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Contents

Federal Register

Vol. 79, No. 127

Wednesday, July 2, 2014

Agriculture Department
See Animal and Plant Health Inspection Service
See Forest Service

Animal and Plant Health Inspection Service
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals:
Importation of Used Farm Equipment from Regions Affected with Foot-and-Mouth Disease, 37711–37712

Arts and Humanities, National Foundation
See National Foundation on the Arts and the Humanities

Centers for Disease Control and Prevention
NOTICES
Meetings:
Advisory Board on Radiation and Worker Health; National Institute for Occupational Safety and Health, 37741–37742

Coast Guard
RULES
Inland Navigation Rules, 37898–37925
Safety Zones:
San Diego Symphony Summer Pops, San Diego Bay; San Diego, CA, 37644

Commerce Department
See Industry and Security Bureau
See International Trade Administration
See National Oceanic and Atmospheric Administration

Defense Department
NOTICES
Meetings:
Defense Business Board, 37720–37721

Drug Enforcement Administration
RULES
Schedules of Controlled Substances:
Placement of Tramadol into Schedule IV, 37623–37630
NOTICES
Proposed Aggregate Production Quotas for Schedule I and II Controlled Substances:
Assessment of Annual Needs for the List I Chemicals Ephedrine, Pseudoephedrine, and Phenylpropanolamine for 2015, 37772–37776

Education Department
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals:
Progress in International Reading Literacy Study Field Test and Recruitment for Main Study, 37721
Applications for New Awards:
Technical Assistance and Dissemination to Improve Services and Results for Children with Disabilities — National Technical Assistance Center on Improving Transition to Postsecondary Education and Employment for Students with Disabilities, 37722–37732

Election Assistance Commission
NOTICES
State Plan Pursuant to the Help America Vote Act, 37732

Energy Department
See Energy Efficiency and Renewable Energy Office
See Federal Energy Regulatory Commission
NOTICES
Meetings:
Environmental Management Site-Specific Advisory Board, Savannah River Site, 37732–37733
Secretary of Energy Advisory Board, Task Force on Technology Development for Environmental Management, 37733
Wind and Water Power Program:
Guidance for Hydroelectric Incentive Payments, 37733–37734

Energy Efficiency and Renewable Energy Office
NOTICES
Requests for Information:
Fuel Cells for Continuous On-Board Recharging Application for Battery Electric Light-Duty Vehicles, 37734–37735
Integrated Biorefinery Lessons Learned and Best Practices, 37734

Environmental Protection Agency
RULES
Administrative Wage Garnishment, 37644–37646
Air Quality Implementation Plans; Approvals and Promulgations:
Indiana; PM2.5 NSR, 37646–37650
PROPOSED RULES
Administrative Wage Garnishment, 37704–37705
National Emission Standards for Hazardous Air Pollutants:
Off-Site Waste and Recovery Operations, 37850–37895
NOTICES
Cross-Media Electronic Reporting:
Authorized Program Revision Approval, California, 37736
Authorized Program Revision Approval, Idaho , 37736–37737

Executive Office of the President
See Management and Budget Office
See Trade Representative, Office of United States

Federal Aviation Administration
PROPOSED RULES
Airworthiness Directives:
Alexandria Aircraft LLC Airplanes, 37679–37681
The Boeing Company Airplanes, 37676–37678, 37681–37687
Special Conditions:
Boeing Commercial Airplanes, Model 767–2C Airplane, Interaction of Fuel Systems and Structures, 37670–37674
Bombardier Aerospace, Models BD–500–1A10 and BD–500–1A11 Series Airplanes; Automatic Speed Protection for Design Dive Speed, 37674–37676
NOTICES
Waivers; Approvals:
Gallatin County, MT, 37839

Federal Communications Commission
PROPOSED RULES
Staff Analysis Regarding Pairwise Approach to Preserving Population Served, 37705–37706
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals, 37737–37739

Federal Emergency Management Agency
RULES
Suspensions of Community Eligibility, 37650–37661
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals:
Implementation of Coastal Barrier Legislation, 37757
Individual Assistance Program Effectiveness and Recovery Survey, 37757–37758
Environmental Assessments; Availability, etc.:
Wildfire Mitigation, 37758–37760
Major Disaster Declarations:
Alabama; Amendment No. 5, 37761–37762
Florida; Amendment No. 3, 37761
Florida; Amendment No. 4, 37761
Florida; Amendment No. 5, 37760
Indiana; Amendment No. 1, 37760–37761
Indiana; Amendment No. 2, 37762
Mississippi; Amendment No. 1, 37762
Mississippi; Amendment No. 2, 37762
Nebraska, 37760
Major Disasters and Related Determinations:
Vermont, 37763

Federal Energy Regulatory Commission
NOTICES
Applications:
Reedsport OPT Wave Park, LLC, 37735–37736

Federal Financial Institutions Examination Council
NOTICES
Meetings:
Appraisal Subcommittee Advisory Committee for Development of Regulations, 37739

Federal Maritime Commission
RULES
Inflation Adjustment of Civil Monetary Penalties, 37662–37663
NOTICES
Agreements Filed, 37739–37740

Federal Motor Carrier Safety Administration
NOTICES
Commercial Driver's License Standards; Exemption Applications:
Daimler Trucks North America, 37839–37840
Parts and Accessories Necessary for Safe Operation; Exemption Applications:
Mobileye, Inc., 37841–37842
Qualification of Drivers; Exemption Applications:
Vision, 37842–37845

Federal Railroad Administration
RULES
Signal Systems Reporting Requirements, 37664–37669

Federal Reserve System
NOTICES
Changes in Bank Control:
Acquisitions of Shares of a Bank or Bank Holding Company, 37740

Fish and Wildlife Service
PROPOSED RULES
Endangered and Threatened Wildlife and Plants:
90-Day Finding on a Petition to Reclassify the West Indian Manatee from Endangered to Threatened, 37706–37710
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals:
Survey of Rancher Opinions about Wildlife and Jaguar Habitat Management, 37767–37768

Food and Drug Administration
RULES
Approval of Part of a New Animal Drug Applications:
Procaine Penicillin; Withdrawal, 37621–37622
New Animal Drugs for Use in Animal Feeds:
Chlortetracycline and Sulfamethazine; Chlortetracycline; Procaine Penicillin; and Sulfamethazine, 37622–37623
New Animal Drugs; Change of Sponsor's Address:
Afoxalaner; Ceftiofur Crystalline Free Acid; Chloramine–T; Clodronate; Enrofloxacin; Eprinomectin; Fluralaner; Ivermectin and Praziquantel; Niclosamide; Ractopamine; Tylosin, 37617–37621
PROPOSED RULES
Drug Products that Have Been Withdrawn or Removed from the Market for Reasons of Safety or Effectiveness:
Withdrawal, 37687–37696
NOTICES
Guidance for Industry and Staff; Availability:
Current Good Manufacturing Practice; Interim Guidance for Human Drug Compounding Outsourcing Facilities under the Federal Food, Drug and Cosmetic Act; Draft, 37743–37747
Pharmacy Compounding of Human Drug Products Under Section 503A of the Federal Food, Drug, and Cosmetic Act, 37742–37743
Requests for Nominations:
Bulk Drug Substances that May be Used to Compound Drug Products in Accordance with Section 503A of the Federal Food, Drug, and Cosmetic Act, 37747–37750
Bulk Drug Substances that May be Used to Compound Drug Products in Accordance With Section 503B of the Federal Food, Drug, and Cosmetic Act, Concerning Outsourcing Facilities; Revision, 37750–37754

Foreign Assets Control Office
NOTICES
Blocking or Unblocking of Persons and Properties, 37845–37846

Forest Service
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals:
Small Business Timber Sale Set-Aside Program; Appeal Procedures on Recomputation of Shares, 37712–37713

Health and Human Services Department
See Centers for Disease Control and Prevention
See Food and Drug Administration
See Health Resources and Services Administration
See National Institutes of Health
RULES
Patient Protection and Affordable Care Act; Program Integrity:
Exchange, Premium Stabilization Programs, and Market Standards; Corrections, 37661–37662

Health Resources and Services Administration
NOTICES
Statements of Organization, Functions and Delegations of Authority, 37754

Homeland Security Department
See Coast Guard
See Federal Emergency Management Agency
See Transportation Security Administration

Housing and Urban Development Department
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals:
Mortgagor's Certificate of Actual Cost, 37765–37766
Public Housing Financial Management Template, 37764–37765
Technical Suitability of Products Program Section 521 of the National Housing Act, 37765
Public Housing Assessment System Capital Fund Interim Scoring:
Reinstitution of Five Points for Occupancy Sub-Indicator, 37766–37767

Industry and Security Bureau
NOTICES
Meetings:
Information Systems Technical Advisory Committee, 37713–37714
Sensors and Instrumentation Technical Advisory Committee, 37713

Interior Department
See Fish and Wildlife Service
See National Park Service

Internal Revenue Service
RULES
Guidelines:
Streamlined Process of Applying for Recognition of Section 501(c)(3) Status, 37630–37632
Longevity Annuity Contracts, 37633–37643
PROPOSED RULES
Guidelines:
Streamlined Process of Applying for Recognition of Section 501(c)(3) Status, 37697–37698

International Trade Administration
NOTICES
Antidumping Duty Administrative Reviews; Results, Extensions, Amendments, etc.:
Certain Frozen Fish Fillets from the Socialist Republic of Vietnam, 37714–37715
Polyethylene Terephthalate Film, Sheet, and Strip from the People's Republic of China, 37715–37718
Antidumping Duty Orders; Results, Extensions, Amendments, etc.:
Silicon Metal from the Russian Federation, 37718
Final Determinations of Sales at Less Than Fair Value:
Non-Oriented Electrical Steel from the People's Republic of China, Germany, Japan, and Sweden, 37718–37719

International Trade Commission
NOTICES
Complaints:
Integrated Circuits and Products Containing the Same, 37770–37771
Meetings; Sunshine Act, 37772

Justice Department
See Drug Enforcement Administration

Management and Budget Office
NOTICES
Draft 2014 Report to Congress on the Benefits and Costs of Federal Regulations and Unfunded Mandates on State, Local, and Tribal Entities, 37776–37777

National Aeronautics and Space Administration
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals, 37777

National Foundation on the Arts and the Humanities
NOTICES
Meetings:
Humanities Panel, 37777–37779

National Highway Traffic Safety Administration
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals:
Correction, 37845

National Institutes of Health
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals:
Population Assessment of Tobacco and Health Study, 37754–37755
Meetings:
Center for Scientific Review, 37756–37757
National Institute of Diabetes and Digestive and Kidney Diseases, 37755–37756

National Oceanic and Atmospheric Administration
NOTICES
Permits:
Marine Mammals; File No. 18523, 37719–37720

National Park Service
NOTICES
Environmental Impact Statements; Availability, etc.:
Potomac River Tunnel in the National Capital Region, 37768–37769
Meetings:
Captain John Smith Chesapeake National Historic Trial Advisory Council; Amendment of Date, 37769
National Register of Historic Places:
Pending Nominations and Related Actions, 37769–37770

National Science Foundation
NOTICES
Antarctic Conservation Act Permit Applications, 37779

Nuclear Regulatory Commission
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals:
Licenses and Radiation Safety Requirements for Irradiators, 37780–37781
Reactor Site Criteria, 37781
Request for Approval of Official Foreign Travel, 37781–37782
Voluntary Reporting of Performance Indicators, 37779–37780
Meetings:
Advisory Committee on the Medical Uses of Isotopes, 37782
Review Plans:
Regulatory Treatment of Non-Safety Systems for Passive Advanced Light Water Reactors, 37782–37783

Office of Management and Budget
See Management and Budget Office

Office of United States Trade Representative
See Trade Representative, Office of United States

Postal Regulatory Commission
PROPOSED RULES
Periodic Reporting, 37702–37704

Postal Service
NOTICES
Transfer of Inbound Surface Parcel Post at UPU Rates to Competitive Product List, 37783–37784

Securities and Exchange Commission
NOTICES
Self–Regulatory Organizations; Proposed Rule Changes:
BOX Options Exchange, LLC, 37798–37822
Chicago Board Options Exchange, Inc., 37825–37828
Chicago Mercantile Exchange, Inc., 37784–37786
Financial Industry Regulatory Authority, Inc., 37822–37825, 37786–37798

Small Business Administration
NOTICES
Conflicts of Interest; Exemptions:
Brookside Mezzanine Fund III, LP, 37828

Social Security Administration
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals, 37828–37834

Trade Representative, Office of United States
NOTICES
Environmental Review of Proposed Transatlantic Trade and Investment Partnership Agreement, 37834–37835
Environmental Review of the Proposed Trade in Services Agreement, 37836–37837

Transportation Department
See Federal Aviation Administration
See Federal Motor Carrier Safety Administration
See Federal Railroad Administration
See National Highway Traffic Safety Administration
See Transportation Security Administration
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals:
Voluntary Near Miss Reporting in Oil and Gas Operations on the Outer Continental Shelf, 37837–37838
Meetings:
National Freight Advisory Committee, 37839

Transportation Security Administration
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals:
Application to Participate in the Screening Partnership Program, 37763–37764

Treasury Department
See Foreign Assets Control Office
See Internal Revenue Service

United States Institute of Peace
NOTICES
Meetings:
Unites States Institute of Peace, 37847

Veterans Affairs Department
PROPOSED RULES
Reimbursement for Caskets and Urns for Burial of Unclaimed Remains in a National Cemetery, 37698–37702

Separate Parts In This Issue

Part II
Environmental Protection Agency, 37850–37895

Part III
Homeland Security Department, Coast Guard, 37898–37925

Reader Aids

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

To subscribe to the Federal Register Table of Contents LISTSERV electronic mailing list, go to http://listserv.access.gpo.gov and select Online mailing list archives, FEDREGTOC-L, Join or leave the list (or change settings); then follow the instructions.

CFR PARTS AFFECTED IN THIS ISSUE

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

14 CFR

Proposed Rules:

25 (2 documents) 37670, 37674
39 (4 documents) 37676, 37679, 37681, 37684

21 CFR

510.....37617
520.....37617
522.....37617
529.....37617
556.....37617
558 (3 documents) 37617, 37621, 37622
1308.....37623

Proposed Rules:

216.....37687

26 CFR

1 (2 documents) 37630, 37633
602.....37633

Proposed Rules:

1.....37697

33 CFR

83.....37898
84.....37898
85.....37898
86.....37898
87.....37898
88.....37898
165.....37644

38 CFR

Proposed Rules:

38.....37698

39 CFR

Proposed Rules:

3050.....37702

40 CFR

13.....37644
52.....37646

Proposed Rules:

13.....37704
63.....37850

44 CFR

64 (3 documents) 37650, 37652, 37657

45 CFR

153.....37661

46 CFR

506.....37662

47 CFR

Proposed Rules:

1.....37705
27.....37705
73.....37705

49 CFR

233.....37664

50 CFR

Proposed Rules:

17.....37706

Rules and Regulations

Federal Register
Vol. 79, No. 127
Wednesday, July 2, 2014

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

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DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Parts 510, 520, 522, 529, 556, and 558

[Docket No. FDA–2014–N–0002]

New Animal Drugs; Afoxalaner; Ceftiofur Crystalline Free Acid; Chloramine-T; Clodronate; Enrofloxacin; Eprinomectin; Fluralaner; Ivermectin and Praziquantel; Niclosamide; Ractopamine; Tylosin; Change of Sponsor's Address

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule; technical amendment.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect approval actions for new animal drug applications (NADAs) and abbreviated new animal drug applications (ANADAs) during April and May 2014. FDA is also informing the public of the availability of summaries of the basis of approval and of environmental review documents, where applicable. The animal drug regulations are also being amended to remove an obsolete entry for a drug for which approval was withdrawn in 1996.

DATES: This rule is effective July 2, 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 amending the animal drug regulations to reflect approval actions for NADAs and ANADAs during April and May 2014, as listed in table 1. In addition, FDA is informing the public of the availability, where applicable, of documentation of environmental review required under the National Environmental Policy Act (NEPA) and, for actions requiring review of safety or effectiveness data, summaries of the basis of approval (FOI Summaries under the Freedom of Information Act (FOIA). These public documents may be seen in the Division of Dockets Management (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852, between 9 a.m. and 4 p.m., Monday through Friday. Persons with access to the Internet may obtain these documents at the CVM FOIA Electronic Reading Room: *http://www.fda.gov/AboutFDA/CentersOffices/OfficeofFoods/CVM/CVMFOIAElectronicReadingRoom/default.htm.* Marketing exclusivity and patent information may be accessed in FDA's publication, Approved Animal Drug Products Online (Green Book) at *http://www.fda.gov/AnimalVeterinary/Products/ApprovedAnimalDrugProducts/default.htm.*

Also, the regulations are being amended in 21 CFR 510.600 to reflect a change of address for Dechra, Ltd.; in 21 CFR 522.313a to reflect the previous approval of revised food safety warnings for ceftiofur sodium powder for injection; and in 21 CFR 558.4 to remove a listing for niclosamide which remained codified, in error, following the voluntary withdrawal of approval of the sole NADA for a niclosamide medicated feed (61 FR 34727, July 3, 1996). These amendments are being made to improve the accuracy of the regulations.

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.

TABLE 1—ORIGINAL AND SUPPLEMENTAL NADAS AND ANADAS APPROVED DURING APRIL AND MAY 2014

NADA/A ANADA	Sponsor	New animal drug product name	Action	21 CFR section	FOIA summary	NEPA review
141–421	Merial Ltd., 3239 Satellite Blvd., Bldg. 500, Duluth, GA 30096–4640.	DUOCARE (ivermectin 1.87% and praziquantel 23.38%) Paste.	Original approval for the treatment and control of gastrointestinal nematodes, cestodes, and tapeworms parasites in horses over 5 months of age.	520.1198	yes	CE.[1 2]
141–423	Axcentive SARL, Chemin de Champouse, Quartier Violesi, 13320 Bouc Bel Air, France.	HALAMID (chloramine-T powder for immersion) Aqua.	Original approval for control of mortality in certain freshwater fish due to *Flavobacterium* spp.	510.600 529.382 556.118	yes	EA/FONSI.[3]

TABLE 1—ORIGINAL AND SUPPLEMENTAL NADAS AND ANADAS APPROVED DURING APRIL AND MAY 2014—Continued

NADA/A ANADA	Sponsor	New animal drug product name	Action	21 CFR section	FOIA summary	NEPA review
141–426	Intervet, Inc., 556 Morris Ave., Summit, NJ 07901.	BRAVECTO (fluralaner) Chewable Tablets for Dogs.	Original approval for the treatment and prevention of flea infestations, and the treatment and control of tick infestations in dogs and puppies.	520.998	yes	CE.[1 2]
141–427	Dechra, Ltd., Snaygill Industrial Estate, Keighley Road, Skipton, North Yorkshire, BD23 2RW, United Kingdom.	OSPHOS (clodronate injection).	Original approval for the control of clinical signs associated with navicular syndrome in horses.	522.454	yes	CE.[1 2]
013–076[4]	Elanco Animal Health, A Division of Eli Lilly & Co., Lilly Corporate Center, Indianapolis, IN 46285.	TYLAN (tylosin tartrate) Soluble Powder.	Supplemental approval of a change in marketing status from over-the-counter (OTC) to by veterinary prescription (Rx).	520.2640	no	CE.[1 5]
141–327	Merial Ltd., 3239 Satellite Blvd., Bldg. 500, Duluth, GA 30096–4640.	LONGRANGE (eprinomectin) Extended-Release Injectable Parasiticide.	Supplemental approval adding treatment and control of a gastrointestinal roundworm with 150 days of persistent effectiveness.	522.814	yes	CE.[1 5]
141–406	Merial Ltd., 3239 Satellite Blvd., Bldg. 500, Duluth, GA 30096–4640.	NEXGARD (afoxolaner) Chewable Tablets.	Supplemental approval for the treatment and control of two additional species of tick in dogs and puppies.	520.43	yes	CE.[1 2]
200–513	Norbrook Laboratories, Ltd., Station Works, Newry BT35 6JP, Northern Ireland.	ENROFLOX (enrofloxacin) Injection for Dogs 2.27%.	Original approval as a generic copy of NADA 140–913.	522.812	yes	CE.[1 5]
200–530	Huvepharma AD, 5th Floor, 3A Nikolay Haytov Str., 1113 Sophia, Bulgaria.	TYLOVET 100 (tylosin phosphate) plus PAYLEAN (ractopamine HCl) Type B and C medicated feeds.	Original approval as a generic copy of NADA 141–172.	558.500	yes	CE.[1 6]
200–558	Zoetis Inc., 333 Portage St., Kalamazoo, MI 49007.	ENGAIN 9 and 45 (ractopamine HCl) plus TYLAN 100 (tylosin phosphate) Type B and C medicated feeds.	Original approval as a generic copy of NADA 141–172.	New 522.500	yes	CE.[1 6]
200–561	Zoetis Inc., 333 Portage St., Kalamazoo, MI 49007.	ACTOGAIN 45 (ractopamine HCl), RUMENSIN (monensin), and TYLAN 100 (tylosin phosphate) Type B and C medicated feeds.	Original approval as a generic copy of NADA 141–224.	558.500	yes	CE.[1 6]

[1] The Agency has determined under 21 CFR 25.33 that this action is categorically excluded (CE) from the requirement to submit an environmental assessment or an environmental impact statement because it is of a type that does not individually or cumulatively have a significant effect on the human environment.

[2] CE granted under 21 CFR 25.33(d)(1).

[3] The Agency has carefully considered an EA of the potential environmental impact of this action and has made a finding of no significant impact (FONSI).

[4] The NADA listed was identified as being affected by guidance for industry (GFI) #213, ''New Animal Drugs and New Animal Drug Combination Products Administered in or on Medicated Feed or Drinking Water of Food-Producing Animals: Recommendations for Drug Sponsors for Voluntarily Aligning Product Use Conditions with GFI #209'', December 2013.

[5] CE granted under 21 CFR 25.33(a)(1).

[6] CE granted under 21 CFR 25.33(a)(2).

List of Subjects

21 CFR Part 510

Administrative practice and procedure, Animal drugs, Labeling, Reporting and recordkeeping requirements.

21 CFR Parts 520, 522, and 529

Animal drugs.

21 CFR Part 556

Animal drugs, Foods.

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 parts 510, 520, 522, 529, 556, and 558 are amended as follows:

PART 510—NEW ANIMAL DRUGS

■ 1. The authority citation for 21 CFR part 510 continues to read as follows:

Authority: 21 U.S.C. 321, 331, 351, 352, 353, 360b, 371, 379e.

■ 2. In § 510.600, in the table in paragraph (c)(1), alphabetically add an entry for ''Axcentive SARL'' and revise the entry for ''Dechra, Ltd.''; and in the table in paragraph (c)(2), revise the entry for ''043264'' and numerically add an entry for ''086009'' to read as follows:

§ 510.600 Names, addresses, and drug labeler codes of sponsors of approved applications.

* * * * *

(c) * * *

(1) * * *

Firm name and address	Drug labeler code
* * * * *	
Axcentive SARL, Chemin de Champouse, Quartier Violesi, 13320 Bouc Bel Air, France	086009
* * * * *	
Dechra, Ltd., Snaygill Industrial Estate, Keighley Rd., Skipton, North Yorkshire, BD23 2RW, United Kingdom	043264
* * * * *	

(2) * * *

Drug labeler code	Firm name and address
* * * * *	
043264	Dechra, Ltd., Snaygill Industrial Estate, Keighley Rd., Skipton, North Yorkshire, BD23 2RW, United Kingdom
* * * * *	
086009	Axcentive SARL, Chemin de Champouse, Quartier Violesi, 13320 Bouc Bel Air, France
* * * * *	

PART 520—ORAL DOSAGE FORM NEW ANIMAL DRUGS

■ 3. The authority citation for 21 CFR part 520 continues to read as follows:

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

■ 4. In § 520.43, revise paragraph (c)(2) to read as follows:

§ 520.43 Afoxolaner.

* * * * *

(c) * * *

(2) *Indications for use.* Kills adult fleas; for the treatment and prevention of flea infestations (*Ctenocephalides felis*); and for the treatment and control of black-legged tick (*Ixodes scapularis*), American Dog tick (*Dermacentor variabilis*), and lone star tick (*Amblyomma americanum*) infestations in dogs and puppies 8 weeks of age and older, weighing 4 lb of body weight or greater, for 1 month.

* * * * *

■ 5. Section 520.998 is added to read as follows:

§ 520.998 Fluralaner.

(a) *Specifications.* Each chewable tablet contains 112.5, 250, 500, 1000, or 1400 milligrams (mg) fluralaner.

(b) *Sponsor.* See No. 000061 in § 510.600(c) of this chapter.

(c) *Conditions of use in dogs*—(1) *Amount.* Administer orally as a single dose every 12 weeks according to the label dosage schedule to provide a minimum dose of 11.4 mg per pound (/lb) (25 mg per kilogram) body weight. May be administered every 8 weeks in case of potential exposure to *Amblyomma americanum* ticks.

(2) *Indications for use.* Kills adult fleas; for the treatment and prevention of flea infestations (*Ctenocephalides felis*), and the treatment and control of tick infestations [*Ixodes scapularis* (black-legged tick), *Dermacentor variabilis* (American dog tick), and *Rhipicephalus sanguineus* (brown dog tick)] for 12 weeks in dogs and puppies 6 months of age and older, and weighing 4.4 lb or greater; for the treatment and control of *A. americanum* (lone star tick) infestations for 8 weeks in dogs and puppies 6 months of age and older, and weighing 4.4 lb or greater.

(3) *Limitations.* Federal law restricts this drug to use by or on the order of a licensed veterinarian.

■ 6. In § 520.1198, add paragraphs (a)(3), (b)(3), and (d)(1)(iii); and revise paragraph (d)(2) to read as follows:

§ 520.1198 Ivermectin and praziquantel paste.

(a) * * *

(3) 0.0187 mg (1.87 percent) ivermectin and 0.2338 mg (23.38 percent) praziquantel.

(b) * * *

(3) No. 050604 for use of products described in paragraph (a)(3) of this section as in paragraphs (d)(1)(iii), (d)(2)(iii) and (d)(3) of this section.

* * * * *

(d) * * *

(1) * * *

(iii) 200 mcg/kg ivermectin (91 mcg/lb) and 2.5 mg/kg praziquantel (1.14 mg/lb).

(2) *Indications for use*—(i) For treatment and control of the following parasites: Tapeworms—*Anoplocephala perfoliata;* Large Strongyles (adults)—*Strongylus vulgaris* (also early forms in blood vessels), *S. edentatus* (also tissue stages), *S. equinus, Triodontophorus* spp. including *T. brevicauda* and *T. serratus,* and *Craterostomum acuticaudatum;* Small Strongyles (adults, including those resistant to some benzimidazole class compounds)—*Coronocyclus* spp. including *C. coronatus, C. labiatus,* and *C. labratus; Cyathostomum* spp. including *C. catinatum* and *C. pateratum; Cylicocyclus* spp. including *C. insigne, C. leptostomum, C. nassatus,* and *C. brevicapsulatus; Cylicodontophorus* spp.; *Cylicostephanus* spp. including *C. calicatus, C. goldi, C. longibursatus,* and *C. minutus,* and *Petrovinema poculatum;* Small Strongyles—fourth-stage larvae; Pinworms (adults and fourth-stage larvae)—*Oxyuris equi;* Ascarids (adults and third- and fourth-stage larvae)—*Parascaris equorum;* Hairworms (adults)—*Trichostrongylus axei;* Large-mouth Stomach Worms (adults)—*Habronema muscae;* Bots (oral and gastric stages)—*Gasterophilus* spp.

including *G. intestinalis* and *G. nasalis;* Lungworms (adults and fourth-stage larvae)—*Dictyocaulus arnfieldi;* Intestinal Threadworms (adults)—*Strongyloides westeri;* Summer Sores caused by *Habronema* and *Draschia* spp. cutaneous third-stage larvae; Dermatitis caused by neck threadworm microfilariae of *Onchocerca* sp.

(ii) For treatment and control of the following parasites: Tapeworms—*Anoplocephala perfoliata;* Large Strongyles (adults)—*Strongylus vulgaris* (also early forms in blood vessels), *S. edentatus* (also tissue stages), *S. equinus, Triodontophorus* spp.; Small Strongyles (adults, including those resistant to some benzimidazole class compounds)—*Cyathostomum* spp.; *Cylicocyclus* spp.; *Cylicostephanus* spp., *Cylicodontophorus* spp.; Small Strongyles—fourth-stage larvae; Pinworms (adults and fourth-stage larvae)—*Oxyuris equi;* Ascarids (adults and third- and fourth-stage larvae)—*Parascaris equorum;* Hairworms (adults)—*Trichostrongylus axei;* Large-mouth Stomach Worms (adults)—*Habronema muscae;* Bots (oral and gastric stages)—*Gasterophilus* spp.; Lungworms (adults and fourth-stage larvae)—*Dictyocaulus arnfieldi;* Intestinal Threadworms (adults)—*Strongyloides westeri;* Summer Sores caused by *Habronema* and *Draschia* spp. cutaneous third-stage larvae; Dermatitis caused by neck threadworm microfilariae, *Onchocerca* sp.

(iii) For treatment and control of the following parasites in horses over 5 months of age: Tapeworms—*Anoplocephala perfoliata;* Large Strongyles (adults)—*Strongylus vulgaris* (also early forms in blood vessels), *S. edentatus* (also tissue stages), *S. equinus, Triodontophorus* spp. including *T. brevicauda* and *T. serratus,* and *Craterostomum acuticaudatum;* Small Strongyles (adults, including those resistant to some benzimidazole class compounds)—*Coronocyclus* spp. including *C. coronatus, C. labiatus,* and *C. labratus; Cyathostomum* spp. including *C. catinatum* and *C. pateratum; Cylicocyclus* spp. including *C. insigne, C. leptostomum, C. nassatus,* and *C. brevicapsulatus; Cylicodontophorus* spp.; *Cylicostephanus* spp. including *C. calicatus, C. goldi, C. longibursatus,* and *C. minutus,* and *Petrovinema poculatum;* Small Strongyles—fourth-stage larvae; Pinworms (adults and fourth-stage larvae)—*Oxyuris equi;* Ascarids (adults and third- and fourth-stage larvae)—*Parascaris equorum;* Hairworms (adults)—*Trichostrongylus axei;* Large-mouth Stomach Worms (adults)—*Habronema muscae;* Bots (oral and gastric stages)—*Gasterophilus* spp. including *G. intestinalis* and *G. nasalis;* Lungworms (adults and fourth-stage larvae)—*Dictyocaulus arnfieldi;* Intestinal Threadworms (adults)—*Strongyloides westeri;* Summer Sores caused by *Habronema* and *Draschia* spp. cutaneous third-stage larvae; Dermatitis caused by neck threadworm microfilariae of *Onchocerca* sp.

* * * * *

■ 7. Amend § 520.2640 as follows:
■ a. Revise paragraph (b);
■ b. Redesignate paragraph (d) as (e);
■ c. Add new paragraph (d); and
■ d. Revise newly designated paragraph (e)(2)(ii).

The addition and revisions read as follows:

§ 520.2640 Tylosin.

* * * * *

(b) *Sponsors*—(1) No. 000986 for use as in paragraphs (e)(1), (e)(2)(i), (e)(2)(ii)(A), (e)(2)(iii), (e)(3), and (e)(4) of this section.

(2) Nos. 016592 and 061623 for use as in paragraphs (e)(1), (e)(2)(i), (e)(2)(ii)(B), (e)(2)(iii), (e)(3), and (e)(4) of this section.

* * * * *

(d) *Special considerations.* For No. 000986, labeling shall bear ''Federal law restricts this drug to use by or on the order of a licensed veterinarian.''

(e) * * *

(2) * * *

(ii) *Indications for use*—(A) For the reduction in severity of effects of infectious sinusitis associated with *Mycoplasma gallisepticum.*

(B) For maintaining weight gain and feed efficiency in the presence of infectious sinusitis associated with *Mycoplasma gallisepticum* sensitive to tylosin.

* * * * *

PART 522—IMPLANTATION OR INJECTABLE DOSAGE FORM NEW ANIMAL DRUGS

■ 8. The authority citation for 21 CFR part 522 continues to read as follows:

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

■ 9. In 522.313a, remove paragraph (d); redesignate paragraph (e) as paragraph (d); and revise newly redesignated paragraphs (d)(1)(iii), (d)(2)(iii), and (d)(3)(iii) to read as follows:

§ 522.313a Ceftiofur crystalline free acid.

* * * * *

(d) * * *

(1) * * *

(iii) *Limitations.* Following label use as a single treatment, a 14-day pre-slaughter withdrawal period is required. Federal law restricts this drug to use by or on the order of a licensed veterinarian. Federal law prohibits extra-label use of this drug in swine for disease prevention purposes; at unapproved doses, frequencies, durations, or routes of administration; and in unapproved, major food-producing species/production classes.

(2) * * *

(iii) *Limitations.* Following label use as either a single-dose or 2-dose regimen, a 13-day pre-slaughter withdrawal period is required after the last treatment. A withdrawal period has not been established in preruminating calves. Do not use in calves to be processed for veal. Federal law restricts this drug to use by or on the order of a licensed veterinarian. Federal law prohibits extra-label use of this drug in cattle for disease prevention purposes; at unapproved doses, frequencies, durations, or routes of administration; and in unapproved, major food-producing species/production classes.

(3) * * *

(iii) *Limitations.* Do not use in horses intended for human consumption. Federal law restricts this drug to use by or on the order of a licensed veterinarian.

■ 10. Add § 522.454 to read as follows:

§ 522.454 Clodronate.

(a) *Specifications.* Each milliliter of solution contains 60 milligrams (mg) clodronate disodium.

(b) *Sponsor.* See No. 043264 in § 510.600(c) of this chapter.

(c) *Conditions of use in horses*—(1) *Amount.* Administer 1.8 mg per kilogram of body weight by intramuscular injection up to a maximum dose of 900 mg per horse.

(2) *Indications for use.* For the control of clinical signs associated with navicular syndrome.

(3) *Limitations.* Do not use in horses intended for human consumption. Federal law restricts this drug to use by or on the order of a licensed veterinarian.

■ 11. In § 522.812, revise paragraph (b)(2) to read as follows:

§ 522.812 Enrofloxacin.

* * * * *

(b) * * *

(2) No. 055529 for use of product described in paragraph (a)(1) as in paragraph (e)(1), and use of product described in paragraph (a)(2) as in paragraphs (e)(2)(i)(B), (e)(2)(ii)(B), (e)(2)(iii), (e)(3)(i), (e)(3)(ii)(B), and (e)(3)(iii) of this section.

* * * * *

■ 12. In § 522.814, revise paragraphs (d)(2) and (3) to read as follows:

§ 522.814 Eprinomectin.

* * * * *

(d) * * *

(2) *Indications for use.* For the treatment and control of the following internal and external parasites: Gastrointestinal roundworms (adults and fourth-stage larvae) *Bunostomum phlebotomum, Cooperia oncophora, C. punctata, C. surnabada, Trichostrongylus axei, Ostertagia ostertagi* (including inhibited stage); (adults) *Haemonchus placei, Oesophagostomum radiatum, O. lyrata, T. colubriformis;* lungworms (adults) *Dictyocaulus viviparus;* cattle grubs *Hypoderma bovis;* mites *Sarcoptes scabiei* var. *bovis.* Prevents reinfection with *C. oncophora, C. punctata,* and *T. axei* for 100 days following treatment; *H. placei, O. radiatum, O. lyrata,* and *O. ostertagi* for 120 days following treatment; and *B. phlebotomum* and *D. viviparus* for 150 days following treatment.

(3) *Limitations.* Federal law restricts this drug to use by or on the order of a licensed veterinarian. Animals intended for human consumption must not be slaughtered within 48 days of the last treatment. This drug product is not approved for use in female dairy cattle 20 months of age or older, including dry dairy cows. Use in these cattle may cause drug residues in milk and/or in calves born to these cows. A withdrawal period has not been established for pre-ruminating calves. Do not use in calves to be processed for veal.

PART 529—CERTAIN OTHER DOSAGE FORM NEW ANIMAL DRUGS

■ 13. The authority citation for 21 CFR part 529 continues to read as follows:

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

■ 14. Add 529.382 to read as follows:

§ 529.382 Chloramine-T.

(a) *Specifications.* Chloramine-T trihydrate powder for solution.

(b) *Sponsor.* See No. 086009 in § 510.600(c) of this chapter.

(c) *Related tolerances.* See § 556.118 of this chapter.

(d) *Conditions of use*—(1) *Freshwater-reared salmonids*—(i) *Amount.* 12 to 20 milligrams per liter (mg/L) water in a continuous flow water supply or as a static bath once per day for 60 minutes on consecutive or alternative days for three treatments.

(ii) *Indications for use.* For the control of mortality in freshwater-reared salmonids due to bacterial gill disease associated with *Flavobacterium* spp.

(2) *Walleye*—(i) *Amount.* 10 to 20 mg/L water in a continuous flow water supply or as a static bath once per day for 60 minutes on consecutive or alternative days for three treatments.

(ii) *Indications for use.* For the control of mortality in walleye due to external columnaris disease associated with *Flavobacterium columnare.*

(3) *Freshwater-reared warmwater finfish*—(i) *Amount.* 20 mg/L water in a continuous flow water supply or as a static bath once per day for 60 minutes on consecutive or alternative days for three treatments.

(ii) *Indications for use.* For the control of mortality in freshwater-reared warmwater finfish due to external columnaris disease associated with *F. columnare.*

PART 556—TOLERANCES FOR RESIDUES OF NEW ANIMAL DRUGS IN FOOD

■ 15. The authority citation for 21 CFR part 556 continues to read as follows:

Authority: 21 U.S.C. 342, 360b, 371.

■ 16. Add § 556.118 to read as follows:

§ 556.118 Chloramine-T.

(a) *Acceptable Daily Intake (ADI).* The ADI for total residues of chloramine-T is 5 micrograms per kilogram of body weight per day.

(b) *Tolerances*—(1) *Fish*—(i) *Muscle/skin (target tissue).* The tolerance for *para*-toluenesulfonamide (marker residue) is 0.90 parts per million.

(ii) [Reserved]

(2) [Reserved]

(c) *Related conditions of use.* See § 529.382 of this chapter.

PART 558—NEW ANIMAL DRUGS FOR USE IN ANIMAL FEEDS

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

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

§ 558.4 [Amended]

■ 18. In § 558.4, in paragraph (d), in the ''Category I'' table, remove the entry for ''Niclosamide''.

§ 558.500 [Amended]

■ 19. Amend § 558.500 as follows:

■ a. In the table in paragraphs (e)(1)(ii), (iii), and (iv), in the ''Limitations'' column, add at the end of the entry ''Ractopamine as provided by No. 000986 with tylosin as provided by Nos. 000986 or 016592 in § 510.600(c) of this chapter; or ractopamine as provided by No. 054771 with tylosin as provided by No. 000986 in § 510.600(c) of this chapter.'' and in the ''Sponsor'' column, remove ''000986'' and in its place add ''000986, 016592, 054771'';

■ b. In the table in paragraph (e)(2)(viii), in the ''Limitations'' column, remove ''No. 054771'' and in its place add ''Nos. 000986 and 054771'';

■ c. In the table in paragraph (e)(2)(x), in the ''Limitations'' column, remove ''Nos. 054771 and 021641'' and in its place add ''Nos. 000986 and 054771''; and

■ d. In the table in paragraphs (e)(2)(ix) and (xiii), in the ''Limitations'' column, add at the end of the entry ''Ractopamine as provided by Nos. 000986 or 054771 with tylosin as provided by No. 000986 in § 510.600(c) of this chapter.'' and in the ''Sponsor'' column, remove ''000986'' and in its place add ''000986, 054771''.

Dated: June 25, 2014.

Bernadette Dunham,

Director, Center for Veterinary Medicine.

[FR Doc. 2014–15276 Filed 6–30–14; 11:15 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 558

[Docket No. FDA–2014–N–0002]

Withdrawal of Approval of Part of a New Animal Drug Application; Procaine Penicillin

AGENCY: Food and Drug Administration, HHS.

ACTION: Notification of withdrawal.

SUMMARY: The Food and Drug Administration (FDA) is withdrawing approval of those parts of a new animal drug application (NADA) for a three-way, fixed-ratio, combination drug Type A medicated article that pertain to use of the procaine penicillin component for growth promotion indications in swine. This action is being taken at the sponsor's request because the three-way Type A medicated article is no longer manufactured.

DATES: Withdrawal of approval is effective July 2, 2014.

FOR FURTHER INFORMATION CONTACT: Cindy L. Burnsteel, Center for Veterinary Medicine (HFV–130), Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855, 240–276–8341, *cindy.burnsteel@fda.hhs.gov.*

SUPPLEMENTARY INFORMATION: Zoetis Inc. (Zoetis), 333 Portage St., Kalamazoo, MI 49007 has requested that FDA withdraw approval of those parts of NADA 035–688 for AUREOMIX Granular 500 (chlortetracycline, procaine penicillin, and sulfamethazine) Type A medicated article that pertain to use of the procaine penicillin component for growth

promotion indications in swine. Zoetis requested voluntary withdrawal of approval of these indications for use because AUREOMIX Granular 500 Type A medicated article is no longer manufactured.

Therefore, under authority delegated to the Commissioner of Food and Drugs and redelegated to the Director of the Center for Veterinary Medicine, and in accordance with 21 CFR 514.116 *Notice of withdrawal of approval of application,* notice is given that approval of those parts of NADA 035–688 that pertain to use of procaine penicillin for the production indications of growth promotion and increased feed efficiency in swine are hereby withdrawn, effective July 2, 2014.

NADA 035–688 was identified as being affected by guidance for industry (GFI) #213, ''New Animal Drugs and New Animal Drug Combination Products Administered in or on Medicated Feed or Drinking Water of Food-Producing Animals: Recommendations for Drug Sponsors for Voluntarily Aligning Product Use Conditions With GFI #209'', December 2013.

Elsewhere in this issue of the **Federal Register**, FDA is amending the animal drug regulations to reflect the withdrawal of approval of these parts of NADA 035–688.

Dated: June 25, 2014.

Bernadette Dunham,

Director, Center for Veterinary Medicine.

[FR Doc. 2014–15273 Filed 6–30–14; 11:15 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 558

[Docket No. FDA–2014–N–0002]

New Animal Drugs for Use in Animal Feeds; Chlortetracycline and Sulfamethazine; Chlortetracycline; Procaine Penicillin; and Sulfamethazine

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect the withdrawal of approval of those parts of a new animal drug application (NADA) for a three-way, fixed-ratio, combination drug Type A medicated article that pertain to use of the procaine penicillin component for growth promotion indications in swine and to reflect the reformulation of the Type A medicated article as a two-way, fixed-ratio, combination drug product without penicillin.

DATES: This rule is effective July 2, 2014.

FOR FURTHER INFORMATION CONTACT: Cindy L. Burnsteel, Center for Veterinary Medicine (HFV–130), Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855, 240–276–8341, email: *cindy.burnsteel@fda.hhs.gov.*

SUPPLEMENTARY INFORMATION: Zoetis Inc. (Zoetis), 333 Portage St., Kalamazoo, MI 49007 has requested that FDA withdraw approval of those parts of NADA 035–688 for AUREOMIX Granular 500 (chlortetracycline, procaine penicillin, and sulfamethazine) Type A medicated article that pertain to use of the procaine penicillin component for growth promotion indications in swine. Zoetis requested voluntary withdrawal of approval of these indications for use because AUREOMIX Granular 500 Type A medicated article is no longer manufactured.

With the withdrawal of approval of the production indications for procaine penicillin, the product approved under NADA 035–688 was reformulated as AUREOMIX S Granular (chlortetracycline and sulfamethazine) Type A Medicated Article, a two-way, fixed-ratio, combination drug Type A medicated article that does not contain penicillin procaine and is not labeled for production indications.

The Agency has determined under 21 CFR 25.33(a)(3) and (g) that these actions are categorically excluded from the requirement to submit an environmental assessment or an environmental impact statement because they are of a type that do not individually or cumulatively have a significant effect on the human environment.

Elsewhere in this issue of the **Federal Register**, FDA gave notice that the approval of those parts of NADA 035–688 pertaining to the procaine penicillin component indications for growth promotion and increased feed efficiency in swine is withdrawn, effective July 2, 2014. As provided for in the regulatory text of this document, the animal drug regulations are amended to reflect this partial withdrawal of approval and subsequent product reformulation.

NADA 035–688 was identified as being affected by guidance for industry (GFI) #213, ''New Animal Drugs and New Animal Drug Combination Products Administered in or on Medicated Feed or Drinking Water of Food-Producing Animals: Recommendations for Drug Sponsors for Voluntarily Aligning Product Use Conditions With GFI #209'', December 2013.

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 Director of the Center for Veterinary Medicine, 21 CFR part 558 is amended as follows:

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.

■ 2. Revise § 558.140 to read as follows:

§ 558.140 Chlortetracycline and sulfamethazine.

(a) *Specifications.* Type A medicated articles containing:

(1) 35 grams (g) per pound (/lb) each, chlortetracycline and sulfamethazine.

(2) 40 g/lb each, chlortetracycline and sulfamethazine.

(b) *Sponsors.* See sponsors numbers in § 510.600(c) of this chapter as follow:

(1) Nos. 054771 and 048164 for use of product described in paragraph (a)(1) as in paragraph (d)(1) of this section.

(2) No. 054771 for use of product described in paragraph (a)(2) as in paragraph (d)(2) of this section.

(c) *Related tolerances.* See §§ 556.150 and 556.670 of this chapter.

(d) *Conditions of use*—(1) *Cattle.* It is used in feed for beef cattle as follows:

(i) *Amount.* 350 milligrams per head per day each, chlortetracycline and sulfamethazine.

(ii) *Indications for use.* Aid in the maintenance of weight gains in the presence of respiratory disease such as shipping fever.

(iii) *Limitations.* Feed for 28 days; withdraw 7 days prior to slaughter. A withdrawal period has not been established for this product in pre-ruminating calves. Do not use in calves to be processed for veal.

(2) *Swine.* It is used in swine feed as follows:

(i) *Amount.* 100 g/ton each, chlortetracycline and sulfamethazine.

(ii) *Indications for use.* For reduction of the incidence of cervical abscesses; treatment of bacterial swine enteritis (salmonellosis or necrotic enteritis caused by *Salmonella choleraesuis* and vibrionic dysentery); prevention of these diseases during times of stress; and maintenance of weight gains in the presence of atrophic rhinitis.

(iii) *Limitations.* Feed as the sole ration. Withdraw 15 days prior to slaughter.

§ 558.145 [Amended]

■ 3. In § 558.145, in paragraph (a)(2), remove ''Nos. 048164 and 054771'' and in its place add ''No. 048164''.

Dated: June 25, 2014.

Bernadette Dunham,

Director, Center for Veterinary Medicine.

[FR Doc. 2014–15274 Filed 6–30–14; 11:15 am]

BILLING CODE 4164–01–P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

21 CFR Part 1308

[Docket No. DEA–351]

Schedules of Controlled Substances: Placement of Tramadol Into Schedule IV

AGENCY: Drug Enforcement Administration, Department of Justice.

ACTION: Final rule.

SUMMARY: With the issuance of this final rule, the Deputy Administrator of the Drug Enforcement Administration places the substance 2-[(dimethylamino)methyl]-1-(3-methoxyphenyl)cyclohexanol (tramadol), including its salts, isomers, and salts of isomers, into schedule IV of the Controlled Substances Act. This scheduling action is pursuant to the Controlled Substances Act which requires that such actions be made on the record after opportunity for a hearing through formal rulemaking. This action imposes the regulatory controls and administrative, civil, and criminal sanctions applicable to schedule IV controlled substances on persons who handle (manufacture, distribute, dispense, import, export, engage in research, conduct instructional activities with, or possess) or propose to handle tramadol.

DATES: Effective August 18, 2014.

FOR FURTHER INFORMATION CONTACT: Erika Gehrmann, Office of Diversion Control, Drug Enforcement Administration; Mailing Address: 8701 Morrissette Drive, Springfield, Virginia 22152; Telephone: (202) 598–6812.

SUPPLEMENTARY INFORMATION:

Legal Authority

The Drug Enforcement Administration (DEA) implements and enforces titles II and III of the Comprehensive Drug Abuse Prevention and Control Act of 1970, as amended. Titles II and III are referred to as the ''Controlled Substances Act'' and the ''Controlled Substances Import and Export Act,'' respectively, but they are collectively referred to as the ''Controlled Substances Act'' or the ''CSA'' for the purposes of this action. 21 U.S.C. 801–971. The DEA publishes the implementing regulations for these statutes in title 21 of the Code of Federal Regulations (CFR), parts 1300 to 1321. The CSA and its implementing regulations are designed to prevent, detect, and eliminate the diversion of controlled substances and listed chemicals into the illicit market while providing for the legitimate medical, scientific, research, and industrial needs of the United States. Controlled substances have the potential for abuse and dependence and are controlled to protect the public health and safety.

Under the CSA, every controlled substance is classified in one of five schedules based upon its potential for abuse, currently accepted medical use, and the degree of dependence the drug or other substance may cause. 21 U.S.C. 812. The initial schedules of controlled substances established by Congress are found at 21 U.S.C. 812(c) and the current list of scheduled substances is published at 21 CFR part 1308.

Pursuant to 21 U.S.C. 811(a)(1), the Attorney General may, by rule, ''add to such a schedule or transfer between such schedules any drug or other substance if he (A) finds that such drug or other substance has a potential for abuse, and (B) makes with respect to such drug or other substance the findings prescribed by [21 U.S.C. 812(b)] for the schedule in which such drug is to be placed * * *.'' The Attorney General has delegated scheduling authority under 21 U.S.C. 811 to the Administrator of the DEA, 28 CFR 0.100, who in turn has redelegated that authority to the Deputy Administrator of the DEA, 28 CFR part 0, appendix to subpart R.

The CSA provides that scheduling of any drug or other substance may be initiated by the Attorney General (1) on his own motion, (2) at the request of the Secretary of the Department of Health and Human Services (HHS),[1] or (3) on the petition of any interested party. 21 U.S.C. 811(a). This action was initiated by four petitions to schedule tramadol under the CSA, and is supported by, *inter alia,* a recommendation from the Assistant Secretary of the HHS and an evaluation of all relevant data by the DEA. This action imposes the regulatory controls and administrative, civil, and criminal sanctions applicable to schedule IV controlled substances on persons who handle or propose to handle tramadol.[2]

Background

Tramadol is a centrally acting opioid analgesic that produces its primary opioid-like action through an active metabolite, referred to as the ''M1'' metabolite (O-desmethyltramadol). It was first approved for use in the United States by the U.S. Food and Drug Administration (FDA) in 1995 under the trade name ULTRAM®. Subsequently, the FDA approved for marketing generic, combination, and extended release tramadol products.

Because of its chemical structure, 2-[(dimethylamino)methyl]-1-(3-methoxyphenyl) cyclohexanol can exist as different isomeric forms. Thus, various prefixes can be associated with the name. Some examples of these prefixes include *dextro, levo, d, l, R, S, cis, trans, erythro, threo,* (+), (−), racemic, and may include combinations of these prefixes sometimes with numerical designations. Any such isomer is, in fact, 2-[(dimethylamino)methyl]-1-(3-methoxyphenyl)cyclohexanol. Tramadol is typically formulated as a racemic mixture identified as (±)-*cis*-2-[(dimethylamino)methyl]-1-(3-methoxyphenyl)cyclohexanol hydrochloride.[3]

HHS and DEA Eight-Factor Analyses

On September 16, 2010, the Assistant Secretary of the HHS provided to the DEA a scientific and medical evaluation and scheduling recommendation entitled ''Basis for the Recommendation to Schedule Tramadol in Schedule IV of the Controlled Substances Act.'' After considering the eight factors in 21

[1] As discussed in a memorandum of understanding entered into by the Food and Drug Administration (FDA) and the National Institute on Drug Abuse (NIDA), the FDA acts as the lead agency within the HHS in carrying out the Secretary's scheduling responsibilities under the CSA, with the concurrence of NIDA. 50 FR 9518, Mar. 8, 1985. The Secretary of the HHS has delegated to the Assistant Secretary for Health of the HHS the authority to make domestic drug scheduling recommendations. 58 FR 35460, July 1, 1993.

[2] *See* infra note 3.

[3] For simplicity, from this point forward in the document, ''tramadol'' is used to refer to 2-[(dimethylamino)methyl]-1-(3-methoxyphenyl)cyclohexanol, its salts, isomers, salts of isomers, and all isomeric configurations of possible forms.

U.S.C. 811(c), as well as the substance's abuse potential, legitimate medical use, and dependence liability, the Assistant Secretary of the HHS recommended that tramadol be controlled in schedule IV of the CSA under 21 U.S.C. 812(b). The DEA conducted its own eight-factor analysis of tramadol pursuant to 21 U.S.C. 811(c). Both the DEA and HHS analyses are available in their entirety in the public docket for this rule (Docket No. DEA–351) at *http://www.regulations.gov* under ''Supporting and Related Material.''

Determination To Schedule Tramadol

After a review of the available data, including the scientific and medical evaluation and the scheduling recommendation from the HHS, the Deputy Administrator of the DEA published in the **Federal Register** a notice of proposed rulemaking (NPRM) entitled ''Schedules of Controlled Substances: Placement of Tramadol Into Schedule IV'' which proposed to place tramadol in schedule IV of the CSA. 78 FR 65923, Nov. 4, 2013. The proposed rule provided an opportunity for interested persons to file a request for hearing in accordance with DEA regulations by December 4, 2013. No requests for such a hearing were received by the DEA. The NPRM also provided an opportunity for interested persons to submit written comments on the proposed rule on or before January 3, 2014.

Comments Received

The DEA received 27 comments on the proposed rule to schedule tramadol. Sixteen commenters expressed support for controlling tramadol as a schedule IV controlled substance, nine commenters were opposed to tramadol being placed into schedule IV of the CSA, and two commenters did not take a position.

Support of the Proposed Rule

Sixteen commenters supported controlling tramadol as a schedule IV controlled substance. Among those 16 commenters expressing support were two State Boards of Pharmacy. One veterinary distributor's association stated that it supports the DEA designating tramadol as a schedule IV controlled substance because it will enable distributors to operate with efficiency and consistency across the United States along with requiring an increased level of due diligence and monitoring. A national veterinary medical association, a national healthcare association, and a national pharmacy association were also among those who expressed support for the rule.

Several commenters supporting the rule expressed their concern regarding the abuse potential and resulting threat to public health posed by tramadol. Writing in support of scheduling tramadol, a local multi-agency prescription drug abuse task force described tramadol as a '' 'loop hole' drug which is addictive, abused, and diverted,'' but which is not yet realized as such by many patients and prescribers due to its current non-controlled status. One commenter stated that given the abuse potential of tramadol (which according to the commenter is often abused in combination with other controlled substances), scheduling this drug will ensure that it is subject to the same controls as other similarly addictive controlled substances. Yet another commenter noted that although analgesics are addictive to a very small percentage of people that use them, scheduling this drug would reduce the number of emergency room visits and number of overdose deaths.

A certified pharmacy technician described her experiences of witnessing the abuse of tramadol by patients on a daily basis. She stated the stricter controlled substance laws of the State of Mississippi have seemed to lessen the abuse. A group of pharmacy students noted that tramadol, marketed as ULTRAM®, is currently the only uncontrolled opioid on the market. Another commenter who supported the rule stated: ''In the field of pharmacy, some patients have expressed concern about the reclassification of tramadol, believing that new regulations could complicate or impede new and chronic patients from receiving their prescriptions.'' This commenter noted that this is a common misconception since schedule IV controlled medications are in fact readily available for those with a valid prescription and the appropriate medical condition. In addition, the commenter noted that these types of prescriptions also have the added convenience of being easily transferrable between pharmacies, phoned-in by prescribers, and refilled five times over a six month period.

DEA Response: The DEA appreciates the support for the rule.

Opposition to the Proposed Rule

1. Access to Pain Medication by the Elderly

An association for consulting pharmacists stated that controlling tramadol would limit access to needed pain medications for elderly patients and opposed the proposed scheduling until a workable solution to ensure timely access for patients in long-term care facilities (LTCFs) can be reached. Specifically, the commenter expressed concern that, should tramadol become a controlled substance, LTCF nurses would no longer be able to call-in or fax a chart order directly to the pharmacy. According to the commenter, in LTCFs, prescribers must call, hand deliver, or fax controlled substance prescriptions to pharmacies, and this in turn involves LTCF employees having to track down the (often non-employee) prescriber. This practice, according to the commenter, can severely impede delivery of prescription medications to LTCF patients.

DEA Response: The processes and procedures associated with dispensing a controlled substance are not relevant factors to the determination whether a substance should be controlled or under what schedule a substance should be placed if it is controlled. *See* 21 U.S.C. 811 and 812. Nonetheless, controlling tramadol as a schedule IV controlled substance should not hinder legitimate access to the medicine, whether within the LTCF setting or elsewhere. As summarized by a State Board of Pharmacy who wrote in support of controlling tramadol: ''Scheduling a medication does not make it impossible to prescribe, dispense and administer the medication. However, it does alert practitioners, dispensers and perhaps even some patients that the medication has some potential dangers for addiction and misuse, and frequent monitoring and evaluation by practitioners and dispensers of such drugs is necessary for appropriate patient care.''

Currently, tramadol is a non-controlled medication that the FDA has approved only for prescription use. Tramadol, as a schedule IV controlled substance, will continue to require a prescription, either orally or in writing. 21 U.S.C. 829(b). The CSA allows for the legitimate prescribing and use of controlled substances; therefore, the control of tramadol should not hinder patient access to the medication. The prescription for tramadol, as a controlled substance, may only be issued by an individual practitioner who is either registered with the DEA or exempt from registration. 21 CFR 1306.03. A prescription for a controlled substance must also be issued for a legitimate medical purpose by an individual practitioner acting in the course of his professional practice. 21 CFR 1306.04(a). Upon the effective date of this rule, tramadol prescriptions may be filled up to six months after the date prescribed, and may be refilled up to

five times within six months after the date on which such prescription was issued. 21 U.S.C. 829(b); 21 CFR 1306.22 (a) and (e); *see also* 21 CFR 1306.23 (b) and (c). In addition, there are no dosage unit limitations for prescriptions for schedule III, IV, or V controlled substances unless the controlled substance is prescribed for administration to an ultimate user who is institutionalized. 21 CFR 1306.24(c).

