rail carrier and a subsidiary of Permian Basin Railways, Inc. (Permian), which in turn is owned by Iowa Pacific Holdings, LLC (IPH). The SNC primarily transports visitors to Saratoga Springs, tourists seeking to sightsee along the Hudson River, and travelers connecting to and from Amtrak service. The railroad operates year round, with

standard coach passenger trains. Additional service activity includes seasonal ski trains, and specials such as the ''Snow Train'' and those featuring ''Thomas the Tank Engine™.'' This railroad operates under a five-year contract with the local government, and has expressed interest to provide freight service as well. The railroad has about 25 employees.

FRA believes that these two entities will not be impacted significantly. While each of these entities will most likely have to file a new e-prep plan, FRA does not expect they will have to change how each railroad reacts to an emergency situation due to including ERCCs under part 239's requirements. Their operating structure is small, and it is probable that employees with e-prep duties will continue to have the same emergency responsibilities. FRA expects that both railroads will see additional burden from inclusion of other provisions in this final rule related to recordkeeping and other training and testing requirements. This final rule will not be a significant financial impact on these railroad and their operations. They can expect the total regulatory costs for this final rule as adopted, to be less than $7,500 for each of the railroads over the next 10 years. Regulatory burden is mostly expected to be related to personnel additions to emergency response training and operational tests and inspections, and to new requirements related to debriefing and critique sessions. The Hawkeye Express and the SNC currently have e-prep plans that have been reviewed and approved by FRA. Although, this final rule changes several requirements in part 239, the professional skills necessary for compliance with existing and new requirements are the same. FRA believes that both entities have the professional knowledge to fulfill the requirements in this final rule.

In conclusion, FRA believes that there are two small entities and that both will be impacted. However, FRA has found that entities directly burdened by the regulation will not be impacted significantly. FRA believes that the costs associated with the final rule are reasonable and will not cause any significant financial impact on their operations.

3. Certification

Pursuant to the Regulatory Flexibility Act (5 U.S.C. 605(b)), FRA certifies that this rule will not have a significant economic impact on a substantial number of small entities.

C. Paperwork Reduction Act

The information collection requirements in this final rule are being submitted for approval to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*). The sections that contain the current and new or revised information collection requirements and the estimated time to fulfill each requirement are as follows:

CFR Section	Respondent universe	Total annual responses	Average time per response	Total annual burden hours
239.13—Waiver petitions (*current requirement*)	45 railroads	1 petition	20 hours	20 hours.
239.101/201/203—Emergency preparedness plans (*revised requirements*)				
—1st year—amended plans	45 railroads	45 plans	31.33 hours	1,410 hours.
—Subsequent years—amended plans—substantive changes.	45 railroads	9 plans	31.33 hours	282 hours.
—Subsequent years—amended plans—non-substantive changes.	45 railroads	4 plans	60 minutes	4 hours.
—New RRs—e-prep plans	2 railroads	2 plans	80 hours	160 hours.
—Current employee initial training for crewmembers, control center & emergency response communications center personnel.	45 railroads	540 trained employees	8 hours	4,320 hours.
—Employee periodic training	45 railroads	54 trained employees	4 hours	216 hours.
—Initial training of new employees	45 railroads	135 trained employees	8 hours	1,080 hours.
239.101(a)(1)(ii)—Notifications by control center (*current requirements*)				
—Designation of RR employee to maintain current emergency telephone numbers to notify outside responders, etc..	45 railroads	45 designations	5 minutes	4 hours.
—Railroads' lists/records of emergency telephone numbers to notify outside responders, etc..	45 railroads	2 updated lists	1 hour	2 hours.
239.101(a)(3)—Emergency preparedness plan—joint operations (*current requirement*).	45 railroads	1 plan	16 hours	16 hours.
239.101(a)(5)—RR training program for on-line emergency responders (*current requirement*).	45 railroads	45 updated plans	40 hours	1,800 hours.
239.101(a)(7)—Passenger safety information—posting emergency instructions inside all passenger cars (*current requirement*).	2 new railroads	1,300 cards/2 programs/2 safety messages/2 programs/+2 safety messages.	5 minutes/16 hours/48 hours/8 hours/+24 hours.	300 hours.
239.105(a)(3)—Debriefing and critique—sessions conducted after passenger emergency situation or full-scale simulation (*current requirement*).	45 railroads	79 sessions	27 hours	2,133 hours.
239.301(a)—Operational efficiency tests (*revised requirements*)—RR tests/inspections of on-board, control center, and emergency response communications center employees.	45 railroads	25,000 tests/inspections.	15 minutes	6,250 hours.
(b)(c)—Records of operational tests/inspections	45 railroads	25,000 records	2 minutes	833 hours.
(d)—Records of program of operational tests (*new requirement*).	45 railroads	90 records	3 minutes	5 hours.

CFR Section	Respondent universe	Total annual responses	Average time per response	Total annual burden hours
(e)—Periodic reviews and adjustments (not less than every 6 months) to program of operational tests and inspections (*new requirement*).	45 railroads	90 periodic reviews	2 hours	180 hours.
(f)—Annual summary of operational tests/inspections and copy of summary at system and division headquarters (*new requirement*).	45 railroads	45 annual summaries + 30 hardcopies.	5 minutes + 1 minute	5 hours.

All estimates include the time for reviewing instructions; searching existing data sources; gathering or maintaining the needed data; and reviewing the information. For information or a copy of the paperwork package submitted to OMB, please contact Mr. Robert Brogan, Information Clearance Officer, Federal Railroad Administration, at 202–493–6292 (*Robert.Brogan@dot.gov*), or Ms. Kimberly Toone, Records Management Officer, Federal Railroad Administration, at 202–493–6132 (*Kimberly.Toone@dot.gov*).

Organizations and individuals desiring to submit comments on the collection of information requirements should direct them to the Office of Management and Budget, Office of Information and Regulatory Affairs, Washington, DC 20503, Attention: FRA Desk Officer. Comments may also be sent via email to the Office of Management and Budget at the following address: *oira_submissions@omb.eop.gov.*

OMB is required to make a decision concerning the collection of information requirements contained in this final rule between 30 and 60 days after publication of this document in the **Federal Register**. Therefore, a comment to OMB is best assured of having its full effect if OMB receives it within 30 days of publication.

FRA is not authorized to impose a penalty on persons for violating information collection requirements that do not display a current OMB control number, if required. FRA intends to obtain current OMB control numbers for any new information collection requirements resulting from this rulemaking action prior to the effective date of this final rule. The OMB control number, when assigned, will be announced by separate notice in the **Federal Register**.

D. Federalism Implications

Executive Order 13132, ''Federalism,'' requires FRA to develop an accountable process to ensure ''meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications.'' *See* 64 FR 43255 (August 10, 1999). ''Policies that have federalism implications'' are defined in the Executive Order to include regulations that have ''substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government.'' Under Executive Order 13132, the agency may not issue a regulation with federalism implications that imposes substantial direct compliance costs and that is not required by statute, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by State and local governments, the agency consults with State and local governments, or the agency consults with State and local government officials early in the process of developing the regulation. Where a regulation has federalism implications and preempts State law, the agency seeks to consult with State and local officials in the process of developing the regulation.

This final rule has been analyzed in accordance with the principles and criteria contained in Executive Order 13132. This final rule will not have a substantial effect on the States or their political subdivisions, and it will not affect the relationships between the Federal government and the States or their political subdivisions, or the distribution of power and responsibilities among the various levels of government. In addition, FRA has determined that this regulatory action will not impose substantial direct compliance costs on the States or their political subdivisions. Therefore, the consultation and funding requirements of Executive Order 13132 do not apply.

However, this final rule could have preemptive effect by operation of law under certain provisions of the Federal railroad safety statutes, specifically the former Federal Railroad Safety Act of 1970, repealed and recodified at 49 U.S.C. 20106. Section 20106 provides that States may not adopt or continue in effect any law, regulation, or order related to railroad safety or security that covers the subject matter of a regulation prescribed or order issued by the Secretary of Transportation (with respect to railroad safety matters) or the Secretary of Homeland Security (with respect to railroad security matters), except when the State law, regulation, or order qualifies under the ''essentially local safety or security hazard'' exception to section 20106.