The substantive requirement that a practitioner acting in the usual course of professional practice determine that tramadol is medically necessary to treat the patient does not hinder legitimate access; the procedural requirements relating to transmission of a legitimate prescription do not hinder legitimate access either. Once an individual practitioner makes a medical determination to prescribe a schedule III through V controlled substance, a prescriber's agent may call-in or fax a prescription for it. *See* 21 CFR 1306.03(b), 1306.21(a). The DEA recognizes the unique challenges pertaining to handling and using controlled substances at LTCFs and has previously addressed related concerns.[4] A DEA registered practitioner may not delegate to a nurse, a pharmacist, or anyone else his or her authority to make a medical determination whether to prescribe a particular controlled substance. However, oral prescriptions for controlled substances in schedules III–V may be communicated to a pharmacy by an employee or agent of the prescribing practitioner, 21 CFR 1306.03(b). Note that the prescribing practitioner remains responsible for ensuring that the prescription conforms ''in all essential respects to the law and regulations,'' 21 CFR 1306.05(f). 75 FR 61613, 61614, Oct. 6, 2010. This requires the practitioner alone to determine—on a prescription by prescription basis—whether the prescription is supported by a legitimate medical purpose and that all the essential elements of the prescription are met.

2. Fear of Criminal Action

Some commenters expressed concern that scheduling tramadol would deter prescribers from properly treating pain for fear of facing criminal action.

DEA Response: One of the most important principles underlying the CSA is that every prescription for a controlled substance must be issued for a legitimate medical purpose by an individual practitioner acting in the usual course of his professional practice. 21 CFR 1306.04(a); *U.S.* v. *Moore,* 423 U.S. 122 (1975) (holding registered physicians may be prosecuted for violation of the CSA when their activities fall outside the usual course of professional practice). The DEA Policy Statement entitled ''Dispensing Controlled Substances for the Treatment of Pain,'' 71 FR 52715 (Sept. 6, 2006), makes clear that this longstanding requirement should in no way interfere with the legitimate practice of medicine or cause any practitioner to be reluctant to provide legitimate pain treatment. Providers (as well as ultimate users) become subject to administrative, civil, and/or criminal proceedings when their activity involving controlled substances is not authorized by, or in violation of, the CSA.

3. Shift to the Black-Market

Several commenters stated that scheduling tramadol would limit their access to tramadol, causing them to have to buy tramadol on the street.

DEA Response: As discussed above, schedule IV controlled medications are readily available for legitimate medical use.

4. Scientific Data Not Sufficient

One commenter reviewed selected published literature and submitted a short review document with a conclusion that ''the current available scientific evidence supports the continuation of a non-controlled classification'' of tramadol.

DEA Response: The CSA mandates that both the HHS and DEA conduct a review of the drug or other substance as related to the eight factors enumerated in 21 U.S.C. 811(c): (1) Its actual or relative potential for abuse; (2) scientific evidence of its pharmacological effect, if known; (3) the state of current scientific knowledge regarding the drug or other substance; (4) its history and current pattern of abuse; (5) the scope, duration, and significant of abuse; (6) what, if any, risk there is to the public health; (7) its psychic or physiological dependence liability; and (8) whether the substance is an immediate precursor of a substance already controlled. The Assistant Secretary of the HHS provided a scientific and medical evaluation and a scheduling recommendation to control tramadol as a schedule IV controlled substance. In accordance with 21 U.S.C. 811(c), the DEA conducted its own analysis of the eight factors determinative of control. Besides published literature, various other data as detailed in the supporting documents were considered in making the scheduling determination for tramadol. Thus, the scheduling determination is based on a comprehensive evaluation of all available data as related to the above mentioned eight factors. The summary of each factor as analyzed by the HHS and the DEA, and as considered by the DEA in this scheduling action, was provided in the proposed rule. Both the DEA and the HHS analyses have been made available in their entirety under ''Supporting and Related Material'' of the public docket for this rule at *http://www.regulations.gov* under Docket No. DEA–351.

As discussed in detail in the DEA's eight-factor analysis, collectively, the available information regarding tramadol supports an abuse potential that is less than that of schedule III and similar to that for schedule IV. Preclinical self-administration studies show that tramadol produces limited reinforcing effects, consistent with schedule IV. At supra-therapeutic doses, tramadol can produce subjective reinforcing effects similar to that of morphine (C–II) and approaching that of oxycodone (C–II). At high doses (but not therapeutic doses), tramadol can produce subjective reinforcing effects similar to propoxyphene (C–IV). For both tramadol and propoxyphene, the doses required to produce significant subjective reinforcing effects are in a range causing sufficient adverse effects. These observations indicate that the subjective reinforcing effects, a reflection of abuse potential, of tramadol are less than that of morphine or oxycodone, but similar to that of propoxyphene.

Based on the review of the HHS evaluation and scheduling recommendation and all other relevant data, the DEA has found that tramadol has an abuse potential and meets the requirements for schedule IV controls under the CSA.

5. Disagreement With Tramadol Classification as an Opioid

One commenter who supported the rule stated that tramadol should not be compared to hydrocodone because hydrocodone is an opioid and tramadol is psychotropic in nature and very similar to, if not the same as, a serotonin-norepinephrine reuptake inhibitor (SNRI).

DEA Response: In the NPRM and supporting documents, the DEA compared tramadol mainly to propoxyphene (narcotic schedule IV). Based on both the HHS and the DEA analyses, there is strong scientific evidence that tramadol and propoxyphene are similar regarding

[4] *E.g.,* ''Preventing the Accumulation of Surplus Controlled Substances at Long Term Care Facilities,'' 66 FR 20833, Apr. 25, 2001; ''Role of Authorized Agents in Communicating Controlled Substance Prescriptions to Pharmacies,'' 75 FR 61613, Oct. 6, 2010.

their behavioral pharmacology and abuse potential pattern, thus suggesting that it is appropriate to control tramadol as a schedule IV controlled substance.

In addition, as stated in the supporting scientific documents, both the HHS and the DEA deem tramadol to be an opioid because tramadol shares similar pharmacological activities with opioids that are controlled under the CSA (schedules II–IV). (The labeling for FDA approved tramadol products states that tramadol is a centrally acting opioid analgesic.) An examination of the general pharmacology (including behavioral pharmacology) of tramadol reveals that tramadol produces many pharmacological effects similar to those of other opioids. These pharmacological effects include, but are not limited to, analgesia, respiratory depression, miosis, cough suppression, and inhibition of bowel mobility, and as such, tramadol is considered an opioid. The opioid pharmacology of tramadol primarily resides with its metabolite, O-desmethyltramadol, designated ''M1,'' and to a much lesser extent with tramadol, the parent drug. In addition, tramadol resembles some opioids insofar as it has the additional pharmacological effects of blocking the reuptake of norepinephrine and serotonin.

The CSA defines an ''opiate'' as ''any drug or other substance having an addiction-forming or addiction-sustaining liability similar to morphine or being capable of conversion into a drug having such addiction-forming or addiction-sustaining liability.'' 21 U.S.C. 802(18). Opium, opiates, derivatives of opium and opiates, including their isomers, whether produced directly or indirectly by extraction from substances of vegetable origin, or independently by means of chemical synthesis, are ''narcotic drugs'' as defined by the CSA, 21 U.S.C. 802(17).[5] As discussed in the supporting eight-factor documentation, preclinical studies demonstrate that tramadol, as other opioids in schedules I through IV, exhibits complete generalization to morphine and is able to produce some reinforcing effects. Repeated administration of tramadol in animals caused dependence development, evidenced by a withdrawal syndrome similar in intensity to pentazocine (schedule IV) or propoxyphene (narcotic schedule IV).

Although, generally, the controls imposed by the CSA on drugs and other substances depend on the schedule into which they are placed, there are certain additional requirements and restrictions for narcotic drugs. For example, narcotic drugs in schedule III, IV, or V may not be imported into the United States unless it is found that such importation is needed to provide for the legitimate medical, scientific, or other legitimate purposes under the specified, limited circumstances described in 21 U.S.C. 952(a). Narcotic controlled substances may not be exported unless the conditions imposed by 21 U.S.C. 953(a) are satisfied.

6. Never-Ending Practice of Drug Scheduling

Two commenters raised concerns that, despite the scheduling of drugs such as tramadol, individuals will always find substances to abuse, thus creating ''a never ending story of scheduling drugs.''

DEA Response: Pursuant to 21 U.S.C. 811(a), the CSA authorizes the DEA, under authority delegated by the Attorney General, to add to such a schedule any drug or other substance if it is found that the drug or other substance has a potential for abuse, and makes with respect to such drug or other substance the findings prescribed by 21 U.S.C. 812(b). As such, the scheduling authority established by Congress specifically allows new substances to be added to the list of controlled substances without regard to the number of substances already controlled. *See also* 21 U.S.C. 812(a) (''Such schedules shall *initially* consist of * * *'' (*emphasis added*)).

Requests for Staggered Implementation of Various Portions of the Rule

A national association that represents primary healthcare distributors commented that although they recognized the underlying reasons for scheduling tramadol and agreed with the reasoning and basis for controlling tramadol, the DEA should provide an extended time period before implementation to allow registrants to become compliant with portions of the rule regarding security, labeling and packaging, and reporting.[6] The association requested that the requirement for conducting inventory of tramadol products within wholesale distribution centers take place as of the effective date of the final scheduling decision. The association's concerns (as well as the DEA's responses) are outlined and discussed below.

1. Request for Staggered Effective Dates, Generally

The association requested that the DEA implement handling requirements for tramadol in stages. For example, they requested that the requirement for conducting inventory of tramadol products within wholesale distribution centers take place as of the effective date of the final scheduling decision but delaying the requirements for compliance with the security provisions of 21 CFR 1301.71–1301.93.

DEA Response: Generally, scheduling actions for drugs and other substances currently marketed in the United States are effective 30 days from the date of publication of the final rule in the **Federal Register**. In order to ensure the continued availability of tramadol for legitimate medical use, while also ensuring it is not subject to misuse, abuse, and diversion, the DEA is establishing an effective date of this final rule for all handling requirements 45 days from the date of publication. This 45-day period will provide a reasonable time for registrants to comply with the handling requirements for a schedule IV controlled substance and was established upon a full consideration of the totality of circumstances specific to tramadol.

Although the DEA has in the past, for some scheduling actions, allowed for additional time for compliance with certain handling requirements beyond the general effective date, the DEA has specifically chosen to forgo staggered implementation dates of handling requirements as different implementation dates leads to confusion and inconsistent application of the law.

2. Security

The association recommended a minimum of 120 days from the date of the final rule to allow for compliance in order to provide storage, revise operating procedures, train staff, and amend monitoring systems.

DEA Response: In order to ensure the continued availability of tramadol for legitimate medical use, while also ensuring it is not subject to misuse, abuse, and diversion, the DEA is establishing an effective date of this final rule, including security requirements, 45 days from the date of publication. Upon promulgation, registrants must comply with the applicable security provisions of 21 CFR 1301.71–1301.93. This 45-day period will provide a reasonable time for registrants to comply with the security

[5] Including their isomers, esters, ethers, salts, and salts of isomers, whenever the existence of such isomers, esters, ethers, and salts is possible within the specific chemical designation; however, does not include the isoquinoline alkaloids of opium.

[6] Pursuant to 5 U.S.C. 553(d) and in accordance with 21 CFR 1308.45, a final rule scheduling a substance shall not be effective less than 30 days from the date of its publication in the **Federal Register** unless the Administrator finds that conditions of public health or safety necessitate an earlier effective date.

requirements for a schedule IV controlled substance. As noted by the association, it is believed that distributors of tramadol already have adequate space within their warehouse cages to store the anticipated volume of tramadol and ''thus construction or expansion of cage space is unlikely to result * * *.'' Accordingly, it is reasonably likely that handlers and proposed handlers of tramadol have already instituted or made plans to institute the necessary modifications regarding security, including amendments to their suspicious orders monitoring systems to include tramadol orders. In order to provide handlers of tramadol a reasonable time period to comply with schedule IV handling requirements, including those for security, the DEA is allowing an additional 15 days, as compared to the generally allotted 30 days, from publication in the **Federal Register** before this rule becomes effective. After 45 days from the date of the final rule, tramadol will be subject to schedule III–V security requirements.

The DEA has carefully considered the security requirements for compliance with this rule. As confirmed by the association, current distributors of tramadol are DEA registrants with existing controlled substance storage that complies with DEA regulations. The DEA understands that handlers of tramadol may need to make modifications to their current security procedures for compliance. These modifications necessary for security compliance will be a one-time modification to provide for the appropriate storage, revision of operating procedures, training of staff, and amendments to suspicious order monitoring systems to include customer verifications. The DEA believes that a 45-day period will provide handlers of tramadol adequate time to implement these one-time modifications in compliance with the DEA security regulations. Registrants are familiar with the applicable security regulations, and already have systems in place with respect to other controlled substances. Accordingly, revising operating procedures, amending monitoring systems, and training staff with respect to tramadol should be easily accomplished within the 45-day compliance timeframe. The DEA strongly advises current registrants (and those entities that may seek registration as a result of this action) to work closely with their local DEA office regarding the applicable security requirements and any necessary modifications due to compliance with this rule. 21 CFR 1301.71(d).

3. Distribution of Products With the Pre-Control Label

The association stated that in accordance with 21 CFR 1302.05, the DEA has the authority to set a date on which labeling and packaging requirements will become effective, and requested clarification of when the distribution of products with the pre-scheduling label should cease. The association also requested clarification as to whether the cessation of the manufacture of products for commercial containers with the pre-scheduling labeling will also mean that manufacturers would be required to cease distribution to wholesale distributors of products they might have in stock bearing the pre-scheduling label. The association stated that the ambiguity of the compliance period poses a dilemma for those in the tramadol supply chain, and requested the DEA to act to meet healthcare needs and avoid waste by allowing products bearing the pre-scheduling label to move through the supply chain until the inventory is depleted. Alternatively, the association suggested that the DEA allow distributors to continue to sell pre-scheduling labeled product for at least 180 days after the effective date of the final rule.

DEA Response: As of the effective date of the final rule, pursuant to 21 U.S.C. 821, 825, and 958(e) and in accordance with 21 CFR 1302.03, manufacturers are required to print upon the labeling of each commercial container of tramadol they distribute the designation of tramadol as ''C–IV.'' It shall be unlawful for commercial containers of tramadol to be distributed without bearing the label properly identifying it as a schedule IV controlled substance in accordance with 21 CFR part 1302. As clearly stated in 21 CFR 1302.05, ''[a]ll labels on commercial containers of, and all labeling of, a controlled substance which either is transferred to another schedule or is added to any schedule shall comply with the requirements of § 1302.03, on or before the effective date established in the final order for the transfer or addition.'' Accordingly, the DEA is requiring that commercial containers of tramadol distributed on or after 45 days from the date of publication of the final rule be labeled as ''C–IV'' and be packaged in accordance with 21 CFR part 1302.

From the 2007 Economic Census, the DEA estimates that the inventory turnover ratio for the industry [7] is approximately 11.3.[8] The inventory turnover ratio represents the number of times the inventory sells (turns) in a year. The 11.3 inventory turnover ratio equates to an average of 32 days to sell inventory. The 11.3 turnover ratio is consistent with that of large distributors where financial information was publicly available and reviewed. Publicly reviewed data reports that about 85% of all revenues (an indirect indicator of dosage units moved) from drug distribution in the United States come from three public wholesalers, each with annual revenue in the billions. The DEA additionally notes that many regional and specialist pharmaceutical wholesalers have been acquired by the largest three distribution companies. The inventory turnover ratio is a reasonable estimate for the entire industry and all products under the circumstances. Because the 32 days to sell inventory is an average based on industry-wide census data, it is possible for an individual company and/or product line to have shorter or longer time to sell.

Since tramadol is a widely prescribed drug, with nearly 40 million prescriptions written in 2012,[9] the DEA expects distributors to receive and distribute tramadol at high volume and with regularity; thus, anticipating shorter than average days to sell tramadol than overall industry average inventory. However, to accommodate those distributors that have lower than average industry turnover ratio, the DEA is establishing an effective date of this final rule, including labeling and packaging requirements, 45 days from the date of publication. The DEA believes this will provide a reasonable time for distributors to sell existing stock with pre-control labeling and packaging and to stock inventory with post-control labeling and packaging.

Additionally, the DEA believes that any distributor that requires more than 45 days to sell tramadol inventory under normal circumstances can make minor modifications to ordering and stocking procedure for a transitional period to meet the established effective date at minimal cost. Distributors also have the option of returning excess stock of tramadol product without the ''C–IV''

[7] NAICS 424210—Drugs and druggists' sundries merchant wholesalers; Merchant wholesalers, except manufacturers' sales branches and offices.

[8] The inventory turnover ratio of 11.3 was calculated by dividing the 2007 ''cost of goods sold'' for the industry of $280,481,051,000 by the average end-of-year 2006 total inventories of $24,782,835,000.

[9] IMS Health, National Sales Perspective™ (NSP).

label to the manufacturer, as authorized by 21 CFR 1307.12.

The DEA takes this opportunity to clarify that the regulation pertaining to labeling of commercial containers applies only to distributions by manufacturers and distributors. The DEA does not regulate the labeling and packing of commercial containers of controlled substances downstream of distributors.

As summarized in the NPRM, and discussed in detail in the supporting eight factor analyses, tramadol meets the statutory requirements for control and for placement in schedule IV. Based upon the reasons discussed above, the DEA believes that 45 days is a reasonable amount of time for registrants to modify their operations so that the necessary safeguards are in place to prevent the abuse and diversion of tramadol.

4. Automation of Reports and Consolidated Orders System (''ARCOS'') Reporting

The association stated that only schedule I and II (and some schedule III) products are subject to reporting under the DEA's Automation of Reports and Consolidated Orders System (''ARCOS''), so it would be an error to require distributors to report tramadol (a schedule IV narcotic) to ARCOS.

DEA Response: DEA regulations do not require distributors to file ARCOS reports for schedule IV narcotics.

Scheduling Conclusion

Based on consideration of all comments, the scientific and medical evaluation and accompanying recommendation of the HHS, and based on the DEA's consideration of its own eight-factor analysis, the DEA finds that these facts and all other relevant data constitute substantial evidence of potential for abuse of tramadol. As such, the DEA is scheduling tramadol as a controlled substance under the CSA.

Determination of Appropriate Schedule

The CSA establishes five schedules of controlled substances known as schedules I, II, III, IV, and V. The CSA outlines the findings required for placing a drug or other substance in any particular schedule. 21 U.S.C. 812(b). After consideration of the analysis and recommendation of the Assistant Secretary for Health of the HHS and review of all relevant and available data, the Deputy Administrator of the DEA, pursuant to 21 U.S.C. 812(b)(4), finds that:

1. Tramadol has a low potential for abuse relative to the drugs or substances in schedule III. The abuse potential of tramadol is comparable to the schedule IV controlled substance propoxyphene;

2. Tramadol has a currently accepted medical use in treatment in the United States. Tramadol and other tramadol-containing products are approved for marketing by the FDA to manage moderate to moderately severe pain; and

3. Abuse of tramadol may lead to limited physical dependence or psychological dependence relative to the drugs or other substances in schedule III.

Based on these findings, the Deputy Administrator of the DEA concludes that tramadol, including its salts, isomers, and salts of isomers, warrants control in schedule IV of the CSA. 21 U.S.C. 812(b)(4).

Requirements for Handling Tramadol

Upon the effective date of this final rule, any person who handles tramadol is subject to the CSA's schedule IV regulatory controls and administrative, civil, and criminal sanctions applicable to the manufacture, distribution, dispensing, importing, exporting, engagement in research, and conduct of instructional activities, of schedule IV controlled substances including the following:

Registration. Any person who handles (manufactures, distributes, dispenses, imports, exports, engages in research, or conducts instructional activities with) tramadol, or who desires to handle tramadol, must be registered with the DEA to conduct such activities, pursuant to 21 U.S.C. 822, 823, 957, and 958, and in accordance with 21 CFR parts 1301 and 1312 as of August 18, 2014. Any person who currently handles tramadol and is not registered with the DEA must submit an application for registration and may not continue to handle tramadol as of August 18, 2014 unless the DEA has approved that application, pursuant to 21 U.S.C. 822, 823, 957, and 958, and in accordance with 21 CFR parts 1301 and 1312.

Disposal of stocks. Any person who does not desire or is not able to obtain a schedule IV registration must surrender all quantities of currently held tramadol in accordance with the procedures outlined in 21 CFR 1307.21 on or before August 18, 2014, or may transfer all quantities of currently held tramadol to a person registered with the DEA on or before August 18, 2014.

Security. Tramadol is subject to schedule III–V security requirements and must be handled and stored pursuant to 21 U.S.C. 821 and 823, and in accordance with 21 CFR 1301.71–1301.93 as of August 18, 2014.

Labeling and Packaging. All labels and labeling for commercial containers of tramadol must comply with 21 U.S.C. 825 and 958(e), and be in accordance with 21 CFR part 1302 as of August 18, 2014.

Inventory. Every DEA registrant who possesses any quantity of tramadol on the effective date of this final rule must take an inventory of all stocks of tramadol on hand as of August 18, 2014, pursuant to 21 U.S.C. 827 and 958, and in accordance with 21 CFR 1304.03, 1304.04, and 1304.11 (a) and (d).

Any person who becomes registered with the DEA after August 18, 2014 must take an initial inventory of all stocks of controlled substances (including tramadol) on hand on the date the registrant first engages in the handling of controlled substances, pursuant to 21 U.S.C. 827 and 958, and in accordance with 21 CFR 1304.03, 1304.04, and 1304.11 (a) and (b).

After the initial inventory, every DEA registrant must take a new inventory of all stocks of controlled substances (including tramadol) on hand every two years, pursuant to 21 U.S.C. 827 and 958, and in accordance with 21 CFR 1304.03, 1304.04, and 1304.11.

Records and Reports. All DEA registrants must maintain records with respect to tramadol pursuant to 21 U.S.C. 827 and 958 and in accordance with 21 CFR parts 1304 and 1312 as of August 18, 2014.

Prescriptions. All prescriptions for tramadol or products containing tramadol must comply with 21 U.S.C. 829, and be issued in accordance with 21 CFR part 1306 and subpart C of 21 CFR part 1311 as of August 18, 2014.

Importation and Exportation. All importation and exportation of tramadol must be in compliance with 21 U.S.C. 952, 953, 957, and 958, and be in accordance with 21 CFR part 1312 as of August 18, 2014.

Liability. Any activity involving tramadol not authorized by, or in violation of, the CSA, occurring as of August 18, 2014 is unlawful, and may subject the person to administrative, civil, and/or criminal action.

Regulatory Analyses

Executive Orders 12866 and 13563

In accordance with 21 U.S.C. 811(a), this scheduling action is subject to formal rulemaking procedures done ''on the record after opportunity for a hearing,'' which are conducted pursuant to the provisions of 5 U.S.C. 556 and 557. The CSA sets forth the criteria for scheduling a drug or other substance. Such actions are exempt from review by the Office of Management and Budget

(OMB) pursuant to section 3(d)(1) of Executive Order 12866 and the principles reaffirmed in Executive Order 13563.

Executive Order 12988

This regulation meets the applicable standards set forth in sections 3(a) and 3(b)(2) of Executive Order 12988 Civil Justice Reform to eliminate drafting errors and ambiguity, minimize litigation, provide a clear legal standard for affected conduct, and promote simplification and burden reduction.

Executive Order 13132

This rulemaking does not have federalism implications warranting the application of Executive Order 13132. The rule does not have substantial direct effects on the States, on the relationship between the national government and the States, or the distribution of power and responsibilities among the various levels of government.

Executive Order 13175

This rule does not have tribal implications warranting the application of Executive Order 13175. This 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.

Regulatory Flexibility Act

The Deputy Administrator, in accordance with the Regulatory Flexibility Act (RFA) (5 U.S.C. 601–612), has reviewed this final rule and by approving it certifies that it will not have a significant economic impact on a substantial number of small entities. The purpose of this final rule is to place tramadol, including its salts, isomers, and salts of isomers, into schedule IV of the CSA. By this final rule, tramadol will remain in schedule IV unless and until additional scheduling action is taken to either transfer it between the schedules or to remove it from the list of schedules. *See* 21 U.S.C. 811 and 812. No less restrictive measures (i.e., non-control or control in schedule V) enable the DEA to meet its statutory obligations under the CSA.

This rule affects approximately 1.5 million DEA registrations, representing approximately 376,904 entities. The DEA estimates that 367,046 (97%) of these entities are ''small entities'' in accordance with the RFA and SBA size standards. 5 U.S.C. 601(6) and 15 U.S.C. 632.

In accordance with the RFA, the DEA evaluated the impact of this rule on small entities. Specifically, the DEA examined the registration, storage, inventory and recordkeeping, and disposal requirements for the 367,046 small entities estimated to be affected by the rule: 55 manufacturers; 1,418 distributors/importers/exporters; 50,032 pharmacies; and 315,541 entities employing or holding registrations as individual practitioners/mid-level practitioners/hospitals/clinics. Ten States currently control tramadol as a schedule IV controlled substance under State law, with requirements that meet or exceed the DEA's requirements for schedule IV controlled substances discussed in the NPRM. Entities in these States are not economically impacted by this rule.

Based on the DEA's understanding of its registrants' operations and facilities, the DEA estimates a non-recurring expense for system modification and initial inventory cost of $245.01 for all entities and an additional $10,000 for secure storage for 50% of distributors, importers, and exporters. As discussed in the EIA prepared in association with the development of this final rule, manufacturers, pharmacies, physician offices/hospitals/clinics/other health care facilities, and 50% of distributors, importers, and exporters are assumed to meet the requirement of the rule without the need to expand secure storage area. The DEA estimates these costs, on an annualized basis, will have significant economic impact (cost greater than 1% of annual revenue) on 0 of 55 (0%) of small manufacturers; 50 of 1,418 (3.5%) of small distributors; 107 of 50,032 (0.2%) small business pharmacies; and 661 of 315,541 (0.2%) of individual practitioners/mid-level practitioners/hospitals/clinics, totaling 818 of 367,046 (0.2%) of all small entities. The percentage of small entities with significant economic impact is not substantial, and therefore, this rule will not result in significant economic impact on a substantial number of small entities.

Unfunded Mandates Reform Act of 1995

In accordance with the Unfunded Mandates Reform Act (UMRA) of 1995 (2 U.S.C. 1501 *et seq.*), the DEA has determined and certifies pursuant to UMRA that this action would not result in any Federal mandate that may result ''in the expenditure by State, local, and tribal governments, in the aggregate, or by the private sector, of $100 million or more (adjusted for inflation) in any one year * * *.'' Therefore, neither a Small Government Agency Plan nor any other action is required under provisions of UMRA of 1995.

Paperwork Reduction Act of 1995

This action does not impose a new collection of information requirement under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3521). This action would not impose recordkeeping or reporting requirements on State or local governments, individuals, businesses, or organizations. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

Congressional Review Act

This rule is not a major rule as defined by section 804 of the Small Business Regulatory Enforcement Fairness Act of 1996 (Congressional Review Act (CRA)). This rule will not result in: an annual effect on the economy of $100 million or more; a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; or significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based companies to compete with foreign-based companies in domestic and export markets. However, pursuant to the CRA, the DEA has submitted a copy of this final rule to both Houses of Congress and to the Comptroller General.

List of Subjects in 21 CFR Part 1308

Administrative practice and procedure, Drug traffic control, Reporting and recordkeeping requirements.

For the reasons set out above, 21 CFR part 1308 is amended as follows:

PART 1308—SCHEDULES OF CONTROLLED SUBSTANCES

■ 1. The authority citation for 21 CFR part 1308 continues to read as follows:

Authority: 21 U.S.C. 811, 812, 871(b), unless otherwise noted.

■ 2. Amend § 1308.14 by adding a new paragraph (b)(3) to read as follows:

§ 1308.14 Schedule IV.

* * * * *

(b) * * *

(3) 2-[(dimethylamino)methyl]-1-(3-methoxyphenyl)cyclohexanol, its salts, optical and geometric isomers and salts of these isomers (including tramadol)—9752

* * * * *

Dated: June 27, 2014.

Thomas M. Harrigan,

Deputy Administrator.

[FR Doc. 2014–15548 Filed 7–1–14; 8:45 am]

BILLING CODE 4410–09–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[TD 9674]

RIN 1545–BM07

Guidelines for the Streamlined Process of Applying for Recognition of Section 501(c)(3) Status

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Final and temporary regulations.

SUMMARY: This document contains final and temporary regulations that provide guidance to eligible organizations seeking recognition of tax-exempt status under section 501(c)(3) of the Internal Revenue Code (Code). The final and temporary regulations amend current regulations to allow the Commissioner of Internal Revenue to adopt a streamlined application process that eligible organizations may use to apply for recognition of tax-exempt status under section 501(c)(3). The text of the temporary regulations also serves as the text of the proposed regulations (REG–110948–14) set forth in the notice of proposed rulemaking on this subject in the Proposed Rules section in this issue of the **Federal Register**.

DATES: *Effective date:* These regulations are effective on July 1, 2014.

Applicability date: For dates of applicability, *see* §§ 1.501(a)–1T(f)(1), 1.501(c)(3)–1T(h)(1), 1.508–1T(c)(1).

FOR FURTHER INFORMATION CONTACT: James R. Martin or Robin Ehrenberg at (202) 317–5800 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Background

Section 508 requires an organization seeking tax-exempt status under section 501(c)(3), as a condition of its exemption, to notify the Secretary of the Treasury (or his delegate) that it is applying for recognition of exempt status in the manner prescribed in the Treasury Regulations, unless it is specifically excepted from the requirement. Section 1.508–1(a) describes the process for giving notice, and requires that an organization ''submit[ ] a properly completed and executed Form 1023, exemption application.'' Section 1.501(c)(3)–1(b)(1)(v) states that an organization must, to establish its exemption, submit a detailed statement of its proposed activities with and as a part of its application for exemption. Similarly, § 1.501(a)–1(b)(1)(iii) provides that an organization described in section 501(c)(3) shall submit with, and as part of, an application, a detailed statement of its proposed activities. Section 1.501(a)–1(b)(2) states that the Commissioner may require any additional information deemed necessary for a proper determination of whether a particular organization is exempt, and when deemed advisable in the interest of an efficient administration of the internal revenue laws, the Commissioner may, in the cases of particular types of organizations, prescribe the form in which the proof of exemption shall be furnished.

Detailed procedures for applying for recognition of exemption are set out in Rev. Proc. 2014–9, 2014–2 IRB 281, and in the instructions to Form 1023, ''Application for Recognition of Exemption Under Section 501(c)(3) of the Internal Revenue Code.'' *See* § 601.601(d)(2)(ii)(*b*) of this chapter.

Explanation of Provisions

The Treasury Department and the IRS have considered how the process of meeting the notice requirement of section 508 can be made more efficient for certain smaller organizations. The IRS is developing a streamlined form and process for these organizations. Accordingly, this Treasury decision amends §§ 1.501(a)–1, 1.501(c)(3)–1, and 1.508–1 to permit eligible organizations to use a streamlined process, described in guidance published in the Internal Revenue Bulletin, to meet the notice requirements of section 508.

Specifically, this Treasury decision amends §§ 1.501(a)–1 and 1.501(c)(3)–1 to authorize the Treasury Department and the IRS to prescribe, in applicable regulations or other guidance published in the Internal Revenue Bulletin, an exception to the requirement that an organization applying for tax-exempt status provide a detailed statement of its proposed activities. This document also amends the § 1.501(a)–1 provisions relating to the Commissioner's ability to revoke a determination because of a change in the law or regulations, or for other good cause, to reference the Commissioner's authority to retroactively revoke a determination under section 7805(b). No substantive change is intended by this amendment. This Treasury decision also amends the requirement in § 1.501(a)–1(b)(3) that an organization claiming to be exempted from filing annual returns file a statement supporting its claim with and as a part of its application. This amendment would provide flexibility for the Treasury Department and the IRS to prescribe in published guidance other methods of notifying the IRS that the organization is claiming an annual filing exemption.

In addition, this document amends § 1.508–1 to provide that eligible organizations may use Form 1023–EZ, ''Streamlined Application for Recognition of Exemption Under Section 501(c)(3) of the Internal Revenue Code,'' to notify the Commissioner of their applications for tax-exempt status under section 501(c)(3). This Treasury decision also amends §§ 1.501(a)–1 and 1.508–1 to state that the office to which applications should be submitted will be published in the Internal Revenue Bulletin or instructions to the Form 1023 or Form 1023–EZ.

Finally, this Treasury decision makes certain technical revisions to the regulations. In § 1.501(a)–1, the reference to ''internal revenue district'' is removed because such reference has been made obsolete by the enactment of the Internal Revenue Service Restructuring and Reform Act of 1998, Public Law 105–206, 112 Stat. 685. References to a district director in §§ 1.501(a)–1, 1.501(c)(3)–1, and 1.508–1 are also modified, as those positions no longer exist within the IRS. Proposed regulations in the Rules and Regulations section of this issue of the **Federal Register** use the text of these temporary regulations as the text of the proposed regulations. Treasury and the IRS seek comments on all aspects of the proposed rules, including whether additional technical revisions are necessary. Simultaneously with the publication of this Treasury decision, the Treasury Department and the IRS will release for publication a Revenue Procedure that provides procedures for applying for recognition of exemption using Form 1023–EZ.

Special Analyses

It has been determined that this Treasury decision 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 these regulations. For the applicability of the

Regulatory Flexibility Act (5 U.S.C. chapter 6), refer to the Special Analyses section of the preamble to the cross-reference notice of proposed rulemaking published in the Proposed Rules section in this issue of the **Federal Register**. Pursuant to section 7805(f), these regulations have been submitted to the Chief Counsel for Advocacy of the Small Business Administration for comment on their impact on small business.

Drafting Information

The principal authors of these regulations are James R. Martin and Robin Ehrenberg of the Office of Associate Chief Counsel (Tax Exempt and Government Entities). However, other personnel from the IRS and the Treasury Department participated in their development.

List of Subjects in 26 CFR Part 1

Income taxes, Nonprofit organizations, Foundations, Reporting and recordkeeping requirements.

Adoption of Amendments to the Regulations

Accordingly, 26 CFR part 1 is amended as follows:

PART 1—INCOME TAXES

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

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

■ **Par. 2.** Section 1.501(a)–1 is amended by:

■ 1. Revising paragraphs (a)(2), (b)(1), and (b)(3).

■ 2. Adding paragraph (f).

The revisions and addition read as follows:

§ 1.501(a)–1 Exemption from taxation.

(a) * * *

(2) [Reserved]. For further guidance, see § 1.501(a)–1T(a)(2).

* * * * *

(b)(1) [Reserved]. For further guidance, see § 1.501(a)–1T(b)(1).

* * * * *

(3) [Reserved]. For further guidance, see § 1.501(a)–1T(b)(3).

* * * * *

(f) [Reserved]. For further guidance, see § 1.501(a)–1T(f).

■ **Par. 3.** Section 1.501(a)–1T is added to read as follows:

§ 1.501(a)–1T Exemption from taxation (temporary).

(a)(1) [Reserved]. For further guidance see § 1.501(a)–1(a)(1).

(2) An organization, other than an employees' trust described in section 401(a), is not exempt from tax merely because it is not organized and operated for profit. In order to establish its exemption, it is necessary that every such organization claiming exemption file an application form as set forth below with the appropriate office as designated by the Commissioner in guidance published in the Internal Revenue Bulletin, forms or instructions to the applicable forms. Subject only to the Commissioner's inherent power to revoke rulings, including with retroactive effect as permitted under section 7805(b), because of a change in the law or regulations or for other good cause, an organization that has been determined by the Commissioner (or previously by a district director) to be exempt under section 501(a) or the corresponding provision of prior law may rely upon such determination so long as there are no substantial changes in the organization's character, purposes, or methods of operation. An organization that has been determined to be exempt under the provisions of the Internal Revenue Code of 1939 or prior law is not required to secure a new determination of exemption merely because of the enactment of the Internal Revenue Code of 1954 unless affected by substantive changes in law made by such Code.

(3) [Reserved]. For further guidance, see § 1.501(a)–1(a)(3).

(b) *Additional proof by particular classes of organizations.* (1) Unless otherwise prescribed by applicable regulations or other guidance published in the Internal Revenue Bulletin, organizations mentioned below shall submit with and as a part of their applications the following information:

(i) Mutual insurance companies shall submit copies of the policies or certificates of membership issued by them.

(ii) In the case of title holding companies described in section 501(c)(2), if the organization for which title is held has not been specifically notified in writing by the Internal Revenue Service that it is held to be exempt under section 501(a), the title holding company shall submit the information indicated herein as necessary for a determination of the status of the organization for which title is held.

(iii) An organization described in section 501(c)(3) shall submit with, and as a part of, an application filed after July 26, 1959, a detailed statement of its proposed activities.

(2) [Reserved]. For further guidance, see § 1.501(a)–1(b)(2).

(3) An organization claiming to be specifically exempted by section 6033(a) from filing annual returns shall submit with and as a part of its application (or in such other manner as is prescribed in guidance published in the Internal Revenue Bulletin) a statement of all the facts on which it bases its claim.

(c) through (e) [Reserved]. For further guidance, see § 1.501(a)–1(c) through (e).

(f) *Effective/applicability date.* (1) Paragraphs (a)(2), (b)(1), and (b)(3) of this section apply on and after July 1, 2014.

(2) *Expiration date.* Paragraphs (a)(2), (b)(1), and (b)(3) of this section expire on or before July 1, 2017.

■ **Par. 4.** Section 1.501(c)(3)–1 is amended by:

■ 1. Revising paragraphs (b)(1)(v) and (b)(6).

■ 2. Adding paragraph (h).

The revisions and addition read as follows:

§ 1.501(c)(3)–1 Organizations organized and operated for religious, charitable, scientific, testing for public safety, literary, or educational purposes, or for the prevention of cruelty to children or animals.

* * * * *

(b) * * *

(1) * * *

(v) [Reserved]. For further guidance see § 1.501(c)(3)–1T(b)(1)(v).

* * * * *

(6) [Reserved]. For further guidance see § 1.501(c)(3)–1T(b)(6).

* * * * *

(h) [Reserved]. For further guidance see § 1.501(c)(3)–1T(h).

■ **Par. 5.** Section 1.501(c)(3)–1T is added to read as follows:

§ 1.501(c)(3) Organizations organized and operated for religious, charitable, scientific, testing for public safety, literary, or educational purposes, or for the prevention of cruelty to children or animals (temporary).

(a) through (b)(1)(iv) [Reserved]. For further guidance see § 1.501(c)(3)–1(a) through (b)(1)(iv).

(v) Unless otherwise prescribed by applicable regulations or other guidance published in the Internal Revenue Bulletin, an organization must, in order to establish its exemption, submit a detailed statement of its proposed activities with and as a part of its application for exemption (see paragraph (b) of § 1.501(a)–1).

(b)(2) through (b)(5) [Reserved]. For further guidance see § 1.501(c)(3)–1(b)(2) through (b)(5).

(6) *Applicability of the organizational test.* A determination by the Commissioner that an organization is described in section 501(c)(3) and exempt under section 501(a) will not be

granted after July 26, 1959, regardless of when the application is filed, unless such organization meets the organizational test prescribed by this paragraph (b)(6). If, before July 27, 1959, an organization has been determined by the Commissioner or district director to be exempt as an organization described in section 501(c)(3) or in a corresponding provision of prior law and such determination has not been revoked before such date, the fact that such organization does not meet the organizational test prescribed by this paragraph (b)(6) shall not be a basis for revoking such determination. Accordingly, an organization that has been determined to be exempt before July 27, 1959, and which does not seek a new determination of exemption is not required to amend its articles of organization to conform to the rules of this paragraph (b)(6), but any organization that seeks a determination of exemption after July 26, 1959, must have articles of organization that meet the rules of this paragraph (b)(6). For the rules relating to whether an organization determined to be exempt before July 27, 1959, is organized exclusively for one or more exempt purposes, see 26 CFR (1939) 39.101(6)–1 (Regulations 118) as made applicable to the Code by Treasury Decision 6091, approved August 16, 1954 (19 FR 5167; CB 1954–2, 47).

(c) through (g) [Reserved]. For further guidance, see § 1.501(c)(3)–1(c) through (g).

(h) *Effective/applicability date.* (1) Paragraphs (b)(1)(v) and (b)(6) of this section apply on and after July 1, 2014.

(2) *Expiration date.* Paragraphs (b)(1)(v) and (b)(6) of this section expire on or before July 1, 2017.

■ **Par. 6.** Section 1.508–1 is amended by:

■ 1. Revising paragraphs (a)(2)(i) and (ii).

■ 2. Revising paragraphs (b)(2)(iv) and (v).

■ 3. Adding paragraph (c).

The revisions and addition read as follows:

§ 1.508–1 Notices.

(a) * * *

(2)(i) [Reserved]. For further guidance, see § 1.508–1T(a)(2)(i).

(ii) [Reserved]. For further guidance, see § 1.508–1T(a)(2)(ii).

* * * * *

(b) * * *

(2) * * *

(iv) [Reserved]. For further guidance, see § 1.508–1T(b)(2)(iv).

(v) [Reserved]. For further guidance, see § 1.508–1T(b)(2)(v).

* * * * *

(c) [Reserved]. For further guidance, see § 1.508–1T(c).

■ **Par. 7.** Section 1.508–1T is revised to read as follows:

§ 1.508–1T Notices (temporary).

(a)(1) [Reserved]. For further guidance, see § 1.508–1(a)(1).

(2) *Filing of notice.* (i) For purposes of paragraph (a)(1) of this section, except as provided in paragraph (a)(3) of this section, an organization seeking exemption under section 501(c)(3) must file the notice described in section 508(a) within 15 months from the end of the month in which the organization was organized, or before March 22, 1973, whichever comes later. Such notice is filed by submitting a properly completed and executed Form 1023 (or if applicable, Form 1023–EZ), exemption application. Notice should be filed with the appropriate office as designated by the Commissioner in guidance published in the Internal Revenue Bulletin, forms or instructions to the applicable forms. A request for extension of time for the filing of such notice should be submitted to such appropriate office. Such request may be granted if it demonstrates that additional time is required.

(ii) Although the information required by either Form 1023 or Form 1023–EZ must be submitted to satisfy the notice required by this section, the failure to supply, within the required time, all of the information required to complete such form is not alone sufficient to deny exemption from the date of organization to the date such complete information for such form is submitted by the organization. If the information that is submitted within the required time is incomplete, and the organization supplies the necessary additional information at the request of the Commissioner within the additional time period allowed by him, the original notice will be considered timely.

(iii) through (b)(2)(iii) [Reserved]. For further guidance, see § 1.508–1(a)(2)(iii) through (b)(2)(iii).

(iv) Any organization filing notice under this paragraph (b)(2)(iv) that has not received a ruling or determination letter from the Internal Revenue Service dated on or before July 13, 1970, recognizing its exemption from taxation under section 501(c)(3) (or the corresponding provisions of prior law), shall file its notice by submitting a properly completed and executed Form 1023 (or if applicable, Form 1023–EZ) and providing information that it is not a private foundation. The organization shall also submit all information required by the regulations under section 170 or 509 (whichever is applicable) necessary to establish recognition of its classification as an organization described in section 509(a)(1), (2), (3), or (4). A Form 1023 submitted prior to July 14, 1970, will satisfy this requirement if the organization submits an additional statement that it is not a private foundation together with all pertinent additional information required. Any statement filed under this paragraph (b)(2)(iv) shall be accompanied by a written declaration by the principal officer, manager or authorized trustee that there is a reasonable basis in law and in fact for the statement that the organization so filing is not a private foundation, and that to the best of the knowledge and belief of such officer, manager or trustee, the information submitted is complete and correct.

(v) The notice filed under paragraph (b)(2)(ii) of this section should be filed in accordance with the instructions applicable to Form 4653. The notice required by paragraph (b)(2)(iv) of this section should be filed with the appropriate office as designated by the Commissioner in guidance published in the Internal Revenue Bulletin, forms, or instructions to the applicable forms. An extension of time for the filing of such notice may be granted by such office upon timely request by the organization, if the organization demonstrates that additional time is required.

(b)(3) through (8) [Reserved]. For further guidance, see § 1.508–1(b)(3) through (8).

(c) *Effective/applicability date.* (1) Paragraphs (a)(2)(i), (a)(2)(ii), (b)(2)(iv), and (b)(2)(v) of this section apply on and after July 1, 2014.

(2) *Expiration date.* Paragraphs (a)(2)(i), (a)(2)(ii), (b)(2)(iv), and (b)(2)(v) of this section expire on or before July 3, 2017.

John Dalrymple,

Deputy Commissioner for Services and Enforcement.

Approved: June 27, 2014.

Mark J. Mazur,

Assistant Secretary of the Treasury (Tax Policy).

[FR Doc. 2014–15623 Filed 7–1–14; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Parts 1 and 602

[TD 9673]

RIN 1545–BK23

Longevity Annuity Contracts

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Final regulations.

SUMMARY: This document contains final regulations relating to the use of longevity annuity contracts in tax-qualified defined contribution plans under section 401(a) of the Internal Revenue Code (Code), section 403(b) plans, individual retirement annuities and accounts (IRAs) under section 408, and eligible governmental plans under section 457(b). These regulations will provide the public with guidance necessary to comply with the required minimum distribution rules under section 401(a)(9) applicable to an IRA or a plan that holds a longevity annuity contract. The regulations will affect individuals for whom a longevity annuity contract is purchased under these plans and IRAs (and their beneficiaries), sponsors and administrators of these plans, trustees and custodians of these plans and IRAs, and insurance companies that issue longevity annuity contracts under these plans and IRAs.

DATES: *Effective date:* These regulations are effective on July 2, 2014.

Applicability date: These regulations apply to contracts purchased on or after July 2, 2014.

FOR FURTHER INFORMATION CONTACT: Jamie Dvoretzky at (202) 317–6799 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Paperwork Reduction Act

The collection of information contained in these regulations has been reviewed and approved by the Office of Management and Budget in accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3507(d)) under control number 1545–2234. The collection of information in these final regulations is in A–17(a)(6) of § 1.401(a)(9)–6 (disclosure that a contract is intended to be a qualifying longevity annuity contract (QLAC), defined in A–17 of that section) and § 1.6047–2 (an annual statement must be provided to QLAC owners and their surviving spouses containing information required to be furnished to the IRS). The information in A–17(a)(6) of § 1.401(a)(9)–6 is required in order to notify employees [1] and beneficiaries, plan sponsors, and the IRS that the regulations apply to a contract. The information in the annual statement in § 1.6047–2(c) is required in order to apply the dollar and percentage limitations in A–17(b) of § 1.401(a)(9)–6 and A–12(b) of § 1.408–8 and to comply with other requirements of the required minimum distribution rules.

Estimated total average annual recordkeeping burden: 28,529 hours.

Estimated average annual burden per response: 8 minutes.

Estimated number of responses: 213,966.

Estimated number of recordkeepers: 150.

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

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

Background

This document contains amendments to the Income Tax Regulations (26 CFR part 1) under sections 401(a)(9), 403(b)(10), 408(a)(6), 408(b)(3), 408A(c)(5), and 6047(d) of the Code.

Section 401(a)(9) prescribes required minimum distribution rules for a qualified trust under section 401(a). In general, under these rules, distribution of each employee's entire interest must begin by the required beginning date. The required beginning date generally is April 1 of the calendar year following the later of (1) the calendar year in which the employee attains age 70½ or (2) the calendar year in which the employee retires. However, the ability to delay distribution until the calendar year in which an employee retires does not apply in the case of a 5-percent owner or an IRA owner.

If the entire interest of the employee is not distributed by the required beginning date, section 401(a)(9)(A) provides that the entire interest of the employee must be distributed, beginning not later than the required beginning date, in accordance with regulations, over the life of the employee or lives of the employee and a designated beneficiary (or over a period not extending beyond the life expectancy of the employee or the life expectancy of the employee and a designated beneficiary). Section 401(a)(9)(B) prescribes required minimum distribution rules that apply after the death of the employee. Section 401(a)(9)(G) provides that any distribution required to satisfy the incidental death benefit requirement of section 401(a) is treated as a required minimum distribution.

Section 403(b) plans, IRAs described in section 408, and eligible deferred compensation plans under section 457(b) also are subject to the required minimum distribution rules of section 401(a)(9) pursuant to sections 403(b)(10), 408(a)(6) and (b)(3), and 457(d)(2), respectively, and to the regulations under those sections. However, pursuant to section 408A(c)(5), the minimum distribution and minimum distribution incidental benefit (MDIB) requirements do not apply to Roth IRAs during the life of the employee.

Section 6047(d) states that the Secretary shall by forms or regulations require the employer maintaining, or the plan administrator of, a plan from which designated distributions (as defined in section 3405(e)(1)) may be made, and any person issuing any contract under which designated distributions may be made, to make returns and reports regarding the plan or contract to the Secretary, to the participants and beneficiaries of the plan or contract, and to such other persons as the Secretary may by regulations prescribe. This section also provides that the Secretary may, by forms or regulations, prescribe the manner and time for filing these reports.

Section 1.401(a)(9)–6 of the Income Tax Regulations sets forth the minimum distribution rules that apply to a defined benefit plan and to annuity contracts under a defined contribution plan. Under A–12 of § 1.401(a)(9)–6, if an annuity contract held under a defined contribution plan has not yet been annuitized, the interest of an employee or beneficiary under that contract is treated as an individual account for purposes of section 401(a)(9). Thus, the value of that contract is included in the account balance used to determine required minimum distributions from the employee's individual account.

If an annuity contract has been annuitized, the periodic annuity payments must be nonincreasing, subject to certain exceptions that are set forth in A–14 of § 1.401(a)(9)–6. In addition, annuity payments must satisfy the MDIB requirement of section 401(a)(9)(G). Under A–2(b) of

[1] An ''employee'' includes the owner of an IRA, where applicable.

§ 1.401(a)(9)–6, if an employee's sole beneficiary, as of the annuity starting date, is his or her spouse and the distributions satisfy section 401(a)(9) without regard to the MDIB requirement, the distributions to the employee are deemed to satisfy the MDIB requirement. However, if distributions are in the form of a joint and survivor annuity for an employee and a non-spouse beneficiary, the MDIB requirement is not satisfied unless the periodic annuity payment payable to the survivor does not exceed an applicable percentage of the amount that is payable to the employee, with the applicable percentage determined using the table in A–2(c) of § 1.401(a)(9)–6.

The regulations under sections 403(b)(10), 408(a)(6), 408(b)(3), 408A(c)(5), and 457(d)(2) prescribe how the required minimum distribution rules apply to other types of retirement plans and accounts. Section 1.403(b)–6(e)(2) provides, with certain exceptions, that the section 401(a)(9) required minimum distribution rules are applied to section 403(b) contracts in accordance with the provisions in § 1.408–8. As provided in A–1 of § 1.408–8, with certain modifications, an IRA is subject to the rules of §§ 1.401(a)(9)–1 through 1.401(a)(9)–9. One such modification is set forth in A–9 of § 1.408–8, which prescribes a rule under which an IRA generally does not fail to satisfy section 401(a)(9) merely because the required minimum distribution with respect to the IRA is distributed instead from another IRA.

On February 2, 2010, the Department of Labor, the IRS, and the Department of the Treasury issued a Request for Information Regarding Lifetime Income Options for Participants and Beneficiaries in Retirement Plans in the **Federal Register** (75 FR 5253). That Request for Information included questions relating to how the required minimum distribution rules affect defined contribution plan sponsors' and participants' interest in the offering and use of lifetime income products. In particular, the Request for Information asked whether there were changes to the rules that could or should be considered to encourage arrangements under which participants can purchase deferred annuities that begin at an advanced age (sometimes referred to as longevity annuities or longevity insurance). A number of commenters identified the required minimum distribution rules as an impediment to the utilization of these types of annuities. The Treasury Department and the IRS concluded that there are substantial advantages to modifying the minimum distribution rules in order to facilitate a participant's purchase of a deferred annuity that is scheduled to commence at an advanced age, such as 80 or 85.

On February 3, 2012, proposed amendments to the regulations (REG–115809–11) under sections 401(a)(9), 403(b)(10), 408(a)(6), 408(b)(3), 408A(c)(5), and 6047(d) of the Code were published in the **Federal Register** (77 FR 5443). The amendments to the regulations relating to the required minimum distribution rules were proposed in order to facilitate the purchase of deferred annuities that begin at an advanced age.

A public hearing was held on June 1, 2012. Written comments responding to the notice of proposed rulemaking were also received. After consideration of all the comments, the proposed regulations are adopted, as amended by this Treasury Decision. The most significant revisions are discussed in the Summary of Comments and Explanation of Revisions.

Summary of Comments and Explanation of Revisions

These final regulations modify the required minimum distribution rules in order to facilitate the purchase of deferred annuities that begin at an advanced age. These regulations apply to contracts that satisfy certain requirements, including the requirement that distributions commence not later than age 85. Prior to annuitization, the value of these contracts, referred to as ''qualifying longevity annuity contracts'' (QLACs), is excluded from the account balance used to determine required minimum distributions.

I. Definition of QLAC

A. Limitations on Premiums

The proposed regulations provided that in order to constitute a QLAC, the amount of the premiums paid for the contract under the plan on a given date could not exceed the lesser of $100,000 or 25 percent of the employee's account balance on the date of payment. If, on or before the date of a premium payment, an employee had paid premiums for the same contract or for any other contract that was intended to be a QLAC and that was purchased for the employee under the plan or under any other retirement plan, annuity, or account, the dollar limit would be reduced by the amount of those other premium payments. Similarly, if, on or before the date of a premium payment, an employee had paid premiums for the same contract or for any other contract that was intended to be a QLAC and that was purchased for the employee under the plan, the amount of those other premium payments will be taken into account in determining compliance with the percentage limit.

A number of commenters requested that the $100,000 limit or the 25-percent limit (or both) be increased to allow individuals to obtain more longevity risk protection. Other commenters supported retention of the limits at their proposed levels.

The Treasury Department and the IRS continue to believe that a dollar limit and a percentage limit are necessary in order to constrain undue deferral of distribution of an employee's interest. Moreover, as noted in the preamble to the proposed regulations, a premium of $100,000 could purchase an annuity that provides significant income beginning at age 85. For example, if at age 70 an employee used $100,000 of his or her account balance to purchase an annuity that will commence at age 85, the annuity could provide an annual income that is estimated to range between $26,000 and $42,000 (depending on the actuarial assumptions used by the issuer and the form of the annuity elected by the employee).[2] In addition, providing special treatment to QLACs purchased with no more than 25 percent of the account balance is consistent with section 401(a)(9)(A) because, for a typical employee who will need to draw down the entire account balance during the period prior to commencement of the annuity, the overall pattern of payments from the account balance and the QLAC would not provide more deferral than would otherwise normally be available for lifetime payments under the section 401(a)(9)(A) rules.

After consideration of all of the comments, the Treasury Department and the IRS have concluded that the dollar limit on premiums under the proposed regulations can be increased to $125,000 without leading to an unacceptable level of deferral of distribution. Accordingly, the final regulations increase the $100,000 premium limit to $125,000. The final regulations continue to provide that no more than 25 percent of the account balance may be used to pay premiums.

To simplify the application of the percentage limit, the final regulations clarify that the limit is applied with respect to an employee's account balance under a qualified plan as of the last valuation date preceding the date of

[2] These illustrations assume a three-percent interest rate, no pre-annuity-starting-date death benefit, use of the Annuity 2000 Mortality Table for males and females, no indexation of the annuity stream for inflation, and no load for expenses. (If the annuity were provided under an employer plan, unisex mortality assumptions would be required.)

a premium payment, increased for contributions allocated to the account (and decreased for distributions made from the account) after the valuation date but before the date the premium is paid. In addition, the final regulations clarify that although the value of a QLAC is excluded from the account balance used to determine required minimum distributions, the value of a QLAC is included in the account balance for purposes of applying the 25-percent limit.

The proposed regulations provided that if a premium for a contract causes the total premiums to exceed either the dollar or percentage limitation, the contract would fail to be a QLAC beginning on the date on which the excess premium was paid. A number of commenters requested that this rule be modified, stating that disqualifying an entire contract would be a harsh result, particularly in the case of an inadvertent error. They suggested that the regulations instead provide that if a premium for a longevity annuity contract exceeds the dollar or percentage limits, the QLAC will be disqualified (and hence included in the account balance used to calculate required minimum distributions) only to the extent of the excess premiums. Others suggested that there be a correction program that would allow employees to correct excess premiums.

In response to these comments, the final regulations provide that if an annuity contract fails to be a QLAC solely because premiums for the contract exceed the premium limits, then the contract will not fail to be a QLAC if the excess premium is returned to the non-QLAC portion of the employee's account by the end of the calendar year following the calendar year in which the excess premium was paid. The excess premium may be returned to the non-QLAC portion of the employee's account either in cash or in the form of an annuity contract that is not intended to be a QLAC. If the excess premium (including the fair market value of an annuity contract that is not intended to be a QLAC, if applicable) is returned to the non-QLAC portion of the employee's account after the last valuation date for the calendar year in which the excess premium was originally paid, then the employee's account balance as of that valuation date must be increased to reflect the excess premium. Any such return of excess premium will not be treated as a violation of the rule that a QLAC must not provide a commutation benefit.

In response to other comments, the final regulations clarify that if a contract at any time fails to be a QLAC for reasons other than exceeding the premium limitations, the contract will not be treated as a QLAC, or a contract that is intended to be a QLAC, beginning on the date of the first premium payment for that contract.

The proposed regulations provided that for calendar years beginning on or after the calendar year in which the regulations are effective, the dollar limitation would be adjusted at the same time and in the same manner as under section 415(d), except that (1) the base period would be the calendar year quarter beginning six months before the effective date of the regulations, and (2) any increase that is not a multiple of $25,000 would be rounded to the next lowest multiple of $25,000. In response to comments requesting that the dollar limit be adjusted in smaller increments than $25,000, the final regulations provide that any increase that is not a multiple of $10,000 will be rounded to the next lowest multiple of $10,000.

B. Maximum Age At Commencement

Like the proposed regulations, the final regulations provide that in order to constitute a QLAC, the contract must provide that distributions under the contract commence not later than a specified annuity starting date set forth in the contract. Under the final regulations, the specified annuity starting date must be no later than the first day of the month next following the employee's attainment of age 85. A QLAC could allow an employee to elect an earlier annuity starting date than the specified annuity starting date, but is not required to provide an option to commence distributions before the specified annuity starting date.

The final regulations continue to provide that the maximum age may be adjusted to reflect changes in mortality. The Treasury Department and the IRS anticipate that such changes will not occur more frequently than the adjustment of the $125,000 limit described in subheading I.A. ''Limitations on premiums.'' The adjusted age (if any) and the adjustment to the $125,000 limit will be prescribed by the Commissioner in revenue rulings, notices, or other guidance published in the Internal Revenue Bulletin.

C. Benefits Payable After Death of the Employee

The proposed regulations would have provided that under a QLAC the only benefit permitted to be paid after the employee's death is a life annuity, payable to a designated beneficiary, that meets certain requirements. Thus, for example, a contract that provides a distribution form with a period certain or a return of premiums in the case of an employee's death would not be a QLAC.