In sum, FRA has determined that this final rule has no federalism implications, other than the possible preemption of State laws under Federal railroad safety statutes, specifically 49 U.S.C. 20106. Accordingly, FRA has determined that preparation of a federalism summary impact statement for this final rule is not required.

E. Trade Impact

The Trade Agreements Act of 1979 (Pub. L. 96–39, 19 U.S.C. 2501 *et seq.*) prohibits Federal agencies from engaging in any standards or related activities that create unnecessary obstacles to the foreign commerce of the United States. Legitimate domestic objectives, such as safety, are not considered unnecessary obstacles. The statute also requires consideration of international standards and, where appropriate, that they be the basis for U.S. standards.

FRA has assessed the potential effect of this rulemaking on foreign commerce and believes that its requirements are consistent with the Trade Agreements Act. The requirements are safety standards, which, as noted, are not considered unnecessary obstacles to trade. Moreover, FRA has sought, to the extent practicable, to state the requirements in terms of the performance desired, rather than in more narrow terms restricted to a particular design or system.

F. Environmental Impact

FRA has evaluated this rule 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 proposed rule 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. *See* 64 FR 28545, 28547 (May 26, 1999). Certain classes of FRA actions have been determined to be categorically excluded from the requirements of these Procedures as they do not individually or cumulatively have a significant effect on the human environment. Promulgation of railroad safety rules and policy statements that do not result in significantly increased emissions or air or water pollutants or noise or increased traffic congestion in any mode of transportation are excluded.

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 proposed rule is not a major Federal action significantly affecting the quality of the human environment.

G. 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 $100,000,000 or more (adjusted annually 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. This final rule will not result in the expenditure, in the aggregate, of $100,000,000 or more (as adjusted annually for inflation) in any one year, and thus preparation of such a statement is not required.

H. Energy Impact

Executive Order 13211 requires Federal agencies to prepare a Statement of Energy Effects for any ''significant energy action.'' *See* 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: (1)(i) That 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 the Executive Order.

I. Privacy Act

FRA wishes to inform all potential commenters that anyone is able to search the electronic form of any comment or petition received into any of FRA's 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.). Please see the privacy notice at *http://www.regulations.gov/#!privacyNotice.* You may also review DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (65 FR 19477–19478), or you may visit *http://www.dot.gov/privacy.html.*

List of Subjects in 49 CFR Part 239

Passenger train emergency preparedness, Penalties, Railroad safety, Reporting and recordkeeping requirements.

The Rule

For the reasons discussed in the preamble, FRA amends part 239 of chapter II, subtitle B of title 49, Code of Federal Regulations as follows:

PART 239—[AMENDED]

■ 1. The authority citation for part 239 continues to read as follows:

Authority: 49 U.S.C. 20102–20103, 20105–20114, 20133, 21301, 21304, and 21311; 28 U.S.C. 2461, note; and 49 CFR 1.89.

Subpart A—General

§ 239.5 [Removed and Reserved]

■ 2. Section 239.5 is removed and reserved.

■ 3. Section 239.7 is amended by—

■ a. Revising paragraph (1) of the definition of ''Crewmember'';

■ b. Adding '', on-line emergency responder, or outside emergency responder'' to the term ''Emergency responder''; and

■ c. Adding the definition of ''Emergency response communications center'' in alphabetical order.

The revisions and additions read as follows:

§ 239.7 Definitions.

* * * * *

Crewmember * * *

(1) On-board functions connected with the movement of the train (*i.e.,* an employee of the railroad, or of a contractor to the railroad, who is assigned to perform service subject to the Federal hours of service requirements during a tour of duty) or

* * * * *

Emergency responder, on-line emergency responder, or outside emergency responder * * *

Emergency response communications center means a central location, or a group of individuals, designated by a railroad with responsibility for establishing, coordinating, or maintaining communication with outside emergency responders, representatives of adjacent rail modes of transportation, or appropriate railroad officials during a passenger train emergency. The *emergency response communications center* may be part of the control center.

* * * * *

Subpart B—Specific Requirements

■ 4. Section 239.101 is amended by revising paragraphs (a)(1)(ii), (a)(2)(ii), (a)(2)(iii) introductory text, (a)(2)(iv), (a)(2)(v) introductory text, (a)(2)(v)(A), and adding paragraph (a)(8) to read as follows:

§ 239.101 Emergency preparedness plan.

(a) * * *

(1) * * *

(i) * * *

(ii) *Notification by control center or emergency response communications center.* The control center or the emergency response communications center, as applicable under the plan, shall promptly notify outside emergency

responders, adjacent rail modes of transportation, and appropriate railroad officials that a passenger train emergency has occurred. Each railroad shall designate an employee responsible for maintaining current emergency telephone numbers for use in making such notifications.

(2) * * *

(ii) *Control center and emergency response communications center personnel.* The railroad's emergency preparedness plan shall require initial training of responsible control center personnel and any emergency response communications center personnel employed by the railroad, under a contract or subcontract with the railroad, or employed by a contractor or subcontractor to the railroad, as well as periodic training at least once every two calendar years thereafter, on appropriate courses of action for each potential emergency situation under the plan. At a minimum, the initial and periodic training shall include the following:

(A) Territory familiarization (*e.g.,* access points for emergency responders along the railroad's right-of-way; special circumstances (*e.g.,* tunnels); parallel operations; and other operating conditions (*e.g.,* elevated structures, bridges, and electrified territory) including areas along the railroad's right-of-way that are remote and that would likely present challenges for individuals responding to a passenger train emergency);

(B) Procedures to retrieve and communicate information to aid emergency personnel in responding to an emergency situation;

(C) Protocols governing internal communications between appropriate control center and emergency response communications center personnel whenever an imminent potential or actual emergency situation exists, as applicable under the plan; and

(D) Protocols for establishing and maintaining external communications between the railroad's control center or emergency response communications center, or both, and emergency responders and adjacent modes of transportation, as applicable under the plan.

(iii) *Initial training schedule for current personnel.* The railroad's emergency preparedness plan shall provide for the completion of initial training of all on-board and responsible control center personnel, as well as any emergency response communications center personnel, who are employed by the railroad, under a contract or subcontract with the railroad, or employed by a contractor or subcontractor to the railroad on the date that the plan is conditionally approved under § 239.201(b)(1), in accordance with the following schedule:

* * * * *

(iv) *Initial training schedule for new personnel.* The railroad's emergency preparedness plan shall provide for the completion of initial training of all on-board and responsible control center personnel, as well as any emergency response communications center personnel, who are hired by the railroad, contracted or subcontracted by the railroad, or hired by the contractor or subcontractor to the railroad after the date on which the plan is conditionally approved under § 239.201(b)(1). Each of these individuals shall receive initial training within 90 days after the individual's initial date of service.

(v) *Testing of on-board, control center, and emergency response communications center personnel.* The railroad shall have procedures for testing an individual being evaluated for qualification under the emergency preparedness plan who is employed by the railroad, under a contract or subcontract with the railroad, or employed by a contractor or subcontractor to the railroad. The types of testing selected by the railroad shall be—

(A) Designed to accurately measure the individual's knowledge of his or her responsibilities under the plan;

* * * * *

(8) *Procedures regarding passengers with disabilities.* The railroad's emergency preparedness plan shall include procedures to promote the safety of passengers with disabilities under all conditions identified in its emergency preparedness plan, such as during a train evacuation. These procedures shall include, but not be limited to, a process for notifying emergency responders in an emergency situation about the presence and general location of each such passenger when the railroad has knowledge that the passenger is on board the train. The railroad does not have knowledge that such passenger has a disability unless a crewmember has actual knowledge of the disability, such as where a passenger (or his or her companion or fellow passenger) has expressly informed a crewmember on the train of the disability or where the disability is readily apparent. Nothing in this part requires the railroad to maintain any list of train passengers.

* * * * *

■ 5. Section 239.105 is amended by revising paragraphs (c)(3) and (c)(5) to read as follows:

§ 239.105 Debriefing and critique.

* * * * *

(c) * * *

(3) Whether the control center or the emergency response communications center promptly initiated the required notifications, as applicable under the plan;

* * * * *

(5) How efficiently the passengers exited from the car through the emergency exits, including any passengers with a disability or injury (when the railroad has knowledge of any such passengers).

* * * * *

Subpart C—Review, Approval, and Retention of Emergency Preparedness Plans

■ 6. Section 239.201 is amended by revising paragraphs (a) and (b)(3)(i) to read as follows:

§ 239.201 Emergency preparedness plan; filing and approval.