A number of commenters requested that QLACs be permitted to include a return of premium (ROP) feature that guarantees that if the annuitant dies before receiving payments at least equal to the total premiums paid under the contract, then an additional payment is made to ensure that the total payments received are at least equal to the total premiums paid under the contract. They noted that an ROP feature would make QLACs more attractive by addressing the concerns of those who would be unwilling to take the risk that payments under the contract will not be at least equal to the premiums. Several commenters stated that although the cost of providing an ROP feature results in lower annuity payments, the effect would be relatively small and employees would still be more likely to choose an annuity with this feature than without it.

In response to these comments, the final regulations provide that a QLAC may offer an ROP feature that is payable before and after the employee's annuity starting date. Accordingly, a QLAC may provide for a single-sum death benefit paid to a beneficiary in an amount equal to the excess of the premium payments made with respect to the QLAC over the payments made to the employee under the QLAC. If a QLAC is providing a life annuity to a surviving spouse (or will provide a life annuity to a surviving spouse), it may also provide a similar ROP benefit after the death of both the employee and the spouse.

The final regulations provide that an ROP payment must be paid no later than the end of the calendar year following the calendar year in which the employee dies, or in which the surviving spouse dies, whichever is applicable. If the employee's death is after the required beginning date, then the ROP payment is treated as a required minimum distribution for the year in which it is paid and is not eligible for rollover. If the surviving spouse's death is after the required beginning date for the surviving spouse, then the ROP payment similarly is treated as a required minimum distribution for the year in which it is paid and is not eligible for rollover.

As under the proposed regulations, the final regulations provide that if the sole beneficiary of an employee under the contract is the employee's surviving spouse, the only benefit permitted to be paid after the employee's death (other than an ROP) is a life annuity payable to the surviving spouse that does not exceed 100 percent of the annuity

payment payable to the employee. The final regulations also include a special exception that would allow a plan to comply with any applicable requirement to provide a qualified preretirement survivor annuity.[3] If the surviving spouse is one of multiple designated beneficiaries, the special rules for a surviving spouse are permitted to be applied as if there were separate contracts for each of the separate beneficiaries, but only if certain conditions are satisfied, including a separate account requirement.[4]

If the employee's surviving spouse is not the sole beneficiary under the contract, the only benefit permitted to be paid after the employee's death (other than an ROP) is a life annuity payable to a designated beneficiary. In order to satisfy the MDIB requirements of section 401(a)(9)(G), the life annuity is not permitted to exceed an applicable percentage of the annuity payment payable to the employee. The applicable percentage is determined under one of two alternative tables, and the determination of which table applies depends on the different types of death benefits that are payable to the designated beneficiary. However, if the contract provides for an ROP, the applicable percentage is zero.

Under the first alternative table, the applicable percentage is the percentage described in the existing table in A–2(c) of § 1.401(a)(9)–6. This table is available only if, under the contract, no death benefits are payable to such a beneficiary if the employee dies before the specified annuity starting date. Furthermore, in order to address the possibility that an employee with a shortened life expectancy could accelerate the annuity starting date in order to circumvent this rule, this table is available only if, under the contract, no benefits are payable in any case in which the employee selects an annuity starting date that is earlier than the specified annuity starting date under the contract and dies less than 90 days after making that election, even if the employee's death occurs after his or her selected annuity starting date.

Under the second alternative table, the applicable percentage is the percentage described in a new table set forth in the final regulations. The table is available for use when the contract provides a pre-annuity-starting-date death benefit to the non-spouse designated beneficiary. The table takes into account that a significant portion of the premium is used to provide death benefits to a designated beneficiary if death occurs during the deferral period between age 70½ and age 85. In order to limit the portion of the premium that is used to provide death benefits to a designated beneficiary, the proposed regulations provided that use of the table is limited to contracts under which any non-spouse designated beneficiary must be irrevocably selected as of the required beginning date. In response to comments, the final regulations modify this rule to allow the non-spouse beneficiary to be selected at a later date in certain circumstances, and to clarify that there is no violation of the irrevocability requirement that applies with respect to a non-spouse beneficiary if an employee substitutes his or her spouse as the beneficiary.

D. Other QLAC Requirements

Under the proposed regulations, a QLAC would not include a variable contract under section 817 (variable annuity), an equity-indexed contract, or a similar contract. A number of commenters requested that variable annuities and annuities that base returns on an equity index be included in the definition of a QLAC. One commenter noted that a narrow definition may limit the demand for QLACs. Others noted that annuities that provide for equity exposure are better able to address the long-term risk of inflation than fixed annuities. The Treasury Department and the IRS believe that because the purpose of a QLAC is to provide an employee with a predictable stream of lifetime income a contract should be eligible for QLAC treatment only if the income under the contract is primarily derived from contractual guarantees. Because variable annuities and indexed contracts[5] provide a substantially unpredictable level of income to the employee, these contracts are inconsistent with the purpose of this regulation. This is true even if there is a minimum guaranteed income under those contracts. In addition, having a limited set of easy-to-understand QLAC options available for purchase enhances the ability of employees to compare the products of multiple providers. Moreover, exposure to equity-based returns is available through control over the remaining portion of the account balance. Therefore, the final regulations provide that a QLAC does not include a variable contract under section 817, an indexed contract, or a similar contract. However, the final regulations also provide that the Commissioner may provide an exception to this rule in revenue rulings, notices, or other guidance published in the Internal Revenue Bulletin.

In response to comments, the final regulations clarify that a participating annuity contract is not treated as a contract that is similar to a variable contract or an indexed contract merely because it provides for the payment of dividends described in A–14(c)(3) of § 1.401(a)(9)–6. Similarly, a contract that provides for a cost-of-living adjustment described in A–14(b) of § 1.401(a)(9)–6 is not treated as a contract that is similar to a contract that is a variable contract or an indexed contract.

The proposed regulations also provided that in order to be a QLAC, a contract is not permitted to make available any commutation benefit, cash surrender value, or other similar feature. Although some commenters requested flexibility to offer contracts with these types of features, the final regulations retain this rule because the availability of such a feature would significantly reduce the benefit of mortality pooling under the contracts.

The proposed regulations provided that a contract is not a QLAC unless it states, when issued, that it is intended to be a QLAC. This rule would ensure that the issuer, employee, plan sponsor, and IRS know that the rules applicable to QLACs apply to a contract. Numerous commenters objected to this requirement, primarily because any changes to a contract form would require issuers to resubmit that form (even if it already satisfies the other QLAC requirements) to state insurance regulators for approval. Some commenters suggested that in order to alleviate the burden, issuers should be allowed to satisfy this requirement by including a statement in an insurance certificate or rider rather than in the contract itself. Several commenters suggested that the requirement to include this statement in the contract should be removed altogether because it duplicates the proposed disclosure requirement.

As under the proposed regulations, the final regulations provide that when the contract is issued an employee must be notified that the contract is intended

[3] A qualified preretirement survivor annuity is defined in section 417(c)(2) as an annuity for the life of the surviving spouse, the actuarial equivalent of which is not less than 50 percent of the portion of the account balance of the participant (as of the date of death) to which the participant had a nonforfeitable right (within the meaning of section 411(a) of the Code). Section 205(e)(2) of the Employee Retirement Income Security Act of 1974, Public Law 93–406, as amended (ERISA), includes a parallel definition. See Rev. Rul. 2012–3, 2012–8 IRB 383 (2012) for rules relating to qualified preretirement survivor annuities.

[4] See A–2(a) and A–3 of § 1.401(a)(9)–8.

[5] Commenters indicated that an indexed contract and an equity-indexed contract are alternative names for the same type of annuity.

to be a QLAC. However, in response to comments, the final regulations provide that this requirement will be satisfied if this language is included in the contract, or in a rider or endorsement with respect to the contract. The final regulations also provide that this requirement will be satisfied if a certificate is issued under a group annuity contract and the certificate, when issued, states that the employee's interest under the group annuity contract is intended to be a QLAC. In addition, the final regulations include a transition rule under which an annuity contract issued before January 1, 2016, will not fail to be a QLAC merely because the contract does not satisfy this requirement, provided that when the contract is issued the employee is notified that the contract (or a certificate under a group annuity contract) is intended to be a QLAC, and the contract is amended (or a rider, endorsement, or amendment to the certificate is issued) no later than December 31, 2016 to state that the contract is intended to be a QLAC.

The final regulations continue to provide that distributions under a QLAC must satisfy the generally applicable section 401(a)(9) requirements relating to annuities set forth in § 1.401(a)(9)–6, other than the requirement that annuity payments commence on or before the employee's required beginning date. Thus, for example, the limitation on increasing payments described in A–1(a) of § 1.401(a)(9)–6 applies to the contract.

II. IRAs

The final regulations retain the premium limitations for IRAs provided under the proposed regulations. The final regulations provide that, in order to constitute a QLAC, the amount of the premiums paid for the contract under an IRA on a given date may not exceed $125,000. If, on or before the date of a premium payment, an IRA owner has paid premiums for the same contract or for any other contract that is intended to be a QLAC under the IRA or under any other IRA, plan, or annuity, the $125,000 limit is reduced by the amount of those other premium payments.

The final regulations also provide that, in order to constitute a QLAC the amount of the premiums paid for the contract under an IRA on a given date generally may not exceed 25 percent of the individual's IRA account balance. Consistent with the rule under which a required minimum distribution from an IRA could be satisfied by a distribution from another IRA (applied separately to traditional IRAs and Roth IRAs), the final regulations allow a QLAC that could be purchased under an IRA within these limitations to be purchased instead under another IRA. Specifically, the amount of the premiums paid for the contract under an IRA may not exceed an amount equal to 25 percent of the sum of the account balances (as of December 31 of the calendar year before the calendar year in which a premium is paid) of the IRAs (other than Roth IRAs) that an individual holds as the IRA owner. If, on or before the date of a premium payment, an individual has paid other premiums for the same contract or for any other contract that is intended to be a QLAC and that is held or purchased for the individual under his or her IRAs, the premium payment cannot exceed the amount determined to be 25 percent of the individual's IRA account balances, reduced by the amount of those other premiums.

Like the proposed regulations, the final regulations provide that for purposes of both the dollar and percentage limitations, unless the trustee, custodian, or issuer of an IRA has actual knowledge to the contrary, the trustee, custodian, or issuer may rely on the IRA owner's representations of the amount of the premiums (other than the premiums paid under the IRA) and, for purposes of applying the percentage limitation, the amount of the individual's IRA account balances (other than the account balance under the IRA).

In light of the fact that Roth IRAs are not subject to the required minimum distribution rules prior to the death of the owner, the proposed regulations provided that an annuity purchased under a Roth IRA would not be treated as a QLAC. In addition, the dollar and percentage limitations on premiums that apply to a QLAC would not take into account premiums paid for a contract that is purchased or held under a Roth IRA, even if the contract satisfies the requirements to be a QLAC. If a QLAC is purchased or held under a plan, annuity, contract, or traditional IRA that is later rolled over or converted to a Roth IRA, the QLAC would cease to be a QLAC (and would cease to be treated as intended to be a QLAC) after the date of the rollover or conversion. In that case, the premiums would then be disregarded in applying the dollar and percentage limitations to premiums paid for other contracts after the date of the rollover or conversion.[6] The final regulations retain the proposed rules on Roth IRAs.

III. Section 403(b) Plans

As under the proposed regulations, the final regulations apply the tax-qualified plan rules, instead of the IRA rules, to the purchase of a QLAC under a section 403(b) plan. For example, the 25-percent limitation on premiums is separately determined for each section 403(b) plan in which an employee participates. The final regulations also provide that the tax-qualified plan rules relating to reliance on representations, rather than the IRA rules, apply to the purchase of a QLAC under a section 403(b) plan.

The final regulations also provide that, if the sole beneficiary of an employee under a contract is the employee's surviving spouse and the employee dies before the annuity starting date under the contract, a life annuity that is payable to the surviving spouse after the employee's death is permitted to exceed the annuity that would have been payable to the employee to the extent necessary to satisfy the requirement to provide a qualified preretirement survivor annuity (as discussed for qualified plans under subheading I.C. ''Benefits payable after death of the employee''). A section 403(b) plan may be subject to this requirement under ERISA, whereas IRAs are not subject to this requirement. See A–3(d) of § 1.401(a)–20 and § 1.403(b)–5(e).

IV. Section 457(b) Plans

Section 1.457–6(d) provides that an eligible section 457(b) plan must meet the requirements of section 401(a)(9) and the regulations under section 401(a)(9). Thus, these regulations relating to the purchase of a QLAC under a tax-qualified defined contribution plan automatically apply to an eligible section 457(b) plan. However, the rule relating to QLACs is limited to eligible governmental plans under section 457(b). This is because section 457(b)(6) requires that an eligible section 457(b) plan that is not an eligible governmental plan be unfunded, and the purchase of an annuity contract under such a plan would be inconsistent with the requirement that such a plan be unfunded.

V. Defined Benefit Plans

A number of commenters favored allowing defined benefit plans to offer a

[6] See A–14 of § 1.408A–4 for a description of the amount includible in gross income when part or all of a traditional IRA that is an individual retirement annuity described in section 408(b) is converted to a Roth IRA, or when a traditional IRA that is an individual retirement account described in section 408(a) holds an annuity contract as an account asset and the traditional IRA is converted to a Roth IRA. Those rules would also apply when a contract is rolled over from a plan into a Roth IRA.

QLAC. For example, several commenters stated that not permitting a QLAC to be offered under a defined benefit plan will encourage employees to roll over lump-sum distributions from defined benefit plans to defined contribution plans or IRAs, where they can buy a QLAC. They argued that it would be preferable for the annuities to be provided directly from a defined benefit plan.

Defined benefit plans generally are required to offer annuities, which provide longevity protection. Because longevity protection is already available in these plans, the final regulations do not apply to defined benefit plans. However, the Treasury Department and the IRS request comments regarding the desirability of making a form of benefit that replicates the QLAC structure available in defined benefit plans. In particular the Treasury Department and the IRS request comments regarding the advantages to an employee of being able to elect a QLAC structure under a defined benefit plan, instead of electing a lump sum distribution from a defined benefit plan and rolling it over to a defined contribution plan or to an IRA in order to purchase a QLAC.

VI. Initial Disclosure and Annual Reporting Requirements

Under the proposed regulations, in addition to requiring the contract to state that it is intended to be a QLAC, the issuer of a QLAC would have been required to issue a disclosure containing certain information about the QLAC at the time of purchase. To avoid duplicating state law disclosure requirements, this initial disclosure would not have been required to include information that the issuer already provided to the employee in order to satisfy any applicable state disclosure law.

The final regulations do not require an initial disclosure to be issued to the employee in light of the existing disclosure practices that take into account disclosure requirements under state law and under Title I of ERISA.[7] If the Treasury Department and the IRS determine that employees are not receiving sufficient information before a QLAC is purchased, this issue may be reexamined.

As under the proposed regulations, the final regulations prescribe annual reporting requirements under section 6047(d) which require any person issuing any contract that is intended to be a QLAC to file annual calendar-year reports with the IRS and to provide a statement to the employee regarding the status of the contract. This reporting is necessary to inform both plan administrators and employees that the contract is intended to be a QLAC, so that the dollar and percentage limitations applicable to QLACs can be applied, and to assist the IRS with the administration of the QLAC exception to the required minimum distribution rules. The report will be required to identify that the contract is intended to be a QLAC and to include, at a minimum, the following items of information:

- The name, address, and identifying number of the issuer of the contract, along with information on how to contact the issuer for more information about the contract;
- The name, address, and identifying number of the individual in whose name the contract has been purchased;
- If the contract was purchased under a plan, the name of the plan, the plan number, and the Employer Identification Number (EIN) of the plan sponsor;
- If payments have not yet commenced, the annuity starting date on which the annuity is scheduled to commence, the amount of the periodic annuity payable on that date, and whether that date may be accelerated;
- For the calendar year, the amount of each premium paid for the contract and the date of the premium payment;
- The total amount of all premiums paid for the contract through the end of the calendar year; and
- The fair market value of the QLAC as of the close of the calendar year.

The annual reporting requirement will be similar to the annual requirement to provide a Form 5498, ''IRA Contribution Information,'' in the case of an IRA.[8] The Commissioner will prescribe a form and instructions for this purpose, which will contain the filing deadline and other information.

Each issuer required to file the report with respect to a contract will also be required to provide to the employee a statement containing the information that is required to be furnished in the report. This requirement may be satisfied by providing the employee with a copy of the required form, or by providing the employee with the information in another document that contains the following language: ''This information is being furnished to the Internal Revenue Service.'' The statement is required to be furnished to the employee on or before January 31 following the calendar year for which the report is required.

An issuer that is subject to these annual reporting requirements must comply with the requirements for each calendar year beginning with the year in which premiums are first paid and ending with the earlier of the year in which the employee attains age 85 (as adjusted in calendar years beginning after 2014) or dies. However, if the employee dies and the sole beneficiary under the contract is the employee's spouse (so that the spouse's annuity might not commence until the employee would have commenced benefits under the contract had the employee survived), the annual reporting requirement continues until the year in which the distributions to the spouse commence, or if earlier, the year in which the spouse dies. During this period, the annual statement must be provided to the surviving spouse.

Effective/Applicability Dates

These regulations apply to contracts purchased on or after July 2, 2014. One commenter requested that the regulations allow for annuities purchased before the regulations become final to convert to a QLAC in order to avoid surrender charges for contract reissuances, and prevent the absence of disclosure forms from delaying the benefit of these rules. If on or after July 2, 2014, an existing contract is exchanged for a contract that satisfies the requirements to be a QLAC, the new contract will be treated as purchased on the date of the exchange and therefore may qualify as a QLAC. In such a case the fair market value of the contract that is exchanged for a QLAC is treated as a premium that counts toward the QLAC limit.

Availability of IRS Documents

For copies of recently issued revenue procedures, revenue rulings, notices and other guidance published in the Internal Revenue Bulletin, please visit the IRS Web site at *http://www.irs.gov* or contact the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402.

Special Analyses

It has been determined that these final regulations are not a significant regulatory action as defined in Executive Order 12866, as

[7] See, for example, the Annuity Model Disclosure Regulation issued by the National Association of Insurance Commissioners and the disclosure for annuity contracts that are designated investment alternatives under 29 CFR 2550.404a–5(i)(2).

[8] For an IRA, the fair market value of the account on December 31 must be provided to the IRA owner generally by January 31 of the following year, and to the IRS by a later date. Trustees, custodians, and issuers are responsible for ensuring that the fair market value of all IRA assets (including those not traded on an established securities market or with otherwise readily determinable value) is determined annually. This includes the fair market value of a contract that is intended to be a QLAC.

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 these regulations. It is hereby certified that the collection of information in these regulations will not have a significant economic impact on a substantial number of small entities. This certification is based upon the fact that the collection of information in these final regulations is in A–17(a)(6) of § 1.401(a)(9)–6 (disclosure that a contract is intended to be a QLAC) and § 1.6047–2 (an annual report must be filed with the IRS and a statement must be provided to QLAC owners and their surviving spouses). An insubstantial number of entities of any size will be impacted by the regulations, and the entities that will be impacted will be insurance companies, very few of which are small entities. In addition, IRS and Treasury expect that any burden on small entities will be minimal. Based on these facts, a regulatory flexibility analysis under the Regulatory Flexibility Act (5 U.S.C. chapter 6) is not required. Pursuant to section 7805(f) of the Code, the notice of the proposed rulemaking preceding these regulations was submitted to the Chief Counsel for Advocacy of the Small Business Administration for comment on its impact on small business.

Drafting Information

The principal authors of these regulations are Cathy Pastor and Jamie Dvoretzky, Office of Division Counsel/ Associate Chief Counsel (Tax Exempt and Government Entities). However, other personnel from the IRS and the Treasury Department participated in the development of these regulations.

List of Subjects

26 CFR Part 1

Income taxes, Reporting and recordkeeping requirements.

26 CFR Part 602

Reporting and recordkeeping requirements.

Amendments to the Regulations

Accordingly, 26 CFR parts 1 and 602 are amended as follows:

PART 1—INCOME TAXES

■ **Paragraph 1.** The authority citation for part 1 is amended by adding entries in numerical order to read in part as follows:

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

Section 1.6047–2 is also issued under 26 U.S.C. 6047(d).

■ **Par. 2.** Section 1.401(a)(9)–5 is amended by:

■ 1. Revising paragraph A–3(a).

■ 2. Redesignating paragraph A–3(d) as paragraph A–3(e) and revising it.

■ 3. Adding new paragraph A–3(d).

The revisions and addition read as follows:

§ 1.401(a)(9)–5 Required minimum distributions from defined contribution plans.

* * * * *

A–3. (a) In the case of an individual account, the benefit used in determining the required minimum distribution for a distribution calendar year is the account balance as of the last valuation date in the calendar year immediately preceding that distribution calendar year (valuation calendar year) adjusted in accordance with paragraphs (b), (c), and (d) of this A–3.

* * * * *

(d) The account balance does not include the value of any qualifying longevity annuity contract (QLAC), defined in A–17 of § 1.401(a)(9)–6, that is held under the plan. This paragraph (d) applies only to contracts purchased on or after July 2, 2014.

(e) If an amount is distributed from a plan and rolled over to another plan (receiving plan), A–2 of § 1.401(a)(9)–7 provides additional rules for determining the benefit and required minimum distribution under the receiving plan. If an amount is transferred from one plan (transferor plan) to another plan (transferee plan) in a transfer to which section 414(l) applies, A–3 and A–4 of § 1.401(a)(9)–7 provide additional rules for determining the amount of the required minimum distribution and the benefit under both the transferor and transferee plans.

* * * * *

■ **Par. 3.** Section 1.401(a)(9)–6 is amended by revising the last sentence in paragraph A–12(a) and adding paragraph Q&A–17 to read as follows:

§ 1.401(a)(9)–6 Required minimum distributions for defined benefit plans and annuity contracts.

* * * * *

A–12. (a) * * * See A–1(e) of § 1.401(a)(9)–5 for rules relating to the satisfaction of section 401(a)(9) in the year that annuity payments commence, A–3(d) of § 1.401(a)(9)–5 for rules relating to qualifying longevity annuity contracts (QLACs), defined in A–17 of this section, and A–2(a)(3) of § 1.401(a)(9)–8 for rules relating to the purchase of an annuity contract with a portion of an employee's account balance.

* * * * *

Q–17. What is a qualifying longevity annuity contract?

A–17. (a) *Definition of qualifying longevity annuity contract.* A qualifying longevity annuity contract (QLAC) is an annuity contract that is purchased from an insurance company for an employee and that, in accordance with the rules of application of paragraph (d) of this A–17, satisfies each of the following requirements—

(1) Premiums for the contract satisfy the requirements of paragraph (b) of this A–17;

(2) The contract provides that distributions under the contract must commence not later than a specified annuity starting date that is no later than the first day of the month next following the 85th anniversary of the employee's birth;

(3) The contract provides that, after distributions under the contract commence, those distributions must satisfy the requirements of this section (other than the requirement in A–1(c) of this section that annuity payments commence on or before the required beginning date);

(4) The contract does not make available any commutation benefit, cash surrender right, or other similar feature;

(5) No benefits are provided under the contract after the death of the employee other than the benefits described in paragraph (c) of this A–17;

(6) When the contract is issued, the contract (or a rider or endorsement with respect to that contract) states that the contract is intended to be a QLAC; and

(7) The contract is not a variable contract under section 817, an indexed contract, or a similar contract, except to the extent provided by the Commissioner in revenue rulings, notices, or other guidance published in the Internal Revenue Bulletin and made available by the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402 and on the IRS Web site at *http://www.irs.gov*.

(b) *Limitations on premiums*—(1) *In general.* The premiums paid with respect to the contract on a date satisfy the requirements of this paragraph (b) if they do not exceed the lesser of the dollar limitation in paragraph (b)(2) of this A–17 or the percentage limitation in paragraph (b)(3) of this A–17.

(2) *Dollar limitation.* The dollar limitation is an amount equal to the excess of—

(i) $125,000 (as adjusted under paragraph (d)(2) of this A–17), over

(ii) The sum of—

(A) The premiums paid before that date with respect to the contract, and

(B) The premiums paid on or before that date with respect to any other contract that is intended to be a QLAC and that is purchased for the employee under the plan, or any other plan, annuity, or account described in section 401(a), 403(a), 403(b), or 408 or eligible governmental plan under section 457(b).

(3) *Percentage limitation.* The percentage limitation is an amount equal to the excess of—

(i) 25 percent of the employee's account balance under the plan (including the value of any QLAC held under the plan for the employee) as of that date, determined in accordance with paragraph (d)(1)(iii) of this A–17, over

(ii) The sum of—

(A) The premiums paid before that date with respect to the contract, and

(B) The premiums paid on or before that date with respect to any other contract that is intended to be a QLAC and that is held or was purchased for the employee under the plan.

(c) *Payments after death of the employee*—(1) *Surviving spouse is sole beneficiary*—(i) *Death on or after annuity starting date.* If the employee dies on or after the annuity starting date for the contract and the employee's surviving spouse is the sole beneficiary under the contract then, except as provided in paragraph (c)(4) of this A–17, the only benefit permitted to be paid after the employee's death is a life annuity payable to the surviving spouse where the periodic annuity payment is not in excess of 100 percent of the periodic annuity payment that is payable to the employee.

(ii) *Death before annuity starting date*—(A) *Amount of annuity.* If the employee dies before the annuity starting date and the employee's surviving spouse is the sole beneficiary under the contract then, except as provided in paragraph (c)(4) of this A–17, the only benefit permitted to be paid after the employee's death is a life annuity payable to the surviving spouse where the periodic annuity payment is not in excess of 100 percent of the periodic annuity payment that would have been payable to the employee as of the date that benefits to the surviving spouse commence. However, the annuity is permitted to exceed 100 percent of the periodic annuity payment that would have been payable to the employee to the extent necessary to satisfy the requirement to provide a qualified preretirement survivor annuity (as defined under section 417(c)(2) or ERISA section 205(e)(2)) pursuant to section 401(a)(11)(A)(ii) or ERISA section 205(a)(2).

(B) *Commencement date for annuity.* Any life annuity payable to the surviving spouse under paragraph (c)(1)(ii)(A) of this A–17 must commence no later than the date on which the annuity payable to the employee would have commenced under the contract if the employee had not died.

(2) *Surviving spouse is not sole beneficiary*—(i) *Death on or after annuity starting date.* If the employee dies on or after the annuity starting date for the contract and the employee's surviving spouse is not the sole beneficiary under the contract then, except as provided in paragraph (c)(4) of this A–17, the only benefit permitted to be paid after the employee's death is a life annuity payable to the designated beneficiary where the periodic annuity payment is not in excess of the applicable percentage (determined under paragraph (c)(2)(iii) of this A–17) of the periodic annuity payment that is payable to the employee.

(ii) *Death before annuity starting date*—(A) *Amount of annuity.* If the employee dies before the annuity starting date and the employee's surviving spouse is not the sole beneficiary under the contract then, except as provided in paragraph (c)(4) of this A–17, the only benefit permitted to be paid after the employee's death is a life annuity payable to the designated beneficiary where the periodic annuity payment is not in excess of the applicable percentage (determined under paragraph (c)(2)(iii) of this A–17) of the periodic annuity payment that would have been payable to the employee as of the date that benefits to the designated beneficiary commence under this paragraph (c)(2)(ii).

(B) *Commencement date for annuity.* In any case in which the employee dies before the annuity starting date, any life annuity payable to a designated beneficiary under this paragraph (c)(2)(ii) must commence by the last day of the calendar year immediately following the calendar year of the employee's death.

(iii) *Applicable percentage*—(A) *Contracts without pre-annuity starting date death benefits.* If, as described in paragraph (c)(2)(iv) of this A–17, the contract does not provide for a pre-annuity starting date non-spousal death benefit, the applicable percentage is the percentage described in the table in A–2(c) of this section.

(B) *Contracts with set beneficiary designation.* If the contract provides for a set non-spousal beneficiary designation as described in paragraph (c)(2)(v) (and is not a contract described in paragraph (c)(2)(iv)) of this A–17, the applicable percentage is the percentage described in the table set forth in paragraph (c)(2)(iii)(D) of this A–17. A contract is still considered to provide for a set beneficiary designation even if the surviving spouse becomes the sole beneficiary before the annuity starting date. In such a case, the requirements of paragraph (c)(1) of this A–17 apply and not the requirements of this paragraph (c)(2).

(C) *Contracts providing for return of premium.* If the contract provides for a return of premium as described in paragraph (c)(4) of this A–17, the applicable percentage is 0.

(D) *Applicable percentage table.* The applicable percentage is based on the adjusted employee/beneficiary age difference, determined in the same manner as in A–2(c) of this section.

Adjusted employee/beneficiary age difference	Applicable percentage
2 years or less	100
3	88
4	78
5	70
6	63
7	57
8	52
9	48
10	44
11	41
12	38
13	36
14	34
15	32
16	30
17	28
18	27
19	26
20	25
21	24
22	23
23	22
24	21
25 and greater	20

(iv) *No pre-annuity starting date non-spousal death benefit.* A contract is described in this paragraph (c)(2)(iv) if the contract provides that no benefit is permitted to be paid to a beneficiary other than the employee's surviving spouse after the employee's death—

(A) In any case in which the employee dies before the annuity starting date under the contract; and

(B) In any case in which the employee selects an annuity starting date that is earlier than the specified annuity starting date under the contract and the employee dies less than 90 days after making that election.

(v) *Contracts permitting set non-spousal beneficiary designation.* A contract is described in this paragraph (c)(2)(v) if the contract provides that if

the beneficiary under the contract is not the employee's surviving spouse, benefits are payable to the beneficiary only if the beneficiary was irrevocably designated on or before the later of the date of purchase or the employee's required beginning date.

(3) *Calculation of early annuity payments.* For purposes of paragraphs (c)(1)(ii) and (c)(2)(ii) of this A–17, to the extent the contract does not provide an option for the employee to select an annuity starting date that is earlier than the date on which the annuity payable to the employee would have commenced under the contract if the employee had not died, the contract must provide a way to determine the periodic annuity payment that would have been payable if the employee were to have an option to accelerate the payments and the payments had commenced to the employee immediately prior to the date that benefit payments to the surviving spouse or designated beneficiary commence.

(4) *Return of premiums*—(i) *In general.* In lieu of a life annuity payable to a designated beneficiary under paragraph (c)(1) or (2) of this A–17, a QLAC is permitted to provide for a benefit paid to a beneficiary after the death of the employee in an amount equal to the excess of—

(A) The premium payments made with respect to the QLAC over

(B) The payments already made under the QLAC.

(ii) *Payments after death of surviving spouse.* If a QLAC is providing a life annuity to a surviving spouse (or will provide a life annuity to a surviving spouse) under paragraph (c)(1) of this A–17, it is also permitted to provide for a benefit paid to a beneficiary after the death of both the employee and the spouse in an amount equal to the excess of—

(A) The premium payments made with respect to the QLAC over

(B) The payments already made under the QLAC.

(iii) *Other rules*—(A) *Timing of return of premium payment following death of employee.* A return of premium payment under this paragraph (c)(4) must be paid no later than the end of the calendar year following the calendar year in which the employee dies. If the employee's death is after the required beginning date, the return of premium payment is treated as a required minimum distribution for the year in which it is paid and is not eligible for rollover.

(B) *Timing of return of premium payment following death of surviving spouse receiving life annuity.* If the return of premium payment is paid after the death of a surviving spouse who is receiving a life annuity (or after the death of a surviving spouse who has not yet commenced receiving a life annuity after the death of the employee), the return of premium payment under this paragraph (c)(4) must be made no later than the end of the calendar year following the calendar year in which the surviving spouse dies. If the surviving spouse's death is after the required beginning date for the surviving spouse, then the return of premium payment is treated as a required minimum distribution for the year in which it is paid and is not eligible for rollover.

(5) *Multiple beneficiaries.* If an employee has more than one designated beneficiary under a QLAC, the rules in A–2(a) of § 1.401(a)(9)–8 apply for purposes of paragraphs (c)(1) and (c)(2) of this A–17.

(d) *Rules of application*—(1) *Rules relating to premiums*—(i) *Reliance on representations.* For purposes of the limitation on premiums described in paragraphs (b)(2) and (3) of this A–17, unless the plan administrator has actual knowledge to the contrary, the plan administrator may rely on an employee's representation (made in writing or such other form as may be prescribed by the Commissioner) of the amount of the premiums described in paragraphs (b)(2)(ii)(B) and (b)(3)(ii)(B) of this A–17, but only with respect to premiums that are not paid under a plan, annuity, or contract that is maintained by the employer or an entity that is treated as a single employer with the employer under section 414(b), (c), (m), or (o).

(ii) *Consequences of excess premiums*—(A) *General Rule.* If an annuity contract fails to be a QLAC solely because a premium for the contract exceeds the limits under paragraph (b) of this A–17, then the contract is not a QLAC beginning on the date that premium payment is made unless the excess premium is returned to the non-QLAC portion of the employee's account in accordance with paragraph (d)(1)(ii)(B) of this A–17. If the contract fails to be a QLAC, then the value of the contract may not be disregarded under A–3(d) of § 1.401(a)(9)–5 as of the date on which the contract ceases to be a QLAC.

(B) *Correction in year following year of excess.* If the excess premium is returned (either in cash or in the form of a contract that is not intended to be a QLAC) to the non-QLAC portion of the employee's account by the end of the calendar year following the calendar year in which the excess premium was originally paid, then the contract will not be treated as exceeding the limits under paragraph (b) of this A–17 at any time, and the value of the contract will not be included in the employee's account balance under A–3(d) of § 1.401(a)(9)–5. If the excess premium (including the fair market value of an annuity contract that is not intended to be a QLAC, if applicable) is returned to the non-QLAC portion of the employee's account after the last valuation date for the calendar year in which the excess premium was originally paid, then the employee's account balance for that calendar year must be increased to reflect that excess premium in the same manner as an employee's account balance is increased under section 1.401(a)(9)–7, A–2 to reflect a rollover received after the last valuation date.

(C) *Return of excess premium not a commutation benefit.* If the excess premium is returned to the non-QLAC portion of the employee's account as described in paragraph (d)(1)(ii)(B) of this A–17, it will not be treated as a violation of the requirement in paragraph (a)(4) of this A–17 that the contract not provide a commutation benefit.

(iii) *Application of 25-percent limit.* For purposes of the 25-percent limit under paragraph (b)(3) of this A–17, an employee's account balance on the date on which premiums for a contract are paid is the account balance as of the last valuation date preceding the date of the premium payment, adjusted as follows. The account balance is increased for contributions allocated to the account during the period that begins after the valuation date and ends before the date the premium is paid and decreased for distributions made from the account during that period.

(2) *Dollar and age limitations subject to adjustments*—(i) *Dollar limitation.* In the case of calendar years beginning on or after January 1, 2015, the $125,000 amount under paragraph (b)(2)(i) of this A–17 will be adjusted at the same time and in the same manner as the limits are adjusted under section 415(d), except that the base period shall be the calendar quarter beginning July 1, 2013, and any increase under this paragraph (d)(2)(i) that is not a multiple of $10,000 will be rounded to the next lowest multiple of $10,000.

(ii) *Age limitation.* The maximum age set forth in paragraph (a)(2) of this A–17 may be adjusted to reflect changes in mortality, with any such adjusted age to be prescribed by the Commissioner in revenue rulings, notices, or other guidance published in the Internal Revenue Bulletin and made available by the Superintendent of Documents, U.S. Government Printing Office,

Washington, DC 20402 and on the IRS Web site at *http://www.irs.gov.*

(iii) *Prospective application of adjustments.* If a contract fails to be a QLAC because it does not satisfy the dollar limitation in paragraph (b)(2) of this A–17 or the age limitation in paragraph (a)(2) of this A–17, any subsequent adjustment that is made pursuant to paragraph (d)(2)(i) or paragraph (d)(2)(ii) of this A–17 will not cause the contract to become a QLAC.

(3) *Determination of whether contract is intended to be a QLAC*—(i) *Structural deficiency.* If a contract fails to be a QLAC at any time for a reason other than an excess premium described in paragraph (d)(1)(ii) of this A–17, then as of the date of purchase the contract will not be treated as a QLAC (for purposes of A–3(d) of § 1.401(a)(9)–5) or as a contract that is intended to be a QLAC (for purposes of paragraph (b) of this A–17) as of the date of purchase.

(ii) *Roth IRAs.* A contract that is purchased under a Roth IRA is not treated as a contract that is intended to be a QLAC for purposes of applying the dollar and percentage limitation rules in paragraphs (b)(2)(ii)(B) and (b)(3)(ii)(B) of this A–17. See A–14(d) of § 1.408A–6. If a QLAC is purchased or held under a plan, annuity, account, or traditional IRA, and that contract is later rolled over or converted to a Roth IRA, the contract is not treated as a contract that is intended to be a QLAC after the date of the rollover or conversion. Thus, premiums paid with respect to the contract will not be taken into account under paragraph (b)(2)(ii)(B) or paragraph (b)(3)(ii)(B) of this A–17 after the date of the rollover or conversion.

(4) *Certain contracts not treated as similar contracts*—(i) *Participating annuity contract.* An annuity contract is not treated as a contract described in paragraph (a)(7) of this A–17 merely because it provides for the payment of dividends described in A–14(c)(3) of § 1.401(a)(9)–6.

(ii) *Contracts with cost-of-living adjustments.* An annuity contract is not treated as a contract described in paragraph (a)(7) of this A–17 merely because it provides for a cost-of-living adjustment as described in A–14(b) of § 1.401(a)(9)–6.

(5) *Group annuity contract certificates.* The requirement under paragraph (a)(6) of this A–17 that the contract state that it is intended to be a QLAC when issued is satisfied if a certificate is issued under a group annuity contract and the certificate, when issued, states that the employee's interest under the group annuity contract is intended to be a QLAC.

(e) *Effective/applicability date*—(1) *General applicability date.* This A–17 and § 1.403(b)–6(e)(9) apply to contracts purchased on or after July 2, 2014 If on or after July 2, 2014 an existing contract is exchanged for a contract that satisfies the requirements of this A–17, the new contract will be treated as purchased on the date of the exchange and the fair market value of the contract that is exchanged for a QLAC will be treated as a premium paid with respect to the QLAC.

(2) *Delayed applicability date for requirement that contract state that it is intended to be QLAC.* An annuity contract purchased before January 1, 2016, will not fail to be a QLAC merely because the contract does not satisfy the requirement of paragraph (a)(6) of this A–17, provided that—

(i) When the contract (or a certificate under a group annuity contract) is issued, the employee is notified that the annuity contract is intended to be a QLAC; and

(ii) The contract is amended (or a rider, endorsement or amendment to the certificate is issued) no later than December 31, 2016, to state that the annuity contract is intended to be a QLAC.

■ **Par. 4.** Section 1.403(b)–6 is amended by adding paragraph (e)(9) to read as follows:

§ 1.403(b)–6 Timing of distributions and benefits.

* * * * *

(e) * * *

(9) *Special rule for qualifying longevity annuity contracts.* The rules in A–17(b) of § 1.401(a)(9)–6 (relating to limitations on premiums for a qualifying longevity annuity contract (QLAC), defined in A–17 of § 1.401(a)(9)–6) and A–17(d)(1) of § 1.401(a)(9)–6 (relating to reliance on representations with respect to a QLAC) apply to the purchase of a QLAC under a section 403(b) plan (rather than the rules in A–12(b) and (c) of § 1.408–8).

* * * * *

■ **Par. 5.** In § 1.408–8, Q&A–12 is added to read as follows:

§ 1.408–8 Distribution requirements for individual retirement plans.

* * * * *

Q–12. How does the special rule in A–3(d) of § 1.401(a)(9)–5 for a qualifying longevity annuity contract (QLAC) apply to an IRA?

A–12. (a) *General rule.* The special rule in A–3(d) of § 1.401(a)(9)–5 for a QLAC, defined in A–17 of § 1.401(a)(9)–6, applies to an IRA, subject to the exceptions set forth in this A–12. See A–14(d) of § 1.408A–6 for special rules relating to Roth IRAs.

(b) *Limitations on premiums*—(1) *In general.* In lieu of the limitations described in A–17(b) of § 1.401(a)(9)–6, the premiums paid with respect to the contract on a date are not permitted to exceed the lesser of the dollar limitation in paragraph (b)(2) of this A–12 or the percentage limitation in paragraph (b)(3) of this A–12.

(2) *Dollar limitation.* The dollar limitation is an amount equal to the excess of—

(i) $125,000 (as adjusted under A–17(d)(2) of § 1.401(a)(9)–6), over

(ii) The sum of—

(A) The premiums paid before that date with respect to the contract, and

(B) The premiums paid on or before that date with respect to any other contract that is intended to be a QLAC and that is purchased for the IRA owner under the IRA, or any other plan, annuity, or account described in section 401(a), 403(a), 403(b), or 408 or eligible governmental plan under section 457(b).

(3) *Percentage limitation.* The percentage limitation is an amount equal to the excess of—

(i) 25 percent of the total account balances of the IRAs (other than Roth IRAs) that an individual holds as the IRA owner (including the value of any QLAC held under those IRAs) as of December 31 of the calendar year immediately preceding the calendar year in which a premium is paid, over

(ii) The sum of—

(A) The premiums paid before that date with respect to the contract, and

(B) The premiums paid on or before that date with respect to any other contract that is intended to be a QLAC and that is held or was purchased for the individual under those IRAs.

(c) *Reliance on representations.* For purposes of the limitations described in paragraphs (b)(2) and (3) of this A–12, unless the trustee, custodian, or issuer of an IRA has actual knowledge to the contrary, the trustee, custodian, or issuer may rely on the IRA owner's representation (made in writing or such other form as may be prescribed by the Commissioner) of—

(1) The amount of the premiums described in paragraphs (b)(2)(ii)(B) and (b)(3)(ii)(B) of this A–12 that are not paid under the IRA, and

(2) The amount of the account balances described in paragraph (b)(3)(i) of this A–12 (other than the account balance under the IRA).

(d) *Permitted delay in setting beneficiary designation.* In case of a contract that is rolled over from a plan to an IRA before the required beginning date under the plan, the contract will

not violate the rule in A–17(c)(2)(v) of § 1.401(a)(9)–6 that a non-spouse beneficiary must be irrevocably selected on or before the later of the date of purchase or the required beginning date under the IRA, provided that the contract requires a beneficiary to be irrevocably selected by the end of the year following the year of the rollover.

(e) *Roth IRAs.* A contract that is purchased under a Roth IRA is not treated as a contract that is intended to be a QLAC for purposes of applying the dollar and percentage limitation rules in paragraphs (b)(2)(ii)(B) and (b)(3)(ii)(B) of this A–12. See A–14(d) of § 1.408A–6. If a QLAC is purchased or held under a plan, annuity, account, or traditional IRA, and that contract is later rolled over or converted to a Roth IRA, the contract is not treated as a contract that is intended to be a QLAC after the date of the rollover or conversion. Thus, premiums paid with respect to the contract will not be taken into account under paragraph (b)(2)(ii)(B) or paragraph (b)(3)(ii)(B) of this A–12 after the date of the rollover or conversion.

(f) *Effective/applicability date.* This A–12 applies to contracts purchased on or after July 2, 2014.

■ **Par. 6.** Section 1.408A–6 is amended by adding paragraph A–14(d) to read as follows:

§ 1.408A–6 Distributions.

* * * * *

A–14. * * *

(d) The special rules in A–3 of § 1.401(a)(9)–5 and A–12 of § 1.408–8 for a qualifying longevity annuity contract (QLAC), defined in A–17 of § 1.401(a)(9)–6, do not apply to a Roth IRA.

* * * * *

■ **Par. 7.** Section 1.6047–2 is added to read as follows:

§ 1.6047–2 Information relating to qualifying longevity annuity contracts.

(a) *Requirement and form of report*—(1) *In general.* Any person issuing any contract that is intended to be a qualifying longevity annuity contract (QLAC), defined in A–17 of § 1.401(a)(9)–6, shall make the report required by this section. This requirement applies only to contracts purchased or held under any plan, annuity, or account described in section 401(a), 403(a), 403(b), or 408 (other than a Roth IRA) or eligible governmental plan under section 457(b).

(2) *Annual report.* The issuer shall make annual calendar-year reports on the applicable form prescribed by the Commissioner for this purpose concerning the status of the contract. The report shall identify that the contract is intended to be a QLAC and shall contain the following information—

(i) The name, address, and identifying number of the issuer of the contract, along with information on how to contact the issuer for more information about the contract;

(ii) The name, address, and identifying number of the individual in whose name the contract has been purchased;

(iii) If the contract was purchased under a plan, the name of the plan, the plan number, and the Employer Identification Number (EIN) of the plan sponsor;

(iv) If payments have not yet commenced, the annuity starting date on which the annuity is scheduled to commence, the amount of the periodic annuity payable on that date, and whether that date may be accelerated;

(v) For the calendar year, the amount of each premium paid for the contract and the date of the premium payment;

(vi) The total amount of all premiums paid for the contract through the end of the calendar year;

(vii) The fair market value of the QLAC as of the close of the calendar year; and

(viii) Such other information as the Commissioner may require.

(b) *Manner and time for filing*—(1) *Timing.* The report required by paragraph (a)(2) of this section shall be filed in accordance with the forms and instructions prescribed by the Commissioner. Such a report must be filed for each calendar year beginning with the year in which premiums for a contract are first paid and ending with the earlier of the year in which the individual in whose name the contract has been purchased attains age 85 (as adjusted pursuant to A–17(d)(2)(ii) of § 1.401(a)(9)–6) or dies.

(2) *Surviving spouse.* If the individual dies and the sole beneficiary under the contract is the individual's spouse (in which case the spouse's annuity would not be required to commence until the individual would have commenced benefits under the contract had the individual survived), the report must continue to be filed for each calendar year until the calendar year in which the distributions to the spouse commence or in which the spouse dies, if earlier.

(c) *Issuer statements.* Each issuer required to file the annual report required by paragraph (a)(2) of this section shall furnish to the individual in whose name the contract has been purchased a statement containing the information required to be included in the report, except that such statement shall be furnished to a surviving spouse to the extent that the report is required to be filed under paragraph (b)(2) of this section. A copy of the required form may be used to satisfy the statement requirement of this paragraph (c). If a copy of the required form is not used to satisfy the statement requirement of this paragraph (c), the statement shall contain the following language: ''This information is being furnished to the Internal Revenue Service.'' The statement required by this paragraph (c) shall be furnished on or before January 31 following the calendar year for which the report required by paragraph (a)(2) of this section is required.

(d) *Penalty for failure to file report.* Section 6652(e) prescribes a penalty for failure to file the report required by paragraph (a)(2) of this section.

(e) *Effective/applicability date.* This section applies to contracts purchased on or after July 2, 2014.

PART 602—OMB CONTROL NUMBERS UNDER THE PAPERWORK REDUCTION ACT

■ **Par. 8.** The authority citation for part 602 continues to read as follows:

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

■ **Par. 9.** In § 602.101, paragraph (b) is amended by adding the following entries in numerical order to the table to read as follows:

§ 602.101 OMB Control numbers.

* * * * *

(b) * * *

CFR part or section where identified and described	Current OMB control No.
* * *	*
1.401(a)(9)–6	1545–2234
* * *	*
1.6047–2	1545–2234

John Dalrymple,

Deputy Commissioner for Services and Enforcement.

Approved: June 27, 2014.

Mark J. Mazur,

Assistant Secretary of the Treasury (Tax Policy).

[FR Doc. 2014–15524 Filed 7–1–14; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket No. USCG–2014–0454]

Safety Zone; San Diego Symphony Summer Pops, San Diego Bay; San Diego, CA

AGENCY: Coast Guard, DHS.

ACTION: Notice of enforcement of regulation.

SUMMARY: The Coast Guard will enforce the 2014 San Diego Symphony Summer Pops fireworks display safety zone on Saturday and Sunday evenings from June 28, 2014 thru August 31, 2014, as well as on Friday August 29, 2014. The brief fireworks displays are scheduled to occur between 9 p.m. to 10 p.m., to coincide with the end of the concert. This reoccurring annual summer firework display event occurs on the navigable waters of San Diego Bay in San Diego, California. This action is necessary to provide for safety of the marine event crew, spectators, safety vessels, and general users of the waterway. During the enforcement period, persons and vessels are prohibited from entering into, transiting through, or anchoring within this regulated area unless authorized by the Captain of the Port, or his designated representative.

DATES: This rule is effective on June 28–29, July 5–6, July 11–12, July 18–19, August 1–2, August 8–9, August 15–16, August 22–23, and August 29–31, 2014, between 9 p.m. to 10 p.m.

FOR FURTHER INFORMATION CONTACT: If you have questions on this notice, call or email Petty Officer Giacomo Terrizzi, Waterways Management, U.S. Coast Guard Sector San Diego, CA; telephone (619) 278–7261, email *Giacomo.Terrizzi@uscg.mil.*

SUPPLEMENTARY INFORMATION: The Coast Guard will enforce a safety zone in San Diego Bay for the San Diego Symphony Summer Pops, listed in 33 CFR 165.1123, Table 1, Item 1 between 9 p.m. to 10 p.m.

Under the provisions of 33 CFR 165.1123, persons and vessels are prohibited during the fireworks display times from entering into, transiting through, or anchoring within the 400 foot regulated area safety zone around the fireworks barge, located in approximate position 32°42′16″ N, 117°09′59″ W, unless authorized by the Captain of the Port, or his designated representative. Persons or vessels desiring to enter into or pass through the safety zone may request permission from the Captain of the Port or a designated representative. The Coast Guard Captain of the Port or designated representative can be reached via VHF CH 16 or at (619) 278–7033. If permission is granted, all persons and vessels shall comply with the instructions of the Captain of the Port or designated representative. Spectator vessels may safely transit outside the regulated area, but may not anchor, block, loiter, or impede the transit of official fireworks support, event vessels or enforcement patrol vessels. The Coast Guard may be assisted by other Federal, State, or local law enforcement agencies in notification and patrol of this regulation.

This notice is issued under authority of 5 U.S.C. 552(a) and 33 CFR 165.1123. In addition to this notice in the **Federal Register**, the Coast Guard will provide the maritime community with advance notification of this enforcement period via the Local Notice to Mariners, Broadcast Notice to Mariners, and local advertising by the event sponsor.

If the Coast Guard determines that the regulated area need not be enforced for the full duration stated on this notice, then a Broadcast Notice to Mariners or other communications coordinated with the event sponsor will grant general permission to enter the regulated area.

Dated: June 5, 2014.

J.A. Janszen,

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

[FR Doc. 2014–15453 Filed 7–1–14; 8:45 am]

BILLING CODE 9110–04–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 13

[FRL–9910–14–OCFO]

Administrative Wage Garnishment

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: The Environmental Protection Agency (EPA) is taking direct final action to amend EPA's claims collection standards to implement the administrative wage garnishment provisions of the Debt Collection Improvement Act of 1982, as amended by the Debt Collection Improvement Act of 1996 (DCIA). The direct final rule will allow the EPA to garnish non-Federal wages to collect delinquent non-tax debts owed the United States without first obtaining a court order.

DATES: This direct final rule is effective September 2, 2014 without further notice unless EPA receives adverse comments by August 1, 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 by one of the following methods:

1. *Email: jones.anita@epa.gov.*
2. *Fax:* (202) 565–2585.
3. *Mail:* OCFO–2014–0001; FRL–9910–14–OCFO FPPS c/o Anita Jones, OCFO/OFM/FPPS, Mailcode 2733R, Environmental Protection Agency, 1300 Pennsylvania Ave. NW., Washington, DC 20460.

Instructions: 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 restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through email. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or Cd-ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses.

FOR FURTHER INFORMATION CONTACT: FPPS c/o Anita Jones, OCFO/OFM/FPPS, Mailcode 2733R, Environmental Protection Agency, 1300 Pennsylvania Ave. NW., Washington, DC 20460; telephone number: (202) 564–4969; fax number: (202) 565–2585; email address: *jones.anita@epa.gov.*

SUPPLEMENTARY INFORMATION: *Applicability:* This direct final rule applies to delinquent non-tax debt owed to the United States.

Background

This direct final rule implements the administrative wage garnishment provisions in section 31001(o) of the Debt Collection Improvement Act of the 1996 (DCIA), Public Law 104–134, 110 Stat. 1321–358, codified as 31 U.S.C. 3720D. Under the administrative wage garnishment provisions of the DCIA,

Federal agencies may garnish administratively up to 15 percent of the disposable pay of a debtor to satisfy a delinquent non-tax debt owed to the United States. Prior to the enactment of the DCIA, Federal agencies were required to obtain a court judgment before garnishing non-Federal wages. Section 31001(o) of the DCIA preempts State laws that prohibit wage garnishment or otherwise govern wage garnishment procedures.

As authorized by the DCIA, a Federal agency collecting a delinquent non-tax debt may garnish a delinquent debtor's wages in accordance with regulations promulgated by the Secretary of the Treasury. The Bureau of Fiscal Services, a bureau of the Department of the Treasury (Treasury), is responsible for promulgating the regulations implementing this and other debt collection tools established by the DCIA. The Bureau of Fiscal Services published its final rule at 63 FR 25136, May 6 1998, (Treasury Final Rule) and published technical amendments at 64 FR 22906, 22908, April 28, 1999 and 66 FR 51867, 51868, October 11, 2001. The Treasury Final Rule, as amended, is published in 31 CFR 285.11. Pursuant to 31 CFR 285.11(f), Federal agencies must either prescribe their own conforming regulations for the conduct of AWG hearings consistent with the substantive and procedural requirements set forth in the Treasury Final Rule or adopt Treasury's AWG regulation, 31 CFR 285.11, without change by reference.

Basic Provisions

In accordance with the requirements of the DCIA and the implementing regulations at 31 CFR 285.11, the EPA is adopting the provisions of 31 CFR 285.11 concerning administrative wage garnishment, including the hearing procedures described in 31 CFR 285.11(f).

Regulatory Analysis

Executive Order 12866: Regulatory Planning and Review

This action is not a ''significant regulatory action'' as defined in Executive Order 128666 (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).

Paperwork Reduction Act

This action does not impose an information collection burden under the provisions of the Paperwork Reduction Act, 44 U.S.C. 3501 et seq. Burden is defined at 5 CFR 1320.3(b). This regulation applies to individuals, as well as employers of such individuals, with delinquent debt owed to the United States. A small number of employers of individuals with delinquent debt will be subject to this regulation and to its certification requirements in this direct final rule, the requirements do not impose an information collection burden. The employers of delinquent debtors must certify certain information about the debtor such as the debtor's employment status and earnings. The information is contained in the employer's payroll records. Therefore, the burden of completing the certification would not be significant.

Regulatory Flexibility Act (RFA)

The Regulatory Flexibility Act (RFA) generally requires an agency to prepare a regulatory flexibility analysis for 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.

This rule applies only to individuals, as well as employers of such individuals, with delinquent debts owed to the United States. The requirements will not have a significant economic impact on these entities. Employers of delinquent debtors must certify certain information about the debtor such as the debtor's employment status and earnings. This information is contained in the employer's payroll records. Therefore, it will not take a significant amount of time or result in a significant cost for an employer to complete the certification form. Even if an employer is served withholdings orders on several employees over the course of a year, the cost imposed on the employer to complete the certifications would not have a significant economic impact on the entity. Employers are not required to vary their normal pay cycles in order to comply with a withholding order issued pursuant to this direct final rule.

Unfunded Mandates Reform Act (UMRA)

This action contains no Federal mandates under the provisions of Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), 2 U.S.C. 1531–1538 for State, local, or tribal governments or the private sector. The action implements a mandate specifically and explicitly set forth by the Congress in the Debt Collection Improvement Act of 1996 (DCIA), Public Law 104–134, without exercise of any policy discretion by EPA.

Executive Order 13132: Federalism

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

Executive Order 13175: Consultation and Coordination With Indian Tribal Governments

This action does not have tribal implications, as specified in Executive Order 13175 (65 FR 67249, November 9, 2000). Administrative wage garnishment only applies to circumstances where individuals, as well as employers of such individuals, with delinquent debts owed to the United States which do not have a 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. Thus, Executive Order 13175 does not apply to this action.

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

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

an environmental standard intended to mitigate health or safety risks.

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.

National Technology Transfer and Advancement Act

Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (''NTTAA''), Public Law 104–113, 12(d) (15 U.S.C. 272 note) directs EPA to use voluntary consensus standards in its regulatory activities unless to do so would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (e.g., materials specifications, test methods, sampling procedures, and business practices) that are developed or adopted by voluntary consensus standards bodies. NTTAA directs 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, EPA is not considering the use of any voluntary consensus standards.

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 provisions directs federal agencies, to the greatest extent practicable and permitted by law, to make environmental justice part of their mission by identifying and addressing, as appropriate, disproportionately high and adverse human health or environmental effects of their programs, policies, and activities on minority populations and low-income populations in the United States.

EPA lacks the discretionary authority to address environmental justice in this proposed rulemaking. This rule implements the provisions in section 31001(o) of the Debt Collection Improvement Act of 1996 (DCIA) and only addresses administrative wage garnishment for delinquent non-tax debt.

Congressional Review Act

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

List of Subjects in 40 CFR Part 13

Environmental protection, Administrative practice and procedure, Claims, Debt collection, Government employees, Garnishment of wages, Hearing and appeal procedures, Salaries, Wages.

Dated: June 23, 2014.

Jeanne Conklin,

Acting Director Office of Financial Management.

For the reasons stated in the preamble, the Environmental Protection Agency amends 40 CFR part 13 as follows:

PART 13—CLAIMS COLLECTION STANDARDS

■ 1. The authority citation to part 13 is revised to read as follows:

Authority: 5 U.S.C. 552a, 5512, and 5514; 31 U.S.C. 3701; 31 U.S.C. 3711 *et seq.* and 3720A; 31 U.S.C. 3720D; 31 CFR 285.11; 31 CFR parts 900–904.

■ 2. Part 13 is amended by adding Subpart I to read as follows:

Subpart I—Administrative Wage Garnishment

§ 13.41 Administrative wage garnishment.

(a) Environmental Protection Agency is authorized to collect debts from an individual debtor's wages by means of administrative wage garnishment in accordance with the requirements of 31 U.S.C. 3720D and 31 CFR 285.11. This part adopts the provisions of 31 CFR 285.11 concerning administrative wage garnishment, including the hearing procedures described in 31 CFR 285.11(f). Environmental Protection Agency may use administrative wage garnishment to collect a delinquent Environmental Protection Agency debt unless the debtor is making timely payments under an agreement to pay the debt in installments (see § 13.18 of this part). If the Environmental Protection Agency intends to use administrative wage garnishment, at least thirty (30) days prior to initiating an administrative wage garnishment, the Environmental Protection Agency will send notice to the debtor as set forth in 31 CFR 285.11(e). Alternatively, for Environmental Protection Agency debts referred to the Department of the Treasury (Treasury) for cross-servicing pursuant to 31 U.S.C. 3711(g)(1), the Environmental Protection Agency may authorize Treasury to send the required notice informing the debtor that administrative wage garnishment will be initiated and how the debtor may request a hearing as described in 31 CFR 285.11(f). If a debtor makes a timely request for a hearing, administrative wage garnishment will not begin until a hearing is held and a decision is sent to the debtor. See 31 CFR 285.11(f)(4). Even if a debtor's hearing request is not timely, the Environmental Protection Agency may suspend collection by administrative wage garnishment in accordance with the provisions of 31 CFR 285.11(f)(5). All travel expenses incurred by the debtor in connection with an in-person hearing will be borne by the debtor.