(a) *Filing of plan and amendments*—(1) *Filing of plan.* Each passenger railroad to which this part applies and all railroads hosting its passenger train service (if applicable) shall jointly adopt a single emergency preparedness plan for that service, and the passenger railroad shall file one copy of that plan with the Associate Administrator for Railroad Safety and Chief Safety Officer, Federal Railroad Administration, 1200 New Jersey Avenue SE., Mail Stop 25, Washington, DC 20590, not less than 60 days prior to commencing passenger operations. Any passenger railroad that has an emergency preparedness plan approved by FRA as of July 29, 2014, is considered to have timely filed its plan. The emergency preparedness plan shall include the name, title, address (street address and, if available, email address), and telephone number of the primary person on each affected railroad to be contacted with regard to review of the plan, and shall include a summary of each railroad's analysis supporting each plan element and describing how every condition on the railroad's property that is likely to affect emergency response is addressed in the plan.

(2) *Filing of amendments to the plan.* (i) Except as provided in paragraph (a)(2)(ii) of this section, each subsequent amendment to a railroad's emergency preparedness plan shall be filed with FRA by the passenger railroad not less than 60 days prior to the proposed effective date of the amendment. When filing an amendment, the railroad must include a written summary of the proposed changes to the previously approved plan and, as applicable, a

training plan describing how and when current and new employees and others within the scope of the training requirement at § 239.101(a)(2) would be trained on any amendment.

(ii) If the proposed amendment is limited to adding or changing the name, title, street address, email address, or telephone number of the primary person to be contacted on each affected railroad with regard to the review of the plan, approval is not required under the process in paragraph (b)(3)(i) of this section. These proposed amendments may be implemented by the railroad upon filing with FRA's Associate Administrator for Railroad Safety and Chief Safety Officer. All other proposed amendments must comply with the formal approval process in paragraph (b)(3)(i) of this section.

(b) * * *

(3) *Review of amendments.* (i) Except as provided in paragraph (a)(2)(ii) of this section, FRA will normally review each proposed plan amendment within 45 days of receipt. FRA will then notify the primary contact person of each affected railroad of the results of the review, whether the proposed amendment has been approved by FRA, and if not approved, the specific points in which the proposed amendment is deficient.

* * * * *

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

Subpart D—Operational Tests and Inspections; Records, Recordkeeping, and Availability of Records

■ 8. Section 239.301 is revised to read as follows:

§ 239.301 Operational tests and inspections.

(a) *Requirement to conduct operational tests and inspections.* Each railroad to which this part applies shall periodically conduct operational tests and inspections of on-board personnel, responsible control center personnel, and, as applicable, emergency response communications center personnel employed by the railroad, under a contract or subcontract with the railroad, or employed by a contractor or subcontractor to the railroad, to determine the extent of compliance with its emergency preparedness plan.

(1) *Program of operational tests and inspections.* Operational tests and inspections shall be conducted in accordance with the railroad's program. A new railroad shall adopt such a program within 30 days of commencing rail operations. The program shall—

(i) Provide for operational testing and inspection on appropriate courses of action in response to various potential emergency situations and on the responsibilities of an employee of the railroad, of an individual who is a contractor or subcontractor to the railroad, or an employee of a contractor of subcontractor to the railroad, as they relate to the railroad's emergency preparedness plan.

(ii) Describe each type of operational test and inspection required, including the means and procedures used to carry it out.

(iii) State the purpose of each type of operational test and inspection.

(iv) State, according to operating divisions where applicable, the frequency with which each type of operational test and inspection is to be conducted.

(v) Identify the officer(s) by name, job title, and division or system, who shall be responsible for ensuring that the program of operational tests and inspections is properly implemented. A railroad with operating divisions shall identify at least one officer at the system headquarters who is responsible for overseeing the entire program and the implementation by each division.

(vi) Require that each railroad officer who conducts operational tests and inspections be trained on those aspects of the railroad's emergency preparedness plan that are relevant to the operational tests and inspections that the officer conducts, and that the officer be qualified on the procedures for conducting such operational tests and inspections in accordance with the railroad's program of operational tests and inspections and the requirements of this section.