(b) This section does not apply to Federal employee salary offset, the process by which the Environmental Protection Agency collects debts from the salaries of Federal employees (see § 13.21 of this part).

[FR Doc. 2014–15578 Filed 7–1–14; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R05–OAR–2012–0567; FRL–9912–85–Region 5]

Approval and Promulgation of Air Quality Implementation Plans; Indiana; Indiana $PM_{2.5}$ NSR

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is taking final action to approve portions of submissions from Indiana addressing EPA's requirements for its new source review (NSR) and prevention of significant deterioration (PSD) program with respect to particulate matter smaller than 2.5 micrometers ($PM_{2.5}$) and ozone precursors. This rulemaking will finalize portions of two proposed

rulemaking actions, one published in the **Federal Register** on August 19, 2013 and another published on November 1, 2013.

DATES: This final rule is effective on August 1, 2014.

ADDRESSES: EPA has established a docket for this action under Docket ID No. EPA–R05–OAR–2012–0567. All documents in the docket are listed on the *www.regulations.gov* Web site. Although listed in the index, some information is not publicly available, i.e., Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, 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 Environmental Protection Agency, Region 5, Air and Radiation Division, 77 West Jackson Boulevard, Chicago, Illinois 60604. This facility is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding Federal holidays. We recommend that you telephone Michael Langman, Environmental Scientist, at (312) 886–6867 before visiting the Region 5 office.

FOR FURTHER INFORMATION CONTACT: Michael Langman, Environmental Scientist, Air Permits Section, Air Programs Branch (AR–18J), Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, (312) 886–6867, *langman.michael@epa.gov.*

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

I. What is the background for this final approval?
II. What is EPA approving with this final action?
III. Why is EPA approving changes to Indiana's nonattainment new source review program?
IV. Why is EPA taking no action on portions of indiana's request?
V. What action is EPA taking?
VI. Statutory and Executive Order Reviews.

I. What is the background for this final approval?

On July 12, 2012, the Indiana Department of Environmental Management (IDEM) submitted revisions to Indiana's State Implementation Plan (SIP) intended to address ozone and $PM_{2.5}$ NSR and PSD requirements. IDEM also submitted a supplemental revision to its SIP on December 12, 2012, addressing additional $PM_{2.5}$ NSR and PSD requirements. Indiana's SIP is contained within title 326 of the Indiana Administrative Code (IAC).

On August 19, 2013, EPA proposed to approve some portions of the submissions as revisions to Indiana's SIP (*see* 78 FR 50360). The public comment period for this proposed approval ended on September 18, 2013. EPA received comments on the August 19, 2013, proposed rulemaking.

On November 1, 2013, EPA proposed to approve additional portions of the submissions as revisions to Indiana's SIP (*see* 78 FR 65590). The public comment period for the proposed approval ended on December 2, 2013. No comments were received for the November 1, 2013, proposed rulemaking.

In today's rulemaking, EPA finalizes portions of its August 19, 2013, and November 1, 2013, proposed approval of Indiana's July 12, 2012, and December 12, 2012, submissions from IDEM. These were intended to address requirements related to EPA's 2010 final rule entitled ''Prevention of Significant Deterioration (PSD) for Particulate Matter Less than 2.5 Micrometers ($PM_{2.5}$)—Increments, Significant Impact Levels (SILs), and Significant Monitoring Concentration (SMC)'' (the 2010 NSR Rule) [1] with respect to the major source baseline date, trigger date, definition of baseline area, and the class I variance. EPA will also finalize its approval of portions of IDEM's submission addressing nitrogen oxide (NO_X) ozone precursor requirements obligated by EPA's 2005 final rule entitled ''Final Rule to Implement the 8-hour Ozone National Ambient Air Quality Standard—Phase 2''.[2]

EPA is also finalizing its approval of some portions of Indiana's submission as it relates to nonattainment NSR. In particular, EPA is approving the revisions to Indiana's SIP intended to address the requirements obligated by EPA's 2008 final rule entitled ''Implementation of New Source Review (NSR) Program for Particulate Matter Less than 2.5 Micrometers ($PM_{2.5}$)'' (the 2008 NSR Rule) [3] with respect to nonattainment NSR program definitions of ''regulated NSR pollutant'' and ''significant''. These definitions were submitted in accordance with title I, part D, subpart 1 of the Clean Air Act (CAA) as opposed to title I, part D, subpart 4 of the CAA.

EPA will be taking no action on the revisions requesting changes to permitting exemptions and Indiana's title V program. EPA will also be taking no action on the revisions incorporating $PM_{2.5}$ PSD increments due to an adverse comment EPA received on the August 19, 2013, proposed rulemaking.

The following sections will describe in more detail the action EPA is taking on each of Indiana's requests.

II. What is EPA approving with this final action?

For the reasons discussed in the November 1, 2013, proposed rulemaking (*see* 78 FR 65590), EPA is finalizing its approval for the following revisions to Indiana's SIP:

(i) The corrected SIP citation for ozone ambient air quality data at 326 IAC 2–2–4(b)(2)(A)(vi);

(ii) The revised requirements allowing the submission of ozone post-approval monitoring data for both volatile organic compounds (VOC) and NO_X at 326 IAC 2–2–4(c)(4);

(iii) The addition of the $PM_{2.5}$ class I variance at 326 IAC 2–2–14(e); and

(iv) The revised submission requirements to include $PM_{2.5}$ requirements as part of the petition for alternate opacity limits at 326 IAC 5–1–5(b)(1)(E).

EPA is also finalizing approval of portions of submissions from IDEM intended to address requirements related to the 2010 NSR Rule. On August 19, 2013, EPA published a rulemaking proposing approval of 326 IAC 2–2–1(f)(1), 326 IAC 2–2–1(ee)(3), and 326 IAC 2–2–1(gg)(1)(C) (*see* 78 FR 50360). This action was independent of the November 1, 2013, proposed rulemaking (*see* 78 FR 65590), where EPA proposed approval of the identical provisions. Therefore, for the reasons discussed in both the August 19, 2013, and November 1, 2013, proposed rulemakings, EPA is finalizing its approval for the following revisions to Indiana's SIP:

(i) The revision to the definition of ''baseline area'' at 326 IAC 2–2–1(f)(1);

(ii) The revision to the definition of ''major source baseline date'' at 326 IAC 2–2–1(ee)(3); and

(iii) The addition of the $PM_{2.5}$ trigger date to the definition of ''minor source baseline date'' at 326 IAC 2–2–1(gg)(1)(C).

To clarify, today's final approval of 326 IAC 2–2–1(f)(1), 326 IAC 2–2–1(ee)(3), and 326 IAC 2–2–1(gg)(1)(C) serves as a final action for both the August 19, 2013, and November 1, 2013, proposed rulemakings.

[1] 75 FR 64863 (October 20, 2010).
[2] 70 FR 71612 (November 29, 2005).
[3] 73 FR 28321 (May 16, 2008).

III. Why is EPA approving changes to Indiana's nonattainment new source review program?

On January 4, 2013, the U.S. Court of Appeals for the District of Columbia Circuit, in *Natural Resources Defense Council v. EPA*[4] issued a decision that remanded the EPA's 2007 and 2008 rules implementing the 1997 $PM_{2.5}$ National Ambient Air Quality Standards (NAAQS). Relevant here, the 2008 NSR Rule promulgated NSR requirements for implementation of $PM_{2.5}$ in both nonattainment areas and attainment/unclassifiable areas. The Court found that EPA erred in implementing the $PM_{2.5}$ NAAQS in these rules solely pursuant to the general implementation provisions of subpart 1 of part D of title I of the CAA, rather than pursuant to the additional implementation provisions specific to particulate matter nonattainment areas in subpart 4. The Court ordered the EPA to ''repromulgate these rules pursuant to Subpart 4 consistent with this opinion.'' *Id.* at 437.

On April 25, 2014, the Administrator signed a final rulemaking that begins to address the remand (*see http://www.epa.gov/airquality/particlepollution/actions.html*). Upon its effective date, the final rule classifies all existing $PM_{2.5}$ nonattainment areas as ''Moderate'' nonattainment areas and sets a deadline of December 31, 2014, for states to submit any SIP submissions, including nonattainment NSR SIPs, that may be necessary to satisfy the requirements of subpart 4, part D, title I of the CAA with respect to $PM_{2.5}$ nonattainment areas.

In a separate rulemaking process that will follow the April 2014 rule, EPA is evaluating the requirements of subpart 4 as they pertain to nonattainment NSR for $PM_{2.5}$ emissions. In particular, subpart 4 includes section 189(e) of the CAA, which requires the control of major stationary sources of PM_{10} precursors ''except where the Administrator determines that such sources do not contribute significantly to PM_{10} levels which exceed the standard in the area.'' Under the court's decision in *NRDC,* section 189(e) of the CAA also applies to $PM_{2.5}$.

As discussed in the proposed rulemaking for this action, IDEM's SIP submission included revisions to two definitions in Indiana's nonattainment NSR program. The revised definition of ''regulated NSR pollutant'' at 326 IAC 2–3–1(mm)(3) identifies precursors to both ozone and $PM_{2.5}$ in nonattainment areas. With respect to $PM_{2.5}$, the revised definition of ''regulated NSR pollutant'' at 326 IAC 2–3–1(mm)(3) identifies sulfur dioxide (SO_2) and NO_X as regulated $PM_{2.5}$ precursors while VOCs and ammonia are not regulated $PM_{2.5}$ precursors in $PM_{2.5}$ nonattainment areas in the state. The revised definition of ''significant'' at 326 IAC 2–3–1(pp) adds significant emission rates for direct $PM_{2.5}$ and for SO_2 and NO_X as $PM_{2.5}$ precursors. These revisions, although consistent with the 2008 NSR Rule as developed consistent with subpart 1 of the CAA, may not contain the elements necessary to satisfy the CAA requirements when evaluated under the subpart 4 statutory requirements. In particular, Indiana's submission does not include regulation of VOCs and ammonia as $PM_{2.5}$ precursors, nor does it include a demonstration consistent with section 189(e) showing that major sources of those precursor pollutants would not contribute significantly to $PM_{2.5}$ levels exceeding the standard in the area. For these reasons, EPA cannot conclude at this time that this part of Indiana's nonattainment NSR submission satisfies all of the requirements of subpart 4 as they pertain to $PM_{2.5}$ nonattainment NSR permitting.

Although the revisions to Indiana's nonattainment NSR rule may not contain all of the necessary elements to satisfy the CAA requirements when evaluated under the subpart 4 provisions, the revisions themselves represent a strengthening of the currently-approved Indiana SIP which does not address $PM_{2.5}$ at all. As a result of the April 25, 2014, final rule, IDEM will have until December 31, 2014, to make any additional submission necessary to address the requirements of subpart 4, including addressing the $PM_{2.5}$ precursors of VOC and ammonia. For these reasons, EPA is approving the nonattainment NSR revisions at 326 IAC 2–3–1(mm)(3) and 326 IAC 2–3–1(pp) without listing as a deficiency at this time the absence of either the regulation or evaluation of VOCs and ammonia as $PM_{2.5}$ precursors.

IV. Why is EPA taking no action on portions of Indiana's request?

EPA is taking no action with respect to the PSD increment revision at 326 IAC 2–2–6(b). In EPA's August 19, 2013 rulemaking, we proposed to approve revisions to Indiana's PSD increment at 326 IAC 2–2–6(b). During the comment period for the August 19, 2013, proposed rulemaking, EPA received an adverse comment regarding the PSD increment revision at 326 IAC 2–2–6(b). In the November 1, 2013, proposed rulemaking, EPA proposed to approve the same revisions to Indiana's PSD increment at 326 IAC 2–2–6(b). EPA did not receive any adverse comments during the comment period for that proposed rulemaking. However, given the earlier adverse comment, EPA is not taking final action with respect to 326 IAC 2–2–6(b) in this action. Instead, EPA will address Indiana's satisfaction of the PSD increment requirements and address the adverse comment in a separate action.

EPA is also taking no action on the following revisions to Indiana's SIP:

(i) 326 IAC 2–1.1–3(d)(2)(A);
(ii) 326 IAC 2–1.1–3(e)(1)(A); and
(iii) 326 IAC 2–1.1–3(h)(2)(B)(xi).

As discussed in the November 1, 2013, proposal, these revisions to permitting exemptions were requested for state regulations that EPA has not previously approved into Indiana's SIP. If Indiana requests in the future that EPA take action on adding these revisions to Indiana's SIP as part of a separate SIP submission, then EPA will do so at that time.

EPA is taking no action on the following revisions to Indiana's title V program:

(i) 326 IAC 2–7–1(21)(E)(vi); and
(ii) 326 IAC 2–7–1(42)(C)(ii)(FF).

As discussed in the November 1, 2013, proposal, EPA will take action on the revisions to Indiana's title V program as part of a title V program submission.

V. What action is EPA taking?

For the reasons discussed previously in the proposed rulemaking and in today's final rulemaking, EPA is approving into the Indiana SIP the following revised rules addressing $PM_{2.5}$ and ozone requirements: 326 IAC 2–2–1(f)(1), (ee)(3), and (gg)(1)(C); 326 IAC 2–2–4(b)(2)(A)(vi) and (c)(4); 326 IAC 2–2–14(e); and 326 IAC 5–1–5(b)(1)(E).

EPA is also approving into the Indiana SIP the following revised rules to Indiana's nonattainment NSR program: 326 IAC 2–3–1(mm)(3) and (pp).

For the reasons identified in the November 1, 2013, proposed rulemaking and further explained in today's final rulemaking, EPA is taking no action with respect to the following revised rules to $PM_{2.5}$ PSD increment, permitting exemptions, and Indiana's title V program: 326 IAC 2–1.1–3(d)(2)(A), (e)(1)(A), and (h)(2)(B)(xi); 326 IAC 2–2–6(b); and 326 IAC 2–7–1(21)(E)(vi) and (42)(C)(ii)(FF).

VI. Statutory and Executive Order Reviews

Under the CAA, the Administrator is required to approve a SIP submission that complies with the provisions of the

[4] 706 F.3d 428 (D.C. Cir. 2013).

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

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

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

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

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by September 2, 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, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides, Volatile organic compounds.

Dated: June 17, 2014.

Susan Hedman,

Regional Administrator, Region 5.

40 CFR part 52 is amended as follows:

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

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

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

■ 2. In § 52.770 the table in paragraph (c) is amended by:

■ a. Revising the entries in ''Article 2. Permit Review Rules'' for ''Rule 2. Prevention of Significant Deterioration Requirements'';

■ b. Revising the entry in ''Article 2. Permit Review Rules'', ''Rule 3. Emission Offset'' for 2–3–1 ''Definitions''; and

■ c. Revising the entries for ''Article 5. Opacity Regulations''.

The revised text reads as follows:

§ 52.770 Identification of plan.

* * * * *

(c) * * *

EPA–APPROVED INDIANA REGULATIONS

Indiana citation	Subject	Indiana effective date	EPA approval date	Notes
*	*	*	*	*
Article 2. Permit Review Rules				
*	*	*	*	*
Rule 2. Prevention of Significant Deterioration (PSD) Requirements				
2–2–1	Definitions	7/11/2012	10/29/2012, 77 FR 65478	(dd)(1), (ff)(7), (ss)(1), (ww)(1)(F), and (ww)(1)(G) only.
		7/11/2012	7/2/2014, [INSERT **Federal Register** CITATION].	(f)(1), (ee)(3), and (gg)(1)(C) only.
2–2–2	Applicability	10/31/2010	7/8/2011, 76 FR 40242.	
2–2–3	Control technology review; requirements.	9/10/2004	6/18/2007, 72 FR 33395.	
2–2–4	Air quality analysis; requirements	7/11/2012	10/29/2012, 77 FR 65478	(b)(2)(vi) only.

EPA–APPROVED INDIANA REGULATIONS—Continued

Indiana citation	Subject	Indiana effective date	EPA approval date	Notes
		7/11/2012	7/2/2014, [INSERT **Federal Register** CITATION].	(c)(4) only.
2–2–5	Air quality impact; requirements	10/31/2010	7/8/2011, 76 FR 40242.	
2–2–6	Increment consumption; requirements.	9/10/2004	6/18/2007, 72 FR 33395.	
2–2–8	Source obligation	10/31/2010	7/8/2011, 76 FR 40242.	
2–2–10	Source information	10/31/2010	7/8/2011, 76 FR 40242.	
2–2–11	Stack height provisions	4/22/2001	6/27/2003, 68 FR 38197.	
2–2–12	Permit rescission	4/8/2004	5/20/2004, 69 FR 29071.	
2–2–13	Area designation and redesignation.	4/22/2001	6/27/2003, 68 FR 38197.	
2–2–14	Sources impacting federal Class I areas: additional requirements.	7/11/2012	7/2/2014, [INSERT **Federal Register** CITATION].	
2–2–15	Public participation	4/22/2001	6/27/2003, 68 FR 38197.	
2–2–16	Ambient air ceilings	4/22/2001	6/27/2003, 68 FR 38197.	
		Rule 3. Emission Offset		
2–3–1	Definitions	10/31/2010	7/8/2011, 76 FR 40242.	
		7/11/2012	7/2/2014, [INSERT **Federal Register** CITATION].	
*	*	*	*	*
		Article 5. Opacity Regulations		
		Rule 1. Opacity Limitations		
5–1–1	Applicability	11/8/1998	7/16/2002, 67 FR 46589.	
5–1–2	Opacity limitations	11/8/1998	7/16/2002, 67 FR 46589.	
5–1–3	Temporary alternative opacity limitations.	11/8/1998	7/16/2002, 67 FR 46589.	
5–1–4	Compliance determination	6/11/1993	6/15/1995, 60 FR 31412	Sec. 4(a).
		11/8/1998	7/16/2002, 67 FR 46589	Sec. 4(b).
5–1–5	Violations	6/11/1993	6/15/1995, 60 FR 31412	Sec. 5(a), 5(c).
		11/8/1998	7/16/2002, 67 FR 46589	Sec. 5(b).
		7/11/2012	7/2/2014, [INSERT **Federal Register** CITATION].	Sec. 5(b)(1)(E) only.
5–1–7	State implementation plan revisions.	6/11/1993	6/15/1995, 60 FR 31412.	
*	*	*	*	*

* * * * *

[FR Doc. 2014–15271 Filed 7–1–14; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

44 CFR Part 64

[Docket ID FEMA–2014–0002; Internal Agency Docket No. FEMA–8339]

Suspension of Community Eligibility

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Final rule.

SUMMARY: This rule identifies communities where the sale of flood insurance has been authorized under the National Flood Insurance Program (NFIP) that are scheduled for suspension on the effective dates listed within this rule because of noncompliance with the floodplain management requirements of the program. If the Federal Emergency Management Agency (FEMA) receives documentation that the community has adopted the required floodplain management measures prior to the effective suspension date given in this rule, the suspension will not occur and a notice of this will be provided by publication in the **Federal Register** on a subsequent date. Also, information identifying the current participation status of a community can be obtained from FEMA's Community Status Book (CSB). The CSB is available at *http://www.fema.gov/fema/csb.shtm.*

DATES: *Effective Dates:* The effective date of each community's scheduled suspension is the third date (''Susp.'') listed in the third column of the following tables.

FOR FURTHER INFORMATION CONTACT: If you want to determine whether a particular community was suspended on the suspension date or for further information, contact David Stearrett, Federal Insurance and Mitigation Administration, Federal Emergency

Management Agency, 500 C Street SW., Washington, DC 20472, (202) 646–2953.

SUPPLEMENTARY INFORMATION: The NFIP enables property owners to purchase Federal flood insurance that is not otherwise generally available from private insurers. In return, communities agree to adopt and administer local floodplain management measures aimed at protecting lives and new construction from future flooding. Section 1315 of the National Flood Insurance Act of 1968, as amended, 42 U.S.C. 4022, prohibits the sale of NFIP flood insurance unless an appropriate public body adopts adequate floodplain management measures with effective enforcement measures. The communities listed in this document no longer meet that statutory requirement for compliance with program regulations, 44 CFR Part 59. Accordingly, the communities will be suspended on the effective date in the third column. As of that date, flood insurance will no longer be available in the community. We recognize that some of these communities may adopt and submit the required documentation of legally enforceable floodplain management measures after this rule is published but prior to the actual suspension date. These communities will not be suspended and will continue to be eligible for the sale of NFIP flood insurance. A notice withdrawing the suspension of such communities will be published in the **Federal Register**.

In addition, FEMA publishes a Flood Insurance Rate Map (FIRM) that identifies the Special Flood Hazard Areas (SFHAs) in these communities. The date of the FIRM, if one has been published, is indicated in the fourth column of the table. No direct Federal financial assistance (except assistance pursuant to the Robert T. Stafford Disaster Relief and Emergency Assistance Act not in connection with a flood) may be provided for construction or acquisition of buildings in identified SFHAs for communities not participating in the NFIP and identified for more than a year on FEMA's initial FIRM for the community as having flood-prone areas (section 202(a) of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4106(a), as amended). This prohibition against certain types of Federal assistance becomes effective for the communities listed on the date shown in the last column. The Administrator finds that notice and public comment procedures under 5 U.S.C. 553(b), are impracticable and unnecessary because communities listed in this final rule have been adequately notified.

Each community receives 6-month, 90-day, and 30-day notification letters addressed to the Chief Executive Officer stating that the community will be suspended unless the required floodplain management measures are met prior to the effective suspension date. Since these notifications were made, this final rule may take effect within less than 30 days.

National Environmental Policy Act. This rule is categorically excluded from the requirements of 44 CFR Part 10, Environmental Considerations. No environmental impact assessment has been prepared.

Regulatory Flexibility Act. The Administrator has determined that this rule is exempt from the requirements of the Regulatory Flexibility Act because the National Flood Insurance Act of 1968, as amended, Section 1315, 42 U.S.C. 4022, prohibits flood insurance coverage unless an appropriate public body adopts adequate floodplain management measures with effective enforcement measures. The communities listed no longer comply with the statutory requirements, and after the effective date, flood insurance will no longer be available in the communities unless remedial action takes place.

Regulatory Classification. This final rule is not a significant regulatory action under the criteria of section 3(f) of Executive Order 12866 of September 30, 1993, Regulatory Planning and Review, 58 FR 51735.

Executive Order 13132, Federalism. This rule involves no policies that have federalism implications under Executive Order 13132.

Executive Order 12988, Civil Justice Reform. This rule meets the applicable standards of Executive Order 12988.

Paperwork Reduction Act. This rule does not involve any collection of information for purposes of the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.*

List of Subjects in 44 CFR Part 64

Flood insurance, Floodplains.

Accordingly, 44 CFR Part 64 is amended as follows:

PART 64—[AMENDED]

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

Authority: 42 U.S.C. 4001 *et seq.;* Reorganization Plan No. 3 of 1978, 3 CFR, 1978 Comp.; p. 329; E.O. 12127, 44 FR 19367, 3 CFR, 1979 Comp.; p. 376.

§ 64.6 [Amended]

■ 2. The tables published under the authority of § 64.6 are amended as follows:

State and location	Community No.	Effective date authorization/cancellation of sale of flood insurance in community	Current effective map date	Date certain Federal assistance no longer available in SFHAs
Region V				
Michigan:				
Benona, Township of, Oceana County	260481	August 26, 1981, Emerg; August 1, 1986, Reg; August 4, 2014, Susp.	August 4, 2014	August 4, 2014
Claybanks, Township of, Oceana County.	260482	July 21, 1986, Emerg; March 18, 1987, Reg; August 4, 2014, Susp.	.....do	Do.
Golden, Township of, Oceana County ..	260301	July 17, 1974, Emerg; September 1, 1986, Reg; August 4, 2014, Susp.	.....do	Do.
Greenwood, Township of, Oceana County.	260483	August 10, 1976, Emerg; August 1, 1986, Reg; August 4, 2014, Susp.	.....do	Do.
Hart, City of, Oceana County	260484	April 8, 1976, Emerg; September 1, 1986, Reg; August 4, 2014, Susp.	.....do	Do.
Hart, Township of, Oceana County	260777	September 26, 1986, Emerg; January 16, 1987, Reg; August 4, 2014, Susp.	.....do	Do.
Hesperia, Village of, Newaygo and Oceana Counties.	260485	March 10, 1982, Emerg; August 1, 1986, Reg; August 4, 2014, Susp.	.....do	Do.

State and location	Community No.	Effective date authorization/cancellation of sale of flood insurance in community	Current effective map date	Date certain Federal assistance no longer available in SFHAs
Newfield, Township of, Oceana County	260697	September 20, 1976, Emerg; September 1, 1986, Reg; August 4, 2014, Susp.	.....do	Do.
Pentwater, Township of, Oceana County.	260183	July 23, 1973, Emerg; March 1, 1978, Reg; August 4, 2014, Susp.	.....do	Do.
Pentwater, Village of, Oceana County ..	260277	September 25, 1973, Emerg; May 15, 1978, Reg; August 4, 2014, Susp.	.....do	Do.
Region VII				
Kansas:				
Halstead, City of, Harvey County	200131	April 3, 1975, Emerg; September 1, 1978, Reg; August 4, 2014, Susp.	.....do	Do.
Harvey County, Unincorporated Areas	200585	October 19, 1978, Emerg; August 15, 1983, Reg; August 4, 2014, Susp.	.....do	Do.
Newton, City of, Harvey County	200133	September 13, 1974, Emerg; October 2, 1979, Reg; August 4, 2014, Susp.	.....do	Do.
Region VIII				
North Dakota:				
Bismarck, City of, Burleigh County	380149	February 14, 1975, Emerg; September 18, 1985, Reg; August 4, 2014, Susp.	.....do	Do.
Burleigh County, Unincorporated Areas	380017	March 5, 1975, Emerg; September 18, 1985, Reg; August 4, 2014, Susp.	.....do	Do.
Lincoln, City of, Burleigh County	385396	N/A, Emerg; May 12, 2008, Reg; August 4, 2014, Susp.	.....do	Do.
Wing, City of, Burleigh County	380213	July 1, 1977, Emerg; August 19, 1980, Reg; August 4, 2014, Susp.	.....do	Do.

*-do- = Ditto.
Code for reading third column: Emerg.—Emergency; Reg.—Regular; Susp—Suspension.

Dated: June 17, 2014.

David L. Miller,

Associate Administrator, Federal Insurance and Mitigation Administration, Department of Homeland Security, Federal Emergency Management Agency.

[FR Doc. 2014–15488 Filed 7–1–14; 8:45 am]

BILLING CODE 9110–12–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

44 CFR Part 64

[Docket ID FEMA–2014–0002; Internal Agency Docket No. FEMA–8335]

Suspension of Community Eligibility

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Final rule.

SUMMARY: This rule identifies communities where the sale of flood insurance has been authorized under the National Flood Insurance Program (NFIP) that are scheduled for suspension on the effective dates listed within this rule because of noncompliance with the floodplain management requirements of the program. If the Federal Emergency Management Agency (FEMA) receives documentation that the community has adopted the required floodplain management measures prior to the effective suspension date given in this rule, the suspension will not occur and a notice of this will be provided by publication in the **Federal Register** on a subsequent date. Also, information identifying the current participation status of a community can be obtained from FEMA's Community Status Book (CSB). The CSB is available at *http://www.fema.gov/fema/csb.shtm.*

DATES: *Effective Dates:* The effective date of each community's scheduled suspension is the third date (''Susp.'') listed in the third column of the following tables.

FOR FURTHER INFORMATION CONTACT: If you want to determine whether a particular community was suspended on the suspension date or for further information, contact David Stearrett, Federal Insurance and Mitigation Administration, Federal Emergency Management Agency, 500 C Street SW., Washington, DC 20472, (202) 646–2953.

SUPPLEMENTARY INFORMATION: The NFIP enables property owners to purchase Federal flood insurance that is not otherwise generally available from private insurers. In return, communities agree to adopt and administer local floodplain management measures aimed at protecting lives and new construction from future flooding. Section 1315 of the National Flood Insurance Act of 1968, as amended, 42 U.S.C. 4022, prohibits the sale of NFIP flood insurance unless an appropriate public body adopts adequate floodplain management measures with effective enforcement measures. The communities listed in this document no longer meet that statutory requirement for compliance with program regulations, 44 CFR Part 59. Accordingly, the communities will be suspended on the effective date in the third column. As of that date, flood insurance will no longer be available in the community. We recognize that some of these communities may adopt and submit the required documentation of legally enforceable floodplain management measures after this rule is published but prior to the actual suspension date. These communities will not be suspended and will continue to be eligible for the sale of NFIP flood insurance. A notice withdrawing the suspension of such communities will be published in the **Federal Register**.

In addition, FEMA publishes a Flood Insurance Rate Map (FIRM) that identifies the Special Flood Hazard Areas (SFHAs) in these communities. The date of the FIRM, if one has been published, is indicated in the fourth column of the table. No direct Federal financial assistance (except assistance pursuant to the Robert T. Stafford

Disaster Relief and Emergency Assistance Act not in connection with a flood) may be provided for construction or acquisition of buildings in identified SFHAs for communities not participating in the NFIP and identified for more than a year on FEMA's initial FIRM for the community as having flood-prone areas (section 202(a) of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4106(a), as amended). This prohibition against certain types of Federal assistance becomes effective for the communities listed on the date shown in the last column. The Administrator finds that notice and public comment procedures under 5 U.S.C. 553(b), are impracticable and unnecessary because communities listed in this final rule have been adequately notified.

Each community receives 6-month, 90-day, and 30-day notification letters addressed to the Chief Executive Officer stating that the community will be suspended unless the required floodplain management measures are met prior to the effective suspension date. Since these notifications were made, this final rule may take effect within less than 30 days.

National Environmental Policy Act. This rule is categorically excluded from the requirements of 44 CFR Part 10, Environmental Considerations. No environmental impact assessment has been prepared.

Regulatory Flexibility Act. The Administrator has determined that this rule is exempt from the requirements of the Regulatory Flexibility Act because the National Flood Insurance Act of 1968, as amended, Section 1315, 42 U.S.C. 4022, prohibits flood insurance coverage unless an appropriate public body adopts adequate floodplain management measures with effective enforcement measures. The communities listed no longer comply with the statutory requirements, and after the effective date, flood insurance will no longer be available in the communities unless remedial action takes place.

Regulatory Classification. This final rule is not a significant regulatory action under the criteria of section 3(f) of Executive Order 12866 of September 30, 1993, Regulatory Planning and Review, 58 FR 51735.

Executive Order 13132, Federalism. This rule involves no policies that have federalism implications under Executive Order 13132.

Executive Order 12988, Civil Justice Reform. This rule meets the applicable standards of Executive Order 12988.

Paperwork Reduction Act. This rule does not involve any collection of information for purposes of the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.*

List of Subjects in 44 CFR Part 64

Flood insurance, Floodplains.

Accordingly, 44 CFR Part 64 is amended as follows:

PART 64—[AMENDED]

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

Authority: 42 U.S.C. 4001 *et seq.;* Reorganization Plan No. 3 of 1978, 3 CFR, 1978 Comp.; p. 329; E.O. 12127, 44 FR 19367, 3 CFR, 1979 Comp.; p. 376.

§ 64.6 [Amended]

■ 2. The tables published under the authority of § 64.6 are amended as follows:

State and location	Community No.	Effective date authorization/cancellation of sale of flood insurance in community	Current effective map date	Date certain Federal assistance no longer available in SFHAs
Region I				
Massachusetts:				
Acton, Town of, Middlesex County	250176	March 24, 1972, Emerg; June 15, 1978, Reg;. July 7, 2014, Susp.	July 7, 2014	July 7, 2014.
Ashland, Town of, Middlesex County	250179	April 24, 1975, Emerg; July 16, 1981, Reg; July 7, 2014, Susp.	do	Do.
Billerica, Town of, Middlesex County	250183	August 18, 1972, Emerg; November 5, 1980, Reg;. July 7, 2014, Susp.	do	Do.
Boxborough, Town of, Middlesex County.	250184	April 11, 1975, Emerg; September 15, 1978, Reg;. July 7, 2014, Susp.	do	Do.
Carlisle, Town of, Middlesex County	250187	January 13, 1976, Emerg; October 15, 1980, Reg;. July 7, 2014, Susp.	do	Do.
Chelmsford, Town of, Middlesex County	250188	December 6, 1973, Emerg; June 4, 1980, Reg;. July 7, 2014, Susp.	do	Do.
Concord, Town of, Middlesex County	250189	June 9, 1972, Emerg; June 15, 1979, Reg; July 7, 2014, Susp.	do	Do.
Framingham, Town of, Middlesex County.	250193	August 2, 1974, Emerg; February 3, 1982, Reg;. July 7, 2014, Susp.	do	Do.
Holliston, Town of, Middlesex County	250195	December 5, 1975, Emerg; September 30, 1980, Reg;. July 7, 2014, Susp.	do	Do.
Hopkinton, Town of, Middlesex County	250196	December 3, 1975, Emerg; July 5, 1982, Reg;. July 7, 2014, Susp.	do	Do.
Hudson, Town of, Middlesex County	250197	August 8, 1975, Emerg; December 15, 1979, Reg;. July 7, 2014, Susp.	do	Do.

State and location	Community No.	Effective date authorization/cancellation of sale of flood insurance in community	Current effective map date	Date certain Federal assistance no longer available in SFHAs
Lincoln, Town of, Middlesex County	250199	December 24, 1975, Emerg; June 1, 1978, Reg;. July 7, 2014, Susp.	do	Do.
Littleton, Town of, Middlesex County	250200	July 9, 1975, Emerg; June 15, 1983, Reg; July 7, 2014, Susp.	do	Do.
Lowell, City of, Middlesex County	250201	January 14, 1972, Emerg; April 16, 1979, Reg;. July 7, 2014, Susp.	do	Do.
Marlborough, City of, Middlesex County	250203	July 25, 1975, Emerg; January 6, 1982, Reg;. July 7, 2014, Susp.	do	Do.
Maynard, Town of, Middlesex County	250204	January 16, 1976, Emerg; June 15, 1979, Reg;. July 7, 2014, Susp.	do	Do.
Natick, Town of, Middlesex County	250207	March 26, 1975, Emerg; February 1, 1980, Reg;. July 7, 2014, Susp.	do	Do.
Sherborn, Town of, Middlesex County	250212	June 13, 1978, Emerg; June 18, 1980, Reg; July 7, 2014, Susp.	do	Do.
Stow, Town of, Middlesex County	250216	October 1, 1975, Emerg; August 1, 1979, Reg;. July 7, 2014, Susp.	do	Do.
Sudbury, Town of, Middlesex County	250217	August 1, 1975, Emerg; June 1, 1982, Reg; July 7, 2014, Susp.	do	Do.
Tewksbury, Town of, Middlesex County	250218	December 10, 1971, Emerg; July 18, 1977, Reg;. July 7, 2014, Susp.	do	Do.
Wayland, Town of, Middlesex County	250224	March 21, 1975, Emerg; June 1, 1982, Reg;. July 7, 2014, Susp.	do	Do.
Rhode Island: Bristol, Town of, Bristol County.	445393	October 30, 1970, Emerg; December 1, 1972, Reg;. July 7, 2014, Susp.	do	Do.
Region III				
Delaware:				
Bowers, Town of, Kent County	100002	June 13, 1974, Emerg; July 2, 1980, Reg; July 7, 2014, Susp.	do	Do.
Camden, Town of, Kent County	100003	March 18, 1975, Emerg; September 16, 1981, Reg;. July 7, 2014, Susp.	do	Do.
Cheswold, Town of, Kent County	100004	April 16, 1975, Emerg; January 7, 1977, Reg;. July 7, 2014, Susp.	do	Do.
Dover, City of, Kent County	100006	July 24, 1975, Emerg; September 16, 1982, Reg;. July 7, 2014, Susp.	do	Do.
Felton, Town of, Kent County	100008	May 30, 1975, Emerg; January 7, 1977, Reg;. July 7, 2014, Susp.	do	Do.
Frederica, Town of, Kent County	100009	April 2, 1975, Emerg; January 2, 1981, Reg;. July 7, 2014, Susp.	do	Do.
Harrington, City of, Kent County	100010	May 17, 1974, Emerg; June 1, 1977, Reg; July 7, 2014, Susp.	do	Do.
Leipsic, Town of, Kent County	100014	April 21, 1978, Emerg; September 29, 1978, Reg;. July 7, 2014, Susp.	do	Do.
Little Creek, Town of, Kent County	100015	July 30, 1975, Emerg; January 17, 1979, Reg;. July 7, 2014, Susp.	do	Do.
Smyrna, Town of, Kent County	100017	June 13, 1974, Emerg; June 1, 1977, Reg; July 7, 2014, Susp.	do	Do.
Wyoming, Town of, Kent County	100020	March 20, 1975, Emerg; March 16, 1981, Reg;. July 7, 2014, Susp.	do	Do.
Region IV				
Georgia:				
Bloomingdale, City of, Chatham County	130452	October 6, 1975, Emerg; July 2, 1981, Reg; July 7, 2014, Susp.	do	Do.

State and location	Community No.	Effective date authorization/cancellation of sale of flood insurance in community	Current effective map date	Date certain Federal assistance no longer available in SFHAs
Charlton County, Unincorporated Areas	130292	October 14, 1991, Emerg; September 21, 1998, Reg;. July 7, 2014, Susp.	.....do	Do.
Chatham County, Unincorporated Areas	130030	September 18, 1970, Emerg; August 1, 1980, Reg;. July 7, 2014, Susp.	.....do	Do.
Folkston, City of, Charlton County	130290	March 10, 1976, Emerg; June 3, 1986, Reg;. July 7, 2014, Susp.	.....do	Do.
Homeland, City of, Charlton County	130291	N/A, Emerg; August 13, 1998, Reg; July 7, 2014, Susp.	.....do	Do.
Pooler, City of, Chatham County	130261	November 27, 1974, Emerg; September 30, 1981, Reg;. July 7, 2014, Susp.	.....do	Do.
Port Wentworth, City of, Chatham County.	135162	June 4, 1971, Emerg; March 16, 1973, Reg;. July 7, 2014, Susp.	.....do	Do.
Savannah, City of, Chatham County	135163	September 18, 1970, Emerg; May 21, 1971, Reg;. July 7, 2014, Susp.	.....do	Do.
Kentucky: Ballard County, Unincorporated Areas.	210268	May 2, 1984, Emerg; September 29, 1989, Reg;. July 7, 2014, Susp.	.....do	Do.
Wickliffe, City of, Ballard County	210006	January 21, 1975, Emerg; August 19, 1986, Reg;. July 7, 2014, Susp.	.....do	Do.
North Carolina: Beaufort County, Unincorporated Areas.	370013	June 9, 1972, Emerg; February 4, 1987, Reg;. July 7, 2014, Susp.	.....do	Do.
Bethel, Town of, Pitt County	370546	November 26, 2002, Emerg; January 2, 2004, Reg;. July 7, 2014, Susp.	.....do	Do.
East Laurinburg, Town of, Scotland County.	370359	N/A, Emerg; August 15, 2007, Reg; July 7, 2014, Susp.	.....do	Do.
Greenville, City of, Pitt County	370191	January 15, 1974, Emerg; July 3, 1978, Reg;. July 7, 2014, Susp.	.....do	Do.
Hoke County, Unincorporated Areas	370397	June 4, 1979, Emerg; March 2, 1989, Reg; July 7, 2014, Susp.	.....do	Do.
Laurinburg, City of, Scotland County	370222	February 14, 1975, Emerg; January 3, 1986, Reg;. July 7, 2014, Susp.	.....do	Do.
Richmond County, Unincorporated Areas.	370348	September 6, 1985, Emerg; September 6, 1989, Reg;. July 7, 2014, Susp.	.....do	Do.
Robeson County, Unincorporated Areas	370202	June 17, 1975, Emerg; February 17, 1989, Reg;. July 7, 2014, Susp.	.....do	Do.
Scotland County, Unincorporated Areas	370316	July 30, 1975, Emerg; December 16, 1988, Reg;. July 7, 2014, Susp.	.....do	Do.
Washington, City of, Beaufort County	370017	October 6, 1972, Emerg; February 2, 1977, Reg;. July 7, 2014, Susp.	.....do	Do.
Region V				
Indiana:				
Blackford County, Unincorporated Areas.	180478	November 8, 1991, Emerg; November 1, 1994, Reg;. July 7, 2014, Susp.	.....do	Do.
Hartford City, City of, Blackford County	180009	August 19, 1976, Emerg; December 1, 1982, Reg;. July 7, 2014, Susp.	.....do	Do.
Montpelier, City of, Blackford County	180501	November 8, 1991, Emerg; N/A, Reg; July 7, 2014, Susp.	.....do	Do.
Minnesota: Brownton, City of, McLeod County.	270262	N/A, Emerg; April 5, 1994, Reg; July 7, 2014, Susp.	.....do	Do.
Glencoe, City of, McLeod County	270263	June 18, 1974, Emerg; July 2, 1980, Reg; July 7, 2014, Susp.	.....do	Do.

State and location	Community No.	Effective date authorization/cancellation of sale of flood insurance in community	Current effective map date	Date certain Federal assistance no longer available in SFHAs
Hutchinson, City of, McLeod County	270264	April 2, 1974, Emerg; November 5, 1980, Reg;. July 7, 2014, Susp.	do	Do.
Lester Prairie, City of, McLeod County	270265	May 8, 1975, Emerg; September 4, 1987, Reg;. July 7, 2014, Susp.	do	Do.
McLeod County, Unincorporated Areas	270616	March 4, 1974, Emerg; February 4, 1981, Reg;. July 7, 2014, Susp.	do	Do.
Plato, City of, McLeod County	270596	October 25, 2002, Emerg; N/A, Reg; July 7, 2014, Susp.	do	Do.
Silver Lake, City of, McLeod County	270662	August 17, 2006, Emerg; November 21, 2012, Reg;. July 7, 2014, Susp.	do	Do.
Winsted, City of, McLeod County	270614	January 14, 1988, Emerg; June 19, 1989, Reg;. July 7, 2014, Susp.	do	Do.
Region VI				
Texas:				
Addison, Town of, Dallas County	481089	N/A, Emerg; January 15, 2009, Reg; July 7, 2014, Susp.	do	Do.
Balch Springs, City of, Dallas County	480166	August 7, 1975, Emerg; September 3, 1980, Reg;. July 7, 2014, Susp.	do	Do.
Carrollton, City of, Collin, Dallas and Denton Counties.	480167	May 27, 1975, Emerg; July 16, 1980, Reg; July 7, 2014, Susp.	do	Do.
Cedar Hill, City of, Dallas and Ellis Counties.	480168	June 21, 1974, Emerg; April 1, 1981, Reg; July 7, 2014, Susp.	do	Do.
Cockrell Hill, City of, Dallas County	480169	February 29, 1996, Emerg; July 3, 2003, Reg;. July 7, 2014, Susp.	do	Do.
Coppell, City of, Dallas and Denton Counties.	480170	June 11, 1975, Emerg; August 1, 1980, Reg;. July 7, 2014, Susp.	do	Do.
Dallas, City of, Collin, Dallas, Denton, Kaufman and Rockwall Counties.	480171	June 30, 1970, Emerg; March 16, 1983, Reg;. July 7, 2014, Susp.	do	Do.
Desoto, City of, Dallas County	480172	June 12, 1974, Emerg; May 5, 1981, Reg; July 7, 2014, Susp.	do	Do.
Duncanville, City of, Dallas County	480173	April 16, 1974, Emerg; April 15, 1981, Reg; July 7, 2014, Susp.	do	Do.
Garland, City of, Collin, Dallas and Rockwall Counties.	485471	August 7, 1970, Emerg; April 16, 1971, Reg;. July 7, 2014, Susp.	do	Do.
Glenn Heights, City of, Dallas and Ellis Counties.	481265	July 8, 1980, Emerg; July 16, 1980, Reg; July 7, 2014, Susp.	do	Do.
Grand Prairie, City of, Dallas, Ellis and Tarrant Counties.	485472	October 1, 1971, Emerg; July 6, 1973, Reg; July 7, 2014, Susp.	do	Do.
Grapevine, City of, Dallas, Denton and Tarrant Counties.	480598	October 3, 1974, Emerg; November 17, 1982, Reg;. July 7, 2014, Susp.	do	Do.
Highland Park, Town of, Dallas County	480178	October 30, 1974, Emerg; July 16, 1979, Reg;. July 7, 2014, Susp.	do	Do.
Hutchins, City of, Dallas County	480179	May 13, 1975, Emerg; May 1, 1980, Reg; July 7, 2014, Susp.	do	Do.
Irving, City of, Dallas County	480180	June 19, 1970, Emerg; November 19, 1980, Reg;. July 7, 2014, Susp.	do	Do.
Mesquite, City of, Dallas and Kaufman Counties.	485490	July 24, 1970, Emerg; July 30, 1971, Reg; July 7, 2014, Susp.	do	Do.
Ovilla, City of, Dallas and Ellis Counties	481155	August 5, 1975, Emerg; April 15, 1980, Reg;. July 7, 2014, Susp.	do	Do.
Richardson, City of, Collin and Dallas Counties.	480184	February 20, 1975, Emerg; December 4, 1979, Reg;. July 7, 2014, Susp.	do	Do.

State and location	Community No.	Effective date authorization/cancellation of sale of flood insurance in community	Current effective map date	Date certain Federal assistance no longer available in SFHAs
Sachse, City of, Collin and Dallas Counties.	480186	July 25, 1975, Emerg; September 1, 1978, Reg;. July 7, 2014, Susp.	.....do	Do.
Sunnyvale, Town of, Dallas County	480188	July 16, 1975, Emerg; February 1, 1980, Reg;. July 7, 2014, Susp.	.....do	Do.
Wilmer, City of, Dallas County	480190	June 2, 1975, Emerg; September 17, 1980, Reg;. July 7, 2014, Susp.	.....do	Do.
Wylie, City of, Collin, Dallas and Rockwall Counties.	480759	May 18, 1977, Emerg; June 4, 1980, Reg; July 7, 2014, Susp.	.....do	Do.
Region VII				
Nebraska:				
Dannebrog, Village of, Howard County	310118	April 22, 1975, Emerg; January 3, 1990, Reg;. July 7, 2014, Susp.	.....do	Do.
Saint Paul, City of, Howard County	310119	N/A, Emerg; January 21, 2005, Reg; July 7, 2014, Susp.	.....do	Do.
Region X				
Idaho:				
Bonner County, Unincorporated Areas	160206	May 14, 1975, Emerg; August 1, 1984, Reg;. July 7, 2014, Susp.	.....do	Do.

*-do- = Ditto.
Code for reading third column: Emerg.—Emergency; Reg.—Regular; Susp.—Suspension.

Dated: June 17, 2014.

David L. Miller,

Associate Administrator, Federal Insurance and Mitigation Administration, Department of Homeland Security, Federal Emergency Management Agency.

[FR Doc. 2014–15487 Filed 7–1–14; 8:45 am]

BILLING CODE 9110–12–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

44 CFR Part 64

[Docket ID FEMA–2014–0002; Internal Agency Docket No. FEMA–8337]

Suspension of Community Eligibility

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Final rule.

SUMMARY: This rule identifies communities where the sale of flood insurance has been authorized under the National Flood Insurance Program (NFIP) that are scheduled for suspension on the effective dates listed within this rule because of noncompliance with the floodplain management requirements of the program. If the Federal Emergency Management Agency (FEMA) receives documentation that the community has adopted the required floodplain management measures prior to the effective suspension date given in this rule, the suspension will not occur and a notice of this will be provided by publication in the **Federal Register** on a subsequent date. Also, information identifying the current participation status of a community can be obtained from FEMA's Community Status Book (CSB). The CSB is available at *http://www.fema.gov/fema/csb.shtm.*

DATES: *Effective Dates:* The effective date of each community's scheduled suspension is the third date (''Susp.'') listed in the third column of the following tables.

FOR FURTHER INFORMATION CONTACT: If you want to determine whether a particular community was suspended on the suspension date or for further information, contact David Stearrett, Federal Insurance and Mitigation Administration, Federal Emergency Management Agency, 500 C Street SW., Washington, DC 20472, (202) 646–2953.

SUPPLEMENTARY INFORMATION: The NFIP enables property owners to purchase Federal flood insurance that is not otherwise generally available from private insurers. In return, communities agree to adopt and administer local floodplain management measures aimed at protecting lives and new construction from future flooding. Section 1315 of the National Flood Insurance Act of 1968, as amended, 42 U.S.C. 4022, prohibits the sale of NFIP flood insurance unless an appropriate public body adopts adequate floodplain management measures with effective enforcement measures. The communities listed in this document no longer meet that statutory requirement for compliance with program regulations, 44 CFR Part 59. Accordingly, the communities will be suspended on the effective date in the third column. As of that date, flood insurance will no longer be available in the community. We recognize that some of these communities may adopt and submit the required documentation of legally enforceable floodplain management measures after this rule is published but prior to the actual suspension date. These communities will not be suspended and will continue to be eligible for the sale of NFIP flood insurance. A notice withdrawing the suspension of such communities will be published in the **Federal Register**.

In addition, FEMA publishes a Flood Insurance Rate Map (FIRM) that identifies the Special Flood Hazard Areas (SFHAs) in these communities. The date of the FIRM, if one has been published, is indicated in the fourth column of the table. No direct Federal financial assistance (except assistance pursuant to the Robert T. Stafford Disaster Relief and Emergency Assistance Act not in connection with a flood) may be provided for construction

or acquisition of buildings in identified SFHAs for communities not participating in the NFIP and identified for more than a year on FEMA's initial FIRM for the community as having flood-prone areas (section 202(a) of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4106(a), as amended). This prohibition against certain types of Federal assistance becomes effective for the communities listed on the date shown in the last column. The Administrator finds that notice and public comment procedures under 5 U.S.C. 553(b), are impracticable and unnecessary because communities listed in this final rule have been adequately notified.

Each community receives 6-month, 90-day, and 30-day notification letters addressed to the Chief Executive Officer stating that the community will be suspended unless the required floodplain management measures are met prior to the effective suspension date. Since these notifications were made, this final rule may take effect within less than 30 days.

National Environmental Policy Act. This rule is categorically excluded from the requirements of 44 CFR Part 10, Environmental Considerations. No environmental impact assessment has been prepared.

Regulatory Flexibility Act. The Administrator has determined that this rule is exempt from the requirements of the Regulatory Flexibility Act because the National Flood Insurance Act of 1968, as amended, Section 1315, 42 U.S.C. 4022, prohibits flood insurance coverage unless an appropriate public body adopts adequate floodplain management measures with effective enforcement measures. The communities listed no longer comply with the statutory requirements, and after the effective date, flood insurance will no longer be available in the communities unless remedial action takes place.

Regulatory Classification. This final rule is not a significant regulatory action under the criteria of section 3(f) of Executive Order 12866 of September 30, 1993, Regulatory Planning and Review, 58 FR 51735.

Executive Order 13132, Federalism. This rule involves no policies that have federalism implications under Executive Order 13132.

Executive Order 12988, Civil Justice Reform. This rule meets the applicable standards of Executive Order 12988.

Paperwork Reduction Act. This rule does not involve any collection of information for purposes of the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.*

List of Subjects in 44 CFR Part 64

Flood insurance, Floodplains.

Accordingly, 44 CFR Part 64 is amended as follows:

PART 64—[AMENDED]

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

Authority: 42 U.S.C. 4001 *et seq.;* Reorganization Plan No. 3 of 1978, 3 CFR, 1978 Comp.; p. 329; E.O. 12127, 44 FR 19367, 3 CFR, 1979 Comp.; p. 376.

§ 64.6 [Amended]

■ 2. The tables published under the authority of § 64.6 are amended as follows:

State and location	Community No.	Effective date authorization/cancellation of sale of flood insurance in community	Current Effective Map date	Date certain Federal assistance no longer available in SFHAs
Region I				
Massachusetts:				
Acushnet, Town of, Bristol County	250048	April 3, 1981, Emerg; July 19, 1982, Reg; July 16, 2014, Susp.	July 16, 2014	July 16, 2014
Barnstable, Town of, Barnstable County	250001	October 27, 1972, Emerg; April 3, 1978, Reg; July 16, 2014, Susp.	do*	Do.
Berkley, Town of, Bristol County	250050	February 19, 1974, Emerg; July 3, 1978, Reg; July 16, 2014, Susp.	do	Do.
Berlin, Town of, Worcester County	250294	August 11, 1975, Emerg; June 18, 1980, Reg; July 16, 2014, Susp.	do	Do.
Beverly, City of, Essex County	250077	August 16, 1974, Emerg; March 18, 1986, Reg; July 16, 2014, Susp.	do	Do.
Bolton, Town of, Worcester County	250296	March 10, 1975, Emerg; June 18, 1980, Reg; July 16, 2014, Susp.	do	Do.
Bourne, Town of, Barnstable County	255210	April 30, 1971, Emerg; June 29, 1973, Reg; July 16, 2014, Susp.	do	Do.
Boylston, Town of, Worcester County	250297	August 26, 1975, Emerg; July 2, 1981, Reg; July 16, 2014, Susp.	do	Do.
Brewster, Town of, Barnstable County	250003	July 21, 1975, Emerg; June 19, 1985, Reg; July 16, 2014, Susp.	do	Do.
Chatham, Town of, Barnstable County	250004	July 9, 1975, Emerg; August 1, 1980, Reg; July 16, 2014, Susp.	do	Do.
Clinton, Town of, Worcester County	250300	May 26, 1977, Emerg; June 15, 1982, Reg; July 16, 2014, Susp.	do	Do.
Dennis, Town of, Barnstable County	250005	December 10, 1971, Emerg; October 6, 1976, Reg; July 16, 2014, Susp.	do	Do.
Dighton, Town of, Bristol County	250052	March 9, 1973, Emerg; June 18, 1980, Reg; July 16, 2014, Susp.	do	Do.
Eastham, Town of, Barnstable County	250006	March 1, 1974, Emerg; July 3, 1986, Reg; July 16, 2014, Susp.	do	Do.
Fairhaven, Town of, Bristol County	250054	October 8, 1971, Emerg; March 16, 1976, Reg; July 16, 2014, Susp.	do	Do.
Fall River, City of, Bristol County	250055	September 14, 1977, Emerg; September 30, 1981, Reg; July 16, 2014, Susp.	do	Do.
Falmouth, Town of, Barnstable County	255211	July 23, 1971, Emerg; May 18, 1973, Reg; July 16, 2014, Susp.	do	Do.

State and location	Community No.	Effective date authorization/cancellation of sale of flood insurance in community	Current Effective Map date	Date certain Federal assistance no longer available in SFHAs
Freetown, Town of, Bristol County	250056	August 11, 1975, Emerg; June 18, 1980, Reg; July 16, 2014, Susp.	.....do	Do.
Gloucester, City of, Essex County	250082	December 1, 1972, Emerg; January 17, 1986, Reg; July 16, 2014, Susp.	.....do	Do.
Harwich, Town of, Barnstable County	250008	December 10, 1973, Emerg; September 30, 1980, Reg; July 16, 2014, Susp.	.....do	Do.
Ipswich, Town of, Essex County	250086	July 30, 1975, Emerg; August 5, 1985, Reg; July 16, 2014, Susp.	.....do	Do.
Lynn, City of, Essex County	250088	August 9, 1974, Emerg; February 1, 1985, Reg; July 16, 2014, Susp.	.....do	Do.
Marblehead, Town of, Essex County	250091	January 16, 1974, Emerg; July 3, 1985, Reg; July 16, 2014, Susp.	.....do	Do.
Mashpee, Town of, Barnstable County	250009	November 24, 1972, Emerg; September 15, 1978, Reg; July 16, 2014, Susp.	.....do	Do.
New Bedford, City of, Bristol County	255216	February 25, 1972, Emerg; July 6, 1973, Reg; July 16, 2014, Susp.	.....do	Do.
Newbury, Town of, Essex County	250096	October 6, 1972, Emerg; March 15, 1977, Reg; July 16, 2014, Susp.	.....do	Do.
Newburyport, City of, Essex County	250097	October 6, 1972, Emerg; February 15, 1978, Reg; July 16, 2014, Susp.	.....do	Do.
Northborough, Town of, Worcester County.	250321	June 10, 1975, Emerg; November 15, 1979, Reg; July 16, 2014, Susp.	.....do	Do.
Orleans, Town of, Barnstable County	250010	December 4, 1973, Emerg; September 4, 1986, Reg; July 16, 2014, Susp.	.....do	Do.
Provincetown, Town of, Barnstable County.	255218	November 26, 1971, Emerg; March 2, 1973, Reg; July 16, 2014, Susp.	.....do	Do.
Rehoboth, Town of, Bristol County	250062	February 11, 1972, Emerg; September 1, 1977, Reg; July 16, 2014, Susp.	.....do	Do.
Rowley, Town of, Essex County	250101	N/A, Emerg; December 3, 2009, Reg; July 16, 2014, Susp.	.....do	Do.
Salem, City of, Essex County	250102	June 23, 1972, Emerg; March 15, 1977, Reg; July 16, 2014, Susp.	.....do	Do.
Sandwich, Town of, Barnstable County	250012	December 29, 1972, Emerg; June 18, 1980, Reg; July 16, 2014, Susp.	.....do	Do.
Saugus, Town of, Essex County	250104	August 25, 1975, Emerg; January 19, 1983, Reg; July 16, 2014, Susp.	.....do	Do.
Seekonk, Town of, Bristol County	250063	July 25, 1975, Emerg; September 5, 1979, Reg; July 16, 2014, Susp.	.....do	Do.
Shrewsbury, Town of, Worcester County.	250332	April 11, 1975, Emerg; June 4, 1980, Reg; July 16, 2014, Susp.	.....do	Do.
Somerset, Town of, Bristol County	255220	November 13, 1970, Emerg; March 17, 1972, Reg; July 16, 2014, Susp.	.....do	Do.
Southborough, Town of, Worcester County.	250333	August 11, 1975, Emerg; October 15, 1981, Reg; July 16, 2014, Susp.	.....do	Do.
Swampscott, Town of, Essex County	250105	September 29, 1972, Emerg; September 3, 1976, Reg; July 16, 2014, Susp.	.....do	Do.
Swansea, Town of, Bristol County	255221	June 12, 1970, Emerg; August 6, 1971, Reg; July 16, 2014, Susp.	.....do	Do.
Truro, Town of, Barnstable County	255222	November 26, 1971, Emerg; April 20, 1973, Reg; July 16, 2014, Susp.	.....do	Do.
Yarmouth, Town of, Barnstable County	250015	May 26, 1972, Emerg; May 2, 1977, Reg; July 16, 2014, Susp.	.....do	Do.
Region III				
Pennsylvania:				
Allen, Township of, Northampton County.	421928	March 1, 1977, Emerg; May 19, 1981, Reg; July 16, 2014, Susp.	.....do	Do.
Bangor, Borough of, Northampton County.	420716	June 1, 1973, Emerg; February 2, 1977, Reg; July 16, 2014, Susp.	.....do	Do.
Bath, Borough of, Northampton County	420717	August 8, 1975, Emerg; February 17, 1988, Reg; July 16, 2014, Susp.	.....do	Do.
Bethlehem, City of, Northampton and Lehigh Counties..	420718	September 1, 1972, Emerg; July 3, 1978, Reg; July 16, 2014, Susp.	.....do	Do.
Bethlehem, Township of, Northampton County.	420980	January 23, 1974, Emerg; June 4, 1980, Reg; July 16, 2014, Susp.	.....do	Do.
Bushkill, Township of, Northampton County.	421929	March 23, 1977, Emerg; March 4, 1988, Reg; July 16, 2014, Susp.	.....do	Do.
Chapman, Borough of, Northampton County.	422251	May 20, 1980, Emerg; July 30, 1982, Reg; July 16, 2014, Susp.	.....do	Do.
East Allen, Township of, Northampton County.	420981	October 19, 1973, Emerg; February 11, 1983, Reg; July 16, 2014, Susp.	.....do	Do.