(2) The program of operational tests and inspections required by paragraph (a)(1) of this section may be combined with the written program of operational tests and inspections required by § 217.9(c) of this chapter.

(b) *Maintaining records of operational tests and inspections.* Each railroad to which this part applies shall maintain a record of the date, time, place, and result of each operational test and inspection that was performed in accordance with paragraph (a) of this section. Each record shall also specify the name of the railroad officer who administered the test or inspection, the name of each employee tested, and sufficient information to identify the relevant facts relied on for evaluation purposes.

(c) *Retaining operational test and inspection records.* Each record required by paragraph (b) of this section shall be retained at the system headquarters of the railroad and, as applicable, at the division headquarters for the division where the test or inspection was conducted, for one calendar year after the end of the calendar year to which the test or inspection relates. Each such record shall be retained either in hard copy or electronically, if pursuant to § 239.303, and shall be made available to representatives of FRA and States participating under part 212 of this chapter for inspection and copying during normal business hours.

(d) *Retaining records of program of operational tests and inspections.* Each railroad shall retain one copy of its current operational testing and inspection program required by paragraph (a) of this section and one copy of each subsequent amendment to such program. These records shall be retained at the system headquarters, and, as applicable, at each division headquarters where the operational tests and inspections are conducted, for three calendar years after the end of the calendar year to which they relate. These records shall be retained either in hard copy or electronically, if pursuant to § 239.303, and shall be made available to representatives of FRA and States participating under part 212 of this chapter for inspection and copying during normal business hours.

(e) *Six-month review of tests and inspections and adjustments to the program of operational tests and inspections.* Not less than once every six months, the officer(s) responsible for overseeing the entire program of operational tests and inspections under this section and the implementation of the program by each division, if any, or the system, as designated pursuant to paragraph (a)(1)(v) of this section, shall conduct periodic reviews and analyses as provided in this paragraph, prepare records of reviews as provided in this paragraph, and retain one copy of these records at the system headquarters, and, as applicable, at each division headquarters. Each such review and record shall be completed within 30 days of the close of the period being reviewed. The record of each such review shall be retained (in hard copy or electronically, if pursuant to § 239.303) for a period of one year after the end of the calendar year to which the review relates, and be made available to representatives of FRA for inspection and copying during normal business hours. In particular, each designated officer's review and record shall include the following:

(1) The operational testing and inspection data for each division, if any, or the system to determine compliance by the railroad testing officers with its program of operational tests and inspections required by paragraph (a)(1)

of this section. At a minimum, this review shall include the name of each railroad testing officer, the number of tests and inspections conducted by each officer, and whether the officer conducted the minimum number of each type of test or inspection required by the railroad's program;

(2) Accident/incident data, the results of prior operational tests and inspections under this section, and other pertinent safety data for each division, if any, or the system to identify the relevant operating rules related to those accidents/incidents that occurred during the period. Based upon the results of that review of the data for each division, if any, or the system, the designated officer(s) shall make any necessary adjustments to the tests and inspections required of railroad officers for the subsequent period(s); and

(3) Implementation of the program of operational tests and inspections under this section from a system perspective, to ensure that the program is being utilized as intended, that the other reviews provided for in this paragraph have been properly completed, that appropriate adjustments have been made to the distribution of tests and inspections required, and that the railroad testing officers are appropriately directing their efforts.

(f) *Annual summary of operational tests and inspections.* Before March 1 of each calendar year, each railroad to which this part applies shall prepare and retain at the system headquarters of the railroad and, as applicable, at each of its division headquarters, one copy of a summary of the following with respect to its previous calendar year activities: The number, type, and result of each operational test and inspection, stated according to operating divisions as applicable, that was conducted as required by paragraph (a) of this section. A record of each such summary shall be retained (in hard copy or electronically, if pursuant to § 239.303) for three calendar years after the end of the calendar year to which the record relates and shall be made available to representatives of FRA and States participating under part 212 of this chapter for inspection and copying during normal business hours.