State and location	Community No.	Effective date authorization/cancellation of sale of flood insurance in community	Current Effective Map date	Date certain Federal assistance no longer available in SFHAs
East Bangor, Borough of, Northampton County.	422252	February 15, 1977, Emerg; February 12, 1982, Reg; July 16, 2014, Susp.	.....do	Do.
Easton, City of, Northampton County ...	425383	June 18, 1971, Emerg; October 17, 1978, Reg; July 16, 2014, Susp.	.....do	Do.
Forks, Township of, Northampton County.	421930	September 19, 1975, Emerg; July 16, 1980, Reg; July 16, 2014, Susp.	.....do	Do.
Freemansburg, Borough of, Northampton County.	420721	March 30, 1973, Emerg; September 1, 1977, Reg; July 16, 2014, Susp.	.....do	Do.
Glendon, Borough of, Northampton County.	422254	August 7, 1975, Emerg; January 16, 1980, Reg; July 16, 2014, Susp.	.....do	Do.
Hanover, Township of, Northampton County.	420722	January 19, 1973, Emerg; August 1, 1977, Reg; July 16, 2014, Susp.	.....do	Do.
Lehigh, Township of, Northampton County.	421931	June 10, 1975, Emerg; December 15, 1981, Reg; July 16, 2014, Susp.	.....do	Do.
Lower Mount Bethel, Township of, Northampton County.	420724	April 18, 1973, Emerg; March 1, 1977, Reg; July 16, 2014, Susp.	.....do	Do.
Lower Nazareth, Township of, Northampton County.	422253	January 3, 1977, Emerg; May 4, 1988, Reg; July 16, 2014, Susp.	.....do	Do.
Lower Saucon, Township of, Northampton County.	420982	January 30, 1974, Emerg; September 28, 1979, Reg; July 16, 2014, Susp.	.....do	Do.
Moore, Township of, Northampton County.	420983	January 28, 1974, Emerg; October 17, 1978, Reg; July 16, 2014, Susp.	.....do	Do.
Nazareth, Borough of, Northampton County.	420725	March 15, 1976, Emerg; October 8, 1982, Reg; July 16, 2014, Susp.	.....do	Do.
North Catasauqua, Borough of, Northampton County.	420727	May 9, 1975, Emerg; July 16, 1981, Reg; July 16, 2014, Susp.	.....do	Do.
Northampton, Borough of, Northampton County.	420726	February 1, 1974, Emerg; May 3, 1982, Reg; July 16, 2014, Susp.	.....do	Do.
Palmer, Township of, Northampton County.	420728	October 22, 1971, Emerg; December 28, 1976, Reg; July 16, 2014, Susp.	.....do	Do.
Pen Argyl, Borough of, Northampton County.	421926	December 26, 1974, Emerg; June 25, 1976, Reg; July 16, 2014, Susp.	.....do	Do.
Plainfield, Township of, Northampton County.	421147	April 4, 1974, Emerg; January 16, 1980, Reg; July 16, 2014, Susp.	.....do	Do.
Portland, Borough of, Northampton County.	420729	June 3, 1974, Emerg; September 16, 1981, Reg; July 16, 2014, Susp.	.....do	Do.
Roseto, Borough of, Northampton County.	422255	March 7, 1978, Emerg; December 1, 1987, Reg; July 16, 2014, Susp.	.....do	Do.
Stockertown, Borough of, Northampton County.	420730	August 25, 1975, Emerg; December 4, 1979, Reg; July 16, 2014, Susp.	.....do	Do.
Upper Mount Bethel, Township of, Northampton County.	421933	September 15, 1975, Emerg; September 30, 1981, Reg; July 16, 2014, Susp.	.....do	Do.
Upper Nazareth, Township of, Northampton County.	421934	May 13, 1977, Emerg; February 25, 1983, Reg; July 16, 2014, Susp.	.....do	Do.
Walnutport, Borough of, Northampton County.	420732	January 28, 1974, Emerg; June 1, 1978, Reg; July 16, 2014, Susp.	.....do	Do.
Washington, Township of, Northampton County.	421156	April 15, 1974, Emerg; September 30, 1988, Reg; July 16, 2014, Susp.	.....do	Do.
West Easton, Borough of, Northampton County.	420733	July 9, 1973, Emerg; March 1, 1979, Reg; July 16, 2014, Susp.	.....do	Do.
Williams, Township of, Northampton County.	421036	December 17, 1973, Emerg; September 14, 1979, Reg; July 16, 2014, Susp.	.....do	Do.
Wilson, Borough of, Northampton County.	421927	July 17, 1974, Emerg; January 16, 1980, Reg; July 16, 2014, Susp.	.....do	Do.
Wind Gap, Borough of, Northampton County.	420734	November 14, 1975, Emerg; May 19, 1981, Reg; July 16, 2014, Susp.	.....do	Do.
Virginia: City of Richmond, Independent City.	510129	August 29, 1973, Emerg; June 15, 1979, Reg; July 16, 2014, Susp.	.....do	Do.
Region V				
Indiana:				
Alton, Town of, Crawford County	180031	March 19, 1984, Emerg; March 19, 1984, Reg; July 16, 2014, Susp.	.....do	Do.
Crawford County, Unincorporated Areas	180472	December 18, 1979, Emerg; January 17, 1986, Reg; July 16, 2014, Susp.	.....do	Do.
English, Town of, Crawford County	180032	March 25, 1976, Emerg; January 3, 1986, Reg; July 16, 2014, Susp.	.....do	Do.
Leavenworth, Town of, Crawford County.	180035	March 16, 1983, Emerg; August 1, 1983, Reg; July 16, 2014, Susp.	.....do	Do.
Marengo, Town of, Crawford County	180033	January 6, 1976, Emerg; September 16, 1982, Reg; July 16, 2014, Susp.	.....do	Do.

State and location	Community No.	Effective date authorization/cancellation of sale of flood insurance in community	Current Effective Map date	Date certain Federal assistance no longer available in SFHAs
Milltown, Town of, Crawford and Harrison Counties.	180034	February 13, 1976, Emerg; October 15, 1985, Reg; July 16, 2014, Susp.	.....do	Do.
Michigan:				
Eden, Township of, Mason County	261274	November 22, 2013, Emerg; N/A, Reg; July 16, 2014, Susp.	.....do	Do.
Hamlin, Township of, Mason County	260134	July 2, 1975, Emerg; December 17, 1987, Reg; July 16, 2014, Susp.	.....do	Do.
Pere Marquette, Charter Township of, Mason County.	260582	October 9, 1975, Emerg; July 3, 1985, Reg; July 16, 2014, Susp.	.....do	Do.
Summit, Township of, Mason County ...	260307	September 27, 1974, Emerg; December 17, 1987, Reg; July 16, 2014, Susp.	.....do	Do.
Region VI				
Louisiana:				
Addis, Town of, West Baton Rouge Parish.	220240	April 30, 1973, Emerg; August 15, 1977, Reg; July 16, 2014, Susp.	.....do	Do.
Brusly, Town of, West Baton Rouge Parish.	220241	April 30, 1973, Emerg; August 15, 1977, Reg; July 16, 2014, Susp.	.....do	Do.
Port Allen, City of, West Baton Rouge Parish..	220242	April 30, 1973, Emerg; January 24, 1978, Reg; July 16, 2014, Susp.	.....do	Do.
West Baton Rouge Parish, Unincorporated Areas.	220239	April 30, 1973, Emerg; April 3, 1978, Reg; July 16, 2014, Susp.	.....do	Do.
Region VII				
Kansas:				
Concordia, City of, Cloud County	200060	April 23, 1975, Emerg; July 1, 1987, Reg; July 16, 2014, Susp.	.....do	Do.
Glasco, City of, Cloud County	200061	July 23, 1975, Emerg; July 1, 1987, Reg; July 16, 2014, Susp.	.....do	Do.

*-do- = Ditto.
Code for reading third column: Emerg.—Emergency; Reg.—Regular; Susp.—Suspension.

Dated: June 17, 2014.

David L. Miller,

Associate Administrator, Federal Insurance and Mitigation Administration, Department of Homeland Security, Federal Emergency Management Agency.

[FR Doc. 2014–15561 Filed 7–1–14; 8:45 am]

BILLING CODE 9110–12–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

45 CFR Part 153

[CMS–9957–F3; CMS–9964–F4]

RIN 0938–AR82; RIN 0938–AR74

Patient Protection and Affordable Care Act; Program Integrity: Exchange, Premium Stabilization Programs, and Market Standards; Amendments to the HHS Notice of Benefit and Payment Parameters for 2014; Correcting Amendment

AGENCY: Centers for Medicare & Medicaid Services (CMS), HHS.

ACTION: Final rule; correcting amendment.

SUMMARY: In the October 30, 2013 issue of the **Federal Register** (78 FR 65046), we published a final rule entitled, ''Program Integrity: Exchange, Premium Stabilization Programs, and Market Standards; Amendments to the HHS Notice of Benefit and Payment Parameters for 2014.'' The effective date was December 30, 2013. This correcting amendment corrects technical and typographical errors identified in the October 30, 2013 final rule.

DATES: This correcting amendment is effective July 2, 2014.

FOR FURTHER INFORMATION CONTACT: Jaya Ghildiyal, (301) 492–5149.

SUPPLEMENTARY INFORMATION:

I. Background

In FR Doc 2013–25326 (78 FR 65046) the final rule entitled, ''Program Integrity: Exchange, Premium Stabilization Programs, and Market Standards; Amendments to the HHS Notice of Benefit and Payment Parameters for 2014,'' there were technical errors that are identified and corrected in the regulations text of this correcting amendment. The provisions of this correcting amendment are effective July 2, 2014.

II. Summary of Errors in the Regulations Text

On page 65094 of the October 30, 2013 **Federal Register** final rule, in the amendatory instructions for 45 CFR 153.530, we stated that we were amending paragraphs (b) and (c). However, we revised § 153.530(b) incorrectly. The language in paragraphs (b)(1)(i) and (b)(1)(ii) was inserted inadvertently, and duplicates the language that is correctly included in paragraphs (b)(2)(i) and (ii). Therefore, we are deleting § 153.530 (b)(1)(i) and (b)(1)(ii). We note that we are not making any other changes to § 153.530.

III. Waiver of Proposed Rulemaking and Delay in Effective Date

We ordinarily publish a notice of proposed rulemaking in the **Federal Register** to provide a period for public comment before the provisions of a rule take effect in accordance with section 553(b) of the Administrative Procedure Act (APA) (5 U.S.C. 553(b)). However, we can waive this notice and comment procedure if the Secretary finds, for good cause, that the notice and comment process is impracticable, unnecessary, or contrary to the public interest, and incorporates a statement of the finding and the reasons therefore in the notice.

Section 553(d) of the APA ordinarily requires a 30-day delay in effective date of final rules after the date of their publication in the **Federal Register**.

This 30-day delay in effective date can be waived, however, if an agency finds for good cause that the delay is impracticable, unnecessary, or contrary to the public interest, and the agency incorporates a statement of the findings and its reasons in the rule issued.

This document merely corrects technical errors related to one provision in the Program Integrity: Exchange, Premium Stabilization Programs, and Market Standards; Amendments to the HHS Notice of Benefit and Payment Parameters for 2014 final rule that was published on October 30, 2013 and became effective on December 30, 2013. The changes are not substantive changes to the standards set forth in the final rule. Therefore, we believe that undertaking further notice and comment procedures to incorporate these corrections and delay the effective date for these changes is unnecessary. In addition, we believe it is important for the public to have the correct information as soon as possible, and believe it is contrary to the public interest to delay when they become effective. For the reasons stated previously, we find there is good cause to waive notice and comment procedures and the 30-day delay in the effective date for this correction notice.

List of Subjects in 45 CFR Part 153

Administrative practice and procedure, Adverse selection, Health care, Health insurance, Health records, Organization and functions (Government agencies), Premium stabilization, Reporting and recordkeeping requirements, Reinsurance, Risk adjustment, Risk corridors, Risk mitigation, State and local governments.

Accordingly, the Department of Health and Human Services is making the following correcting amendment to 45 CFR part 153.

PART 153—STANDARDS RELATED TO REINSURANCE, RISK CORRIDORS, AND RISK ADJUSTMENT UNDER THE AFFORDABLE CARE ACT

■ 1. The authority citation for part 153 continues to read as follows:

Authority: Secs. 1311, 1321, 1341–1343, Pub. L. 111–148, 24 Stat. 119.

§ 153.530 [Corrected]

■ 2. In § 153.530, remove paragraphs (b)(1)(i) and (b)(1)(ii).

Dated: June 25, 2014.

C'Reda Weeden,

Executive Secretary to the Department, Department of Health and Human Services.

[FR Doc. 2014–15560 Filed 7–1–14; 8:45 am]

BILLING CODE 4120–01–P

FEDERAL MARITIME COMMISSION

46 CFR Part 506

[Docket No. 14–07]

RIN 3072–AC55

Inflation Adjustment of Civil Monetary Penalties

AGENCY: Federal Maritime Commission.

ACTION: Final rule.

SUMMARY: This rule implements the Federal Civil Penalties Inflation Adjustment Act of 1990, as amended by the Debt Collection Improvement Act of 1996. The rule adjusts for inflation the maximum amount of each statutory civil penalty subject to Federal Maritime Commission (Commission) jurisdiction in accordance with the requirements of that Act.

DATES: Effective July 11, 2014.

FOR FURTHER INFORMATION CONTACT: Karen V. Gregory, Secretary, Federal Maritime Commission, 800 North Capitol Street NW., Room 1046, Washington, DC 20573, (202) 523–5725.

SUPPLEMENTARY INFORMATION: This rule implements the Debt Collection Improvement Act of 1996 (DCIA), Public Law 104–134, Title III, section 31001(s)(1), April 26, 1996, 110 Stat. 1321–373. The DCIA amended the Federal Civil Penalties Inflation Adjustment Act of 1990 (FCPIAA), Public Law 101–410, Oct. 5, 1990, 104 Stat. 890, 28 U.S.C. 2461 note, to require the head of each executive agency to adopt regulations that adjust the maximum civil monetary penalties (CMPs) assessable under its agency's jurisdiction at least every four years to ensure that they continue to maintain their deterrent value.[1] The Commission last adjusted each CMP subject to its jurisdiction effective July 31, 2009. (74 FR 38114, July 28, 2009).

The inflation adjustment under the FCPIAA is to be determined by increasing the maximum CMP by the cost-of-living, rounded off as set forth in section 5(a) of that Act. The cost-of-living adjustment is the percentage (if any) for each CMP by which the Consumer Price Index (CPI)[2] for the month of June of the calendar year preceding the adjustment, exceeds the CPI for the month of June of the calendar year in which the amount of such CMP was last set or adjusted pursuant to law.

One example of an inflation adjustment is as follows. Section 13 of the Shipping Act of 1984 (1984 Act), 46 U.S.C. 41107, imposes a maximum $25,000 penalty for a knowing and willful violation of the 1984 Act which was inflation adjusted in 2009 to $40,000. First, to calculate the new CMP amounts under the amendment, we determine the appropriate CPI–U for June of the calendar year preceding the adjustment. Given that we are adjusting the CMPs in 2013, we use the CPI–U for June of 2012, which was 229.478. The CPI–U for June of the year the CMP was last adjusted for inflation must also be determined. The Commission last adjusted this CMP in 2009, therefore we use the CPI–U for June of 2009, which was *215.693.* Using those figures, we calculate the cost-of-living adjustment by dividing the CPI–U for June of 2012 *(229.478*) by the CPI–U for June of 2009 (*215.693*). Our result is *1.0639.*

Second, we calculate the raw inflation adjustment (the inflation adjustment prior to rounding) by multiplying the maximum penalty amount by the cost-of-living adjustment. In our example, $40,000 multiplied by the cost-of-living adjustment of *1.0639* equals $*42,556.*

Third, we use the rounding rules set forth in Section 5(a) of the FCIPAA. In order to round only the increase amount, we subtract the current maximum penalty amount ($40,000) from the raw maximum inflation adjustment ($*42,556*), equaling $*2,556.* Under Section 5(a), if the penalty is greater than $10,000 but less than or equal to $100,000, we round the increase to the nearest multiple of $5,000. Therefore, the maximum penalty increase in our example is $5,000.

Finally, the rounded increase is added to the maximum penalty amount last set or adjusted. Here, $40,000 plus $5,000 equals a maximum inflation adjustment penalty amount of $45,000.

A similar calculation was done with respect to each CMP subject to the jurisdiction of the Commission. In compliance with the FCPIAA, as amended, the Commission is hereby amending 46 CFR 506.4(d) of its regulations which sets forth the newly adjusted maximum penalty amounts.

This final rule has been issued without prior public notice or

[1] Increased CMPS are applicable only to violations occurring after the increase takes effect.

[2] The CPI defined in the FCPIAA is the U.S. Department of Labor's Consumer Price Index for all-urban consumers (''CPI–U''). 28 U.S.C. 2461 note (3)(3).

opportunity for public comment. Under the Administrative Procedure Act (APA), 5 U.S.C. § 553(b)(B), a final rule may be issued without that process ''when the agency for good cause finds (and incorporates the finding and a brief statement of reasons therefore in the rules issued) that notice and public procedure thereon are impracticable, unnecessary, or contrary to the public interest.'' In this instance, the Commission finds, for good cause, that solicitation of public comment on this final rule is unnecessary and impractical.

Specifically, the Congress has mandated that the agency periodically make the inflation adjustments and does not allow for the exercise of Commission discretion regarding the substance of the adjustments. The Commission, under the DCIA, is required to make the adjustment to the civil monetary penalties according to a formula specified in the statute. The regulation requires ministerial, technical computations that are noncontroversial. Moreover, the conduct underlying the penalties is already illegal under existing law, and there is no need to provide thirty days prior to the effectiveness of the regulation and amendments to allow for affected parties to correct their conduct. Accordingly, the Commission believes that there is good cause to make this regulation effective immediately upon publication.

The Regulatory Flexibility Act (RFA), as amended by the Small Business Regulatory Enforcement Fairness Act of 1996, 5 U.S.C. 801 *et seq.,* generally requires an agency to prepare a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements, unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. Because the Commission has determined that notice and comment are not required under the APA for this rulemaking, the requirements of the RFA do not apply and no regulatory flexibility analysis was prepared.

The rule does not contain any collection of information requirements as defined by the Paperwork Reduction Act of 1995, as amended. Therefore, Office of Management and Budget review is not required.

This regulatory action is not a major rule as defined under 5 U.S.C. 804(2).

List of Subjects in 46 CFR Part 506

Administrative practice and procedure, Penalties.

Part 506 of title 46 of the Code of Federal Regulations is amended as follows:

PART 506—CIVIL MONETARY PENALTY INFLATION ADJUSTMENT

■ 1. The authority citation for part 506 continues to read as follows:

Authority: 28 U.S.C. 2461.

■ 2. In § 506.4, revise paragraph (d) to read as follows:

§ 506.4 Cost of living adjustments of civil monetary penalties.

* * * * *

(d) *Inflation adjustment.* Maximum Civil Monetary Penalties within thejurisdiction of the Federal Maritime Commission are adjusted for inflation as follows:

United States Code citation	Civil Monetary Penalty description	Current maximum penalty amount	New adjusted maximum penalty amount
46 U.S.C. 42304	Adverse impact on U.S. carriers by foreign shipping practices	1,500,000	1,600,000
46 U.S.C. 41107(a)	Knowing and Willful violation/Shipping Act of 1984, or Commission regulation or order.	40,000	45,000
46 U.S.C. 41107(b)	Violation of Shipping Act of 1984, Commission regulation or order, not knowing and willful.	8,000	9,000
46 U.S.C. 41108(b)	Operating in foreign commerce after tariff suspension	75,000	80,000
46 U.S.C. 42104	Failure to provide required reports, etc./Merchant Marine Act of 1920	8,000	$9,000
46 U.S.C. 42106	Adverse shipping conditions/Merchant Marine Act of 1920	1,500,000	1,600,000
46 U.S.C. 42108	Operating after tariff or service contract suspension/Merchant Marine Act of 1920.	75,000	80,000
46 U.S.C. 44102	Failure to establish financial responsibility for non-performance of transportation	8,000 300	9,000 [3] 300
46 U.S.C. 44103	Failure to establish financial responsibility for death or injury	8,000 300	9,000 [4] 300
31 U.S.C. 3802(a)(1)	Program Fraud Civil Remedies Act/makes false claim	8,000	9,000
31 U.S.C. 3802(a)(2)	Program Fraud Civil Remedies Act/giving false statement	8,000	9,000

By the Commission.

Karen V. Gregory,

Secretary.

[FR Doc. 2014–15533 Filed 7–1–14; 8:45 am]

BILLING CODE 6730–01–P

[3] Application of the statutory rounding resulted in no increase to these penalties.

[4] Application of the statutory rounding resulted in no increase to these penalties.

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

49 CFR Part 233

[Docket No. FRA–2012–0104, Notice No. 2]

RIN 2130–AC44

Signal Systems Reporting Requirements

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

ACTION: Final rule.

SUMMARY: FRA is issuing this final rule as part of a paperwork reduction initiative. The final rule eliminates the regulatory requirement that each railroad carrier file a signal system status report with FRA every five years. FRA believes the report is no longer necessary because FRA receives more updated information regarding railroad signal systems through alternative sources. Separately, FRA is amending the criminal penalty provision in the Signal Systems Reporting Requirements by updating two outdated statutory citations.

DATES: This final rule is effective on September 2, 2014. Petitions for reconsideration must be received by August 21, 2014. Comments in response to petitions for reconsideration must be received by October 6, 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–2012–0104, Notice No. 2 may be submitted by any of the following methods:

- Federal eRulemaking Portal: Go to *www.Regulations.gov.* Follow the online instructions for submitting comments.
- Mail: Docket Management Facility, U.S. Department of Transportation, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590–0001.
- Hand Delivery: Docket Management Facility, U.S. Department of Transportation, West Building, Ground floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC, between 9 a.m. and 5 p.m. ET, Monday through Friday, except Federal holidays.
- Fax: (202) 493–2251. Instructions: All submissions must include the agency name and docket number or Regulatory Identification Number (RIN) for this rulemaking.

Please note that all petitions for reconsideration of this final rule and comments on the petitions that are received will be posted without change to *www.Regulations.gov,* including any personal information provided. Please see the discussion under the Privacy Act heading in the **SUPPLEMENTARY INFORMATION** section of this document.

Docket: For access to the docket to read background documents or comments received, go to *www.Regulations.gov* at any time or visit the Docket Management Facility, U.S. Department of Transportation, West Building, Ground floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC between 9 a.m. and 5 p.m. ET, Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Sean Crain, Electronic Engineer, Signal and Train Control Division, Office of Railroad Safety, FRA, W35–226, 1200 New Jersey Avenue SE., Washington, DC 20590 (telephone: (202) 493–6257), *sean.crain@dot.gov,* or Stephen N. Gordon, Trial Attorney, Office of Chief Counsel, FRA, W31–209, 1200 New Jersey Avenue SE., Washington, DC 20590 (telephone: (202) 493–6001), *stephen.n.gordon@dot.gov.*

SUPPLEMENTARY INFORMATION:

I. Explanation of Regulatory Action

A. Elimination of the Signal System Five-[Y]ear Report

On May 14, 2012, President Obama issued Executive Order (E.O.) 13610—Identifying and Reducing Regulatory Burdens, which seeks ''to modernize our regulatory system and to reduce unjustified regulatory burdens and costs.'' *See* 77 FR 28469. The E.O. directs each executive agency to conduct retrospective reviews of its regulatory requirements to identify potentially beneficial modifications to regulations. Executive agencies are to ''give priority, consistent with the law, to those initiatives that will produce significant quantifiable monetary savings or significant quantifiable reductions in paperwork burdens while protecting public health, welfare, safety and our environment.'' *See id.* at 28470.

FRA initiated a review of its existing regulations in accordance with E.O. 13610 and the Paperwork Reduction Act of 1995, 44 U.S.C. 3501 *et seq.,* with the goal of identifying regulations that can be amended or eliminated, thereby reducing the paperwork and reporting burden on railroad carriers (railroads) that are subject to FRA jurisdiction. One area where FRA believes it can help reduce the railroad industry's reporting burden is by eliminating the requirement to file a ''Signal System Five-Year Report.'' 49 CFR 233.9 (§ 233.9). Accordingly, FRA proposed to do so in a notice of proposed rulemaking (NPRM) published June 19, 2013. *See* 78 FR 36738.

Having considered the public comments on the NPRM, FRA is issuing this final rule, which eliminates the requirement in § 233.9 that each carrier subject to the Signal Systems Reporting Requirements at 49 CFR part 233 (part 233) complete and submit a ''Signal System Five-Year Report'' (Form FRA F6180.47) in accordance with the instructions and definitions on the form. Part 233 applies to railroads that operate on standard gage track that is part of the general railroad system of transportation, except for rail rapid transit operations conducted over track that is used exclusively for that purpose and that is not part of the general railroad system of transportation. *See* 49 CFR 233.3, Application; *see also* 49 CFR part 209, app. A, and part 211, app. A, for discussions of the term ''general railroad system of transportation[.]''

The information reported on FRA Form F6180.47 is intended to update FRA on the status of the railroad's signal system. It provides a snapshot of each reporting railroad's signal system every five years, and FRA has historically used the report as a source to monitor changes to signal systems among the Nation's railroads. In particular, the report provides information such as the total road and track mileage for each method of train operation on the reporting railroad (i.e., traffic control, automatic block, timetable and train orders, and non-automatic block) and the total number of interlockings, controlled points, and switch arrangements maintained by the reporting railroad. The report also provides information on the total road and track mileage and the total number of locomotives and motor cars (including multiple unit cars) with automatic train stop, train control, and cab signal systems on the line of the reporting railroad, including foreign locomotives and ''motor cars'' that operate over these installations.

Prior to April 1, 1997, carriers were required to submit a ''Signal System Annual Report'' by April 15 of each year. However, based on a regulatory review, FRA extended the reporting requirement to every five years rather than annually. *See* 61 FR 33871 (July 1, 1996). FRA determined that a five-year reporting period would significantly

reduce the reporting burden on the railroads while still meeting the informational needs of the government. Therefore, in July 1996, FRA amended § 233.9 to require that ''[n]ot later than April 1, 1997 and every 5 years thereafter, each carrier shall file with FRA a signal system status report 'Signal System Five-[Y]ear Report' on a form to be provided by FRA in accordance with instructions and definitions provided on the report.''

For the 2012 reporting period, FRA transitioned the ''Signal System Five-Year Report'' form into an electronic format. The electronic form required all of the same information as the paper form but could be submitted via the Internet. The form was due to be submitted by no later than April 1, 2012, and pertained to signal systems in service on or after January 1, 2012. The next five-year report is not due until April 2017. The present rulemaking eliminates the reporting requirement in its entirety for April 2017 and thereafter.

FRA is eliminating the requirement to file a ''Signal System Five-Year Report'' because the report is no longer necessary. The data collected in the ''Signal System Five-Year Report'' quickly becomes outdated. Railroads normally modify signal systems far more frequently than once every five years. Indeed, FRA has generally found that signal system modifications occur with such frequency under 49 CFR 235.5 and 235.7, that the ''Signal System Five-Year Report'' often is out-of-date by the time it is received by FRA.

Moreover, FRA has other viable means to monitor a carrier's signal system. It is better able to monitor the status of a railroad signal system through the use of more frequently collected agency data—such as the Block Signal Application (BSAP), *see* 49 CFR 235.5, and positive train control (PTC) filings, *see* 49 CFR part 236, subparts H and I—which provide the agency much more detailed and useful information. The development and expansion of electronic reporting methods also allow railroads to more frequently report to FRA information similar to that which is captured in the ''Signal System Five-Year Report.'' This ability gives FRA a better ''real-time'' understanding of a carrier's signal system than the agency can get from a report that is filed once every five years. As a result, FRA currently relies on the more up-to-date sources for signal system data and has little use for the information collected in the ''Signal System Five-Year Report.''

Finally, the railroad industry and the general public do not appear to derive any useful benefit or information from the requirement to submit a ''Signal System Five-Year Report.'' The responses FRA has received from the industry and the general public indicate that, as expected, the data contained in the report does not provide up-to-date information about railroad signal systems. As a result, FRA is confident that eliminating the report will not result in the railroad industry's or the general public's being less informed about railroad signal systems.

B. Updating Statutory Citations in Part 233

Administrative amendments are sometimes necessary to address citations that have become outdated due to the actions of Congress. This is particularly true when the statutory authority for a regulatory provision is moved to a different title, chapter, or section of the U.S. Code or if the statutory authority is redesignated as an entire section of the U.S. Code instead of just a subsection of the U.S. Code. Federal regulations do not ''auto-correct'' for these types of changes. Therefore, it is incumbent on agencies to monitor their regulations and make appropriate changes whenever feasible. FRA has identified two citations in 49 CFR 233.13(b)—referencing ''section 209(e) of the Federal Railroad Safety Act of 1970, as amended (49 U.S.C. 438(e))'' and ''49 U.S.C. 522(a)''—that should be amended for this reason, and is making those amendments in this rulemaking.

The first of the subject statutory citations is to a section of the former Federal Railroad Safety Act of 1970 (FRSA), as amended. *See* Public Law 91–458 (October 16, 1970). Section 209 of the FRSA, as originally enacted, contained a civil penalty provision that was codified at 45 U.S.C. 438. Although the statute did not contain a criminal penalty provision when it was first enacted, Congress eventually determined that there may be situations where criminal penalties are warranted for violations of the law. Accordingly, the FRSA was amended on October 10, 1980. *See* Public Law 96–423. Among other things, the 1980 amendment added subsection (e) to section 209 of the FRSA, establishing that criminal penalties may be assessed against any person who knowingly and willfully makes a false entry in a record or report required to be made or preserved under the FRSA; destroys, mutilates, changes, or otherwise falsifies such a record or report; fails to enter required specified facts or transactions in such a record or report; makes, prepares, or preserves such a record or report in violation of a regulation or order issued under the FRSA; or files a false record or report with the Secretary of Transportation. This revision to the FRSA was codified at 45 U.S.C. 438(e).

In 1984, FRA amended its signal and train control regulations, including 49 CFR part 233. *See* 49 FR 3374 (Jan. 26, 1984). Section 233.13(b) was amended at this time to read ''[w]hoever knowingly and willfully—[f]iles a false report or other document required to be filed by this part is subject to a $5,000 fine and 2 years imprisonment as prescribed by 49 U.S.C. 522(a) *and section 209(e) of the Federal Railroad Safety Act of 1970, as amended (45 U.S.C. 438(e)).''* (Emphasis added.) The italicized language reflected the added statutory authority to impose certain criminal penalties that Congress provided in its 1980 amendment to the FRSA, which applied because FRSA was part of the statutory basis for the requirements in part 233. *See* 49 FR 3378–79. Subsequently, Congress made additional changes that applied to section 209(e) of the FRSA. In 1994, Congress enacted a law to ''revise, codify, and enact without substantive change certain general and permanent laws, related to transportation'' under title 49 of the U.S. Code. *See* Public Law 103–272 and H.R. Rep. 103–180. As a result, the general and permanent Federal railroad safety laws were repealed, and their provisions were revised without substantive change, enacted, and moved from title 45 (generally) to title 49. This 1994 law, commonly referred to as ''recodification,'' included the FRSA as a whole, which was recodified primarily in 49 U.S.C. chapter 201–213, including the criminal penalty provision at section 209(e) (45 U.S.C. 438(e)), which was recodified at 49 U.S.C. 21311. Recodification rendered this statutory citation in 49 CFR 233.13(b) outdated, and FRA had not sought to amend the regulatory provision prior to the NPRM in this rulemaking. Given that FRA has begun the present rulemaking addressing part 233, the agency views now as an appropriate time to update this citation in paragraph (b) of § 233.13.

The second of the statutory citations being updated is ''49 U.S.C. 522(a),'' which provides an additional statutory authority for criminal penalties for violations of § 233.9. Before the enactment of the FRSA in 1970, part 233 had been issued pursuant to section 25(h) of the Interstate Commerce Act (then codified at 49 U.S.C. 26(h)), the Signal Inspection Act of 1937, commonly referred to as the Signal

Inspection Act,[1] as well as other statutory provisions.[2] In particular, criminal penalties for violations of reporting requirements established by part 233 were available under the predecessor of 49 U.S.C. 522,[3] which reads as follows: ''A person required to make a report to the Secretary of Transportation . . . under section 504 of this title about transportation by rail carrier, that knowingly and willfully (1) makes a false entry in the report . . . or (5) files a false report . . . with the Secretary, shall be fined not more than $5,000, imprisoned for not more than 2 years, or both.'' In turn, 49 U.S.C. 504 authorizes the Secretary to require periodic reports from rail carriers containing answers to questions asked by the Secretary, and is part of the statutory authority for part 233.

In 1998, Public Law 105–178, sec. 4015(c), 112 Stat. 412, struck the designation ''(a)'' for the first subsection of 49 U.S.C. 522 and struck former subsection (b) in its entirety. Accordingly, the current citation for the provision cited as ''49 U.S.C. 522(a)'' in paragraph (b) of § 233.13 is being corrected to read as ''49 U.S.C. 522'' instead.

FRA identified the need for this update to the citation to ''49 U.S.C. 522(a)'' after the NPRM in this rulemaking was issued and is incorporating this change to § 233.13(b) in this final rule. For clarity FRA is also updating the authority citation for part 233 by adding explicit citations to 49 U.S.C. 504 and 522. FRA is proceeding to a final rule without providing an NPRM or an opportunity for public comment on this aspect of the final rule. Public comment is unnecessary because, in making this revision, FRA is not exercising discretion in a way that could be informed by public comment. Therefore notice and comment procedures are ''impracticable, unnecessary, or contrary to the public interest'' within the meaning of the Administrative Procedure Act. 5 U.S.C. 553(b)(3)(B).

C. Responses to Public Comments

FRA received comments in response to the NPRM from a single entity, the Brotherhood of Railroad Signalmen (BRS), which were submitted on August 19, 2013. Essentially, BRS questions the basis for eliminating the requirement for each railroad to file a ''Signal System Five-Year Report.'' BRS suggests that—rather than eliminating the five-year reporting requirement—FRA should be shifting its regulatory focus in the opposite direction by reverting back to an annual report, as was required prior to 1997.

FRA currently receives more information about the signal systems of the Nation's railroads than it has ever received in the past. The agency regularly receives and reviews signal system reports through methods such as BSAPs and the various PTC plans, like the PTC Development Plan (PTCDP) and the PTC Implementation Plan (PTCIP). The receipt of this information makes FRA more knowledgeable than ever, and it also renders certain types of other information superfluous. Given the signal system information reported to FRA through these methods, FRA does not see a need to rely on the information in the ''Signal System Five-Year Report'' to further its safety mission. As a result, there is not a sufficient safety justification to continue requiring each railroad to file a ''Signal System Five-Year Report'' with FRA. Returning to a yearly reporting requirement would add even more regulatory costs without an offsetting safety benefit. Such a move would increase the reporting burden on the railroads, and conflict with the goals of E.O. 13610 and the Paperwork Reduction Act.

BRS also questions FRA's statement in the NPRM that the feedback from the railroad industry and the general public indicated that the data contained in the ''Signal System Five-Year Report'' is not useful in providing up-to-date information about railroad signal systems. BRS contends that FRA's statement in the NPRM was not supported by documentation.

The support for FRA's view of the apparent usefulness of the ''Signal System Five-Year Report'' comes directly from the Signal Division of FRA's Office of Railroad Safety, which is responsible for handling the reports. Over the course of the last ten years, FRA has received exactly two requests for data from the report. One of these requests came from an attorney, and the other came from a signal supplier. The attorney took a copy of the ''Signal System Five-Year Report'' for a railroad. The attorney later called the FRA employee responsible for handling the report and said that the information in the report was out-of-date and not useful. The signal supplier had a similar reaction when FRA explained the contents of the report and did not even bother to take a copy of the data. The supplier further informed FRA that the data collected was not specific enough to be helpful.

Finally, BRS argues that FRA should collect each railroad's signal system status in real time because it is necessary for FRA to keep abreast of upcoming technologies railroads intend to use. FRA recognizes the importance of staying current with the changing technologies. The agency is increasingly using electronic reporting methods to gather information in a more efficient and timely manner. And, as noted above, with the various reporting requirements of PTC (both subparts H and I of part 236), FRA is being informed more frequently than ever about the latest railroad signal systems with railroads filing Product Safety Plans (PSPs), PTCDPs, PTCIPs, and PTC Safety Plans (PTCSPs) about the upcoming PTC technologies the railroads plan to use and any signal system upgrades and/or changes that are being implemented to support the installation of PTC. As technology moves forward and resources change, there may be additional opportunities for FRA to take advantage real-time information collection provided that there is a legal basis for such information collection, but that does not have any bearing on the efficacy of continuing to require railroads to file the ''Signal System Five-Year Report.''

In FRA's view, the ''Signal System Five-Year Report'' has a very limited usefulness. The feedback from the public tends to support FRA's view. Therefore, FRA has made a determination that the railroads that are subject to the Signal Systems Reporting Requirements in part 233 should not have to commit resources to the time and expense of collecting the information required by the report.

II. Section-by-Section Analysis

PART 233—SIGNAL SYSTEMS REPORTING REQUIREMENTS

Section 233.9 Reports

FRA is eliminating the ''Signal System Five-Year Report'' required by this section and reserving the section for future use. As stated in the NPRM, eliminating this reporting requirement will reduce the railroad industry's paperwork burden in a way that does

[1] The Signal Inspection Act of 1937 was repealed in the 1994 recodification of the rail safety laws, and its provisions were revised and reenacted without substantive change, codified at 49 U.S.C. chapters 205 and 213. Public Law 103–272.

[2] *See* final rule amendments to 49 CFR part 233 at 37 FR 7096–97 (Apr. 8, 1972) citing the following: ''AUTHORITY: The provisions of this Part 233 issued under secs. 12, 20, 24 Stat. 383, 386, as amended, sec. 441, 41 Stat. 498, as amended, secs. 6(e), (f), 80 Stat. 937, 49 U.S.C. 12, 20, 26, 1655.''

[3] Section 522 of title 49, U.S. Code was previously codified at 49 U.S.C. 1655(f)(2) (section 6(f)(2) of the former Department of Transportation Act, Public Law 89–670 (Oct. 15, 1966)), which gave the same administrative powers exercised by the Interstate Commerce Commission under certain sections of title 49 to carry out duties transferred to the Secretary of Transportation by 49 U.S.C. 1655(e).

not endanger the public health, welfare, and safety or our environment. There are three specific reasons that support FRA's elimination of this reporting requirement. First, the information contained in the ''Signal System Five-Year Report'' quickly becomes obsolete. Second, FRA is better able to determine the status of a railroad's signal system through other more frequently collected types of information. Third, the ''Signal System Five-Year Report'' has limited usefulness to the railroad industry or the general public.

Section 233.13 Criminal Penalty

After receiving no comments on this proposed amendment, FRA is making an administrative change to paragraph (b) of this section to correct two out-of-date statutory citations. Current paragraph (b) provides that it is unlawful to knowingly and willfully file a false report or other document required by part 233. Such conduct is punishable with a fine of $5,000 and up to two years of imprisonment. The paragraph cites to ''section 209(e) of the Federal Railroad Safety Act of 1970 (45 U.S.C. 438(e))'' as statutory authority for the criminal penalties; however, this statutory provision was repealed, revised without substantive change, reenacted, and recodified under a different title of the U.S. Code as part of a reorganization of the Federal railroad safety statutes by Congress. The provision is currently housed at 49 U.S.C. 21311. This final rule corrects the outdated citation in paragraph (b) by replacing ''45 U.S.C. 438(e)'' with the current citation, which is ''49 U.S.C. 21311.'' Paragraph (b) also cites to ''49 U.S.C. 522(a)''; however, this provision has been redesignated as simply ''49 U.S.C. 522'' instead. The references in paragraph (b) are updated accordingly to reflect the current statutory citations. These updates also are reflected in changes to the ''Authority'' listed for part 233 to accurately state the statutory bases for this regulatory provision.

Appendix A to Part 233—Schedule of Civil Penalties

FRA is amending appendix A to part 233, which contains a schedule of civil penalties for use in connection with this part, in this final rule to remove and reserve the entry for § 233.9, in accordance with other amendments being prescribed in this rulemaking.

III. Regulatory Impact

A. Executive Orders 12866 and 13563 and DOT Regulatory Policies and Procedures

This rulemaking eliminates the requirement in § 233.9 that each railroad subject to part 233 file with FRA a ''Signal System Five-Year Report.'' The final rule has been evaluated in accordance with existing policies and procedures. It is not considered a significant regulatory action under E.O. 12866 and E.O. 13563. This rule also is not significant under the DOT Regulatory Policies and Procedures. 44 FR 11034 (Feb. 26, 1979). A regulatory impact analysis addressing the economic impact of this final rule has been prepared and placed in the docket.

As part of the regulatory evaluation, FRA has explained the benefits of this final rule and provided monetized assessments of the value of such benefits. The final rule eliminates the cost associated with submitting a ''Signal System Five-Year Report.'' Each railroad currently expends approximately one hour of labor to prepare and submit the report to FRA every five years. For the 20-year period analyzed, the estimated cost savings will be $234,265. The present value of this is $121,904 (using a 7 percent discount rate). This regulation only reduces the burden on railroads; it does not impose any additional costs. Therefore, the net benefit of this final rule will be $121,904 (present value, 7 percent).

B. Regulatory Flexibility Act and Executive Order 13272

The Regulatory Flexibility Act (RFA), Public Law 96–354, as amended, and codified as amended at 5 U.S.C. 601–612, and E.O. 13272—Proper Consideration of Small Entities in Agency Rulemaking, 67 FR 53461 (Aug. 16, 2002), require agency review of proposed and final rules to assess their impact on ''small entities'' for purposes of the RFA. An agency must prepare a final regulatory flexibility analysis unless it determines and certifies that a rule is not expected to have a significant impact on a substantial number of small entities. Pursuant to the RFA, 5 U.S.C. 605(b), the Administrator of FRA certifies that this final rule will not have a significant economic impact on a substantial number of small entities. This final rule will affect all railroads, including small railroads. However, the effect on these railroads will be purely beneficial and not significant, as it will reduce their labor burden by eliminating the need to file a ''Signal System Five-Year Report.''

The term ''small entity'' is defined in 5 U.S.C. 601. Section 601(6) defines ''small entity'' as having the same meaning as ''the terms 'small business', 'small organization' and 'small governmental jurisdiction' defined in paragraphs (3), (4), and (5) of this section.'' In turn, section 601(3) defines a ''small business'' as generally having the same meaning as ''small business concern'' under Section 3 of the Small Business Act. This includes any a small business concern that is independently owned and operated, and is not dominant in its field of operation. Next, section 601(4) defines ''small organization'' as generally meaning any not-for-profit enterprises that is independently owned and operated, and not dominant in its field of operations. Additionally, section 601(5) defines ''small governmental jurisdiction'' in general to include governments of cities, counties, towns, townships, villages, school districts, or special districts with populations less than 50,000.

The U.S. Small Business Administration (SBA) stipulates ''size standards'' for small entities. It provides that the largest that a for-profit railroad business firm may be (and still be classified as a ''small entity'') is 1,500 employees for ''Line-Haul Operating'' railroads, and 500 employees for ''Short-Line Operating'' railroads. *See* ''Size Eligibility Provisions and Standards,'' 13 CFR part 121 subpart A.

Under exceptions provided in section 601, Federal agencies may adopt their own size standards for small entities in consultation with SBA, and in conjunction with public comment. Pursuant to the authority provided to it by SBA, FRA has published a ''Final Policy Statement Concerning Small Entities Subject to the Railroad Safety Laws,'' which formally establishes small entities as including, among others, the following: (1) The railroads classified by the Surface Transportation Board as Class III; and (2) commuter railroads ''that serve populations of 50,000 or less.'' [4] *See* 68 FR 24891 (May 9, 2003)

[4] ''In the Interim Policy Statement [62 FR 43024 (Aug. 11, 1997)], FRA defined 'small entity,' for the purpose of communication and enforcement policies, the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.,* and the Equal Access for Justice Act 5 U.S.C. 501 *et seq.,* to include only railroads which are classified as Class III. FRA further clarified the definition to include, in addition to Class III railroads, hazardous materials shippers that meet the income level established for Class III railroads (those with annual operating revenues of $20 million per year or less, as set forth in 49 CFR 1201.1–1); railroad contractors that meet the income level established for Class III railroads; and those commuter railroads or small governmental jurisdictions that serve populations of 50,000 or less.'' 68 FR 24892 (May 9, 2003). ''The Final Policy

Continued

codified at appendix C to 49 CFR part 209. Currently, the revenue requirements are $20 million or less in annual operating revenue, adjusted annually for inflation. The $20 million limit (adjusted annually for inflation) is based on the Surface Transportation Board's threshold of a Class III railroad, which is adjusted by applying the railroad revenue deflator adjustment.[5] For further information on the calculation of the specific dollar limit, please see 49 CFR part 1201. FRA is using this definition of ''small entity'' for this final rule.

FRA estimates that there are 763 railroads that operate on standard gage track that is part of the general railroad system of transportation and therefore subject to part 233, *see* 49 CFR 233.3, all of which will be affected by this final rule. Of those railroads, 44 are Class I freight railroads, Class II freight railroads, commuter railroads serving populations of 50,000 or more, or intercity passenger railroads (i.e., the National Railroad Passenger Corporation (Amtrak), a Class I railroad, and the Alaska Railroad, a Class II railroad). The remaining 719 railroads are therefore assumed to be small railroads for the purpose of this assessment, all of which will be impacted by this final rule. However, the impact on these small railroads will not be significant. No other small entities will be affected by this final rule. FRA estimates that each report takes approximately one labor hour to prepare and submit to FRA. The elimination of this reporting requirement will save each railroad one hour of labor every five years. Therefore, this final rule will have a positive effect on these railroads, saving each railroad approximately $307 (non-discounted) in labor costs over the 20-year analysis. Since this amount is extremely small and entirely beneficial, FRA concludes that this final rule will not have a significant impact on these railroads.

Pursuant to the RFA, FRA certifies that this final rule will not have a significant impact on a substantial number of small entities. Although a substantial number of small railroads will be affected by the final rule, none of these entities will be significantly impacted.

C. Federalism

Executive Order 13132, ''Federalism,'' 64 FR 43255 (Aug. 10, 1999), 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.'' ''Policies that have federalism implications'' are defined in the E.O. 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 E.O. 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 E.O. 13132. FRA has determined that the final rule will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. In addition, FRA has determined that this final rule will not impose substantial direct compliance costs on State and local governments. Therefore, the consultation and funding requirements of E.O. 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 authorizing part 233, including specifically the former FRSA, repealed and recodified at 49 U.S.C 20106, and the former Signal Inspection Act of 1937, repealed and recodified at 49 U.S.C. 20501–20505. *See* Public Law 103–272 (July 5, 1994). The former FRSA 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 ''local safety or security hazard'' exception to section 20106.

In sum, FRA has analyzed this final rule in accordance with the principles and criteria contained in E.O. 13132. As explained above, FRA has determined that this final rule has no federalism implications, other than the possible preemption of State laws under the Federal statutes authorizing part 233, including the former FRSA and the former Signal Inspection Act of 1937. Accordingly, FRA has determined that preparation of a federalism summary impact statement for this final rule is not required.

D. International Trade Impact Assessment

The Trade Agreement Act of 1979, Public Law 96–39, 93 Stat. 144 (July 26, 1979), 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. This rulemaking is purely domestic in nature and is not expected to affect trade opportunities for U.S. firms doing business overseas or for foreign firms doing business in the United States.

Statement issued today is substantially the same as the Interim Policy Statement.'' 68 FR 24894.

[5] In general, under 49 CFR 1201.1–1, the class into which a railroad carrier falls is determined by comparing the carrier's annual inflation-adjusted operating revenues for three consecutive years to the following scale after the dollar figures in the scale are adjusted by applying the railroad revenue deflator formula:

- Class I—$250 million or more;
- Class II—more than $20 million, but less than $250 million; and
- Class III—$20 million or less.

49 CFR 1201.1–1(a), (b)(1). STB's General Instructions at 1–1 state that carriers are grouped into three classes for purposes of accounting and reporting. The three classes are as follows:

Class I: Those carriers having annual carrier operating revenues of $250 million or more after applying STB's railroad revenue deflator formula shown in Note A.

Class II: These carriers have annual carrier operating revenues of less than $250 million but in excess of $20 million after applying STB's railroad revenue deflator formula.

Class III: These carriers have annual carrier operating revenues of $20 million or less after applying STB's railroad revenue.

The STB Web site indicates that the scale for 2011 is as follows:

- Class I—$433,211,345 or more;
- Class II—more than $34,656,908, but less than $433,211,345; and
- Class III—$34,656,908 or less.

See also 78 FR 21007 (Apr. 8, 2013). It should be noted that there are some exceptions to this general definition of the three classes of carriers. As one important example, ''[f]amilies of railroads operating within the United States as a single, integrated rail system will be treated as a single carrier for classification purposes.'' 49 CFR 1201–1.1(b)(1). As another example, ''[a]ll switching and terminal companies, regardless of their operating revenues, will be designated Class III carriers.'' 49 CFR 1201–1.1(d).

E. Paperwork Reduction Act

Under the Paperwork Reduction Act of 1995 (PRA), 44 U.S.C. 3501 *et seq.,* Federal agencies must obtain approval from the Office of Management and Budget for each collection of information they conduct, sponsor, or require through regulations. FRA has carefully reviewed the final rule and any potential PRA implications. Since the present rulemaking will eliminate the reporting requirement associated with § 233.9 in its entirety for April 2017 and thereafter, there is no change to the currently approved burden under OMB No. 2130–0006.

Organizations and individuals desiring to obtain a copy of the above currently approved collection of information should contact Mr. Robert Brogan or Ms. Kimberly Toone via mail at FRA, 1200 New Jersey Ave. SE., Third Floor, Washington, DC 20590. Copies may also be obtained by telephoning Mr. Brogan at (202) 493–6292 or Ms. Toone at (202) 493–6132. (These numbers are not toll-free.) Additionally, copies may be obtained via email by contacting Mr. Brogan or Ms. Toone at the following addresses: *Robert.Brogan@dot.gov*; *Kim.Toone@dot.gov.*

F. Compliance With the Unfunded Mandates Reform Act of 1995

Pursuant to Section 201 of the Unfunded Mandates Reform Act of 1995, Public Law 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, *see* 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 1 year, and before promulgating any final rule for which a general notice of proposed rulemaking was published, the agency shall prepare a written statement'' detailing the effect on State, local, and tribal governments and the private sector. The final rule will not result in the expenditure, in the aggregate, of $100,000,000 or more (adjusted for inflation) in any one year, and thus preparation of such a statement is not required.

G. Environmental Assessment

FRA has evaluated this final 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 final 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 28547 (May 26, 1999).

In accordance with section 4(c) and (e) of FRA's Procedures, the agency has further concluded that no extraordinary circumstances exist with respect to this regulation that might trigger the need for a more detailed environmental review. As a result, FRA finds that this final rule is not a major Federal action significantly affecting the quality of the human environment.

H. Energy Impact

E.O. 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 E.O., 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) [t]hat is a significant regulatory action under E.O. 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 E.O. 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 final rule is not a ''significant energy action'' within the meaning of E.O. 13211.

I. Privacy Act

FRA wishes to inform all potential petitioners for reconsideration of the final rule or commenters on any petition for reconsideration of the final rule that anyone is able to search the electronic form of all comments received into any agency docket by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000, *see* 65 FR 19477–78, or you may visit *http://www.regulations.gov/#!privacyNotice.*

List of Subjects in 49 CFR Part 233

Penalties, Railroad safety, Reporting and recordkeeping requirements.

The Final Rule

For the reasons discussed in the preamble, FRA amends part 233 of chapter II, subtitle B of title 49 of the Code of Federal Regulations as follows:

PART 233—[AMENDED]

■ 1. The authority citation for part 233 is revised to read as follows:

Authority: 49 U.S.C. 504, 522, 20103, 20107, 20501–20505, 21301, 21302, 21311; 28 U.S.C. 2461, note; and 49 CFR 1.89.

§ 233.9 [Removed and Reserved]

■ 2. Section 233.9 is removed and reserved.

■ 3. Paragraph (b) of § 233.13 is revised as follows:

§ 233.13 Criminal penalty.

* * * * *

(b) Files a false report or other document required to be filed by this part is subject to a $5,000 fine and 2 years imprisonment as prescribed by 49 U.S.C. 522 and 49 U.S.C. 21311.

Appendix A to Part 233—[Amended]

■ 4. Appendix A is amended by removing and reserving the entry for ''233.9 Annual reports''.

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

Joseph C. Szabo,

Administrator.

[FR Doc. 2014–15336 Filed 7–1–14; 8:45 am]

BILLING CODE 4910–06–P

Proposed Rules

Federal Register
Vol. 79, No. 127
Wednesday, July 2, 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 TRANSPORTATION

Federal Aviation Administration

14 CFR Part 25

[Docket No. FAA–2014–0421; Notice No. 25–14–07–SC]

Special Conditions: Boeing Commercial Airplanes, Model 767–2C Airplane; Interaction of Fuel Systems and Structures

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed special conditions.

SUMMARY: This action proposes special conditions for the Boeing Model 767–2C airplane. This airplane will have novel or unusual design features when compared to the state of technology envisioned in the airworthiness standards for transport category airplanes. These design features include the addition of four body fuel tanks and a modified fuel management system that, directly or as a result of failure or malfunction, could affect the airplane's structural performance. The applicable airworthiness regulations do not contain adequate or appropriate safety standards for these design features. These proposed special conditions contain the additional safety standards that the Administrator considers necessary to establish a level of safety equivalent to that established by the existing airworthiness standards.

DATES: Send your comments on or before August 18, 2014.

ADDRESSES: Send comments identified by docket number FAA–2014–0421 using any of the following methods:

Federal eRegulations Portal: Go to *http://www.regulations.gov/* and follow the online instructions for sending your comments electronically.

- *Mail:* Send comments to Docket Operations, M–30, U.S. Department of Transportation (DOT), 1200 New Jersey Avenue SE., Room W12–140, West Building Ground Floor, Washington, DC 20590–0001.
- *Hand Delivery or Courier:* Take comments to Docket Operations in Room W12–140 of the West Building Ground Floor at 1200 New Jersey Avenue SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except federal holidays.
- *Fax:* Fax comments to Docket Operations at 202–493–2251.

Privacy: The FAA will post all comments it receives, without change, to *http://www.regulations.gov/*, including any personal information the commenter provides. Using the search function of the docket Web site, anyone can find and read the electronic form of all comments received into any FAA docket, including the name of the individual sending the comment (or signing the comment for an association, business, labor union, etc.). DOT's complete Privacy Act Statement can be found in the **Federal Register** published on April 11, 2000 (65 FR 19477–19478), as well as at *http://DocketsInfo.dot.gov/*.

Docket: Background documents or comments received may be read at *http://www.regulations.gov/* at any time. Follow the online instructions for accessing the docket or go to the Docket Operations in Room W12–140 of the West Building Ground Floor at 1200 New Jersey Avenue SE., Washington DC, between 9 a.m. and 5 p.m., Monday through Friday, except federal holidays.

FOR FURTHER INFORMATION CONTACT: Mark Freisthler, FAA, Airframe and Cabin Safety Branch, ANM–115, Transport Airplane Directorate, Aircraft Certification Service, 1601 Lind Avenue SW., Renton, Washington, 98057–3356; telephone 425–227–1119; facsimile 425–227–1232.

SUPPLEMENTARY INFORMATION:

Comments Invited

We invite interested people to take part in this rulemaking by sending written comments, data, or views. The most helpful comments reference a specific portion of the special conditions, explain the reason for any recommended change, and include supporting data.

We will consider all comments we receive on or before the closing date for comments. We may change these special conditions based on the comments we receive.

Background

On January 18, 2010, Boeing Commercial Airplanes applied for an amendment to Type Certificate No. A1NM to include the new Model 767–2C. The Boeing Model 767–2C, which is a derivative of the Model 767–200 currently approved under Type Certificate No. A1NM, is a transport category airplane, intended for use as a freighter, powered by two PW4062 engines with a maximum takeoff weight of 415,000 pounds.

The Boeing Model 767–2C will have more fuel capacity than a traditional freighter through the addition of four body fuel tanks. The Model 767–2C contains fuel systems that could, directly or as a result of failure or malfunction, affect the aircraft's structural performance. Current regulations do not take into account loads for the aircraft due to the effects of fuel system failures on structural performance; therefore, special conditions are needed.

Type Certification Basis

Under the provisions of Title 14, Code of Federal Regulations (14 CFR) 21.101, Boeing must show that the Model 767–2C meets the applicable provisions of 14 CFR part 25, as amended by Amendments 25–0 through 25–130, except for earlier amendments as agreed upon by the FAA. These regulations will be incorporated into Type Certificate No. A1NM after type certification approval of the Model 767–2C.

In addition, the certification basis includes other regulations, special conditions, and exemptions that are not relevant to these proposed special conditions. Type Certificate No. A1NM will be updated to include a complete description of the certification basis for these model airplanes.

If the Administrator finds that the applicable airworthiness regulations (i.e., 14 CFR part 25) do not contain adequate or appropriate safety standards for the Model 767–2C because of a novel or unusual design feature, special conditions are prescribed under the provisions of § 21.16.

Special conditions are initially applicable to the model for which they are issued. Should the type certificate for that model be amended later to include any other model that incorporates the same or similar novel

or unusual design feature, or should any other model already included on the same type certificate be modified to incorporate the same or similar novel or unusual design feature, the special conditions would also apply to the other model under § 21.101.

In addition to the applicable airworthiness regulations and special conditions, the Model 767–2C must comply with the fuel vent and exhaust emission requirements of 14 CFR part 34 and the noise certification requirements of 14 CFR part 36.

The FAA issues special conditions, as defined in 14 CFR 11.19, in accordance with § 11.38, and they become part of the type-certification basis under § 21.101.

Novel or Unusual Design Features

The Boeing Model 767–2C will incorporate the following novel or unusual design features: Fuel system changes including the addition of forward and aft body fuel tanks, a main-to-center-tank gravity transfer system, hydraulically-powered-pumps for jettison, a nitrogen generation system for inerting of all fuel tanks, and a pressure-regulating closed fuel tank vent system. Digital electronic controls (i.e., fuel management systems) are added for control and monitoring of these systems.

Discussion

The fuel management system is designed to keep the fuel distributed in accordance with fuel usage requirements. System failures of these new and modified systems may result in adverse fuel distributions or center-of-gravity excursions that increase the airplane loads. For example, a failure of the main tank gravity drain valve may result in less wing main tank fuel than normal management; or failure of the body auxiliary tank transfer systems may result in excessive body fuel at landing. Additionally, failures of the nitrogen generation system, fuel transfer system, or vent/pressure regulating system may result in excessive fuel tank pressures. These types of failures are addressed by these proposed special conditions.

Special conditions have been applied on past airplane programs in order to require consideration of the effects of systems on structures. These proposed special conditions are similar to those previously applied except that the scope is limited to new fuel system features unique to the Model 767–2C.

Applicability

As discussed above, these special conditions are applicable to the Boeing Model 767–2C airplane. Should Boeing Commercial Airplanes apply at a later date for a change to the type certificate to include another model incorporating the same novel or unusual design feature, the special conditions would apply to that model as well.

Conclusion

This action affects only certain novel or unusual design features on one model of airplanes. It is not a rule of general applicability.

List of Subjects in 14 CFR Part 25

Aircraft, Aviation safety, Reporting and recordkeeping requirements.

The authority citation for these special conditions is as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701, 44702, 44704.

The Proposed Special Conditions

Accordingly, the Federal Aviation Administration (FAA) proposes the following special conditions as part of the type certification basis for Boeing Model 767–2C airplanes.

1. Interactions of fuel systems and structures. General.

a. For airplanes equipped with fuel systems that affect structural performance, either directly or as a result of a failure or malfunction, the influence of these systems and their failure conditions must be taken into account when showing compliance with the requirements of 14 CFR part 25 subparts C and D.

b. The criteria in Section 2 below must be used for showing compliance with these special conditions for airplanes equipped with fuel systems that either directly or as a result of failure or malfunction affect structural performance.

c. The criteria only address the direct structural consequences of the system responses and performances and cannot be considered in isolation but should be included in the overall safety evaluation of the airplane. These criteria may in some instances duplicate standards already established for this evaluation. These criteria are only applicable to structural elements whose failure could prevent continued safe flight and landing. Specific criteria that define acceptable limits on handling characteristics or stability requirements when operating in the system degraded or inoperative mode are not provided in these special conditions.

d. Depending on the specific characteristics of the airplane, additional studies may be required that demonstrate the capability of the airplane to meet other realistic conditions such as alternative gust or maneuver descriptions for an airplane equipped with a load alleviation system.

e. The following definitions are applicable to these special conditions:

(1) Structural performance: Capability of the airplane to meet the structural requirements of part 25.

(2) Flight limitations: Limitations that can be applied to the airplane flight conditions following an in-flight occurrence and that are included in the airplane flight manual (e.g., speed limitations, avoidance of severe weather conditions, etc.).

(3) Operational limitations: Limitations, including flight limitations, that can be applied to the airplane operating conditions before dispatch (e.g., fuel, payload and Master Minimum Equipment List limitations).

(4) Probabilistic terms: The probabilistic terms (probable, improbable, extremely improbable) used in these special conditions are the same as those used in § 25.1309.

(5) Failure condition: The term failure condition is the same as that used in § 25.1309. However, these special conditions apply only to system failure conditions that affect the structural performance of the airplane (e.g., system failure conditions that induce loads, change the response of the airplane to inputs such as gusts or pilot actions, or lower flutter margins). The system failure conditions include consequential or cascading effects resulting from the first failure.

2. Effects of Fuel System Failure on Structures. The following criteria will be used in determining the influence of the fuel system and its failure conditions on the airplane structural elements.

a. *Fuel system fully operative.* With the fuel system fully operative, the following apply:

(1) Limit loads must be derived in all normal operating configurations of the fuel system from all the limit conditions specified in subpart C (or used in lieu of those specified in subpart C), taking into account any special behavior of such a system or associated functions or any effect on the structural performance of the airplane that may occur up to the limit loads. In particular, any significant nonlinearity (rate of fuel transfer, thresholds or any other system nonlinearities) must be accounted for in a realistic or conservative way when deriving limit loads from limit conditions.

(2) The airplane must meet the strength requirements of part 25 (i.e., static strength, residual strength), using the specified factors to derive ultimate loads from the limit loads defined above. The effect of nonlinearities must

be investigated beyond limit conditions to ensure the behavior of the system presents no anomaly compared to the behavior below limit conditions. However, conditions beyond limit conditions need not be considered when it can be shown that the airplane has design features that will not allow it to exceed those limit conditions.

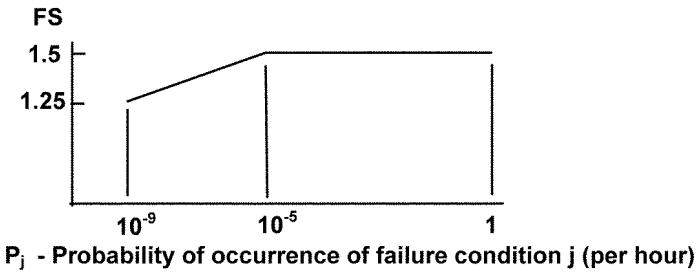
(3) The airplane must meet the aeroelastic stability requirements of § 25.629.

b. *Fuel system in the failure condition.* For any fuel system failure condition not shown to be extremely improbable, the following apply:

(1) At the time of occurrence, starting from 1-g level flight conditions, a realistic scenario, including pilot corrective actions, must be established to determine the loads occurring at the time of failure and immediately after failure.

(i) For static strength substantiation, these loads, multiplied by an appropriate factor of safety that is related to the probability of occurrence of the failure, are ultimate loads to be considered for design. The factor of safety is defined in Figure 1.

Figure 1. Factor of safety (FS) at the time of occurrence



(ii) For residual strength substantiation, the airplane must be able to withstand two thirds of the ultimate loads defined in subparagraph 2b(1)(i). For pressurized cabins, these loads must be combined with the normal operating differential pressure.

(iii) Freedom from aeroelastic instability must be shown up to the speeds defined in § 25.629(b)(2). For failure conditions that result in speeds beyond V_C/M_C, freedom from aeroelastic instability must be shown to increased speeds, so that the margins intended by § 25.629(b)(2) are maintained.

(iv) Failures of the fuel system that result in forced structural vibrations (oscillatory failures) must not produce loads that could result in detrimental deformation of the affected structural elements.

(2) For continuation of flight, for an airplane in the system failed state and considering any appropriate reconfiguration and flight limitations, the following apply:

(i) The loads derived from the following conditions (or used in lieu of the following conditions) at speeds up to V_C/M_C, or the speed limitation prescribed for the remainder of the flight, must be determined:

(A) The limit symmetrical maneuvering conditions specified in §§ 25.331 and 25.345.

(B) The limit gust and turbulence conditions specified in §§ 25.341 and 25.345.

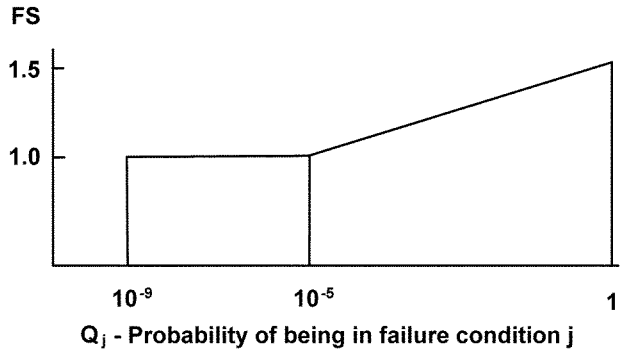
(C) The limit rolling conditions specified in § 25.349 and the limit unsymmetrical conditions specified in §§ 25.367 and 25.427(b) and (c).

(D) The limit yaw maneuvering conditions specified in § 25.351.

(E) The limit ground loading conditions specified in §§ 25.473, 25.491, and 25.493.

(ii) For static strength substantiation, each part of the structure must be able to withstand the loads in paragraph 2b(2)(i) of these special conditions multiplied by a factor of safety depending on the probability of being in this failure state. The factor of safety is defined in Figure 2.

Figure 2. Factor of safety (FS) for continuation of flight



$Q_j = (T_j)(P_j)$ where:

T_j = Average time spent in failure condition j (in hours)

P_j = Probability of occurrence of failure condition j (per hour)

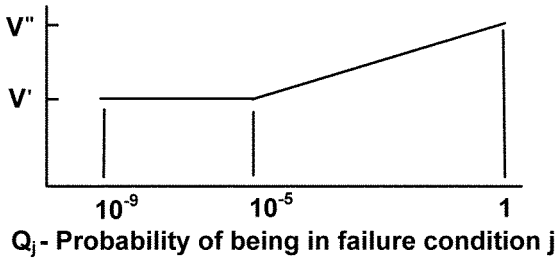
Note: If P_j is greater than 10^{-3} per flight hour, then a 1.5 factor of safety must be applied to all limit load conditions specified in subpart C.

(iii) For residual strength substantiation, the airplane must be able to withstand two thirds of the ultimate loads defined in paragraph 2b(2)(ii) of these special conditions. For pressurized cabins, these loads must be combined with the normal operating differential pressure.

(iv) If the loads induced by the failure condition have a significant effect on fatigue or damage tolerance, then their effects must be taken into account.

(v) Freedom from aeroelastic instability must be shown up to a speed determined from Figure 3. Flutter clearance speeds V′ and V″ may be based on the speed limitation specified for the remainder of the flight using the margins defined by § 25.629(b).

Figure 3: Clearance speed



V' = Clearance speed as defined by § 25.629(b)(2).

V" = Clearance speed as defined by § 25.629(b)(1).

$Q_j = (T_j)(P_j)$ where:

T_j = Average time spent in failure condition j (in hours).

P_j = Probability of occurrence of failure condition j (per hour).

Note: If P_j is greater than 10^{-3} per flight hour, then the flutter clearance speed must not be less than V".

(vi) Freedom from aeroelastic instability must also be shown up to V′ in Figure 3 above, for any probable system failure condition combined with any damage required or selected for investigation by § 25.571(b).

(3) Consideration of certain failure conditions may be required by other sections of part 25 regardless of calculated system reliability. Where analysis shows the probability of these failure conditions to be less than 10^{-9}, criteria other than those specified in this paragraph may be used for structural substantiation to show continued safe flight and landing.

c. *Failure indications.* For fuel system failure detection and indication, the following apply:

(1) The fuel system must be checked for failure conditions, not extremely improbable, that degrade the structural capability below the level required by part 25 or significantly reduce the

reliability of the remaining system. As far as reasonably practicable, the flight crew must be made aware of these failures before flight. Certain elements of the fuel system, such as mechanical and hydraulic components, may use special periodic inspections, and electronic components may use daily checks, in lieu of detection and indication systems to achieve the objective of this requirement. These identified inspections must be limited to components that are not readily detectable by normal detection and indication systems and where service history shows that inspections will provide an adequate level of safety.

(2) The existence of any failure condition, not extremely improbable, during flight that could significantly affect the structural capability of the airplane and for which the associated reduction in airworthiness can be minimized by suitable flight limitations, requires a caution level alert for immediate flightcrew awareness and a warning level alert for immediate flightcrew awareness and corrective action. For example, a flightcrew alert during flight is required for failure conditions that result in a factor of safety between the airplane strength and the loads of subpart C below 1.25, or flutter margins below V″, because it could significantly affect the structural capability of the airplane.

d. *Dispatch with known failure conditions.* If the airplane is to be dispatched in a known fuel system failure condition that affects structural performance, or affects the reliability of the remaining system to maintain structural performance, then the provisions of these special conditions must be met, including the provisions of paragraph 2a for the dispatched condition, and paragraph 2b for subsequent failures. Expected operational limitations may be taken into account in establishing P_j as the probability of failure occurrence for determining the safety margin in Figure 1. Flight limitations and expected operational limitations may be taken into account in establishing Q_j as the combined probability of being in the dispatched failure condition and the subsequent failure condition for the safety margins in Figures 2 and 3. These limitations must be such that the probability of being in this combined failure state and then subsequently encountering limit load conditions is extremely improbable. No reduction in these safety margins is allowed if the subsequent system failure rate is greater than 10^{-3} per hour.

Issued in Renton, Washington, on June 17, 2014.

Michael Kaszycki,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2014–15526 Filed 7–1–14; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 25

[Docket No. FAA–2014–0420; Notice No. 25–14–06–SC]

Special Conditions: Bombardier Aerospace, Models BD–500–1A10 and BD–500–1A11 Series Airplanes; Automatic Speed Protection for Design Dive Speed

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed special conditions.

SUMMARY: This action proposes special conditions for the Bombardier Aerospace Models BD–500–1A10 and BD–500–1A11 series airplanes. These airplanes will have a novel or unusual design feature associated with a reduced margin between design cruising speed, V_C/M_C, and design diving speed, V_D/M_D, based on the incorporation of a high speed protection system that limits nose down pilot authority at speeds above V_D/M_D. The applicable airworthiness regulations do not contain adequate or appropriate safety standards for this design feature. These proposed special conditions contain the additional safety standards that the Administrator considers necessary to establish a level of safety equivalent to that established by the existing airworthiness standards.

DATES: Send your comments on or before August 18, 2014.

ADDRESSES: Send comments identified by docket number FAA–2014–0420 using any of the following methods:

- Federal eRegulations Portal: Go to *http://www.regulations.gov/*and follow the online instructions for sending your comments electronically.
- Mail: Send comments to Docket Operations, M–30, U.S. Department of Transportation (DOT), 1200 New Jersey Avenue SE., Room W12–140, West Building Ground Floor, Washington, DC 20590–0001.
- Hand Delivery or Courier: Take comments to Docket Operations in Room W12–140 of the West Building Ground Floor at 1200 New Jersey Avenue SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except federal holidays.
- Fax: Fax comments to Docket Operations at 202–493–2251.

Privacy: The FAA will post all comments it receives, without change, to *http://www.regulations.gov/,* including any personal information the commenter provides. Using the search function of the docket Web site, anyone can find and read the electronic form of all comments received into any FAA docket, including the name of the individual sending the comment (or signing the comment for an association, business, labor union, etc.). DOT's complete Privacy Act Statement can be found in the **Federal Register** published on April 11, 2000 (65 FR 19477–19478), as well as at *http://DocketsInfo.dot.gov/.*

Docket: Background documents or comments received may be read at *http://www.regulations.gov/* at any time. Follow the online instructions for accessing the docket or go to the Docket Operations in Room W12–140 of the West Building Ground Floor at 1200 New Jersey Avenue SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except federal holidays.

FOR FURTHER INFORMATION CONTACT: Mark Freisthler, FAA, Airframe and Cabin Safety Branch, ANM–115, Transport Airplane Directorate, Aircraft Certification Service, 1601 Lind Avenue SW., Renton, Washington 98057–3356; telephone 425–227–1119; facsimile 425–227–1232.

SUPPLEMENTARY INFORMATION:

Comments Invited

We invite interested people to take part in this rulemaking by sending written comments, data, or views. The most helpful comments reference a specific portion of the special conditions, explain the reason for any recommended change, and include supporting data.

We will consider all comments we receive on or before the closing date for comments. We may change these special conditions based on the comments we receive.

Background

On December 10, 2009, Bombardier Aerospace applied for a type certificate for their new Models BD–500–1A10 and BD–500–1A11 series airplanes (hereafter collectively referred to as ''CSeries''). The CSeries airplanes are swept-wing monoplanes with an aluminum alloy fuselage sized for 5-abreast seating. Passenger capacity is designated as 110

for the Model BD–500–1A10 and 125 for the Model BD–500–1A11. Maximum takeoff weight is 131,000 pounds for the Model BD–500–1A10 and 144,000 pounds for the Model BD–500–1A11.

Bombardier Aerospace proposes to reduce the margin between V_C/M_C and V_D/M_D required by Title 14, Code of Federal Regulations (14 CFR) 25.335(b) based on the incorporation of a high speed protection system in the airplane's flight control laws. The airplane is equipped with a high speed protection system that limits nose down pilot authority at speeds above V_C/M_C and prevents the airplane from actually performing the maneuver required under § 25.335(b)(1).

These special conditions are necessary to address the proposed high speed protection system. These proposed special conditions identify various symmetric and non-symmetric maneuvers that will ensure that an appropriate design dive speed is established. Symmetric (pitching) maneuvers are specified in § 25.331, ''Symmetric maneuvering conditions.'' Non-symmetric maneuvers are specified in § 25.349, ''Rolling conditions,'' and § 25.351, ''Yaw maneuver conditions.''

Type Certification Basis

Under the provisions of 14 CFR 21.17, Bombardier Aerospace must show that the CSeries airplanes meet the applicable provisions of part 25 as amended by Amendments 25–1 through 25–129.

If the Administrator finds that the applicable airworthiness regulations (i.e., 14 CFR part 25) do not contain adequate or appropriate safety standards for the CSeries airplanes because of a novel or unusual design feature, special conditions are prescribed under the provisions of § 21.16.

Special conditions are initially applicable to the model for which they are issued. Should the type certificate for that model be amended later to include any other model that incorporates the same or similar novel or unusual design feature, the special conditions would also apply to the other model under § 21.101.

In addition to the applicable airworthiness regulations and special conditions, the CSeries airplanes must comply with the fuel vent and exhaust emission requirements of 14 CFR part 34 and the noise certification requirements of 14 CFR part 36, and the FAA must issue a finding of regulatory adequacy under section 611 of Public Law 92–574, the ''Noise Control Act of 1972.''

The FAA issues special conditions, as defined in 14 CFR 11.19, in accordance with § 11.38, and they become part of the type certification basis under § 21.17(a)(2).

Novel or Unusual Design Features

The CSeries airplanes will incorporate the following novel or unusual design features: Bombardier Aerospace proposes to reduce the margin between V_C/V_C and V_D/V_D required by 14 CFR 25.335(b) based on the incorporation of a high speed protection system in the airplane's flight control laws. The high speed protection system limits nose down pilot authority at speeds above V_C/M_C and prevents the airplane from actually performing the maneuver required under § 25.335(b)(1).

Discussion

Section 25.335(b)(1) is an analytical envelope condition that was originally adopted in Part 4b of the Civil Air Regulations in order to provide an acceptable speed margin between design cruise speed and design dive speed. Flutter clearance design speeds and airframe design loads are impacted by the design dive speed. While the initial condition for the upset specified in the rule is 1g level flight, protection is afforded for other inadvertent overspeed conditions as well. Section 25.335(b)(1) is intended as a conservative enveloping condition for potential overspeed conditions, including non-symmetric ones. To establish that potential overspeed conditions are enveloped, Bombardier Aerospace needs to demonstrate that any reduced speed margin, based on the high speed protection system, will not be exceeded in inadvertent or gust-induced upsets resulting in initiation of the dive from non-symmetric attitudes; or that the airplane is protected by the flight control laws from getting into non-symmetric upset conditions. Bombardier Aerospace needs to conduct a demonstration that includes a comprehensive set of conditions, as described below.

These proposed special conditions contain the additional safety standards that the Administrator considers necessary to establish a level of safety equivalent to that established by the existing airworthiness standards.

Applicability

As discussed above, these special conditions are applicable to the Model BD–500–1A10 and BD–500–1A11 series airplanes. Should Bombardier Aerospace apply at a later date for a change to the type certificate to include another model incorporating the same novel or unusual design feature, the special conditions would apply to that model as well.

Conclusion

This action affects only certain novel or unusual design features on two model series of airplanes. It is not a rule of general applicability.

List of Subjects in 14 CFR Part 25

Aircraft, Aviation safety, Reporting and recordkeeping requirements.

The authority citation for these special conditions is as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701, 44702, 44704.

The Proposed Special Conditions

Accordingly, the Federal Aviation Administration (FAA) proposes the following special conditions as part of the type certification basis for Bombardier Aerospace Models BD–500–1A10 and BD–500–1A11 (CSeries) airplanes.

Automatic Speed Protection for Design Dive Speed

1. In lieu of compliance with § 25.335(b)(1), if the flight control system includes functions that act automatically to initiate recovery before the end of the 20-second period specified in § 25.335(b)(1), V_D/M_D must be determined from the greater of the speeds resulting from conditions (a) and (b) below. The speed increase occurring in these maneuvers may be calculated, if reliable or conservative aerodynamic data are used.

(a) From an initial condition of stabilized flight at V_C/M_C, the airplane is upset so as to take up a new flight path 7.5 degrees below the initial path. Control application, up to full authority, is made to try and maintain this new flight path. Twenty seconds after initiating the upset, manual recovery is made at a load factor of 1.5g (0.5 acceleration increment), or such greater load factor that is automatically applied by the system with the pilot's pitch control neutral. Power, as specified in § 25.175(b)(1)(iv), is assumed until recovery is initiated, at which time power reduction and the use of pilot-controlled drag devices may be used.

(b) From a speed below V_C/M_C, with power to maintain stabilized level flight at this speed, the airplane is upset so as to accelerate through V_C/M_C at a flight path 15 degrees below the initial path (or at the steepest nose down attitude that the system will permit with full control authority if less than 15 degrees). The pilot's controls may be in the neutral position after reaching V_C/M_C and before recovery is initiated. Recovery may be initiated three seconds

after operation of the high speed warning system by application of a load of 1.5g (0.5 acceleration increment), or such greater load factor that is automatically applied by the system with the pilot's pitch control neutral. Power may be reduced simultaneously. All other means of decelerating the airplane, the use of which is authorized up to the highest speed reached in the maneuver, may be used. The interval between successive pilot actions must not be less than one second.

2. The applicant must also demonstrate that the speed margin, established as above, will not be exceeded in inadvertent or gust-induced upsets resulting in initiation of the dive from non-symmetric attitudes, unless the airplane is protected by the flight control laws from getting into non-symmetric upset conditions. The upset maneuvers described in Advisory Circular 25–7C, *Flight Test Guide for Certification of Transport Category Airplanes,* section 8, paragraph 32, sub-paragraphs c(3)(a) and (b) may be used to comply with this requirement.

3. The probability of any failure of the high speed protection system that would result in an airspeed exceeding those determined by paragraphs 1 and 2 must be less than 10^{-5} per flight hour.

4. Failures of the system must be annunciated to the pilots. Flight manual instructions must be provided that reduce the maximum operating speeds, V_{MO}/M_{MO}. With the system failed, the operating speed must be reduced to a value that maintains a speed margin between V_{MO}/M_{MO} and V_D/M_D that is consistent with showing compliance with § 25.335(b) without the benefit of the high speed protection system.

5. Dispatch of the airplane with the high speed protection system inoperative could be allowed under an approved MEL that would require flight manual instructions to indicate reduced maximum operating speeds, as described in paragraph (4). In addition, the cockpit display of the reduced operating speeds, as well as the overspeed warning for exceeding those speeds, must be equivalent to that of the normal airplane with the high speed protection system operative. Also, it must be shown that no additional hazards are introduced with the high speed protection system inoperative.

Issued in Renton, Washington, on June 17, 2014.

Michael Kaszycki,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2014–15539 Filed 7–1–14; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2014–0344; Directorate Identifier 2014–NM–034–AD]

RIN 2120–AA64

Airworthiness Directives; The Boeing Company Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: We propose to supersede Airworthiness Directive (AD) 2013–24–13, which applies to certain The Boeing Company Model 737–100, –200, –200C, –300, –400, –500, –600, –700, –700C, –800, and –900 series airplanes. AD 2013–24–13 currently requires replacing the pivot link assembly for certain airplanes, replacing the seat track link assemblies or modifying the existing seat track link assembly for certain airplanes, or modifying the existing seat track link assembly fastener for certain airplanes. AD 2013–24–13 also requires inspecting, changing, or repairing the seat track link assembly for certain other airplanes. Since we issued AD 2013–24–13, a paragraph reference was found to be mis-identified. This proposed AD would correct this paragraph reference. We are proposing this AD to prevent seat detachment in an emergency landing, which could cause injury to occupants of the passenger compartment and affect emergency egress.

DATES: We must receive comments on this proposed AD by August 18, 2014.

ADDRESSES: You may send comments, using the procedures found in 14 CFR 11.43 and 11.45, by any of the following methods:

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

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

Examining the AD Docket

You may examine the AD docket on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2014–0344; or in person at the Docket Management Facility between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this proposed AD, the regulatory evaluation, any comments received, and other information. The street address for the Docket Office (phone: 800–647–5527) is in the **ADDRESSES** section. Comments will be available in the AD docket shortly after receipt.

FOR FURTHER INFORMATION CONTACT: Sarah Piccola, Aerospace Engineer, Cabin Safety and Environmental Systems Branch, ANM–150S, FAA, Seattle Aircraft Certification Office, 1601 Lind Avenue SW., Renton, WA 98057–3356; phone: 425–917–6483; fax: 425–917–6590; email: *sarah.piccola@faa.gov.*

SUPPLEMENTARY INFORMATION:

Comments Invited

We invite you to send any written relevant data, views, or arguments about this proposed AD. Send your comments to an address listed under the **ADDRESSES** section. Include ''Docket No. FAA–2014–0344; Directorate Identifier 2014–NM–034–AD'' at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of this proposed AD. We will consider all comments received by the closing date and may amend this proposed AD because of those comments.

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

Discussion

On November 19, 2013, we issued AD 2013–24–13, Amendment 39–17687 (78 FR 72558, December 3, 2013), for certain The Boeing Company Model 737–100, –200, –200C, –300, –400, –500, –600, –700, –700C, –800, and –900 series

airplanes. AD 2013–24–13 requires replacing the pivot link assembly for certain airplanes, replacing the seat track link assemblies or modifying the existing seat track link assembly for certain airplanes, or modifying the existing seat track link assembly fastener for certain airplanes. AD 2013–24–13 also requires inspecting, changing, or repairing the seat track link assembly for certain other airplanes. AD 2013–24–13 resulted from a report that the seat track attachment of body station 520 flexible joint is structurally deficient in resisting a 9g forward emergency load condition in certain seating configurations. We issued AD 2013–24–13 to prevent seat detachment in an emergency landing, which could cause injury to occupants of the passenger compartment and affect emergency egress.

Actions Since AD 2013–24–13, Amendment 39–17687 (78 FR 72558, December 3, 2013) Was Issued

Since we issued AD 2013–24–13, Amendment 39–17687 (78 FR 72558, December 3, 2013), a paragraph reference was found to be mis-identified in paragraph (i) of that AD. Paragraph (i) of AD 2013–24–13 states that before or concurrently with the accomplishment of the actions specified in paragraph (g)(2) or (g)(3) of this AD, install a new seat track link assembly. Where paragraph (i) of AD 2013–24–13 referred to paragraph (g)(3) of that AD, this AD refers to paragraph (g)(4) of this AD.

We have also revised the terminology of the Summary and Discussion sections of this AD to clarify the actions required by this AD.

FAA's Determination

We are proposing this AD because we evaluated all the relevant information and determined the unsafe condition described previously is likely to exist or develop in other products of the same type design.

Proposed AD Requirements

This proposed AD would retain all requirements of AD 2013–24–13, Amendment 39–17687 (78 FR 72558, December 3, 2013). This proposed AD would revise the second sentence of paragraph (i) of this proposed AD to replace the reference to paragraph (g)(3) with reference to paragraph (g)(4) of this proposed AD.

Costs of Compliance

We estimate that this proposed AD affects 1,281 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	U.S. airplanes	Cost on U.S. operators
Replacement or modification [retained actions from AD 2013–24–13, Amendment 39–17687 (78 FR 72558, December 3, 2013)].	Up to 41 work-hours × $85 per hour = $3,485.	Up to $15,478 ..	Up to $18,963 ..	1,281	Up to $24,291,603.
Concurrent installation or modification (Groups 1, 2, 4, and 5 airplanes) [retained actions from AD 2013-24-13, Amendment 39–17687 (78 FR 72558, December 3, 2013)] [1].	Up to 60 work-hours × $85 per hour = $5,100.	Up to $18,089 ..	Up to $23,189 ..	214	Up to $4,962,446.

[1] We have received no definitive data that would enable us to provide a cost estimate for the actions required for airplanes in Group 6 identified in Boeing Special Attention Service Bulletin 737–53–1260, Revision 1, dated May 23, 2013.

This new proposed AD adds no new costs to affected operators.

Authority for This Rulemaking

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

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

Regulatory Findings

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

For the reasons discussed above, I certify that the proposed regulation:

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

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

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

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

List of Subjects in 14 CFR Part 39

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

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

■ 2. The FAA amends § 39.13 by removing Airworthiness Directive (AD) 2013–24–13, Amendment 39–17687 (78 FR 72558, December 3, 2013), and adding the following new AD:

The Boeing Company: Docket No. FAA–2014–0344; Directorate Identifier 2014–NM–034–AD.

(a) Comments Due Date

The FAA must receive comments on this AD action by August 18, 2014.

(b) Affected ADs

This AD supersedes AD 2013–24–13, Amendment 39–17687 (78 FR 72558, December 3, 2013).

(c) Applicability

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

(1) The Boeing Company Model 737–100, –200, –200C, –300, –400, and –500 series airplanes, as identified in Boeing Special Attention Service Bulletin 737–53–1260, Revision 1, dated May 23, 2013.

(2) The Boeing Company Model 737–600, –700, –700C, –800, and –900 series airplanes, as identified in Boeing Service Bulletin 737–53–1244, Revision 5, dated July 27, 2011.

(d) Subject

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

(e) Unsafe Condition

This AD was prompted by a report that a Boeing study found that the seat track attachment of body station 520 flexible joint is structurally deficient in resisting a 9g forward emergency load condition in certain seating configurations. We are issuing this AD to prevent seat detachment in an emergency landing, which could cause injury to occupants of the passenger compartment and affect emergency egress.

(f) Compliance

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

(g) Retained Repair or Replacement of Seat Track Link Assembly or Seat Track Link Assembly Fastener, With No Changes

This paragraph restates the requirements of paragraph (g) of AD 2013–24–13, Amendment 39–17687 (78 FR 72558, December 3, 2013), with no changes. Within 60 months after January 7, 2014 (the effective date of AD 2013–24–13), do the actions specified in paragraph (g)(1), (g)(2), (g)(3), or (g)(4) of this AD, as applicable.

(1) For Model 737–600, –700, –700C, –800, and –900 series airplanes: Install new, improved pivot link assemblies, in accordance with the Accomplishment Instructions of Boeing Service Bulletin 737–53–1244, Revision 5, dated July 27, 2011.

(2) For airplanes in Groups 1, 2, 3, and 4, as identified in Boeing Special Attention Service Bulletin 737–53–1260, Revision 1, dated May 23, 2013: Replace the seat track link assembly, in accordance with the Accomplishment Instructions of Boeing Special Attention Service Bulletin 737–53–1260, Revision 1, dated May 23, 2013.

(3) For airplanes in Group 6, as identified in Boeing Special Attention Service Bulletin 737–53–1260, Revision 1, dated May 23, 2013: Inspect, change, or repair the seat track link assembly, as applicable, using a method approved in accordance with the procedures specified in paragraph (k) of this AD.

(4) For airplanes in Group 5, as identified in Boeing Special Attention Service Bulletin 737–53–1260, Revision 1, dated May 23, 2013: Modify the existing seat track link assembly fastener, in accordance with the Accomplishment Instructions of Boeing Special Attention Service Bulletin 737–53–1260, Revision 1, dated May 23, 2013.

(h) Retained Optional Modification of Seat Track Link Assembly, With No Changes

This paragraph restates the provisions of paragraph (h) of AD 2013–24–13, Amendment 39–17687 (78 FR 72558, December 3, 2013), with no changes. In lieu of the replacement specified in paragraph (g)(2) of this AD, doing the optional modification of the seat track link assembly, in accordance with the Accomplishment Instructions of Boeing Special Attention Service Bulletin 737–53–1260, Revision 1, dated May 23, 2013, is acceptable for compliance with the requirements of paragraph (g)(2) of this AD, provided the modification is done within the compliance time specified in the introductory text of paragraph (g) of this AD.

(i) Retained Concurrent Actions, With New Concurrent Action for Group 5 Airplanes

This paragraph restates the requirements of paragraph (i) of AD 2013–24–13, Amendment 39–17687 (78 FR 72558, December 3, 2013), with a corrected paragraph reference that results in a new concurrent action for Group 5 airplanes. For airplanes in Groups 1, 2, 4, and 5, as identified in Boeing Special Attention Service Bulletin 737–53–1260, Revision 1, dated May 23, 2013: Before or concurrently with the accomplishment of the actions specified in paragraph (g)(2) or (g)(4) of this AD, install a new seat track link assembly or modify the seat track link assembly, as applicable, in accordance with the Accomplishment Instructions of Boeing Service Bulletin 737–53–1120, Revision 1, dated May 13, 1993.

(j) Retained Credit for Previous Actions With No Changes

This paragraph restates the credit specified in paragraph (j) of AD 2013–24–13, Amendment 39–17687 (78 FR 72558, December 3, 2013), with no changes.

(1) This paragraph provides credit for the actions required by paragraph (g)(1) of this AD, if those actions were performed before January 7, 2014 (the effective date of AD 2013–24–13, Amendment 39–17687 (78 FR 72558, December 3, 2013)), using Boeing Service Bulletin 737–53–1244, dated April 17, 2003; Revision 1, dated May 29, 2003; Revision 2, dated March 15, 2007; or Revision 3, dated December 4, 2008; which are not incorporated by reference in this AD.

(2) This paragraph provides credit for the actions required by paragraphs (g)(2) and (g)(4) of this AD, if those actions were performed before January 7, 2014 (the effective date of AD 2013–24–13, Amendment 39–17687 (78 FR 72558, December 3, 2013)), using Boeing Special Attention Service Bulletin 737–53–1260, dated May 7, 2007, which is not incorporated by reference in this AD.

(k) Alternative Methods of Compliance (AMOCs)

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

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

(3) An AMOC that provides an acceptable level of safety may be used for any repair required by this AD if it is approved by The Boeing Commercial Airplanes Organization Designation Authorization (ODA) that has been authorized by the Manager, Seattle ACO, to make those findings. For a repair method to be approved, the repair must meet the certification basis of the airplane and 14 CFR 25.571, Amendment 45, and the approval must specifically refer to this AD.

(l) Related Information

(1) For more information about this AD, contact Sarah Piccola, Aerospace Engineer, Cabin Safety and Environmental Systems Branch, ANM–150S, FAA, Seattle Aircraft Certification Office, 1601 Lind Avenue SW., Renton, WA 98057–3356; phone: 425–917–6483; fax: 425–917–6590; email: *sarah.piccola@faa.gov.*

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

Issued in Renton, Washington, on June 18, 2014.

Michael Kaszycki,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2014–14799 Filed 7–1–14; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2014–0438; Directorate Identifier 2014–CE–015–AD]

RIN 2120–AA64

Airworthiness Directives; Alexandria Aircraft LLC Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: We propose to supersede Airworthiness Directive (AD) 75–20–06, which applies to certain Alexandria Aircraft LLC (type certificate previously held by Bellanca Aircraft Corp., Viking Aviation, Inc., and Bellanca, Inc.) Models 14–19–3A, 17–30, 17–30A, 17–31, 17–31A, 17–31ATC, and 17–31TC airplanes. AD 75–20–06 requires repetitively inspecting the aft fuselage structure near the top of the vertical side tubing, which connects the horizontal stabilizer carry-through to the upper fuselage longeron, for cracks and installing the manufacturer's service repair kit as a terminating action for the repetitive inspections to repair any cracks found. Since we issued AD 75–20–06, we have determined that installing the service kit has not prevented cracks from occurring. We have also determined that all affected airplane serial numbers should be included in the Applicability section. This proposed AD would require continued repetitive inspections of the aft fuselage structure near the top of the vertical side tubing for cracks and making all necessary replacements of cracks parts. This proposed AD would also add additional serial number airplanes to the Applicability section. We are proposing this AD to correct the unsafe condition on these products.

DATES: We must receive comments on this proposed AD by August 18, 2014.

ADDRESSES: You may send comments, using the procedures found in 14 CFR 11.43 and 11.45, by any of the following methods:

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

For service information identified in this proposed AD, contact Alexandria Aircraft LLC, 2504 Aga Drive, Alexandria, MN 5630; phone: (320) 763–4088; fax: (320) 763–4095; Internet: *www.bellanca-aircraft.com*; email: *partsales@bellanca-aircraft.com.* You may view this referenced service information at the FAA, Small Airplane Directorate, 901 Locust, Kansas City, Missouri 64106. For information on the availability of this material at the FAA, call (816) 329–4148.

Examining the AD Docket

You may examine the AD docket on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2014–0438; or in person at the Docket Management Facility between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this proposed AD, the regulatory evaluation, any comments received, and other information. The street address for the Docket Office (phone: 800–647–5527) is in the **ADDRESSES** section. Comments will be available in the AD docket shortly after receipt.

FOR FURTHER INFORMATION CONTACT: Steven Rosenfeld, Aerospace Engineer, FAA, Chicago Aircraft Certification Office, 2300 East Devon Avenue, Room 107, Des Plaines, IL 60018; phone: (847) 294–7030; fax: (847) 294–7834; email: *steven.rosenfeld@faa.gov.*

SUPPLEMENTARY INFORMATION:

Comments Invited

We invite you to send any written relevant data, views, or arguments about this proposed AD. Send your comments to an address listed under the **ADDRESSES** section. Include ''Docket No. FAA–2014–0438; Directorate Identifier 2014–CE–015–AD'' at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of this proposed AD. We will consider all comments received by the closing date and may amend this proposed AD because of those comments.

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

Discussion

On September 12, 1975, we issued AD 75–20–06, Amendment 39–2372 (40 FR 13184, September 22, 1975), (''AD 75–20–06''), for certain Alexandria Aircraft LLC (type certificate previously held by Bellanca Aircraft Corp., Viking Aviation, Inc., and Bellanca, Inc.) Models 14–19–3A, 17–30, 17–30A, 17–31, 17–31A, 17–31ATC, and 17–31TC airplanes. AD 75–20–06 requires repetitively inspecting the aft fuselage structure near the top of the vertical side tubing, which connects the horizontal stabilizer carry-through to the upper fuselage longeron, for cracks and installing the manufacturer's service repair kit (Bellanca Kit SK1234789–0004) as a terminating action for the repetitive inspections to repair any cracks found. AD 75–20–06 resulted from reports of cracks found in the aft fuselage structure near the horizontal stabilizer carry-through on the Model 17 series airplanes. We issued AD 75–20–06 to detect and correct cracks in either vertical side fuselage tube (fuselage station (F.S.) 7), which is adjacent to the horizontal stabilizer carry-through, in the area near the upper fuselage longeron to prevent failure of the horizontal stabilizer. This failure could cause reduced structural integrity of the fuselage and result in loss of control.

Actions Since AD 75–20–06 Was Issued

Since we issued AD 75–20–06, we have received reports that cracks are still being found in the vertical side fuselage tube (F.S. 7) in the area near the upper fuselage longeron on airplanes that have had Bellanca Kit SK1234789–0004 installed, which is a terminating action for the repetitive inspections required in AD 75–20–06.

Relevant Service Information

We reviewed Alexandria Aircraft LLC Bellanca Service Letter 85, Revision B, dated April 8, 2004. The service letter describes procedures for repetitively inspecting the horizontal stabilizer fuselage attachment tube and carry-thru tube support bracket for cracks and replacing any cracked parts found.

FAA's Determination

We are proposing this AD because we evaluated all the relevant information and determined the unsafe condition described previously is likely to exist or develop in other products of the same type design.

Proposed AD Requirements

This proposed AD would retain the inspection requirements of AD 75–20–06 and remove the terminating action allowed in AD 75–20–06.

Costs of Compliance

We estimate that this proposed AD affects 847 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
Inspecting the horizontal stabilizer fuselage attachment tube and carry-thru tube support bracket (retained actions from AD 75–20–06).	1 work-hour × $85 per hour = $85	Not applicable	$85	$71,995

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

ON-CONDITION COSTS

Action	Labor cost	Parts cost	Cost per product
Replacement of the horizontal stabilizer fuselage attachment tube and carry-thru tube support bracket.	30 work-hours × $85 per hour = $2,550	$575	$3,125

Authority for This Rulemaking

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

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

Regulatory Findings

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

For the reasons discussed above, I certify that the proposed regulation:

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

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

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

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

List of Subjects in 14 CFR Part 39

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

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

■ 2. The FAA amends § 39.13 by removing Airworthiness Directive (AD) 75–20–06, Amendment 39–2372 (40 FR 13184, September 22, 1975), and adding the following new AD:

Alexandria Aircraft LLC: Docket No. FAA–2014–0438; Directorate Identifier 2014–CE–015–AD.

(a) Comments Due Date

The FAA must receive comments on this AD action by August 18, 2014.

(b) Affected ADs

This AD supersedes AD 75–20–06, Amendment 39–2372 (40 FR 13184, September 22, 1975) (''AD 75–20–06'').

(c) Applicability

This AD applies to Alexandria Aircraft LLC (type certificate previously held by Bellanca Aircraft Corp., Viking Aviation, Inc., and Bellanca, Inc.) Models 14–19–3A, 17–30, 17–30A, 17–31, 17–31A, 17–31ATC, and 17–31TC airplanes, all serial numbers (S/Ns), certificated in any category.

(d) Subject

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

(e) Unsafe Condition

This AD was prompted by reports that cracks are still being found in the vertical side fuselage tube (fuselage station 7) in the area near the upper fuselage longeron on airplanes that have had Bellanca Kit SK1234789–0004 installed, which is a terminating action for the repetitive inspections required in AD 75–20–06. We are issuing this AD to detect and correct cracks in either vertical side fuselage tube (F.S. 7), which is adjacent to the horizontal stabilizer carry-through, in the area near the upper fuselage longeron to prevent failure of the horizontal stabilizer. This failure could cause reduced structural integrity of the fuselage and result in loss of control.

(f) Compliance

Comply with this AD within the compliance times specified paragraphs (g) through (h) of this AD, unless already done.

(g) Inspection

(1) *Models 14–19–3A and 17–31A, S/Ns 32–15 through 76–32–163; Models 17–30 and 17–30A, S/Ns 30263 through 76–30811; and Models 17–31, 17–31TC, and 17–31ATC, S/Ns 30004, and 31004 through 76–31124*

(airplanes previously affected by AD 75–20–06): Within the next 100 hours time-in-service (TIS) after the last inspection completed by AD 75–20–06 or within the next 25 hours TIS after the effective date of this AD, whichever occurs later, and repetitively thereafter at intervals not to exceed 100 hours TIS, visually inspect the aft fuselage truss for cracks as specified in paragraph 4. INSPECTION of Alexandria Aircraft LLC Bellanca Service Letter 85, Revision B, dated April 8, 2004.

(2) *Models 14–19–3A, 17–30, 17–30A, 17–31, 17–31A, 17–31ATC, and 17–31TC airplanes, all S/Ns not referenced in paragraph (g)(1) of this AD (airplanes not previously affected by AD 75–20–06):* Before or upon the accumulation of 300 hours time-in-service (TIS) or within the next 25 hours TIS after the effective date of this AD, whichever occurs later, and repetitively thereafter at intervals not to exceed 100 hours TIS, visually inspect the aft fuselage truss for cracks as specified in paragraph 4. INSPECTION of Alexandria Aircraft LLC Bellanca Service Letter 85, Revision B, dated April 8, 2004.

(h) Replacement

If cracks are found during any inspection required by paragraphs (g)(1) and (g)(2) of this AD, before further flight, replace the cracked parts with FAA-approved zero-time parts as specified in paragraph 5. REPAIR of Alexandria Aircraft LLC Bellanca Service Letter 85, Revision B, dated April 8, 2004.

(i) Alternative Methods of Compliance (AMOCs)

(1) The Manager, Chicago Aircraft Certification Office (ACO), FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. In accordance with 14 CFR 39.19, send your request to your principal inspector or local Flight Standards District Office, as appropriate. If sending information directly to the manager of the ACO, send it to the attention of the person identified in paragraph (l)(1) of this AD.

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

(3) AMOCs approved for AD 75–20–06, Amendment 39–2372 (40 FR 13184, September 22, 1975) are not approved as AMOCs for the corresponding provisions of this AD.

(j) Related Information

(1) For more information about this AD, contact Steven Rosenfeld, Aerospace Engineer, FAA, Chicago ACO, 2300 East Devon Avenue, Room 107, Des Plaines, IL 60018; phone: (847) 294–7030; fax: (847) 294–7834; email: *steven.rosenfeld@faa.gov.*

(2) For service information identified in this AD, contact Alexandria Aircraft LLC, 2504 Aga Drive, Alexandria, MN 5630; phone: (320) 763–4088; fax: (320) 763–4095; Internet: *www.bellanca-aircraft.com;* email: *partsales@bellanca-aircraft.com.* You may view this referenced service information at the FAA, Small Airplane Directorate, 901 Locust, Kansas City, Missouri 64106. For information on the availability of this material at the FAA, call (816) 329–4148.

Issued in Kansas City, Missouri, on June 24, 2014.

Timothy Smyth,

Acting Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2014–15525 Filed 7–1–14; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2013–0672; Directorate Identifier 2013–NM–058–AD]

RIN 2120–AA64

Airworthiness Directives; the Boeing Company Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Supplemental notice of proposed rulemaking (NPRM); reopening of comment period.

SUMMARY: We are revising an earlier proposed airworthiness directive (AD) for certain The Boeing Company Model 767–200, –300, –300F, and –400ER airplanes. The NPRM proposed to require an inspection of the wing fuel tank access doors to determine whether impact-resistant access doors are installed in the correct locations, and to replace incorrectly installed doors with impact-resistant access doors. The NPRM also proposed to require an inspection for stencils and index markers on impact-resistant access doors, and application of new stencils or index markers if necessary. In addition, the NPRM proposed to require revising the maintenance program to incorporate changes to the airworthiness limitations section. The NPRM was prompted by reports indicating that a standard access door was located where an impact-resistant access door was required, and stencils were missing from some impact-resistant access doors. This action revises the NPRM by adding airplanes to the applicability. We are proposing this supplemental NPRM (SNPRM) to prevent foreign object penetration of the fuel tank from uncontained engine failure or tire debris, which could cause a fuel leak near an ignition source (e.g., hot brakes or engine exhaust nozzle), consequently leading to a fuel-fed fire. Since these actions impose an additional burden over that proposed in the NPRM, we are reopening the comment period to allow the public the chance to comment on these proposed changes.

DATES: We must receive comments on this SNPRM by August 18, 2014.

ADDRESSES: You may send comments, using the procedures found in 14 CFR 11.43 and 11.45, by any of the following methods:

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

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

Examining the AD Docket

You may examine the AD docket on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2013–0672; or in person at the Docket Management Facility between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this proposed AD, the regulatory evaluation, any comments received, and other information. The street address for the Docket Office (phone: 800–647–5527) is in the **ADDRESSES** section. Comments will be available in the AD docket shortly after receipt.

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

SUPPLEMENTARY INFORMATION:

Comments Invited

We invite you to send any written relevant data, views, or arguments about this proposed AD. Send your comments

to an address listed under the **ADDRESSES** section. Include ''Docket No. FAA–2013–0672; Directorate Identifier 2013–NM–058–AD'' at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of this proposed AD. We will consider all comments received by the closing date and may amend this proposed AD because of those comments.

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

Discussion

We issued an NPRM to amend 14 CFR part 39 by adding an AD that would apply to The Boeing Company Model 767–200, –300, –300F, and –400ER series airplanes. The NPRM published in the **Federal Register** on August 12, 2013 (78 FR 48826). The NPRM proposed to require an inspection of the left- and right-hand wing fuel tank access doors to determine whether impact-resistant access doors are installed in the correct locations, and to replace incorrectly installed doors with impact-resistant access doors. The NPRM also proposed to require an inspection for stencils and index markers on impact-resistant access doors, and application of new stencils or index markers if necessary. In addition, the NPRM proposed to require revising the maintenance program to incorporate changes to the airworthiness limitations section.

Actions Since NPRM (78 FR 48826, August 12, 2013) Was Issued

Since we issued the NPRM (78 FR 48826, August 12, 2013), we have determined that more airplanes are subject to the unsafe condition. This includes all airplanes delivered prior to the release of the critical design configuration control limitation (CDCCL) Task 57–AWL–01, ''Impact-Resistant Fuel Tank Access Door,'' of Section 9, Airworthiness Limitations (AWLs) and Certification Maintenance Requirements (CMRs) of Boeing 767 Maintenance Planning Data Document D622T001–9, Revision January 2013.

Comments

We gave the public the opportunity to comment on the NPRM (78 FR 48826, August 12, 2013). The following presents the comments received on the NPRM and the FAA's response to each comment.

Request To Include Revised Service Information

Boeing requested that we revise the NPRM (78 FR 48826, August 12, 2013) to include Boeing Service Bulletin 767–28–0105, Revision 1, dated February 6, 2013, which revises the applicability from line numbers 1 through 984 to line numbers 1 through 1039. This will include all airplanes delivered prior to the release of the Maintenance Planning Data (MPD) update to contain CDCCL Task 57–AWL–01, ''Impact-Resistant Fuel Tank Access Door,'' of Section 9, Airworthiness Limitations (AWLs) and Certification Maintenance Requirements (CMRs) of Boeing 767 Maintenance Planning Data Document D622T001–9, Revision October 2012, which makes sure the impact-resistant access doors are installed at the correct locations per ongoing maintenance actions.

We agree with the request to include Boeing Service Bulletin 767–28–0105, Revision 1, dated February 6, 2013, in this SNPRM. The references specified in paragraphs (c) and (g) of this SNPRM have been revised accordingly. We have also added new paragraph (j) to this SNPRM to provide credit for actions required by paragraph (g) of this SNPRM using Boeing Service Bulletin 767–28–0105, dated January 12, 2012. In addition, we have re-designated the subsequent paragraphs accordingly. For information on the procedures and compliance times, see this service information at *http://www.regulations.gov* by searching for Docket No. FAA–2013–0672.

Request To Withdraw the NPRM (78 FR 48826, August 12, 2013)

American Airlines (AAL) requested that the NPRM (78 FR 48826, August 12, 2013) be withdrawn. AAL stated that the NPRM is unnecessary and redundant due to existing mandated actions. AAL stated that AD 2008–11–01, Amendment 39–15523 (73 FR 29414, May 21, 2008), requires the incorporation of CDCCL Task 57–AWL–01, ''Impact-Resistant Fuel Tank Access Door,'' of Section 9, Airworthiness Limitations (AWLs) and Certification Maintenance Requirements (CMRs) of Boeing 767 Maintenance Planning Data Document D622T001–9, Revision October 2012, which is also proposed for incorporation by the NPRM. AAL stated that due to the presence of Subsection D in Section 9, the subsequent revisions and FAA approvals of Section 9 have already mandated that AAL's maintenance program include the requirements of CDCCL 57–AWL–01. Similarly AAL stated that the requirements of AD 2010–06–10, Amendment 39–16234 (75 FR 15322, March 29, 2010); and AD 2011–25–05, Amendment 39–16881 (77 FR 2442, January 18, 2012); also make this NPRM unnecessary.

We disagree with the request to withdraw the NPRM (78 FR 48826, August 12, 2013). The three ADs the commenter specified do not require incorporating CDCCL 57–AWL–01. However, we acknowledge that subsequent alternative methods of compliance (AMOCs) to those ADs could lead to incorporation of Subsection D of Section 9 because AMOCs written to allow use of subsequent revisions of MPD Section 9 were also written to require complete incorporation of the later publication of Section 9, Subsection D, into the maintenance program. Incorporation of AMOCs to other ADs, which is the mechanism leading to full incorporation of Subsection D, is voluntary by the operator. Without an AD to require this AWL task, an operator would only be required to comply with ADs that do not require incorporation of this task.

We have added new paragraph (k)(4) to this SNPRM to allow AMOCs approved after November 2, 2012, for AD 2008–11–01 R1, Amendment 39–16145 (74 FR 68515, December 28, 2009); AD 2010–06–10, Amendment 39–16234 (75 FR 15322, March 29, 2010); and AD 2011–25–05, Amendment 39–16881 (77 FR 2442, January 18, 2012); to be approved as AMOCs for the corresponding provisions of paragraph (h) of this SNPRM.

Request To Allow Credit

AAL requested that we allow credit for maintenance tasks already incorporated to satisfy the requirements of CDCCL Task 57–AWL–01, ''Impact-Resistant Fuel Tank Access Door,'' of Section 9, Airworthiness Limitations (AWLs) and Certification Maintenance Requirements (CMRs) of Boeing 767 Maintenance Planning Data Document D622T001–9, Revision October 2012. AAL stated that during its maintenance check schedule it verified that the panels are impact resistant and were inspected for correct markings, which satisfies the actions required by the NPRM (78 FR 48826, August 12, 2013).

We agree to allow credit for actions accomplished using CDCCL Task 57–AWL–01, ''Impact-Resistant Fuel Tank Access Door,'' of Section 9, Airworthiness Limitations (AWLs) and Certification Maintenance Requirements (CMRs) of Boeing 767 Maintenance Planning Data Document D622T001–9, Revision October 2012. Paragraph (f) of this SNPRM would require compliance within the compliance times specified,

unless already done; therefore, no change has been made to this SNPRM in this regard.

Supplemental Type Certificate (STC) Winglet Comment for ST01920SE

Aviation Partners Boeing stated that the installation of winglets per STC ST01920SE (*http://rgl.faa.gov/Regulatory_and_Guidance_Library/rgstc.nsf/0/59027F43B9A7486E86257B1D006591EE?OpenDocument&Highlight=st01920se*) does not affect the accomplishment of the manufacturer's service instructions.

Clarification of Unsafe Condition

We have clarified the unsafe condition specified in the **SUMMARY** and paragraph (e) of this SNPRM by adding the text, ''from uncontained engine failure or tire debris.''

FAA's Determination

We are proposing this SNPRM because we evaluated all the relevant information and determined the unsafe condition described previously is likely to exist or develop in other products of the same type design. Certain changes described above expand the scope of the NPRM (78 FR 48826, August 12, 2013). As a result, we have determined that it is necessary to reopen the comment period to provide additional opportunity for the public to comment on this SNPRM.

Proposed Requirements of This SNPRM

This SNPRM would require accomplishing the actions specified in the service information identified previously. This SNPRM would add airplanes to the applicability.

Costs of Compliance

We estimate that this proposed AD affects 436 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
Inspection	Up to 7 work-hours × $85 per hour = $595	$0	$595	$259,420
Maintenance program revision	1 work-hour × $85 per hour = $85	$0	$85	$37,060

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

ON-CONDITION COSTS

Action	Labor cost	Parts cost	Cost per product
Replacement per door	3 work-hours × $85 per hour = $255	$8,000	$8,255
Stencil and index marker	9 work-hours × $85 per hour = $765	$0	$765

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

Authority for This Rulemaking

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

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

Regulatory Findings

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

For the reasons discussed above, I certify this proposed regulation:

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

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

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

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

List of Subjects in 14 CFR Part 39

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

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

The Boeing Company: Docket No. FAA–2013–0672; Directorate Identifier 2013–NM–058–AD.

(a) Comments Due Date

We must receive comments by August 18, 2014.

(b) Affected ADs

None.

(c) Applicability

This AD applies to The Boeing Company Model 767–200, –300, –300F, and –400ER series airplanes; certificated in any category; as identified in Boeing Service Bulletin 767–28–0105, Revision 1, dated February 6, 2013.

(d) Subject

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

(e) Unsafe Condition

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

(f) Compliance

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

(g) Inspections

Within 72 months after the effective date of this AD, do the actions specified in paragraphs (g)(1) and (g)(2) of this AD, in accordance with the Accomplishment Instructions of Boeing Service Bulletin 767–28–0105, Revision 1, dated February 6, 2013.

(1) Do either a general visual inspection or ultrasonic non-destructive test of the left- and right-hand wing fuel tank access doors to determine whether impact-resistant access doors are installed in the correct locations. If any standard access door is found, before further flight, replace with an impact-resistant access door.

(2) Do a general visual inspection of the left- and right-hand wing fuel tank impact-resistant access doors to verify stencils and index markers are applied. If a stencil or index marker is missing, before further flight, apply a stencil or index marker, as applicable.

(h) Maintenance or Inspection Program Revision

Within 60 days after the effective date of this AD, revise the maintenance or inspection program, as applicable, to incorporate critical design configuration control limitation (CDCCL) Task 57–AWL–01, ''Impact-Resistant Fuel Tank Access Door,'' of Section 9, Airworthiness Limitations (AWLs) and Certification Maintenance Requirements (CMRs) of Boeing 767 Maintenance Planning Data Document D622T001–9, Revision January 2013.

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

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

(j) Credit for Previous Actions

This paragraph provides credit for the actions required by paragraph (g) of this AD, if those actions were performed before the effective date of this AD using Boeing Service Bulletin 767–28–0105, dated January 12, 2012, which is not incorporated by reference in this AD.

(k) Alternative Methods of Compliance (AMOCs)

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

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

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

(4) AMOCs for ADs 2008–11–01 R1, Amendment 39–16145 (74 FR 68515, December 28, 2009); 2010–06–10, Amendment 39–16234 (75 FR 15322, March 29, 2010); or 2011–25–05, Amendment 39–16881 (77 FR 2442, January 18, 2012); that meet the conditions specified in paragraphs (k)(4)(i) and (k)(4)(ii) of this AD are approved as AMOCs for the corresponding provisions of paragraph (h) of this AD.

(i) AMOCs that are approved after November 2, 2012.

(ii) AMOCS that include incorporation of CDCCL Task 57–AWL–01, ''Impact-Resistant Fuel Tank Access Door.''

(l) Related Information

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

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

Issued in Renton, Washington, on June 25, 2014.