■ 9. Appendix A to part 239 is amended by—

■ a. Revising the entries under subpart B for §§ 239.101(a), 239.101(a)(1)(ii), 239.101(a)(2)(ii), (iii), (iv), and (v),

■ b. Adding entries under subpart B for §§ 239.101(a)(1)(iii), 239.101(a)(8), and 239.105(c) in numerical order,

■ c. Adding an entry under subpart C for § 239.201(a)(iv) in numerical order,

■ d. Revising the heading of subpart D,

■ e. Revising the entries under subpart D for §§ 239.301, 239.301(a), 239.301(c)(1) (by adding additional paragraph designations for (d)(1), (e)(2), and (f)(1)) and 239.301(c)(2) (by adding additional paragraph designations for (d)(2), (e)(3), and (f)(2)).

■ f. Adding entries under subpart D for §§ 239.301(a)(1), 239.301(a)(1)(vi), and 239.301(e)(1) in numerical order,

■ g. Revising footnote 1, and

■ h. Adding footnote 2.

The revisions and additions read as follows:

Appendix A to Part 239—Schedule of Civil Penalties [1]

Section [2]	Violation	Willful violation
Subpart B—Specific Requirements		
239.101(a) Failure of a railroad to adopt a written or electronic emergency preparedness plan	7,500	11,000
(a)(1) * * *		
(i) * * *		
(ii) Notification of outside emergency responders by control center or ERCC	2,500	5,000
(iii) Failure to designate employee responsible for maintaining current emergency telephone numbers for use in notifications	2,500	5,000
(a)(2) * * *		
(i) * * *		
(ii) Initial or periodic training of control center and ERCC personnel	2,500	5,000
(iii) Completion of initial training of each on-board, control center, and ERCC personnel by the specified date	2,500	5,000
(iv) Completion of initial training of each newly-hired on-board, control center, and ERCC personnel by the specified date	2,500	5,000
(v) Adequate procedures to evaluate and test on-board, control center, and ERCC personnel for qualification under the emergency preparedness plan	2,500	5,000
* * * * * * *		
(a)(8) Failure of the plan to include procedures promoting the safety of passengers with disabilities	2,500	5,000
* * * * * * *		
239.105 * * *		
* * * * * * *		
(c) Failure to design the debrief and critique session to determine the five items specified	2,500	5,000
* * * * * * *		
Subpart C—Review, Approval, and Retention of Emergency Preparedness Plans		
239.201 * * *		
(a):		
(i) * * *		
(ii) * * *		
(iii) * * *		
(iv) Failure of a railroad to file a summary of an amendment to its plan	1,000	2,000
* * * * * * *		
Subpart D—Operational Tests and Inspections; Records, Recordkeeping, and Availability of Records		
239.301 Operational tests and inspections		
(a) Failure to periodically conduct operational tests and inspections of applicable personnel in accordance with program of operational tests and inspections	2,500	5,000

Section [2]	Violation	Willful violation
(a)(1) Failure to adopt a program of operational tests and inspections that meets the minimum requirements within 30 days of commencing rail operations	5,000	7,500
(a)(1)(vi) Failure to train or qualify each railroad officer who conducts operational tests and inspections on aspects of the e-prep plan and program procedures relevant to the operational tests and inspections that the officer conducts	2,500	5,000
* * * * * * *		
(c)(1), (d)(1), (e)(2), (f)(1): * * *		
(c)(2), (d)(2), (e)(3), (f)(2): * * *		
(e)(1) Failure to conduct six-month review and analysis of required data and make any necessary or appropriate adjustments to the program of operational tests and inspections	4,000	7,500
* * * * * * *		

[1] A penalty may be assessed against an individual only for a willful violation. The Administrator reserves the right to assess a penalty of up to $105,000 for any violation where circumstances warrant. *See* 49 CFR part 209, appendix A.

[2] The penalty schedule uses section numbers from 49 CFR part 239. If more than one item is listed as a type of violation of a given section, each item is also designated by a ''penalty code,'' which is used to facilitate assessment of civil penalties, and which may or may not correspond to any subsection designation(s). For convenience, penalty citations will cite the CFR section and the penalty code, if any. FRA reserves the right, should litigation become necessary, to substitute in its complaint the CFR citation in place of the combined CFR and penalty code citation, should they differ.

Issued in Washington, DC, on March 25, 2014.

Melissa L. Porter,

Chief Counsel.

[FR Doc. 2014–06998 Filed 3–28–14; 8:45 am]

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