Jeffrey E. Duven,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2014–15530 Filed 7–1–14; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2014–0428; Directorate Identifier 2014–NM–067–AD]

RIN 2120–AA64

Airworthiness Directives; the Boeing Company Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: We propose to adopt a new airworthiness directive (AD) for certain The Boeing Company Model 787–8 airplanes. This proposed AD was prompted by reports of deficiencies in the flight control module (FCM) software. This proposed AD would require installing certain FCM software. We are proposing this AD to correct deficiencies in the FCM software, which, if not corrected, could prevent continued safe flight and landing.

DATES: We must receive comments on this proposed AD by August 18, 2014.

ADDRESSES: You may send comments, using the procedures found in 14 CFR 11.43 and 11.45, by any of the following methods:

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

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

the FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, WA. For information on the availability of this material at the FAA, call 425–227–1221.

Examining the AD Docket

You may examine the AD docket on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2014–0428; or in person at the Docket Management Facility between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this proposed AD, the regulatory evaluation, any comments received, and other information. The street address for the Docket Office (phone: 800–647–5527) is in the **ADDRESSES** section. Comments will be available in the AD docket shortly after receipt.

FOR FURTHER INFORMATION CONTACT: Marie Hogestad, Aerospace Engineer, Systems and Equipment Branch, ANM–130S, Seattle Aircraft Certification Office (ACO), FAA, 1601 Lind Avenue SW., Renton, WA 98057–3356; phone: 425–917–6418; fax: 425–917–6590; email: *marie.hogestad@faa.gov.*

SUPPLEMENTARY INFORMATION:

Comments Invited

We invite you to send any written relevant data, views, or arguments about this proposal. Send your comments to an address listed under the **ADDRESSES** section. Include ''Docket No. FAA–2014–0428; Directorate Identifier 2014–NM–067–AD'' at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of this proposed AD. We will consider all comments received by the closing date and may amend this proposed AD because of those comments.

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

Discussion

We have received reports of in-service incidents and identified an indicating system shortcoming due to deficiencies in the FCM software, which have been determined to be safety issues in Model 787–8 airplanes.

We have received several reports of FCM airborne resets that occurred during trailing edge variable camber operation which, due to a software deficiency, incorrectly resulted in the flaps being shut down and the ''FLAPS DRIVE'' (caution) message, which directs the flightcrew to execute a flaps up landing. The flaps up landing procedure requires a high speed landing and, in combination with abnormal landing conditions such as a short runway or adverse weather conditions, could result in a runway excursion.

Additionally, we received a report of a single flap position sensor failure which, due to a software deficiency, incorrectly resulted in flap position data being declared invalid. Invalid flap data causes the primary flight controls to transition to secondary mode, the spoiler droop commands to default to flaps up (i.e., no-droop) position, the autopilot to disengage, the flaps to remain in the last commanded position, and loss of flap position on the displays. This failure could prevent continued safe flight and landing if it occurs during final approach below approximately 100 feet due to the combination of high workload, the flight control mode change, and the wing lift loss, which may result in a high airplane sink rate landing or a ground impact short of the runway.

We have also determined that a single spoiler failure requires an engine indication and crew alerting system (EICAS) alert because a single spoiler failure with flaps down can result in significant levels of buffet, which, without annunciation, the flightcrew might interpret either as a stall, landing gear damage, structural damage, or other external damage.

These conditions, if not corrected, could prevent continued safe flight and landing.

Relevant Service Information

We reviewed Boeing Alert Service Bulletin B787–81205–SB270020–00, Issue 001, dated February 6, 2014. For information on the procedures and compliance times, see this service information at *http://www.regulations.gov* by searching for Docket No. FAA–2014–0428.

Concurrent Service Information

For certain airplanes, Boeing Alert Service Bulletin B787–81205–SB270020–00, Issue 001, dated February 6, 2014, specifies concurrent accomplishment of the FCM software installation specified in Boeing Alert Service Bulletin B787–81205–SB270017–00, Issue 001, dated September 18, 2013. For information on the procedures, see Boeing Alert Service Bulletin B787–81205–SB270017–00, Issue 001, dated September 18, 2013, at *http://www.regulations.gov* by searching for Docket No. FAA–2014–0428.

FAA's Determination

We are proposing this AD because we evaluated all the relevant information and determined the unsafe condition described previously is likely to exist or develop in other products of the same type design.

Proposed AD Requirements

This proposed AD would require installing certain FCM software as specified in the service information described previously.

Explanation of ''RC'' Steps in Service Information

The FAA worked in conjunction with industry, under the Airworthiness Directives Implementation Aviation Rulemaking Committee, to enhance the AD system. One enhancement was a new process for annotating which steps in the service information are required for compliance with an AD. Differentiating these steps from other tasks in the service information is expected to improve an owner's/operator's understanding of crucial AD requirements and help provide consistent judgment in AD compliance. The actions specified in the service information described previously include steps that are labeled as RC (required for compliance) because these steps have a direct effect on detecting, preventing, resolving, or eliminating an identified unsafe condition.

As noted in the specified service information, steps labeled as RC must be done to comply with the proposed AD. However, steps that are not labeled as RC are recommended. Those steps that are not labeled as RC may be deviated from, done as part of other actions, or done using accepted methods different from those identified in the service information without obtaining approval of an alternative method of compliance (AMOC), provided the steps labeled as RC can be done and the airplane can be put back in a serviceable condition. Any substitutions or changes to steps labeled as RC will require approval of an AMOC.

Costs of Compliance

We estimate that this proposed AD affects 11 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
FCM BP3 software installation	2 work-hours × $85 per hour = $170	$0	$170	$1,870
Concurrent FCM BP2 software installation (Group 1 airplanes).	2 work-hours × $85 per hour = $170	$630	$800	$8,800

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

The parts cost for the FCM BP3 software installation is not included in our cost estimate. It is considered Boeing-provided loadable software, which is referenced in Boeing Alert Service Bulletin B787–81205–SB270020–00, Issue 001, dated February 6, 2014, under ''Parts & Materials Supplied by the Operator.''

Authority for This Rulemaking

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

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

Regulatory Findings

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

For the reasons discussed above, I certify this proposed regulation:

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

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

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

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

List of Subjects in 14 CFR Part 39

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

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

The Boeing Company: Docket No. FAA–2014–0428; Directorate Identifier 2014–NM–067–AD.

(a) Comments Due Date

We must receive comments by August 18, 2014.

(b) Affected ADs

None.

(c) Applicability

This AD applies to The Boeing Company Model 787–8 airplanes, certificated in any category, as identified in Boeing Alert Service Bulletin B787–81205–SB270020–00, Issue 001, dated February 6, 2014.

(d) Subject

Air Transport Association (ATA) of America Code 27, Flight Controls.

(e) Unsafe Condition

This AD was prompted by reports of deficiencies in the flight control module (FCM) software. We are issuing this AD to correct deficiencies in the FCM software, which, if not corrected, could prevent continued safe flight and landing.

(f) Compliance

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

(g) Flight Control Module (FCM) Software Installation

Within 6 months after the effective date of this AD: Use the onboard data load function (ODLF) to install FCM operational program software (OPS), FCM loadable diagnostic information (LDI) database (DB) software, and FCM air data reference function (ADRF) DB software, in accordance with the Accomplishment Instructions of Boeing Alert Service Bulletin B787–81205–SB270020–00, Issue 001, dated February 6, 2014.

(h) Concurrent Requirements

For Group 1 airplanes, as identified in Boeing Alert Service Bulletin B787–81205–SB270020–00, Issue 001, dated February 6, 2014: Prior to or concurrently with accomplishing the actions required by paragraph (g) of this AD, use the ODLF to install FCM OPS, FCM LDI DB, and central maintenance computer function (CMCF) LDI DB software, in accordance with the Accomplishment Instructions of Boeing Alert Service Bulletin B787–81205–SB270017–00, Issue 001, dated September 18, 2013.

(i) Parts Installation Prohibition

After installation of the new software specified in paragraphs (g) and (h) of this AD, no person may install any previous versions of the FCM OPS, FCM LDI DB, FCM ADRF DB, or CMCF LDI DB software, on any airplane.

(j) Alternative Methods of Compliance (AMOCs)

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

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

(3) If the service information contains steps that are labeled as RC (Required for

Compliance), those steps must be done to comply with this AD; any steps that are not labeled as RC are recommended. Those steps that are not labeled as RC may be deviated from, done as part of other actions, or done using accepted methods different from those identified in the specified service information without obtaining approval of an AMOC, provided the steps labeled as RC can be done and the airplane can be put back in a serviceable condition. Any substitutions or changes to steps labeled as RC require approval of an AMOC.

(k) Related Information

(1) For more information about this AD, contact Marie Hogestad, Aerospace Engineer, Systems and Equipment Branch, ANM–130S, Seattle Aircraft Certification Office (ACO), FAA, 1601 Lind Avenue SW., Renton, WA 98057–3356; phone: 425–917–6418; fax: 425–917–6590; email: *marie.hogestad@faa.gov.*

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

Issued in Renton, Washington, on June 24, 2014.

Jeffrey E. Duven,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2014–15505 Filed 7–1–14; 8:45 am]

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DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 216

[Docket No. FDA–1999–N–0194 (Formerly 99N–4490)]

RIN 0910–AH10

Additions and Modifications to the List of Drug Products That Have Been Withdrawn or Removed From the Market for Reasons of Safety or Effectiveness

AGENCY: Food and Drug Administration, HHS.

ACTION: Proposed rule; withdrawal of previous proposed rule.

SUMMARY: The Food and Drug Administration (FDA or the Agency) is proposing to amend its regulations to revise the list of drug products that may not be compounded under the exemptions provided by the Federal Food, Drug, and Cosmetic Act (the FD&C Act) because the drug products have been withdrawn or removed from the market after the drug products or components of such drug products were found to be unsafe or not effective. Specifically, the proposed rule would add 25 drug products to this list of drug products and modify the description of one drug product on this list to add an exception. These revisions are necessary because new information has come to the Agency's attention since March 8, 1999, when FDA published the original list as a final rule. FDA is also withdrawing the previous proposed rule regarding additions to this list (see the **Federal Register** of January 4, 2000).

DATES: Submit either electronic or written comments on the proposed rule by September 2, 2014. The January 4, 2000, proposed rule (65 FR 256) is withdrawn as of July 2, 2014.

ADDRESSES: You may submit comments, identified by Agency name and Docket No. FDA–1999–N–0194 and/or Regulatory Information Number (RIN) number 0910–AH10, by any of the following methods:

Electronic Submissions

Submit electronic comments in the following way:

- Federal eRulemaking Portal: *http://www.regulations.gov.* Follow the instructions for submitting comments.

Written Submissions

Submit written submissions in the following ways:

- Mail/Hand delivery/Courier (for paper submissions): Division of Dockets Management (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.

Instructions: All submissions received must include the Agency name, Docket No. FDA–1999–N–0194, and RIN 0910–AH10 for this rulemaking. All comments received may be posted without change to *http://www.regulations.gov*, including any personal information provided. For additional information on submitting comments, see the ''Request for Comments'' heading of the **SUPPLEMENTARY INFORMATION** section of this document.

Docket: For access to the docket to read background documents or comments received, go to *http://www.regulations.gov* and insert the docket number, found in brackets in the heading of this document, into the ''Search'' box and follow the prompts and/or go to the Division of Dockets Management, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.

FOR FURTHER INFORMATION CONTACT: Edisa Gozun, Center for Drug Evaluation and Research (HFD–310), Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 51, Rm. 5199, Silver Spring, MD 20993–0002, 301–796–3110.

SUPPLEMENTARY INFORMATION:

I. Background

Section 503A of the FD&C Act (21 U.S.C. 353a) describes the conditions that must be satisfied for human drug products compounded by a licensed pharmacist or licensed physician to be exempt from the following three sections of the FD&C Act: (1) Section 501(a)(2)(B) (21 U.S.C. 351(a)(2)(B)) (concerning current good manufacturing practice); (2) section 502(f)(1) (21 U.S.C. 352(f)(1)) (concerning the labeling of drugs with adequate directions for use); and (3) section 505 (21 U.S.C. 355) (concerning the approval of drugs under new drug applications (NDAs) or abbreviated new drug applications (ANDAs)).

One of the conditions that must be satisfied to qualify for the exemptions under section 503A of the FD&C Act is that the licensed pharmacist or licensed physician does not compound a drug product that appears on a list published by the Secretary in the **Federal Register** of drug products that have been withdrawn or removed from the market because such drug products or components of such drug products have been found to be unsafe or not effective (see section 503A(b)(1)(C) of the FD&C Act).

A. Court Decisions Regarding the Pharmacy Compounding Provisions of the FD&C Act

As originally enacted, section 503A of the FD&C Act included prohibitions on the advertising and solicitation of prescriptions for any particular compounded drug, class of drug, or type of drug. Seven compounding pharmacies challenged the advertising and solicitation provisions of section 503A of the FD&C Act as an impermissible regulation of commercial speech. In February 2001, the U.S. Court of Appeals for the Ninth Circuit held that the prohibition on advertising and promotion in section 503A(c) and the provision of section 503A(a) of the FD&C Act that requires that the prescription be ''unsolicited,'' were unconstitutional restrictions on commercial speech. (See *Western States Med. Ctr.* v. *Shalala,* 238 F.3d 1090 (9th Cir. 2001).) Furthermore, the Ninth Circuit held that the advertising and solicitation provisions could not be severed from the rest of section 503A and, as a result, found section 503A of the FD&C Act to be invalid in its

entirety. In April 2002, the U.S. Supreme Court affirmed the Ninth Circuit's decision that the advertising and solicitation provisions were unconstitutional; it did not, however, rule on the severability of section 503A of the FD&C Act. (See *Thompson* v. *Western States Med. Ctr.,* 535 U.S. 357 (2002).)

In light of these decisions, FDA issued a Compliance Policy Guide in 2002 to provide guidance on FDA's approach concerning the regulation of pharmacy compounding. (See the **Federal Register** of June 7, 2002 (67 FR 39409).)

In September 2004, 10 pharmacies brought suit in the U.S. District Court for the Western District of Texas challenging FDA's authority to regulate compounded drugs. In August 2006, the District Court held, in part, that compounded human drugs are implicitly exempt from the ''new drug'' definition in section 201(p) of the FD&C Act and, as a result, are not subject to the FD&C Act's new drug approval requirements. (See *Medical Ctr. Pharm.* v. *Gonzales,* 451 F. Supp. 2d 854 (W.D. Tex. 2006).) The District Court also held that the advertising and solicitation provisions in section 503A of the FD&C Act that the Supreme Court had found to be unconstitutional were severable from the rest of that section.

The Federal Government appealed the decision of the U.S. District Court for the Western District of Texas. In July 2008, the U.S. Court of Appeals for the Fifth Circuit reversed the District Court's finding of an implicit exemption for compounded drugs from the new drug approval requirements in the FD&C Act, holding, instead, that compounded drugs fall within the definition of ''new drug'' in the FD&C Act and, therefore, are subject to regulation by FDA. (See *Medical Ctr. Pharm.* v. *Mukasey,* 536 F.3d 383 (5th Cir. 2008).) The Fifth Circuit also held that the advertising and solicitation provisions are severable from the rest of section 503A of the FD&C Act, and as a result, the other provisions of section 503A remain in effect.

The Fifth Circuit's severability ruling conflicted with the earlier Ninth Circuit decision, which held that the advertising and solicitation provisions cannot be severed from section 503A of the FD&C Act, and rendered all of section 503A void. Following a fungal meningitis outbreak in September 2012, FDA sought legislation to, among other things, resolve the split in the Circuits to clarify that section 503A of the FD&C Act was valid nationwide.

B. 2013 Drug Quality and Security Act

On November 27, 2013, President Obama signed the Drug Quality and Security Act (Pub. L. 113–54) (DQSA) that contains important provisions relating to the oversight of compounding of human drugs. This new law removes from section 503A of the FD&C Act the provisions that had been held unconstitutional by the U.S. Supreme Court in 2002. By removing these provisions, the new law clarifies that section 503A of the FD&C Act applies nationwide. In addition, the DQSA adds a new section 503B of the FD&C Act (21 U.S.C. 353b) that creates a new category of ''outsourcing facilities.'' Outsourcing facilities, as defined in section 503B of the FD&C Act, are facilities that meet certain conditions described in section 503B, including registering with FDA as an outsourcing facility. If these conditions are satisfied, a drug compounded for human use by or under the direct supervision of a licensed pharmacist in an outsourcing facility is exempt from three sections of the FD&C Act: (1) Section 502(f)(1), (2) section 505, and (3) section 582 (21 U.S.C. 360eee); but not section 501(a)(2)(B). One of the conditions in section 503B of the FD&C Act that must be satisfied to qualify for the exemptions is that the drug does not appear on a list published by the Secretary of drugs that have been withdrawn or removed from the market because such drugs or components of such drugs have been found to be unsafe or not effective (see section 503B(a)(4)).

Given that nearly identical criteria apply for a drug to be included on the list referred to in section 503A(b)(1)(C) and the list referred to in section 503B(a)(4) of the FD&C Act, FDA is proposing to revise and update the list at § 216.24 (21 CFR 216.24) for purposes of both sections 503A and 503B. Accordingly, the proposed rule that published in the **Federal Register** of January 4, 2000, which would have amended the list in § 216.24, is withdrawn (see **DATES**).

C. Regulatory History of the List

1. Original List

In the **Federal Register** of October 8, 1998 (63 FR 54082), FDA proposed a rule to establish the original list of drug products that have been withdrawn or removed from the market because the drug products or the components of such drug products were found to be unsafe or not effective (1998 proposed rule). The 1998 proposed rule was presented to the Pharmacy Compounding Advisory Committee (Advisory Committee) at a meeting held on October 14 and 15, 1998 (63 FR 47301, September 4, 1998). The Advisory Committee did not have any adverse comments on the 1998 proposed rule and did not suggest any changes. A transcript of the October 1998 Advisory Committee meeting may be found at the Division of Dockets Management (see **ADDRESSES**) and at *http://www.fda.gov/Drugs/GuidanceComplianceRegulatoryInformation/PharmacyCompounding/ucm290713.htm.*

In the **Federal Register** of March 8, 1999 (64 FR 10944), FDA published a final rule that codified the original list in § 216.24 (1999 final rule).

2. 2000 Proposed Rule and Additional Drug Products for the List in § 216.24

In the **Federal Register** of January 4, 2000 (65 FR 256), FDA proposed a rule to amend § 216.24 (2000 proposed rule). Specifically, FDA proposed to add all drug products containing aminopyrine and all drug products containing astemizole to the original list of drug products withdrawn or removed from the market because they have been found to be unsafe or not effective. After the 2000 proposed rule published, three additional drug products (cisapride, grepafloxacin, and troglitazone) were identified as candidates for addition to the list. These five drug products were presented to the Advisory Committee at a meeting held on July 13 and 14, 2000 (65 FR 40104, June 29, 2000). The Advisory Committee voted to include aminopyrine, astemizole, cisapride, grepafloxacin, and troglitazone to the list of drug products that have been withdrawn or removed from the market because they were found to be unsafe or not effective. A transcript of the July 2000 Advisory Committee meeting may be found at the Division of Dockets Management (see **ADDRESSES**) and at *http://www.fda.gov/Drugs/GuidanceComplianceRegulatoryInformation/PharmacyCompounding/ucm290713.htm.*

3. New Proposed Rule To Amend the List in § 216.24

This proposed rule would add to § 216.24 the five drug products identified in section I.C.2 and additional drug products that have been withdrawn or removed from the market since the publication of the 1999 final rule because the drug products or components of such drug products were found to be unsafe or not effective. FDA also proposes to modify the description of one drug product contained in the original list to add an exception that would allow the product to be compounded under certain

circumstances. These revisions are necessary to ensure the list of drugs in § 216.24 reflects new information that has come to the Agency's attention since FDA published the original list in the 1999 final rule. As with the original list, the primary focus of this proposed rule is on drug products that have been withdrawn or removed from the market because they were found to be unsafe. FDA may propose at a later date to add other drug products to the list that have been withdrawn or removed from the market because they were found to be not effective, or to update the list as new information becomes available to the Agency regarding products that were removed from the market because they were found to be unsafe.

This proposed rule would replace the 2000 proposed rule. The list set forth in this proposed rule would apply to compounders and outsourcing facilities seeking to qualify for the exemptions under either section 503A or section 503B of the FD&C Act. Accordingly, the 2000 proposed rule to amend § 216.24 is withdrawn. In preparing this proposed rule, FDA has taken into consideration the discussions held by the July 2000 Advisory Committee and that Advisory Committee's vote to include aminopyrine, astemizole, cisapride, grepafloxacin, and troglitazone on the list of drug products that have been withdrawn or removed from the market because they were found to be unsafe or not effective.

Additional nominations for this list can be submitted to FDA for consideration in comments to this proposed rule.

II. Procedural Issue for Comment

Section 503A of the FD&C Act describes the list in section 503A(b)(1)(C) as a list published by the Secretary in the **Federal Register** of drug products that have been withdrawn or removed from the market because such drug products or components of such drug products have been found to be unsafe or not effective. This suggests that FDA can develop the 503A(b)(1)(C) list by publishing it in the **Federal Register** and does not need to go through notice and comment rulemaking. Section 503A(c)(1) of the FD&C Act, however, states that the Secretary shall issue regulations to implement section 503A, and that before issuing regulations to implement section 503A(b)(1)(C) pertaining to the withdrawn or removed rule, among other sections, the Secretary shall convene and consult an advisory committee on compounding unless the Secretary determines that the issuance of such regulations before consultation is necessary to protect the public health. In 1998 and 1999, FDA used rulemaking to develop the original list of drug products that had been withdrawn or removed from the market, and consulted the Pharmacy Compounding Advisory Committee about the list. In 2000, FDA also proposed to amend the list through rulemaking after consultation with the Advisory Committee.

Meanwhile, new section 503B of the FD&C Act describes the list in section 503B(a)(4) as a list published by the Secretary of drugs that have been withdrawn or removed from the market because such drugs or components of such drugs have been found to be unsafe or not effective. Section 503B(c) of the FD&C Act requires that the Secretary implement through regulations, following consultation with an advisory committee, a list of drugs or categories of drugs that present demonstrable difficulties for compounding that are reasonably likely to lead to an adverse effect on the safety or effectiveness of the drug or category of drugs and therefore may not be compounded under section 503B. (See section 503B(a)(6) of the FD&C Act.) Section 503B does not, however, include any similar requirement for rulemaking or consultation with an advisory committee to establish the list of drugs that may not be compounded under section 503B of the FD&C Act because they have been withdrawn or removed from the market because such drugs or components of such drugs have been found to be unsafe or not effective.

As noted, FDA plans to publish a single list of drug products (referred to as ''the withdrawn or removed list'' or ''the list'') that cannot be compounded for human use under the exemptions provided by either section 503A or 503B of the FD&C Act because they have been withdrawn or removed from the market because such drug products or components of such drug products have been found to be unsafe or not effective. FDA invites comments on the appropriate procedure to update the list in the future. The Agency believes that the timely sharing of information about safety concerns relating to compounding drugs for human use without undue delay is essential to the protection of public health. FDA is concerned that consulting with the advisory committee and completing the rulemaking process are likely to contribute to substantial delay in updating the list to reflect current safety information. FDA therefore is seeking an alternative procedure to update the withdrawn or removed list in the future. Although FDA is publishing a proposed rule today to add 25 drugs to the list, FDA is also soliciting public input through this **Federal Register** notice on alternative procedures for updating the list and requests that this input be submitted to FDA for consideration in comments to this proposed rule. FDA will specify in the final rule the procedure it will use to update the list in the future.

III. Description of This Proposed Rule

A. Amendments to Introductory Text

FDA is proposing to add the phrase ''or section 503B(a)'' to the introductory text of § 216.24 to clarify that drug products included in the list in § 216.24 will not qualify for the exemptions under either section 503A(a) or section 503B(a) of the FD&C Act when compounded.

B. Amendments To Add Drug Products to the List

FDA is proposing to amend § 216.24 to include the 25 drug products described in the following paragraphs that have been withdrawn or removed from the market since the 1999 final rule was published (March 1999) because such drug products or components of such drug products have been found to be unsafe or not effective.

A drug product that is included in the list codified at § 216.24 is not entitled to the exemptions provided in section 503A(a) of the FD&C Act, and is subject to sections 501(a)(2)(B), 502(f)(1), and 505 of the FD&C Act, in addition to other applicable provisions. In addition, a drug that is included in the list codified at § 216.24 is not entitled to the exemptions provided in section 503B(a) of the FD&C Act, and is subject to sections 502(f)(1) and 505 of the FD&C Act, in addition to other applicable provisions.

The listed drugs are ineligible for the exemptions set forth in sections 503A and 503B of the FD&C Act because they have been withdrawn or removed from the market because they were found to be unsafe or not effective. Most drugs on the list may not be compounded in any form. There are, however, two categories of exceptions. In the first category, a particular formulation, indication, dosage form, or route of administration of a drug is explicitly excluded from an entry on the list because an approved drug containing the same active ingredient(s) has not been withdrawn or removed from the market. For such drugs, the formulation, indication, dosage form, or route of administration expressly excluded from the list may be eligible for the exemptions provided in sections 503A and 503B of the FD&C Act. In the second category, some drugs are listed only with regard to certain

formulations, concentrations, indications, routes of administration, or dosage forms because they have been found to be unsafe or not effective in those particular formulations, concentrations, indications, routes of administration, or dosage forms. For drugs that are listed with these types of limitations, any compounding of the drug will be closely scrutinized to ensure that the compounding of the drug does not create a product that is unsafe or not effective. If it appears to do so, FDA may determine that the drug is not entitled to the exemptions provided in sections 503A and 503B of the FD&C Act. Those compounding these particular drugs should take note of the reasons FDA has cited for including a drug on this list, and carefully consider these reasons when considering whether or not to compound a drug that is so listed.

The following drug products are arranged alphabetically by the established names of the active ingredients contained in the drug products and are proposed for inclusion in § 216.24. For many of the drugs, the proprietary or trade name of some or all of the drug products that contained the active ingredient are also given in the preamble paragraphs describing the withdrawn or removed drug products. In several cases, the withdrawn or removed drug products are identified according to the established name of the active ingredient, listed as a particular salt or ester of the active moiety. The following list includes a brief summary of the reasons why each drug product is being proposed for inclusion.

Alatrofloxacin mesylate: All drug products containing alatrofloxacin mesylate. Alatrofloxacin mesylate, formerly marketed as TROVAN Injection, was associated with serious liver injury. On June 9, 1999, FDA announced in a Public Health Advisory that the NDA holder agreed to a limited distribution of TROVAN (alatrofloxacin mesylate) Injection and TROVAN (trovafloxacin mesylate) tablets, 100 milligrams (mg) and 200 mg, to in-patient healthcare facilities (Ref. 1). Subsequently, in the **Federal Register** of June 16, 2006 (71 FR 34940), FDA announced that it was withdrawing the approval of the NDA for TROVAN Injection after the NDA holder notified the Agency that the drug product was no longer marketed and requested that the approval of the NDA be withdrawn.

Aminopyrine: All drug products containing aminopyrine. Aminopyrine was associated with agranulocytosis, a condition characterized by a decrease in the number of certain blood cells and lesions on the mucous membrane and skin. Some cases of agranulocytosis were fatal. In 1964, FDA declared drug products containing aminopyrine to be new drugs and invited NDAs for these drug products, but only for use as an antipyretic in serious situations where other, safer drugs could not be used. FDA received no NDAs for drug products containing aminopyrine, and those unapproved drug products were removed from the market (see the **Federal Register** of October 4, 1977 (42 FR 53954), and January 4, 2000 (65 FR 256)). Aminopyrine was presented to the Advisory Committee at the July 2000 meeting, and the Advisory Committee voted to include aminopyrine on the withdrawn or removed list (see the **Federal Register** of June 29, 2000 (65 FR 40104)).

Astemizole: All drug products containing astemizole. Astemizole, formerly marketed as HISMANAL 10-mg tablets, was associated with life-threatening heart arrhythmias. Patients with liver dysfunction or who were taking other drugs that interfered with the metabolism of astemizole were also found to be at risk of serious cardiac adverse events while taking astemizole. On June 18, 1999, the NDA holder withdrew HISMANAL (astemizole) 10-mg tablets from the market. In the **Federal Register** of August 23, 1999 (64 FR 45973), FDA announced its determination that HISMANAL (astemizole) 10-mg tablets were removed from the market for safety reasons. (See also the **Federal Register** of January 4, 2000 (65 FR 256).) Astemizole was presented to the Advisory Committee at the July 2000 meeting, and the Advisory Committee voted to include astemizole on the withdrawn or removed list (see the **Federal Register** of June 29, 2000 (65 FR 40104)).

Cerivastatin sodium: All drug products containing cerivastatin sodium. Cerivastatin sodium, formerly marketed as BAYCOL tablets, was associated with increased risk of rhabdomyolysis. Fatal rhabdomyolysis was reported most frequently when used at higher doses, when used in elderly patients, and particularly, with concomitant use of gemfibrozil (LOPID). In an August 8, 2001, ''Dear Healthcare Professional Letter,'' the NDA holder stated that it discontinued the marketing and distribution of all dosage strengths of BAYCOL (Ref. 2).

Chloramphenicol: All oral drug products containing chloramphenicol. Chloramphenicol was formerly marketed as CHLOROMYCETIN (chloramphenicol) Capsules. In a letter dated October 9, 2007, the application holder requested withdrawal of the ANDA for CHLOROMYCETIN (chloramphenicol) Capsules, 50 mg, 100 mg, and 250 mg. In the **Federal Register** of February 11, 2009 (74 FR 6896), FDA announced that it was withdrawing approval of the ANDA, effective March 13, 2009. Armenpharm, Ltd., submitted a citizen petition dated February 7, 2011 (Docket No. FDA–2011–P–0081), under § 10.30 (21 CFR 10.30), requesting that the Agency determine whether CHLOROMYCETIN (chloramphenicol) Capsules, 250 mg, were withdrawn from sale for reasons of safety or effectiveness. After considering the citizen petition, FDA determined that the drug product was withdrawn for reasons of safety or effectiveness. With the approval of additional therapies with less severe adverse drug effects, FDA determined that the risks associated with CHLOROMYCETIN (chloramphenicol) Capsules, 250 mg, as then labeled, outweighed the benefits. Furthermore, CHLOROMYCETIN (chloramphenicol) Capsules, 250 mg, may cause a number of adverse reactions, the most serious being bone marrow depression (anemia, thrombocytopenia, and granulocytopenia temporally associated with treatment). Additionally, prior to the removal of the capsule drug product from the market, a boxed warning in the prescribing information for both chloramphenicol sodium succinate injection and chloramphenicol capsules stated that serious hypoplastic anemia, thrombocytopenia, and granulocytopenia are known to occur after administration of chloramphenicol. The boxed warning also described fatal aplastic anemia associated with administration of the drug and aplastic anemia attributed to chloramphenicol that later terminated in leukemia. There is published literature that suggests that the risk of fatal aplastic anemia associated with the oral formulation of chloramphenicol may be higher than the risk associated with the intravenous formulation (see the **Federal Register** of July 13, 2012 (77 FR 41412)). FDA is not aware of any oral drug products containing chloramphenicol currently being marketed.

Cisapride: All drug products containing cisapride. Cisapride, formerly marketed as PROPULSID tablets and suspension, was associated with serious cardiac arrhythmias and death. In an April 12, 2000 ''Dear Healthcare Professional Letter,'' the NDA holder stated that it would discontinue marketing the drug as of July 14, 2000, and make the product available only through an investigational limited access program

(Ref. 3). Cisapride was presented to the Advisory Committee at the July 2000 meeting, and the Advisory Committee voted to include cisapride on the withdrawn or removed list (see the **Federal Register** of June 29, 2000 (65 FR 40104)).

Esmolol hydrochloride: All parenteral drug products containing esmolol HCl that supply 250 mg/milliliter (mL) of concentrated esmolol per 10-mL ampule. Esmolol hydrochloride (HCl), 250 mg/mL per 10-mL ampule, formerly marketed as BREVIBLOC Injection 250 mg/mL per 10-mL ampule, was associated with increased risk of medication errors resulting in serious adverse events, including deaths. The NDA holder sent a letter to FDA on June 28, 2007, notifying the Agency that the company had decided to cease the manufacture and distribution of BREVIBLOC (esmolol HCl) Injection, 250 mg/mL, 10-mL ampule. In a citizen petition dated March 27, 2008 (Docket No. FDA–2008–P–0284), submitted under § 10.30 and in accordance with 21 CFR 314.122 and 314.161, Bedford Laboratories (Bedford) requested that the Agency determine whether BREVIBLOC (esmolol HCl) Injection, 250 mg/mL, 10-mL ampule, was withdrawn from sale for reasons of safety or effectiveness. In the **Federal Register** of May 5, 2010 (75 FR 24710), FDA announced its determination that BREVIBLOC (esmolol HCl) Injection 250 mg/mL, 10-mL ampule, was withdrawn from the market for safety reasons.

Etretinate: All drug products containing etretinate. Etretinate was formerly marketed as TEGISON Capsules. In a letter dated September 23, 1999, the NDA holder requested that FDA withdraw the approval of the NDA for TEGISON (etretinate) Capsules because it had discontinued marketing the product. The letter also stated that the drug was not withdrawn for safety reasons. However, in an acknowledgement letter dated December 30, 2002, FDA informed the NDA holder that TEGISON (etretinate) Capsules was removed from the market because it posed a greater risk of birth defects than SORIATANE (acitretin), the product that replaced TEGISON (etretinate) Capsules (see the **Federal Register** of September 10, 2003 (68 FR 53384)). Subsequently, in the **Federal Register** of September 10, 2003, FDA announced it was withdrawing approval of the NDA.

Gatifloxacin: All drug products containing gatifloxacin (except ophthalmic solutions). Gatifloxacin was formerly marketed as TEQUIN tablets, injection, and oral suspension. In January 2003, FDA received revised product labeling relating to several approved supplements for TEQUIN (gatifloxacin). This revised labeling deleted references to TEQUIN injection, 10 mg/mL (200 mg), indicating that this product was no longer being marketed; therefore, the product was moved from the prescription drug product list to the ''Discontinued Drug Product List'' section of the ''Approved Drug Products With Therapeutic Equivalence Evaluations'' (the Orange Book). In response to a citizen petition from Apotex Corp. (Docket No. FDA–2005–P–0369),[1] FDA determined, as set forth in the **Federal Register** of February 3, 2006 (71 FR 5858), that TEQUIN injection, 10 mg/mL (200 mg), was not withdrawn for reasons of safety and effectiveness. On May 1, 2006, Public Citizen Research Group submitted a citizen petition (Docket No. FDA–2006–P–0081),[2] under § 10.30, requesting that FDA immediately ban TEQUIN because of the increased risk of dysglycemia (hypoglycemia, low blood sugar, and hyperglycemia, high blood sugar) in humans. In June 2006, the NDA holder announced that it would no longer market TEQUIN. In the **Federal Register** of September 9, 2008 (73 FR 52357), FDA announced its determination that all dosage forms and strengths of TEQUIN (gatifloxacin) were withdrawn from the market for safety reasons. There are currently approved gatifloxacin ophthalmic solutions on the market. Thus, FDA is proposing to include all drug products containing gatifloxacin, except ophthalmic solutions, on the withdrawn or removed list.

Grepafloxacin: All drug products containing grepafloxacin. Grepafloxacin, formerly marketed as RAXAR tablets, was associated with cardiac repolarization, manifested as QTc interval prolongation on the electrocardiogram, which could put patients at risk of Torsade de Pointes. The NDA holder sent a letter to FDA on March 5, 2003, requesting that FDA withdraw the approval of the NDA for RAXAR tablets, stating that the product was no longer being marketed. In an acknowledgment letter dated June 20, 2003, FDA stated that RAXAR (grepafloxacin) tablets had been removed from the market because of safety concerns. In a followup letter dated January 12, 2007, FDA informed the NDA holder that the RAXAR NDA should be withdrawn because of the cardiovascular risks stated previously. The NDA holder sent a letter to FDA on March 20, 2007, agreeing with FDA's determination to initiate the withdrawal of the RAXAR NDA, and FDA subsequently announced that approval of the NDA was withdrawn (see the **Federal Register** of June 14, 2007 (72 FR 32852), and July 9, 2007 (72 FR 37244)). Grepafloxacin was presented to the Advisory Committee at the July 2000 meeting, and the Advisory Committee voted to include grepafloxacin on the withdrawn or removed list (see the **Federal Register** of June 29, 2000 (65 FR 40104)).

Methoxyflurane: All drug products containing methoxyflurane. Methoxyflurane, formerly marketed as PENTHRANE Inhalation Liquid, 99.9 percent, was associated with serious, irreversible, and even fatal nephrotoxicity and hepatotoxicity in humans. In the **Federal Register** of August 16, 2001 (66 FR 43017), FDA announced that it was withdrawing the approval of the NDA after the NDA holder notified the Agency that PENTHRANE (methoxyflurane) Inhalation Liquid was no longer being marketed under the NDA and requested withdrawal of the application. In a citizen petition dated August 25, 2004 (Docket No. FDA–2004–P–0337),[3] submitted under § 10.30, and in accordance with § 314.161, AAC Consulting Group requested that the Agency determine whether PENTHRANE (methoxyflurane) Inhalation Liquid, 99.9 percent, was withdrawn from sale for reasons of safety or effectiveness. In the **Federal Register** of September 6, 2005 (70 FR 53019), FDA announced its determination that PENTHRANE Inhalation Liquid, 99.9 percent, was withdrawn from the market for safety reasons.

Novobiocin sodium: All drug products containing novobiocin sodium. Novobiocin sodium, formerly marketed as ALBAMYCIN capsule, 250 mg, was associated with adverse reactions that included relatively common skin reactions, jaundice, hepatic failure, and blood dyscrasias (neutropenia, anemia, and thrombocytopenia). Literature also revealed concerns about the development of novobiocin-resistant *Staphylococci* during treatment and a potential for drug interactions. On June

[1] This citizen petition was originally assigned docket number 2005P–0023/CP1. The number was changed to FDA–2005–P–0369 as a result of FDA's transition to its new docketing system (*http://www.regulations.gov*) in January 2008.

[2] This citizen petition was originally assigned docket number 2006P–0178. The number was changed to FDA–2006–P–0081 as a result of FDA's transition to its new docketing system (*http://www.regulations.gov*) in January 2008.

[3] This citizen petition was originally assigned docket number 2004P–0379. The number was changed to FDA–2004–P–0337 as a result of FDA's transition to its new docketing system (*http://www.regulations.gov*) in January 2008.

9, 1999, the NDA holder sent an annual report to FDA that indicated that ALBAMYCIN (novobiocin sodium) capsule, 250 mg, was no longer being manufactured, and on June 27, 2007, the NDA holder sent a letter to FDA notifying the Agency that ALBAMYCIN (novobiocin sodium) capsule, 250 mg, had been discontinued. In the **Federal Register** of February 11, 2009 (74 FR 6896), FDA announced that it was withdrawing approval of the NDA in response to the NDA holder's withdrawal request. Crixmore LLC submitted a citizen petition dated July 9, 2008 (Docket No. FDA–2008–P–0431), under § 10.30, requesting that the Agency determine whether ALBAMYCIN (novobiocin sodium) capsule, 250 mg, was withdrawn from sale for reasons of safety or effectiveness. In the **Federal Register** of January 19, 2011 (76 FR 3143), FDA announced its determination that ALBAMYCIN (novobiocin sodium) capsule, 250 mg, was withdrawn from the market for reasons of safety or effectiveness.

Oxycodone hydrochloride: All extended-release drug products containing oxycodone hydrochloride that have not been determined by FDA to have abuse-deterrent properties. OXYCONTIN (oxycodone hydrochloride) extended-release tablets were approved in multiple strengths under NDA 20–553 in 1995. The formulation was often abused by manipulating the product to defeat its extended-release mechanism, causing the oxycodone to be released more rapidly. This product was voluntarily withdrawn from sale following introduction of a reformulated version, also marketed as OXYCONTIN (oxycodone hydrochloride) extended-release tablets, which was developed with physicochemical properties intended to make the tablets more difficult to manipulate for purposes of abuse or misuse and was approved in multiple strengths under NDA 22–272 in 2010. Several parties submitted citizen petitions under § 10.30, requesting that the Agency determine whether original OXYCONTIN (oxycodone HCl) extended-release tablets were voluntarily withdrawn from sale for reasons other than safety or effectiveness.[4] In a letter to FDA dated March 19, 2013, the NDA holder requested withdrawal of approval of NDA 20–553 for original OXYCONTIN. In the **Federal Register** of April 18, 2013 (78 FR 23273), FDA published notice of its determination that original OXYCONTIN, NDA 20–553, was withdrawn from sale for reasons of safety or effectiveness. The notice concluded that ''[o]riginal OXYCONTIN . . . poses an increased potential for abuse by certain routes of administration, when compared to reformulated OXYCONTIN. Based on the totality of the data and information available to the Agency at this time, FDA concludes that the benefits of original OXYCONTIN no longer outweigh its risks.'' In the **Federal Register** of August 7, 2013 (78 FR 48177), FDA announced that it was withdrawing the approval of NDA 20–553. In addition, because the drug approval process is the most appropriate way for FDA to evaluate the effect and labeling of products with potentially abuse-deterrent properties, compounding of opioid products with potentially abuse-deterrent properties will be closely scrutinized.

Pemoline: All drug products containing pemoline. Pemoline, formerly marketed as CYLERT tablets and chewable tablets, was associated with liver failure. FDA determined that the overall risk of liver toxicity from CYLERT and generic pemoline outweighed the benefits of the drug. On October 24, 2005, FDA announced in an FDA Alert that the NDA and ANDA holders chose to stop sales and marketing of CYLERT and generic pemoline in May 2005 (Ref. 4).

Pergolide mesylate: All drug products containing pergolide mesylate. Pergolide mesylate, formerly marketed as PERMAX tablets, was associated with increased risk of heart valve damage. On March 29, 2007, FDA announced in a Public Health Advisory that the NDA and ANDA holders agreed to withdraw PERMAX and generic pergolide mesylate from the market (Ref. 5).

Phenylpropanolamine (PPA): All drug products containing PPA. A study demonstrated that PPA was associated with increased risk of hemorrhagic stroke. On November 6, 2000, FDA announced in a Public Health Advisory that it was taking steps to remove PPA from all drug products and requested that all drug companies discontinue marketing products containing PPA (Ref. 6). In response to FDA's request, companies reformulated their products to exclude PPA. In a notice published in the **Federal Register** on August 14, 2001 (66 FR 42665), FDA offered an opportunity for a hearing on a proposal to issue an order, under section 505(e) of the FD&C Act, withdrawing approval of 13 NDAs and 8 ANDAs for products containing phenylpropanolamine. (Although the August 14, 2001, notice stated that FDA proposed to withdraw approval of 16 NDAs and 8 ANDAs, the notice listed only 13 NDAs and 8 ANDAs.) FDA withdrew approval of ANDA 71–099 for BROMATAPP Extended-Release Tablets in a notice published in the **Federal Register** of February 20, 2002 (67 FR 7702) after the application holder informed FDA that the product was no longer being marketed and requested withdrawal. In the **Federal Register** of February 20, 2014 (79 FR 9744), FDA announced that the NDA and ANDA products containing PPA were no longer shown to be safe for use under the conditions that formed the basis upon which the applications were approved, and thus the Agency was withdrawing approval of 20 products containing PPA.

Polyethylene glycol (PEG) 3350, sodium chloride, sodium bicarbonate, potassium chloride, and bisacodyl: All drug products containing PEG 3350, sodium chloride, sodium bicarbonate, and potassium chloride for oral solution, and 10 mg or more of bisacodyl delayed-release tablets. PEG 3350, sodium chloride, sodium bicarbonate, and potassium chloride for oral solution, and four bisacodyl delayed-release tablets, 5 mg (20-mg bisacodyl), formerly marketed as HALFLYTELY AND BISACODYL TABLETS BOWEL PREP KIT (20-mg bisacodyl), was associated with ischemic colitis. The NDA holder informed FDA that it ceased to manufacture and market HALFLYTELY AND BISACODYL TABLETS BOWEL PREP KIT (20-mg bisacodyl) as of September 25, 2007. On July 15, 2008, FDA received a citizen petition (Docket No. FDA–2008–P–0412), submitted under § 10.30, from Foley & Lardner LLP. The petition requested that the Agency determine whether HALFLYTELY AND BISACODYL TABLETS BOWEL PREP KIT (PEG–3350, sodium chloride, sodium bicarbonate, and potassium chloride for oral solution and four bisacodyl delayed release tablets, 5 mg) (HALFLYTELY AND BISACODYL TABLETS BOWEL PREP KIT (20-mg bisacodyl)), manufactured by Braintree Laboratories, Inc. (Braintree), was withdrawn from sale for reasons of safety or effectiveness. In the **Federal Register** of

[4] Varam, Inc., Docket No. FDA–2011–P–0473 (June 9, 2011) (10, 15, 20, 30, 40, 50, 80, and 160 mg); Sheppard, Mullin, Richter & Hampton LLP, Docket No. FDA–2010–P–0540 (October 8, 2010) (10, 15, 20, 30, 40, 60, and 80 mg); Lachman Consultant Services, Inc., Docket No. FDA–2010–P–0526 (September 30, 2010) (10, 15, 20, 30, 40, 60, 80, and 160 mg). Lachman also submitted a petition in 2001 concerning just Purdue Pharma LP's 2001 withdrawal of the 160 mg strength, Docket No. FDA–2001–P–0473 (formerly Docket No. 2001P–0426) (September 18, 2001).

March 19, 2010 (75 FR 13292), FDA announced its determination that HALFLYTELY AND BISACODYL TABLETS BOWEL PREP KIT (20-mg bisacodyl) was withdrawn from the market for reasons of safety or effectiveness. Similarly, PEG 3350, sodium chloride, sodium bicarbonate, and potassium chloride for oral solution, and two bisacodyl delayed-release tablets, 5 mg (10-mg bisacodyl), formerly marketed as HALFLYTELY AND BISACODYL TABLETS BOWEL PREP KIT (10-mg bisacodyl), was associated with ischemic colitis. The NDA holder informed FDA that it ceased to manufacture and market HALFLYTELY AND BISACODYL TABLETS BOWEL PREP KIT (10-mg bisacodyl) as of July 17, 2010. On September 23, 2010, FDA received a citizen petition (Docket No. FDA–2010–P–0507), submitted under § 10.30, from Perrigo Company (Perrigo) requesting that the Agency determine whether HALFLYTELY AND BISACODYL TABLETS BOWEL PREP KIT (PEG–3350, sodium chloride, sodium bicarbonate, and potassium chloride for oral solution and two bisacodyl delayed release tablets, 5 mg) (HALFLYTELY AND BISACODYL TABLETS BOWEL PREP KIT (10-mg bisacodyl)), manufactured by Braintree, was withdrawn from sale for reasons of safety or effectiveness. In the **Federal Register** of August 17, 2011 (76 FR 51037), FDA announced its determination that HALFLYTELY AND BISACODYL TABLETS BOWEL PREP KIT (10-mg bisacodyl) was withdrawn from the market for reasons of safety or effectiveness.

Propoxyphene: All drug products containing propoxyphene. Propoxyphene, formerly marketed under various names such as DARVON and DARVOCET, was associated with serious toxicity to the heart. In a drug safety communication dated November 19, 2010, FDA announced it had requested that companies voluntarily withdraw propoxyphene from the U.S. market and that FDA was recommending against the continued use and prescribing of the pain reliever propoxyphene because new data showed that the drug can cause serious toxicity to the heart, even when used at therapeutic doses. FDA concluded that the safety risks of propoxyphene outweighed its limited benefits for pain relief at recommended doses. The Agency's recommendation was based on all available data including data from a then-new study that evaluated the effects that increasing doses of propoxyphene have on the heart. The results of the study showed that when propoxyphene was taken at therapeutic doses, there were significant changes to the electrical activity of the heart which can increase the risk for serious abnormal heart rhythms (Ref. 7). In the **Federal Register** of March 10, 2014 (79 FR 13308), FDA announced that due to this safety risk, the Agency was withdrawing approval of 54 propoxyphene products with agreement from holders of the affected applications. On that date, FDA also published a notice of opportunity for a hearing on its proposal to withdraw approval of three additional propoxyphene products for which FDA had not received correspondence from the application holders requesting that FDA withdraw approval (see the **Federal Register** of March 10, 2014 (79 FR 13310)).

Rapacuronium bromide: All drug products containing rapacuronium bromide. Rapacuronium bromide, formerly marketed as RAPLON for Injection, was associated with the occurrence of bronchospasm. In a letter dated March 27, 2001, the NDA holder announced that it voluntarily withdrew all batches of RAPLON for Injection from the market (Ref. 8). FDA subsequently announced in the **Federal Register** of March 19, 2012 (77 FR 16039) that it was withdrawing the approval of the NDA.

Rofecoxib: All drug products containing rofecoxib. Rofecoxib, formerly marketed as VIOXX, was associated with increased risk of serious cardiovascular events, including heart attack and stroke. On September 30, 2004, FDA announced in a Public Health Advisory that the NDA holder voluntarily withdrew VIOXX from the market (Ref. 9).

Sibutramine hydrochloride: All drug products containing sibutramine hydrochloride. Sibutramine hydrochloride (HCl), formerly marketed as MERIDIA oral capsules, was associated with increased risk of heart attack and stroke. In a letter dated October 12, 2010, the NDA holder requested that FDA withdraw the approval of the NDA for MERIDIA. In an acknowledgment letter dated November 1, 2010, FDA stated that the benefits of MERIDIA (sibutramine HCl) oral capsules no longer outweighed the risks in any identifiable population. FDA subsequently announced in the **Federal Register** of December 21, 2010 (75 FR 80061) that it was withdrawing approval of the NDA.

Tegaserod maleate: All drug products containing tegaserod maleate. Tegaserod maleate, formerly marketed as ZELNORM, was associated with a higher chance of heart attack, stroke, and worsening heart chest pain that can become a heart attack, compared to a placebo. On March 30, 2007, FDA announced in a Public Health Advisory that the NDA holder agreed to stop selling ZELNORM (Ref. 10). On July 27, 2007, FDA announced that it was permitting the restricted use of ZELNORM (tegaserod maleate) under a treatment investigational new drug (IND) protocol to treat irritable bowel syndrome with constipation (IBS–C) and chronic idiopathic constipation (CIC) in women younger than 55 who meet specific guidelines (Ref. 11). On April 2, 2008, FDA announced that the sponsor of ZELNORM notified FDA that it would no longer provide ZELNORM (tegaserod maleate) under a treatment IND protocol to treat IBS–C and CIC in women younger than 55; however, the sponsor agreed to continue to supply ZELNORM for use in emergency situations (Ref. 12).

Troglitazone: All drug products containing troglitazone. Troglitazone, formerly marketed as REZULIN and PRELAY Tablets, a treatment for type 2 diabetes, was shown to be more toxic to the liver than two other more recently approved drugs that offered a similar benefit. In a letter dated May 1, 2002, the holder of the NDA for REZULIN (troglitazone) Tablets requested that FDA withdraw the NDA for REZULIN (troglitazone) Tablets because it had discontinued marketing the product in March 2000. FDA subsequently announced in the **Federal Register** of January 10, 2003 (68 FR 1469) that it was withdrawing the approval of the NDA for REZULIN. In a letter dated December 31, 2002, the holder of the NDA for PRELAY (troglitazone) Tablets requested that FDA withdraw the approval of the NDA for PRELAY (troglitazone) Tablets because it never marketed the drug and had no plans to market the drug in the future. In the **Federal Register** of August 11, 2003 (68 FR 47581), FDA concluded that PRELAY was voluntarily withdrawn after review of safety data showed that REZULIN was more toxic to the liver than two other more recently approved drugs that offered a similar benefit, and FDA announced that it was withdrawing approval of the NDA for PRELAY. Troglitazone was presented to the Advisory Committee at the July 2000 meeting, and the Advisory Committee voted to include troglitazone on the withdrawn or removed list (see the **Federal Register** of June 29, 2000 (65 FR 40104)).

Trovafloxacin mesylate: All drug products containing trovafloxacin mesylate. Trovafloxacin mesylate,

formerly marketed as TROVAN tablets, 100 mg and 200 mg, was associated with serious liver injury. On June 9, 1999, FDA announced in a Public Health Advisory that the NDA holder agreed to a limited distribution of TROVAN (alatrofloxacin mesylate) Injection and TROVAN (trovafloxacin mesylate) tablets, 100 mg and 200 mg, to in-patient healthcare facilities (Ref. 1). The holders of the NDAs for TROVAN (trovafloxacin mesylate) tablets, 100 mg and 200 mg, and TROVAN/ZITHROMAX COMPLIANCE PAK (trovafloxacin mesylate/azithromycin for oral suspension) notified the Agency that the drug products were no longer marketed and requested that the approval of the NDAs be withdrawn (see the **Federal Register** of September 22, 1999 (64 FR 51325), and June 16, 2006 (71 FR 34940)). FDA announced it was withdrawing approval of the NDAs in the **Federal Register** of September 22, 1999 (64 FR 51325), and June 16, 2006 (71 FR 34940).

Valdecoxib: All drug products containing valdecoxib. Valdecoxib, formerly marketed as BEXTRA, was associated with increased risk of serious cardiovascular events and an increased risk of serious skin reactions (e.g., toxic epidermal necrolysis, Stevens-Johnson syndrome, erythema multiforme) compared to other nonsteroidal anti-inflammatory drugs. On April 7, 2005, FDA announced in an FDA Alert that it had concluded that the overall risk versus benefit profile of BEXTRA (valdecoxib) was unfavorable and that the NDA holder had voluntarily removed BEXTRA from the market (Ref. 13). In letters dated May 27, 2011, August 8, 2011, and October 31, 2011, the holder of the NDA for BEXTRA (valdexoxib) Tablets requested that FDA withdraw the NDA for BEXTRA (valdexoxib) Tablets. FDA subsequently announced in the **Federal Register** of August 2, 2013 (78 FR 46984) that it was withdrawing approval of the NDA.

C. Amendment To Modify the Description of a Drug Product on the List

FDA is proposing to amend § 216.24 to modify the description of bromfenac sodium on the list.

Bromfenac sodium: All drug products containing bromfenac sodium (except ophthalmic solutions). The use of bromfenac sodium, formerly marketed as DURACT (bromfenac sodium) Capsules, was associated with fatal hepatic failure. The manufacturer of DURACT Capsules voluntarily withdrew the drug from the market on June 22, 1998 (see the **Federal Register** of October 8, 1998 (63 FR 54082)). On March 8, 1999, FDA included all drug products containing bromfenac sodium in the list codified at § 216.24 when FDA published the 1999 final rule (64 FR 10944). Since then, FDA has approved bromfenac ophthalmic solutions, and although one of these, XIBROM (bromfenac ophthalmic solution) 0.09%, was discontinued by the NDA holder in 2011, FDA announced its determination in the **Federal Register** of May 13, 2011 (76 FR 28045) that it was not withdrawn for reasons of safety or effectiveness. (See also Docket No. FDA–2011–P–0128.) Approved bromfenac ophthalmic solutions are currently on the market. Thus, FDA is proposing to include all drug products containing bromfenac sodium on the list with an exception for ophthalmic solutions.

For the convenience of the reader, the regulatory text of § 216.24 provided with this proposed rule includes the drug products proposed for addition and modification discussed in this document and the drug products codified by the 1999 final rule.

IV. Environmental Impact

FDA has determined under 21 CFR 25.30(h) that this action is of a type that does not individually or cumulatively have a significant effect on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

V. Analysis of Impacts

FDA has examined the impacts of the proposed rule under Executive Order 12866, Executive Order 13563, the Regulatory Flexibility Act (5 U.S.C. 601–612) and the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4). Executive Orders 12866 and 13563 direct Agencies to assess all costs and benefits of available regulatory alternatives and, when regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety, and other advantages; distributive impacts; and equity). The Agency believes that this proposed rule is not a significant regulatory action as defined by Executive Order 12866.

The Regulatory Flexibility Act requires Agencies to analyze regulatory options that would minimize any significant impact of a rule on small entities. Because small businesses are not expected to incur any compliance costs or loss of sales due to this regulation, we propose to certify that this rule will not have a significant economic impact on a substantial number of small entities.

Section 202(a) of the Unfunded Mandates Reform Act of 1995 requires that Agencies prepare a written statement, which includes an assessment of anticipated costs and benefits, before proposing ''any rule that includes any Federal mandate that may result in the expenditure by State, local, and tribal governments, in the aggregate, or by the private sector, of $100,000,000 or more (adjusted annually for inflation) in any one year.'' The current threshold after adjustment for inflation is $141 million, using the most current (2013) Implicit Price Deflator for the Gross Domestic Product. We do not expect this proposed rule to result in any 1-year expenditure that would meet or exceed this amount.

This rule proposes to amend § 216.24 concerning pharmacy compounding. Specifically, the proposed rule would add to or modify the list of drug products that may not be compounded under the exemptions provided by sections 503A and 503B of the FD&C Act because the drug products were withdrawn or removed from the market because such drug products or components of such drug products were found to be unsafe or not effective (see section III). The Agency is proposing to add 25 drug products to the list and to modify the description of 1 drug product on the list to add an exception. The Agency is not aware of any routine use of these drug products in pharmacy compounding and, therefore, does not estimate any compliance costs or loss of sales as a result of the prohibition against compounding these drugs for human use. However, the Agency invites the submission of comments and solicits current compounding usage data for these drug products, if they are compounded for human use.

Unless an Agency certifies that a rule will not have a significant economic impact on a substantial number of small entities, the Regulatory Flexibility Act requires Agencies to analyze regulatory options to minimize any significant economic impact of a regulation on small entities. Most pharmacies meet the Small Business Administration definition of a small entity, which is defined as having annual sales less than $25.5 million for this industry. The Agency is not aware of any routine compounding of these drug products and does not estimate any compliance costs or loss of sales to small businesses as a result of the prohibition against compounding these drugs. Therefore, the Agency proposes to certify that this proposed rule will not have a significant

economic impact on a substantial number of small entities.

VI. Paperwork Reduction Act of 1995

The submission of comments on this proposed rule and the submission of additional nominations for the list that is the subject of this rulemaking would be submissions in response to a **Federal Register** notice, in the form of comments, which are excluded from the definition of ''information'' under 5 CFR 1320.3(h)(4) of OMB regulations on the Paperwork Reduction Act (i.e., facts or opinions submitted in response to general solicitations of comments from the public, published in the **Federal Register** or other publications, regardless of the form or format thereof, provided that no person is required to supply specific information pertaining to the commenter, other than that necessary for self-identification, as a condition of the Agency's full consideration of the comment). The proposed rule contains no other collection of information.

VII. Request for 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 the 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.*

VIII. References

The following references have been placed on display in the Division of Dockets Management (see **ADDRESSES**) and may be seen by interested persons between 9 a.m. and 4 p.m., Monday through Friday, and are available electronically at *http://www.regulations.gov.* (FDA has verified the Web site addresses in this reference section, but FDA is not responsible for any subsequent changes to the Web sites after this document publishes in the **Federal Register**.)

1. FDA Public Health Advisory Letter from Murray M. Lumpkin, Deputy Center Director (Review Management), Center for Drug Evaluation and Research, FDA, Re: Food and Drug Administration TROVAN (Trovafloxacin/Alatrofloxacin Mesylate) Interim Recommendations (June 9, 1999), *http://www.fda.gov/Drugs/DrugSafety/PostmarketDrugSafetyInformationforPatientsandProviders/DrugSafetyInformationforHeathcareProfessionals/PublicHealthAdvisories/ucm053103.htm.*
2. Letter from E. Paul Mac Carthy, Vice President, Head U.S. Medical Science, Bayer Corporation, to Healthcare Professional, Re: Market withdrawal of Baycol (cerivastatin) (August 8, 2001), *http://www.fda.gov/downloads/Safety/MedWatch/SafetyInformation/SafetyAlertsforHumanMedicalProducts/UCM173692.pdf.*
3. Letter from Jan Gheuens, Vice President, Medical Affairs, Janssen Pharmaceutica, to Healthcare Professional (April 12, 2000), PROPULSID (cisapride) Dear Healthcare Professional Letter (April 2000), *http://www.fda.gov/Safety/MedWatch/SafetyInformation/SafetyAlertsforHumanMedicalProducts/ucm175000.htm.*
4. FDA Alert—Information for Healthcare Professionals: Pemoline Tablets and Chewable Tablets (marketed as CYLERT) (October 2005), *http://www.fda.gov/Drugs/DrugSafety/PostmarketDrugSafetyInformationforPatientsandProviders/ucm126461.htm.*
5. FDA Public Health Advisory—Pergolide (marketed as PERMAX) (March 29, 2007), *http://www.fda.gov/Drugs/DrugSafety/PostmarketDrugSafetyInformationforPatientsandProviders/DrugSafetyInformationforHeathcareProfessionals/PublicHealthAdvisories/ucm051285.htm.*
6. FDA Public Health Advisory—Safety of Phenylpropanolamine (November 6, 2000), *http://www.fda.gov/Drugs/DrugSafety/PostmarketDrugSafetyInformationforPatientsandProviders/DrugSafetyInformationforHeathcareProfessionals/PublicHealthAdvisories/ucm052236.htm.*
7. FDA Drug Safety Communication—FDA Recommends Against the Continued Use of Propoxyphene (November 19, 2010), *http://www.fda.gov/Drugs/DrugSafety/ucm234338.htm.*
8. Letter from Deborah Shapse, Medical Director, Organon, Inc., Re: Voluntary Market Withdrawal of RAPLON (rapacuronium bromide) for Injection, All Batches (March 27, 2001), *http://www.fda.gov/downloads/Safety/MedWatch/SafetyInformation/SafetyAlertsforHumanMedicalProducts/UCM173891.pdf.*
9. FDA Public Health Advisory—Safety of VIOXX (September 30, 2004), *http://www.fda.gov/Drugs/DrugSafety/PostmarketDrugSafetyInformationforPatientsandProviders/ucm106274.htm.*
10. FDA Public Health Advisory—Tegaserod maleate (marketed as ZELNORM) (March 30, 2007), *http://www.fda.gov/Drugs/DrugSafety/PostmarketDrugSafetyInformationforPatientsandProviders/DrugSafetyInformationforHeathcareProfessionals/PublicHealthAdvisories/ucm051284.htm.*
11. FDA News Release, ''FDA Permits Restricted Use of Zelnorm for Qualifying Patients'' (July 27, 2007), *http://www.fda.gov/NewsEvents/Newsroom/PressAnnouncements/2007/ucm108956.htm.*
12. FDA—ZELNORM (tegaserod maleate) Information (April 2, 2008), *http://www.fda.gov/Drugs/DrugSafety/PostmarketDrugSafetyInformationforPatientsandProviders/ucm103223.htm.*
13. FDA Alert—Information for Healthcare Professionals: Valdecoxib (marketed as Bextra) (April 7, 2005), *http://www.fda.gov/Drugs/DrugSafety/PostmarketDrugSafetyInformationforPatientsandProviders/ucm124649.htm.*

List of Subjects in 21 CFR Part 216

Drugs, Prescription drugs.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs, the proposed rule that published on January 4, 2000 (65 FR 256), is withdrawn and it is proposed that 21 CFR part 216 be amended as follows:

PART 216—HUMAN DRUG COMPOUNDING

■ 1. The authority citation for 21 CFR part 216 is revised to read as follows:

Authority: 21 U.S.C. 351, 352, 353a, 353b, 355, and 371.

■ 2. The heading for part 216 is revised to read as set forth above.

■ 3. Section 216.24 is revised to read as follows:

§ 216.24 Drug products withdrawn or removed from the market for reasons of safety or effectiveness.

The following drug products were withdrawn or removed from the market because such drug products or components of such drug products were found to be unsafe or not effective. The following drug products may not be compounded under the exemptions provided by section 503A(a) or section 503B(a) of the Federal Food, Drug, and Cosmetic Act:

Adenosine phosphate: All drug products containing adenosine phosphate.

Adrenal cortex: All drug products containing adrenal cortex.

Alatrofloxacin mesylate: All drug products containing alatrofloxacin mesylate.

Aminopyrine: All drug products containing aminopyrine.

Astemizole: All drug products containing astemizole.

Azaribine: All drug products containing azaribine.

Benoxaprofen: All drug products containing benoxaprofen.

Bithionol: All drug products containing bithionol.

Bromfenac sodium: All drug products containing bromfenac sodium (except ophthalmic solutions).

Butamben: All parenteral drug products containing butamben.

Camphorated oil: All drug products containing camphorated oil.

Carbetapentane citrate: All oral gel drug products containing carbetapentane citrate.

Casein, iodinated: All drug products containing iodinated casein.

Cerivastatin sodium: All drug products containing cerivastatin sodium.

Chloramphenicol: All oral drug products containing chloramphenicol.

Chlorhexidine gluconate: All tinctures of chlorhexidine gluconate formulated for use as a patient preoperative skin preparation.

Chlormadinone acetate: All drug products containing chlormadinone acetate.

Chloroform: All drug products containing chloroform.

Cisapride: All drug products containing cisapride.

Cobalt: All drug products containing cobalt salts (except radioactive forms of cobalt and its salts and cobalamin and its derivatives).

Dexfenfluramine hydrochloride: All drug products containing dexfenfluramine hydrochloride.

Diamthazole dihydrochloride: All drug products containing diamthazole dihydrochloride.

Dibromsalan: All drug products containing dibromsalan.

Diethylstilbestrol: All oral and parenteral drug products containing 25 milligrams or more of diethylstilbestrol per unit dose.

Dihydrostreptomycin sulfate: All drug products containing dihydrostreptomycin sulfate.

Dipyrone: All drug products containing dipyrone.

Encainide hydrochloride: All drug products containing encainide hydrochloride.

Esmolol hydrochloride: All parenteral dosage form drug products containing esmolol hydrochloride that supply 250 milligrams/milliliter of concentrated esmolol per 10-milliliter ampule.

Etretinate: All drug products containing entretinate.

Fenfluramine hydrochloride: All drug products containing fenfluramine hydrochloride.

Flosequinan: All drug products containing flosequinan.

Gatifloxacin: All drug products containing gatifloxacin (except ophthalmic solutions).

Gelatin: All intravenous drug products containing gelatin.

Glycerol, iodinated: All drug products containing iodinated glycerol.

Gonadotropin, chorionic: All drug products containing chorionic gonadotropins of animal origin.

Grepafloxacin: All drug products containing grepafloxacin.

Mepazine: All drug products containing mepazine hydrochloride or mepazine acetate.

Metabromsalan: All drug products containing metabromsalan.

Methamphetamine hydrochloride: All parenteral drug products containing methamphetamine hydrochloride.

Methapyrilene: All drug products containing methapyrilene.

Methopholine: All drug products containing methopholine.

Methoxyflurane: All drug products containing methoxyflurane.

Mibefradil dihydrochloride: All drug products containing mibefradil dihydrochloride.

Nitrofurazone: All drug products containing nitrofurazone (except topical drug products formulated for dermatalogic application).

Nomifensine maleate: All drug products containing nomifensine maleate.

Novobiocin sodium: All drug products containing novobiocin sodium.

Oxycodone hydrochloride: All extended-release drug products containing oxycodone hydrochloride that have not been determined by FDA to have abuse-deterrent properties.

Oxyphenisatin: All drug products containing oxyphenisatin.

Oxyphenisatin acetate: All drug products containing oxyphenisatin acetate.

Pemoline: All drug products containing pemoline.

Pergolide mesylate: All drug products containing pergolide mesylate.

Phenacetin: All drug products containing phenacetin.

Phenformin hydrochloride: All drug products containing phenformin hydrochloride.

Phenylpropanolamine: All drug products containing phenylpropanolamine.

Pipamazine: All drug products containing pipamazine.

Polyethylene glycol 3350, sodium chloride, sodium bicarbonate, potassium chloride, and bisacodyl: All drug products containing polyethylene glycol 3350, sodium chloride, sodium bicarbonate, and potassium chloride for oral solution, and 10 milligrams or more of bisacodyl delayed-release tablets.

Potassium arsenite: All drug products containing potassium arsenite.

Potassium chloride: All solid oral dosage form drug products containing potassium chloride that supply 100 milligrams or more of potassium per dosage unit (except for controlled-release dosage forms and those products formulated for preparation of solution prior to ingestion).

Povidone: All intravenous drug products containing povidone.

Propoxyphene: All drug products containing propoxyphene.

Rapacuronium bromide: All drug products containing rapacuronium bromide.

Reserpine: All oral dosage form drug products containing more than 1 milligram of reserpine.

Rofecoxib: All drug products containing rofecoxib.

Sibutramine hydrochloride: All drug products containing sibutramine hydrochloride.

Sparteine sulfate: All drug products containing sparteine sulfate.

Sulfadimethoxine: All drug products containing sulfadimethoxine.

Sulfathiazole: All drug products containing sulfathiazole (except for those formulated for vaginal use).

Suprofen: All drug products containing suprofen (except ophthalmic solutions).

Sweet spirits of nitre: All drug products containing sweet spirits of nitre.

Tegaserod maleate: All drug products containing tegaserod maleate.

Temafloxacin hydrochloride: All drug products containing temafloxacin.

Terfenadine: All drug products containing terfenadine.

3,3′,4′,5-tetrachlorosalicylanilide: All drug products containing 3,3′,4′,5-tetrachlorosalicylanilide.

Tetracycline: All liquid oral drug products formulated for pediatric use containing tetracycline in a concentration greater than 25 milligrams/milliliter.

Ticrynafen: All drug products containing ticrynafen.

Tribromsalan: All drug products containing tribromsalan.

Trichloroethane: All aerosol drug products intended for inhalation containing trichloroethane.

Troglitazone: All drug products containing troglitazone.

Trovafloxacin mesylate: All drug products containing trovafloxacin mesylate.

Urethane: All drug products containing urethane.

Valdecoxib: All drug products containing valdecoxib.

Vinyl chloride: All aerosol drug products containing vinyl chloride.

Zirconium: All aerosol drug products containing zirconium.

Zomepirac sodium: All drug products containing zomepirac sodium.

Dated: June 25, 2014.

Leslie Kux,

Assistant Commissioner for Policy.

[FR Doc. 2014–15371 Filed 7–1–14; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[REG–110948–14]

RIN 1545–BM06

Guidelines for the Streamlined Process of Applying for Recognition of Section 501(c)(3) Status

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice of proposed rulemaking by cross-reference to temporary regulations.

SUMMARY: In the Rules and Regulations section of this issue of the **Federal Register**, the IRS is issuing regulations that provide guidance to organizations that seek recognition of tax-exempt status under section 501(c)(3) of the Internal Revenue Code. The final and temporary regulations amend current regulations to allow the Commissioner of Internal Revenue to adopt a streamlined application process that certain organizations may use to apply for recognition of tax-exempt status under section 501(c)(3). The text of those temporary regulations also serves as the text of these proposed regulations.

DATES: Comments and requests for a public hearing must be received by September 30, 2014.

ADDRESSES: Send submissions to: CC:PA:LPD:PR (REG–110948–14), Room 5205, Internal Revenue Service, P.O. Box 7604, Ben Franklin Station, Washington, DC 20044. Submissions may be hand-delivered Monday through Friday between the hours of 8 a.m. and 4 p.m. to CC:PA:LPD:PR (REG–110948–14), Courier's Desk, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC, or sent electronically via the Federal eRulemaking Portal at *http://www.regulations.gov* (IRS REG–110948–14).

FOR FURTHER INFORMATION CONTACT: Concerning the proposed regulations, James R. Martin or Robin Ehrenberg at (202) 317–5800; concerning submission of comments and request for hearing, Oluwafunmilayo Taylor at (202) 317–6901 (not toll-free numbers).

SUPPLEMENTARY INFORMATION:

Background and Explanation of Provisions

Temporary regulations in the Rules and Regulations section of this issue of the **Federal Register** amend the existing regulations under sections 501 and 508 to allow for an additional form of application to be used to satisfy the notice requirement under section 508(a). The text of those temporary regulations also serves as the text of these proposed regulations. The preamble to the temporary regulations explains the amendments.

Special Analyses

It has been determined that this notice of proposed rulemaking is not a significant regulatory action as defined in Executive Order 12866, as supplemented by Executive Order 13563. Therefore, a regulatory assessment is not required. It also has been determined that section 553(b) of the Administrative Procedure Act (5 U.S.C. chapter 5) does not apply to these regulations. It is hereby certified that this rule will not have a significant economic impact on a substantial number of small entities. Although this rule may affect a substantial number of small entities that choose to use the new form that streamlines the application process that eligible organizations may use to apply for recognition of tax-exempt status under section 501(c)(3), we intend for this rule to reduce the economic impact on small entities. This rule merely provides guidance about the streamlined form of application available to satisfy the notice requirement under Section 508(a). Therefore, a Regulatory Flexibility Analysis under the Regulatory Flexibility Act (5 U.S.C. Chapter 6) is not required.

Comments and Requests for Public Hearing

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

A public hearing will be scheduled if requested in writing by any person that timely submits written comments. If a public hearing is scheduled, notice of the date, time, and place for the public hearing will be published in the **Federal Register**.

Drafting Information

The principal authors of these regulations are James R. Martin and Robin Ehrenberg, Office of Associate Chief Counsel (Tax Exempt and Government Entities). However, other personnel from the IRS and the Treasury Department participated in their development.

List of Subjects in 26 CFR Part 1

Income taxes, Nonprofit organizations, Foundations, Reporting and recordkeeping requirements.

Proposed Amendments to the Regulations

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

PART 1—INCOME TAXES

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

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

■ **Par. 2.** Section 1.501(a)–1 is amended by:

■ 1. Revising paragraph (a)(2).

■ 2. Revising paragraph (b)(1) and (3).

■ 3. Adding paragraph (f).

The revisions and addition read as follows:

§ 1.501(a)–1 Exemption from taxation.

(a) * * *

(2) [The text of the proposed amendment to § 1.501(a)–1(a)(2) is the same as the text for § 1.501(a)–1T(a)(2) published elsewhere in this issue of the **Federal Register**].

* * * * *

(b)(1) [The text of the proposed amendment to § 1.501(a)–1(b)(1) is the same as the text for § 1.501(a)–1T(b)(1) published elsewhere in this issue of the **Federal Register**].

* * * * *

(3) [The text of the proposed amendment to § 1.501(a)–1(b)(3) is the same as the text for § 1.501(a)–1T(b)(3) published elsewhere in this issue of the **Federal Register**].

* * * * *

(f) [The text of the proposed amendment to § 1.501(a)–1(f) is the same as the text for § 1.501(a)–1T(f) published elsewhere in this issue of the **Federal Register**].

■ **Par. 3.** Section 1.501(c)(3)–1 is amended by:

■ 1. Revising paragraphs (b)(1)(v) and (b)(6).

■ 2. Adding paragraph (h).

The revisions and addition read as follows:

§ 1.501(c)(3)–1 Organizations organized and operated for religious, charitable, scientific, testing for public safety, literary, or educational purposes, or for the prevention of cruelty to children or animals.

* * * * *

(b) * * * (1) * * *

(v) [The text of proposed amendments to § 1.501(c)(3)–1(b)(1)(v) is the same as

the text for § 1.501(c)(3)–1T(b)(1)(v) published elsewhere in this issue of the **Federal Register**].

* * * * *

(6) [The text of proposed amendments to § 1.501(c)(3)–1(b)(6) is the same as the text for § 1.501(c)(3)–1T(b)(6) published elsewhere in this issue of the **Federal Register**].

* * * * *

(h) [The text of proposed amendments to § 1.501(c)(3)–1(h) is the same as the text for § 1.501(c)(3)–1T(h) published elsewhere in this issue of the **Federal Register**].

■ **Par. 4.** Section 1.508–1 is amended by:

■ 1. Revising paragraphs (a)(2)(i) and (ii).

■ 2. Revising paragraphs (b)(2)(iv) and (v).

■ 3. Adding paragraph (c).

The revisions and addition read as follows:

§ 1.508–1 Notices.

(a) * * *

(2)(i) [The text of proposed amendments to § 1.508–1(a)(2)(i) is the same as the text for § 1.508–1T(a)(2)(i) published elsewhere in this issue of the **Federal Register**].

(ii) [The text of proposed amendments to § 1.508–1(a)(2)(ii) is the same as the text for § 1.508–1T(a)(2)(ii) published elsewhere in this issue of the **Federal Register**].

* * * * *

(b) * * *

(2) * * *

(iv) [The text of proposed amendments to § 1.508–1(b)(2)(iv) is the same as the text for § 1.508–1T(b)(2)(iv) published elsewhere in this issue of the **Federal Register**].

(v) [The text of proposed amendments to § 1.508–1(b)(2)(v) is the same as the text for § 1.508–1T(b)(2)(v) published elsewhere in this issue of the **Federal Register**].

* * * * *

(c) [The text of proposed amendments to § 1.508–1(c) is the same as the text for § 1.508–1T(c) published elsewhere in this issue of the **Federal Register**].

John Dalrymple,

Deputy Commissioner for Services and Enforcement.

[FR Doc. 2014–15624 Filed 7–1–14; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF VETERANS AFFAIRS

38 CFR Part 38

RIN 2900–AO99

Reimbursement for Caskets and Urns for Burial of Unclaimed Remains in a National Cemetery

AGENCY: Department of Veterans Affairs.

ACTION: Proposed rule.

SUMMARY: The Department of Veterans Affairs National Cemetery Administration (NCA) proposes to amend its regulations to establish a new program to furnish caskets and urns for the interment of the remains of veterans with no known next-of-kin (NOK) where sufficient financial resources are not available for this purpose. This rulemaking is necessary to implement new statutory authority by establishing procedures to provide reimbursement for privately purchased caskets or urns and to otherwise administer the new program. This proposed rule would implement a portion of the Dignified Burial and Other Veterans' Benefits Improvement Act of 2012 (the Act).

DATES: Comments must be received on or before August 1, 2014.

ADDRESSES: Written comments may be submitted through *http://www.Regulations.gov;* by mail or hand-delivery to: Director, Regulation Policy and Management (02REG), Department of Veterans Affairs, 810 Vermont Avenue NW., Room 1068, Washington, DC 20420; or by fax to (202) 273–9026 (this is not a toll free number). Comments should indicate that they are submitted in response to ''RIN 2900–AO99—Reimbursements for Caskets and Urns for Burial of Unclaimed Remains in a National Cemetery.'' Copies of comments received will be available for public inspection in the Office of Regulation Policy and Management, Room 1063B, between the hours of 8 a.m. and 4:30 p.m., Monday through Friday (except holidays). Please call (202) 461–4902 for an appointment. (This is not a toll free number.) In addition, during the comment period, comments may be viewed online through the Federal Docket Management System (FDMS) at *http://www.Regulations.gov.*

FOR FURTHER INFORMATION CONTACT: Cynthia Riddle, Office of Field Programs (41A), National Cemetery Administration (NCA), Department of Veterans Affairs, 810 Vermont Avenue NW., Washington, DC 20420. Telephone: (202) 461–6306 (this is not a toll-free number).

SUPPLEMENTARY INFORMATION: On January 10, 2013, Congress enacted the ''Dignified Burial and Other Veterans' Benefits Improvement Act of 2012'' (the Act), Public Law 112–260, 126 Stat. 2417 (2013), section 101 of which amended 38 U.S.C. 2306 to authorize the Department of Veterans Affairs (VA) National Cemetery Administration (NCA) to furnish a casket or urn for interment in a VA national cemetery of the unclaimed remains of veterans for whom VA cannot identify a next of kin (NOK) and determines that sufficient financial resources for the furnishing of a casket or urn for burial are not available. VA proposes to add a new § 38.628 to part 38 of title 38 of the Code of Federal Regulations (CFR) to implement this new statutory authority by providing a monetary reimbursement for privately purchased caskets or urns that meet NCA standards and are used to inter the remains of such veterans in VA national cemeteries. On June 26, 2014, VA published a proposed rule which contained several errors. We are therefore publishing this corrected version of the proposed rule.

NCA is responsible for administering cemetery programs and memorial benefits, which include the provision of medallions, headstones, and markers, as well as burial in a VA national cemetery for eligible veterans and their family members. Section 2402 of title 38, United States Code, establishes eligibility requirements for burial in a VA national cemetery. For eligible veterans and certain family members, VA covers the cost of interment in a VA national cemetery and provides a headstone or marker (including inscription), as well as a gravesite or cremation niche and perpetual care of the gravesite or cremation niche. The Act authorizes VA to furnish a casket or urn for the burial in a national cemetery of the remains of a veteran with no known NOK and where sufficient financial resources are not otherwise available. Because VA's burial operations do not normally include the acquisition or provision of a casket or an urn, VA is proposing to provide monetary reimbursement for a privately purchased casket or urn for the burial of any veterans whose remains are unclaimed when no NOK can be identified and it is determined that insufficient financial resources are available to pay for cost of the casket or urn. VA believes that monetary reimbursement is a more efficient means to administer this authority because direct provision of caskets and urns would create additional administrative duties and expenses, outside the scope

of normal operations, which may impact the timely provision of burial services.

When veterans and other individuals die without sufficient funds for burial and no known NOK, third parties, such as public administrators, local coroners, funeral directors or volunteer organizations, often assume responsibility for the burial of unclaimed remains, to include the provision of a casket or urn for burial at private or public expense. By establishing a means to reimburse these third parties for the expense of a burial receptacle, VA would ensure that these veterans receive an appropriate burial in a national cemetery consistent with Congress' stated objective in enacting the amendment to 38 U.S.C. 2306. Requests for reimbursement would require presentation of an invoice to ensure accountability and quality of the purchased casket or urn, but would be limited to an average cost to ensure appropriate fiscal control.

In paragraph (a) of proposed 38 CFR 38.628, we would state the general applicability of the reimbursement program, which is based on the authority set forth in the Act. Because the Act directs that burial will be in a national cemetery, VA would determine whether the deceased veteran is eligible for burial in one of the VA national cemeteries. Generally, eligibility requirements are set forth in § 38.620. Sections 38.617 and 38.618 contain prohibitions for burial in certain circumstances, and the Act contained new restrictions, based on a deceased veteran's conviction of certain sex offenses, for which VA has not yet published regulations. These legal requirements would also be considered in determining whether a deceased veteran is eligible for burial in a national cemetery.

Paragraphs (a)(1) and (2) of § 38.628 state the additional requirements that were set forth in the Act which define when VA may furnish a burial receptacle. As stated previously, the Act provided authority for VA to furnish a casket or an urn when VA is unable to identify the veteran's next-of-kin and determines that sufficient resources to purchase the burial receptacle are not otherwise available. These requirements are discussed below.

In paragraph (b) of § 38.628, we propose the requirements necessary for an individual or entity to request reimbursement. To ensure consistent process and submission of information, VA has developed a form to be used for requesting reimbursement. VA has separately requested the Office of Management and Budget approval of the form and published a notice requesting comment on the information collection, as required by the Paperwork Reduction Act. See Paperwork Reduction Act section below.

As proposed, the form and any supporting documentation would provide information sufficient for VA to make determinations regarding the veteran's eligibility for burial in a national cemetery, and the availability of the veteran's next-of-kin and resources for purchasing a burial receptacle. The individual or entity that seeks reimbursement must have attempted to identify both the next-of-kin and available resources. In some cases, an applicant may explain that a veteran's remains have been deemed abandoned based on State law, or describe circumstances that would reasonably lead the applicant to conclude that the veteran's remains are unclaimed by a NOK and sufficient funds are not available for a casket or urn. For purposes of this rulemaking, VA may determine whether a NOK's refusal to arrange for the veteran's burial is deemed the same as the veteran having no next of kin. VA cannot compel an identified NOK who is unwilling or unable to assume responsibility for the deceased veteran's burial. In such cases, VA may recognize third parties who may be substituted in place of a NOK to inter the remains of deceased veterans that would otherwise remain unclaimed. VA would use its own internal resources to verify information about a deceased veteran's NOK and available financial resources, and in the absence of contrary evidence, the applicant's certifications would be accepted and the request for reimbursement would be accepted.

In paragraphs (b)(4) and (5) of § 38.628, we propose to require the individual or entity to submit an invoice showing the purchase price of the burial receptacle and information sufficient for VA to determine that the burial receptacle is compliant with certain minimum standards. We are aware that burial receptacles available for purchase, particularly caskets, are available in a wide array of materials and in a range of prices. The Federal Trade Commission (FTC), which has authority to regulate funeral industry practices, defines a ''casket'' in part 453 of title 16 of the Code of Federal Regulations as ''a rigid container which is designed for the encasement of human remains and which is usually constructed of wood, metal, fiberglass, plastic, or like material, and ornamented and lined with fabric.'' In addition, the FTC regulation provides a definition of an ''alternative container,'' which we construe as applicable to cremation urns. An ''alternative container'' is defined as ''an unfinished wood box or other non-metal receptacle or enclosure, without ornamentation or a fixed interior lining, which is designed for the encasement of human remains and which is made of fiberboard, pressed-wood, composition materials (with or without an outside covering), or like materials.'' VA proposes to establish minimum specifications for a casket or urn eligible for reimbursement based on these definitions, but refined to ensure a ''dignified burial.'' See 38 U.S.C. 2306(f). By establishing minimum specifications, we do not prohibit individuals or entities from purchasing burial receptacles of higher standard; however, reimbursement would be subject to the maximum rate discussed below.

In paragraph (b)(5)(i) of § 38.628, we propose to require that purchased caskets be at least of 20-gauge metal construction. Although both VA and the individual or entity would have attempted to locate a NOK, there is the possibility that, in the future, someone may come forward to claim a veteran's remains and seek to reinter them somewhere other than a national cemetery. VA believes, based on our experience, that a casket crafted of 20-gauge metal would ensure the integrity of the remains should disinterment and reinterment be required. While other heavier weights of metal caskets are available, we propose that 20-gauge would be a minimum required for reimbursement. This is a standard economical option that is generally available from major vendors of caskets and is in keeping with our intent to provide a durable yet affordable casket.

We would also require that the casket be designed to contain human remains. Not all metal containers are appropriate for burial, nor would any metal container ensure the dignity we expect when burying our nation's veterans. Generally, caskets are of a consistent size, but we do not propose to regulate this element, other than to require that the casket be of sufficient size to contain the remains of the deceased. We note, for information, that the normal plot size in a national cemetery will accommodate caskets up to 82 inches long by 28 inches wide. Larger caskets, however, may be accommodated when necessary. We further propose design elements—that the casket have a gasketed seal and external rails or handles—to ensure integrity of the remains and to allow the casket to be raised and lowered as needed.

We propose to require that urns be constructed of durable plastic, with a secure closure to contain the cremated

remains. As with caskets, our proposal for the material is based on our concern that we may need to disinter and reinter these remains. VA national cemeteries provide direct in-ground burial for cremated remains, as well as niches in columbaria. We propose to require durable plastic construction to ensure the integrity of the remains in either case. Similar to our requirement for caskets, we require that the urn be designed for containing cremated human remains, because not all plastic containers are suitable for this purpose.

We note that while these specifications are required for reimbursement under this regulation, they do not reflect a requirement that all caskets or urns used in burials in national cemeteries must meet. VA is committed to ensuring that the wishes of a veteran's family are paramount in burying their loved one. Some families may choose to provide a casket or urn for their veteran that does not meet the standards discussed above. They may even choose, for religious or cultural reasons, to not have a burial container at all. VA endeavors at all times to adhere closely to the wishes of a deceased veteran's family, so we would honor these wishes, providing we can do so while ensuring not only public health and safety but the health and safety of VA employees. In the case of unclaimed remains for which we are furnishing (through reimbursement) a casket or urn, we propose the standards defined above to ensure that each veteran, in the absence of a family member to make such determinations, is laid to rest in a consistently dignified manner.

VA would visually inspect the casket or urn when it arrives at the national cemetery to ensure that it corresponds to the description on the invoice. Provided that visual inspection and the documentation confirm that the burial receptacle meets the specifications defined above, VA proposes to reimburse the individual or entity for the purchase price shown on the invoice, up to a maximum amount to protect the program from abuse. The Act requires VA to ensure the burial receptacle is ''appropriate for a dignified burial.'' As discussed above, we believe the standards we have provided would ensure a dignified burial. We do not prohibit an individual or entity from purchasing a burial receptacle that exceeds these standards. However, if VA were to reimburse for any purchase, without limit, we would jeopardize our ability to provide even the most reasonable burial for other deserving veterans. We propose, therefore, in paragraph (c) of § 38.628, to determine the average cost of caskets and urns for the fiscal year preceding calendar year of the purchase, and use that average as a maximum reimbursement limit. Our authority under the Act began on January 10, 2014, therefore all reimbursements for purchases of burial receptacles for individuals who die between January 10, 2014 and December 31, 2014, would be subject to a maximum reimbursement limit based on the average cost of a casket or urn meeting the proposed specification available for purchase during the fiscal year from October 1, 2012 through September 30, 2013. By using the calendar year for the reimbursement, and the fiscal year for the average cost calculation, we provide a three month time frame during which we would calculate the costs for the fiscal year, and develop and publish a notice in the **Federal Register** to alert individuals and entities of the maximum reimbursement that would be allowed before the beginning of the calendar year.

This proposed rulemaking is being published after the effective date of the Act (January 10, 2014). Because individuals and entities who were responsible for the unclaimed remains of veterans may have purchased burial receptacles for those remains before the publication of this proposed rule without knowing VA's intended standards for at least 20-gauge metal construction of caskets or durable plastic construction of urns, VA would consider a limited deviation from those standards to allow reimbursement for purchases that do not meet those standards. This deviation is only for the standard that requires a casket to be of at least 20-gauge metal construction or an urn to be of durable plastic construction. All other requirements contained in the proposed regulation would apply, including required gasketed seals and handles or rails, as well as requirements regarding the eligibility of the veteran for burial, lack of a NOK, and insufficient resources to purchase a burial receptacle. If, before the publication date of the proposed rulemaking, an individual or entity purchased a casket or urn for burial in a VA national cemetery of the remains of a veteran who died after January 10, 2014, and the burial receptacle is not at least a 20-gauge metal casket or a durable plastic urn, VA would reimburse the purchase price of the burial receptacle, providing all other criteria in the proposed regulation are met. The reimbursement amount would be subject to the maximum reimbursement amount calculated for 2014.

Effect of Rulemaking

Title 38 of the Code of Federal Regulations, as revised by this final rulemaking, represents VA's implementation of its legal authority on this subject. Other than future amendments to this regulation or governing statutes, no contrary guidance or procedures are authorized. All existing or subsequent VA guidance must be read to conform with this rulemaking if possible or, if not possible, such guidance is superseded by this rulemaking.

Regulatory Flexibility Act

The Secretary hereby certifies that this proposed rule would not have a significant economic impact on a substantial number of small entities as they are defined in the Regulatory Flexibility Act, 5 U.S.C. 601–612, because the number of claims and the amounts involved are expected to be small. This rule would only impact those third parties and entities that choose to participate in this program. Payments made under this program are not intended as benefits but to provide reimbursement for privately purchased caskets and urns. We estimate the average price of a burial receptacle (and therefore the average reimbursement) would be less than $2,000 for caskets and less than $200 for urns. We also estimate that the total number of reimbursements for 2014 would be 338 caskets and 332 urns. Because the proposed rulemaking provides for a reimbursement, the individual or entity purchasing the burial receptacle would recoup the purchase price, up to the maximum rate established annually. Generally this would result in the individual or entity avoiding a financial loss for having made the purchase. But, because the reimbursement would be equal to the purchase price of the burial receptacle, the individual or entity would not experience any gain. Therefore, pursuant to 5 U.S.C. 605(b), this rulemaking is exempt from the initial and final regulatory flexibility analysis requirements of sections 603 and 604.

Unfunded Mandates

The Unfunded Mandates Reform Act of 1995 requires, at 2 U.S.C. 1532, that agencies prepare an assessment of anticipated costs and benefits before issuing any rule that may result in the expenditure by State, local, and tribal governments, in the aggregate, or by the private sector, of $100 million or more (adjusted annually for inflation) in any one year. This proposed rule would have no such effect on State, local, and

tribal governments, or on the private sector.

Paperwork Reduction Act

This proposed rule includes provisions constituting collections of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3521) that require approval by the Office of Management and Budget (OMB). Accordingly, under 44 U.S.C. 3507(d), VA has submitted a copy of this rulemaking action to OMB for review.

OMB assigns control numbers to collections of information it approves. VA 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. Proposed 38.628 contains a collection of information under the Paperwork Reduction Act of 1995. If OMB does not approve the collection of information as requested, VA will immediately remove the provisions containing a collection of information or take such other action as is directed by OMB.

Comments on the collections of information contained in this proposed rule should be submitted to the Office of Management and Budget, Attention: Desk Officer for the Department of Veterans Affairs, Office of Information and Regulatory Affairs, Washington, DC 20503, with copies sent by mail or hand delivery to the Director, Regulation Policy and Management (02REG), Department of Veterans Affairs, 810 Vermont Avenue NW., Room 1068, Washington, DC 20420; fax to (202) 273–9026; email to *www.Regulations.gov.* Comments should indicate that they are submitted in response to ''RIN 2900–AO99—Reimbursement for Caskets and Urns.''

OMB is required to make a decision concerning the collections of information contained in this proposed 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. This does not affect the deadline for the public to comment on the proposed rule.

The Department considers comments by the public on proposed collections of information in—

- Evaluating whether the proposed collections of information are necessary for the proper performance of the functions of the Department, including whether the information will have practical utility;
- Evaluating the accuracy of the Department's estimate of the burden of the proposed collections of information, including the validity of the methodology and assumptions used;
- Enhancing the quality, usefulness, and clarity of the information to be collected; and
- Minimizing the burden of the collections 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.

The following is a description of the collection of information contained in 38 CFR 38.628:

Title: Request for Reimbursement of Casket/Urn.

Summary of collection of information: Proposed 38 CFR 38.628 would require submission of new VA Form 40–10088 by individuals seeking reimbursement from VA for the purchase of a casket or urn for the remains of a veteran who had no next of kin and insufficient resources to purchase a burial receptacle.

Description of need for information and proposed use of information: The collection of information is necessary for VA to obtain information sufficient to determine whether reimbursement is appropriate. Information provided would include proof that the requesting individual purchased the burial receptacle, that the burial receptacle meets standards detailed in the regulation, and the purchase price of the receptacle. VA will use this information to determine whether reimbursement is appropriate and, if so, the appropriate amount of the reimbursement.

Description of likely respondents: Individuals in possession of unclaimed remains of veterans, such as coroners or funeral directors, and entities whose mission is to ensure appropriate burial of veteran remains, including veterans service organizations and similar entities.

Estimated number of respondents: VA estimates it will receive approximately 670 applications for reimbursement in FY 2014 and will decrease in future years.

Estimated frequency of responses: The collection of information is required only once for each deceased veteran.

Estimated average burden per response: 15 minutes.

Estimated total annual reporting and recordkeeping burden: 167.5 hours in FY 2014.

Executive Orders 12866 and 13563

Executive Orders 12866 and 13563 direct agencies to assess the costs and benefits of available regulatory alternatives and, when regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, and other advantages; distributive impacts; and equity). Executive Order 13563 (Improving Regulation and Regulatory Review) emphasizes the importance of quantifying both costs and benefits, reducing costs, harmonizing rules, and promoting flexibility. Executive Order 12866 (Regulatory Planning and Review) defines a ''significant regulatory action,'' which requires review by the Office of Management and Budget (OMB), as ''any regulatory action that is 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 governments 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; or (4) Raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in this Executive Order.''

The economic, interagency, budgetary, legal, and policy implications of this proposed rule have been examined and it has been determined not to be a significant regulatory action under Executive Order 12866. VA's impact analysis can be found as a supporting document at *http://www.regulations.gov*, usually within 48 hours after the rulemaking document is published. Additionally, a copy of the rulemaking and its impact analysis are available on VA's Web site at *http://www1.va.gov/orpm/*, by following the link for ''VA Regulations Published.''

Comment Period

Although Executive Order 12866 generally requires that agencies afford the public a 60-day comment period, VA has determined that good cause exists to limit the public comment period for this proposed rule to 30 days. This rulemaking is necessary to implement the statutory changes enacted in Public Law 112–260 to increase the availability of benefits for veterans whose remains are unclaimed where sufficient resources are not available for burial expenses. VA must implement the new casket and urn

authority in regulation to inform the public of reimbursement amounts, application procedures, and standards for the caskets or urns. These statutory provisions became effective on January 10, 2014, one year after the enactment date of the law. Accordingly, we are providing a 30-day comment period for the public to comment on the proposed rule.

Catalog of Federal Domestic Assistance Numbers

The Catalog of Federal Domestic Assistance program number and title for this proposed rule are 64.201, National Cemeteries.

Signing Authority

The Secretary of Veterans Affairs, or designee, approved this document and authorized the undersigned to sign and submit the document to the Office of the Federal Register for publication electronically as an official document of the Department of Veterans Affairs. Jose D. Riojas, Chief of Staff, approved this document on June 13, 2014, for publication.

List of Subjects in 38 CFR Part 38

Administrative practice and procedure, Cemeteries, Veterans.

Dated: June 27, 2014.

William F. Russo,

Deputy Director, Office of Regulation Policy & Management, Office of the General Counsel, U.S. Department of Veterans Affairs.

For the reasons stated in the preamble, the Department of Veterans Affairs proposes to amend 38 CFR part 38 as set forth below:

PART 38—NATIONAL CEMETERIES OF THE DEPARTMENT OF VETERANS AFFAIRS

■ 1. The authority citation for part 38 continues to read as follows:

Authority: 38 U.S.C. 107, 501, 512, 2306, 2402, 2403, 2404, 2408, 2411, 7105.

■ 2. Add § 38.628 to read as follows:

§ 38.628. Reimbursement for caskets and urns for unclaimed remains of Veterans.

(a) VA will reimburse any individual or entity for the actual cost of a casket or an urn, purchased by the individual or entity for the burial in a national cemetery of an eligible veteran who died on or after January 10, 2014, for whom VA:

(1) Is unable to identify the veteran's next-of-kin; and

(2) Determines that sufficient resources are otherwise unavailable to furnish the casket or urn.

(b) An individual or entity may request reimbursement from VA under paragraph (a) of this section by completing and submitting VA Form 40–10088, and supporting documentation, in accordance with the instructions on the form. Prior to approving reimbursement VA must find all of the following:

(1) The veteran is eligible for burial in a VA national cemetery;

(2) The individual or entity has certified that they cannot identify the veteran's next-of-kin, and VA's records do not identify a next-of-kin;

(3) The individual or entity has certified that, to the best of their knowledge, sufficient resources are otherwise unavailable to furnish the casket or urn, and VA's records do not indicate such resources;

(4) The invoice presented by the individual or entity clearly indicates the purchase price of the casket or urn purchased by the individual or entity; and

(5) The invoice presented by the individual or entity contains information sufficient for VA to determine, in conjunction with a visual inspection, that the casket or urn meets the following minimum standards:

(i) Caskets must be of 20-gauge metal construction, designed for containing human remains, sufficient to contain the remains of the deceased veteran, include a gasketed seal, and include external fixed rails or swing arm handles.

(ii) Urns must be of durable plastic construction, with a secure closure to contain the cremated remains, and must be designed for containing cremated human remains.

(c) Reimbursement under paragraph (a) of this section will not exceed the average cost of a casket or urn for the fiscal year preceding the calendar year of purchase, as determined by VA and published annually in the **Federal Register**.

(d) If, before July 2, 2014, an individual or entity purchased a casket or urn for burial in a VA national cemetery of the remains of a veteran who died after January 10, 2014, and the burial receptacle is not at least a 20-gauge metal casket or a durable plastic urn, VA will reimburse the purchase price of the burial receptacle, providing all other criteria in this regulation are met. The reimbursement amount will be subject to the maximum reimbursement amount calculated for 2014.

(Authority: 38 U.S.C. 2306, 2402, 2411)

[FR Doc. 2014–15531 Filed 7–1–14; 8:45 am]

BILLING CODE 8320–01–P

POSTAL REGULATORY COMMISSION

39 CFR Part 3050

[Docket No. RM2014–6; Order No. 2103]

Periodic Reporting

AGENCY: Postal Regulatory Commission.

ACTION: Petition for rulemaking; acceptance.

SUMMARY: The Commission is noticing a recent Postal Service filing concerning the initiation of a proceeding to consider proposed changes in analytical principles (Proposals Three through Eight). This notice informs the public of the filing, invites public comment, and takes other administrative steps.

DATES: *Comments are due:* July 28, 2014. *Reply comments are due:* August 12, 2014.

ADDRESSES: Submit comments electronically via the Commission's Filing Online system at *http://www.prc.gov.* Those who cannot submit comments electronically should contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section by telephone for advice on filing alternatives.

FOR FURTHER INFORMATION CONTACT: David A. Trissell, General Counsel, at 202–789–6820.

SUPPLEMENTARY INFORMATION:

Table of Contents

I. Introduction
II. Summary of Proposals
III. Notice and Opportunity for Comment
IV. Ordering Paragraphs

I. Introduction

On June 20, 2014, the Postal Service filed a petition pursuant to 39 CFR 3050.11 requesting that the Commission initiate an informal rulemaking proceeding to consider changes to six analytical methods for use in periodic reporting.[1] The Petition identifies the proposed analytical method changes filed in this docket as Proposals Three through Eight. Petition at 1.

II. Summary of Proposals

A. Proposal Three: Revision to Parcel Return Service Full Network Cost Model

The Postal Service proposes a change in modeling transportation costs for Parcel Return Service (PRS) Contract 4.

[1] Petition of the United States Postal Service for the Initiation of a Proceeding to Consider Proposed Changes in Analytical Principles (Proposals Three Through Eight), June 20, 2014 (Petition). The Petition was accompanied by public and nonpublic Excel files. With respect to Proposal Six; *see also* Docket No. RM2011–3, Notice of the United States Postal Service of Filing Proposal to Update Highway Variabilities, June 20, 2014.

Petition, Proposal Three at 1. The model currently uses Parcel Select non-presort model transportation costs as a proxy. The Postal Service states that this was deemed appropriate since, at the time the PRS Contract 4 was filed, the average size and cube of Parcel Select Non-presort was approximately equivalent to the partner pieces. *Id.* However, the Postal Service asserts that the characteristics of the Parcel Select Non-presort pieces have changed substantially since the cost model was developed. *Id.* In particular, it states that the average weight of a Parcel Select Non-presort piece has increased, whereas the average PRS contract piece remained much lighter. The Postal Service therefore proposes an adjustment to the transportation cost for the contract pieces to account for the difference in their size vis-à-vis FY2013 Parcel Select Non-presort pieces. *Id.* It states that if this proposal were adopted, the FY 2013 cost coverage for PRS Contract 4 would increase from below 100 percent (as reported in the FY2013 ACR) to above 100 percent. *Id.* at 2.

B. Proposal Four: Proposed Change in International Mail Costing Methodology

The Postal Service proposes to revise the costing methodology of the non-Negotiated Service Agreement (NSA) portion of International Priority Mail (IPA) and International Surface Airlift (ISAL) (the IPA and ISAL published rates). Petition, Proposal Four at 1. The proposal stems from cost coverage and costing concerns raised in the FY 2013 ACD. *Id.* The Postal Service's proposed solution to these concerns is to adjust how NSA costs are developed for application to the NSA data in the ''ICM Costing Module.'' *Id.* at 4. The Postal Service explains that pricing group costs by product are developed in the reporting section of the ICRA and then staged for use in the ICM Costing Module. *Id.* It states that this staging has been based on unitizing settlement and transportation costs by gross weight (as that is the basis for costing in the ICRA), but describes how procedures using net weight can be employed. *Id.* at 4–5. For consistency, the Postal Service proposes that the same type of staging based on net weights be applied to ePackets, PMI parcels and PMI envelopes, which also have differences in the costing system between gross and net weight.[2] *Id.* at 5. The Postal Service further proposes that the allocation of NSA data to the four country groupings (Canada, Mexico, Universal Postal Union (UPU) Target countries and UPU Transition countries) be discontinued and that competitive pages A–3, A–4, B–3 and B–4 be discontinued from the ICRA reporting. *Id.*

C. Proposal Five: Proposed Change in PRIME Exprès Costing Methodology

The Postal Service proposes to revise the costing methodology underlying its response to USPS–ACR–FY13, Chairman's Information Request No. 3, question 8 and implemented by the Commission in PRC–ACR2013–NP–LR1_Imputed ICRA and PRC–ACR2013–NP–LR1_Booked files. Petition, Proposal Five at 1. The Postal Service states that this revision affects both the Booked and Imputed version of Postal Service's Reports files. *Id.* The proposal is based on the Postal Service's conclusion that the PRIME adjustment incorporated in the referenced Excel files is not correct. *Id.* at 2. The proposed remedy is to subtract the Exprès amounts, except volume, from the appropriate Target or Transition Countries. *Id.*

The Postal Service further observes that two separate products are associated with each PRIME mailpiece: the Exprès product and the Inbound Single-Piece First-Class Mail product. *Id.* at 3. Its proposal includes reporting the two products separately by using a methodology similar to treating the Exprès product as if it were a special service. *Id.* To avoid double counting, the reporting totals would not include the special service volumes because those pieces are included with the mail-piece (also called the host mail-piece or parent product). *Id.* at 3–4.

D. Proposal Six: Updating the Highway Transportation Variabilities

The Postal Service proposes to update the variabilites used to determine the levels of attribution for purchased highway transportation expenses in Cost Segment 14.[3] *Id.* It states that the unit of analysis is the contract cost segment, not the contract. *Id.* It also states that as in previous analyses of purchased highway transportation, a translog functional form was used to estimate the relevant equations; describes other steps; and presents several supporting tables. *Id.* at 2–5.

E. Proposal Seven: Modification of the Standard Mail Destination Entry Cost Model and the Standard Mail Parcel Mail Processing Cost Model

The Postal Service proposes to modify the Standard Mail destination entry cost model and the Standard Mail parcel mail processing cost model. Petition, Proposal Seven at 1.

Standard Mail destination entry cost model (USPS–FY13–13). For this model, the Postal Service proposes: (1) Consolidating three EXCEL workbooks (letters, flats, and parcels/total) into one workbook; (2) correcting two errors;[4] (3) removing obsolete operations and input data; (4) incorporating more recent productivity data; and (5) adding a new parcel mail characteristics profile to the model to separately estimate parcel cost avoidance values.[5] *Id.* at 1–2.

Standard Mail parcel mail processing cost model (USPS–FY13–12). The Postal Service proposes to add a worksheet to the Standard Mail parcel mail processing cost model. It states that this would allow the Standard Mail parcel arrival profile and volume data to be presented in a format similar to the mail characteristics profiles for Standard Mail letters and flats.[6] *Id.* The Postal Service states that this modification does not affect the USPS–FY13–12 price category cost estimates in any way. *Id.* The parcel mail characteristics profile will then be used each fiscal year to estimate the non-transportation costs for Standard Mail parcels in the USPS–FY13–13 Standard Mail destination entry cost model (discussed above). *Id.*

F. Proposal Eight: Changes in Attributable Costs Related to USPS Tracking

The Postal Service proposes changes in the methodology for attributing costs related to Other Ancillary Services, such as USPS Tracking (formerly Delivery Confirmation), which are provided for certain shipping products at no extra charge. Petition, Proposal Eight at 1. The Postal Service also proposes additional changes to the methodology for attributing costs for paid USPS Tracking. It asserts these changes reflect the evolution of postal operations and take advantage of the availability of census data. *Id.*

Specifically, the Postal Service proposes using data from the Point of Service (POS) to assign window

[2] The reference costing system is System for International Revenue and Volume Outbound.

[3] The Postal Service states that it provides a more complete discussion in public folder USPS–RM2014–6/1, along with the complete data set and econometric results, plus all necessary documentation. Petition, Proposal Six at 1.

[4] One error concerns certain entries for Basic Carrier Route volume and weight data by shape in USPS–FY13–13. *Id.* at 3. The other concerns the input value representing the number of letters (in trays) that a pallet contains. The Postal Service states that the average pallet contained 6,653 letters in FY 2013. *Id.* It proposes incorporating this statistic into the mail characteristics file (USPS–FY13–14) in the future and relying upon it to estimate the letters non-transportation costs. *Id.*

[5] The proposed Standard Mail destination entry cost model is contained in the file PROP.7.USPS–FY13–13.xlsx. *Id.* at 2.

[6] The proposed Standard Mail parcels mail processing cost model is contained in the file PROP.7.USPS–FY13–12.xlsx. *Id.*

acceptance costs appropriately between the paid USPS Tracking Service and the host pieces. This entails attributing costs related to final, en-route and non-window acceptance scans to the host product, not to the USPS Tracking Service, and performing the calculations in the B workpapers rather than making a D report adjustment. This means the cost model for USPS Tracking in NP26 will no longer be needed for the D report adjustment. *Id.* at 2. In addition, in the In-Office Cost System, the percentage of volume from the POS retail system that was paid for the extra service to attribute costs to USPS Tracking will be used for window-related acceptance costs. *Id.*

III. Notice and Opportunity for Comment

The Commission establishes Docket No. RM2014–6 for consideration of matters raised by the Petition. Additional information concerning the Petition may be accessed via the Commission's Web site at *http://www.prc.gov.* Interested persons may submit comments on the Petition and Proposals Three through Eight no later than July 28, 2014. Reply comments are due no later than August 12, 2014. Pursuant to 39 U.S.C. 505, Tracy N. Ferguson is designated as officer of the Commission (Public Representative) to represent the interests of the general public in this proceeding.

IV. Ordering Paragraphs

It is ordered:

1. The Commission establishes Docket No. RM2014–6 for consideration of the matters raised by the Petition of the United States Postal Service for the Initiation of a Proceeding to Consider Proposed Changes in Analytical Principles (Proposals Three Through Eight), filed June 20, 2014.

2. Comments by interested persons in this proceeding are due no later than July 28, 2014. Reply comments are due no later than August 12, 2014.

3. Pursuant to 39 U.S.C. 505, the Commission appoints Tracy N. Ferguson to serve as an officer of the Commission (Public Representative) to represent the interests of the general public in this docket.

4. The Secretary shall arrange for publication of this order in the **Federal Register**.

By the Commission.

Shoshana M. Grove,

Secretary.

[FR Doc. 2014–15452 Filed 7–1–14; 8:45 am]

BILLING CODE 7710–FW–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 13

[FRL–9910–13–OCFO]

Administrative Wage Garnishment

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: Environmental Protection Agency (EPA) is proposing to amend EPA's claims collection standards to include administrative wage garnishment. This rule amends the EPA's debt collection regulations to implement the administrative wage garnishment (AWG) provisions of the Debt Collection Act of 1982, as amended by the Debt Collection Improvement Act of 1996 (DCIA). The proposed rule will allow the EPA to garnish non-Federal wages to collect delinquent non-tax debts owed the United States without first obtaining a court order. In the Rules and Regulations section of this **Federal Register** we are approving an amendment to EPA's regulations on claims collection standards by using administrative wage garnishment as a direct final rule without a prior proposed rule. If we receive no adverse comment, the direct final rule will go into effect and we will not take further action on this proposed rule.

DATES: Written comments must be received by August 1, 2014.

ADDRESSES: Submit your comments by one of the following methods:

1. *Email: jones.anita@epa.gov.*
2. *Fax:* (202) 565–2585.
3. *Mail:* OCFO–2014–0001; FRL–9910–13–OCFO, FPPS c/o Anita Jones, OCFO/OFM/FPPS, Mailcode 2733R, Environmental Protection Agency, 1300 Pennsylvania Ave. NW., Washington, DC 20460.

Comments may be submitted electronically by following the detailed instructions in the **ADDRESSES** section of the direct final rule located in the rules section of this **Federal Register**.

FOR FURTHER INFORMATION CONTACT: FPPS c/o Anita Jones, OCFO/OFM/FPPS, Mailcode 2733R, Environmental Protection Agency, 1300 Pennsylvania Ave. NW., Washington, DC 20460; telephone number: (202) 564–4969; fax number: (202) 565–2585; email address: *jones.anita@epa.gov.*

SUPPLEMENTARY INFORMATION:

Background

This proposed rule implements the administrative wage garnishment provisions in section 31001(o) of the Debt Collection Improvement Act of the 1996 (DCIA), Public Law 104–134, 110 Stat. 1321–358, codified as 31 U.S.C. 3720D. Under the administrative wage garnishment provisions of the DCIA, Federal agencies may garnish administratively up to 15 percent of the disposal pay of a debtor to satisfy a delinquent non-tax debt owed to the United States. Prior to the enactment of the DCIA, Federal agencies were required to obtain a court judgment before garnishing non-Federal wages. Section 31001(o) of the DCIA preempts State laws that prohibit wage garnishment or otherwise govern wage garnishment procedures.

As authorized by the DCIA, a Federal agency collecting a delinquent non-tax debt may garnish a delinquent debtor's wages in accordance with regulations promulgated by the Secretary of the Treasury. The Bureau of Fiscal Services, a bureau of the Department of the Treasury (Treasury), is responsible for promulgating the regulations implementing this and other debt collection tools established by the DCIA. The Bureau of Fiscal Services published its final rule at 63 FR 25136, May 6 1998, (Treasury Final Rule) and published technical amendments at 64 FR 22906, 22908, April 28, 1999 and 66 FR 51867, 51868, October 11, 2001. The Treasury Final Rule, as amended, is published in § 285.11 of title 31 of the Code of Federal Regulations. Pursuant to 31 CFR 285.11 (f), Federal agencies must either prescribe regulations for the conduct of AWG hearings consistent with the procedural requirements set forth in the Treasury Final Rule or adopt § 285.11 without change by reference.

Basic Provisions

In accordance with the requirements of the DCIA and the implementing regulations at 31 CFR 285.11, the EPA is adopting the provisions of 31 CFR 285.11concerning administrative wage garnishment, including the hearing procedures described in 31 CFR 285.11(f).

Use of the Direct Final Rule

This document proposes to take action on amending EPA's regulations on claims collection standards by using administrative wage garnishment. We have published a direct final rule amending EPA's regulations on claims collection standards by using administrative wage garnishment in the ''Rules and Regulations'' section of today's **Federal Register** because we view this as a noncontroversial action and anticipate no adverse comment. We have explained our reasons for this

action in the preamble to the direct final rule.

If we receive no adverse comment, we will not take further action on this proposed rule. If we receive adverse comment, we will withdraw the direct final rule and it will not take effect. We would address all public comments in any subsequent final rule based on this proposed rule.

We do not intend to institute a second comment period on this action. Any parties interested in commenting must do so at this time. For further information, please see the information provided in the **ADDRESSES** section of this document.

Dated: June 23, 2014.

Jeanne Conklin,

Acting Director, Office of Financial Management.

[FR Doc. 2014–15579 Filed 7–1–14; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Parts 1, 27, and 73

[GN Docket No. 12–268; ET Docket No. 13–26; DA 14–677]

Incentive Auction Task Force Seeks Comment on Staff Analysis Regarding Pairwise Approach To Preserving Population Served

AGENCY: Federal Communications Commission.

ACTION: Proposed rule; request for comments.

SUMMARY: The FCC's Incentive Auction Task Force (IATF) seeks comment on the results of a staff analysis on the potential for new aggregate interference in the repacking process and seeks comment on newly released repacking constraint data that uses actual channels.

DATES: Comments must be filed on or before July 2, 2014 and reply comments must be filed on or before July 22, 2014.

ADDRESSES: You may submit comments, identified by GN Docket No. 12–268 and ET Docket No. 13–26, by any of the following methods:

- Federal eRulemaking Portal: *http://www.regulations.gov.* Follow the instructions for submitting comments.
- Federal Communications Commission's Web site: *http://www.fcc.gov/cgb/ecfs/.* Follow the instructions for submitting comments.
- Mail: Filings can be sent by hand or messenger delivery, by commercial overnight courier, or by first-class or overnight U.S. Postal Service mail (although the Commission continues to experience delays in receiving U.S. Postal Service mail). All filings must be addressed to the Commission's Secretary, Office of the Secretary, Federal Communications Commission.
- People With Disabilities: Contact the FCC to request reasonable accommodations (accessible format documents, sign language interpreters, CART, etc.) by email: *FCC504@fcc.gov* or phone: 202–418–0530 or TTY: 202–418–0432.

For detailed instructions for submitting comments and additional information on the rulemaking process, see the **SUPPLEMENTARY INFORMATION** section of this document.

FOR FURTHER INFORMATION CONTACT: Jonathan McCormack, Wireless Telecommunications Bureau, (202) 418–1065, email: *jonathan.mccormack@fcc.gov.*

SUPPLEMENTARY INFORMATION: This is a summary of the FCC's document, GN Docket No. 12–268, ET Docket No. 13–26, DA 14–677 released on June 2, 2014. The full text of this document is available for inspection and copying during normal business hours in the FCC Reference Center (Room CY–A257), 445 12th Street SW., Washington, DC 20554. The complete text of this document also may be purchased from the Commission's copy contractor, Best Copy and Printing, Inc., 445 12th Street SW., Room CY–B402, Washington, DC 20554. The full text may also be downloaded at: *www.fcc.gov.*

Summary

On June 2, 2014, the IATF released a document that published updated constraint data based upon actual channels, rather than proxy channels, to assist interested parties in conducting their own repacking studies. The document also announced the results of a staff analysis on the potential for new aggregate interference in the repacking process using the Commission's adopted approach to preserving population served. This approach limits allowable station assignments to those causing 0.5 percent or less new pairwise interference. The staff analysis compiled 100 repacking scenario studies and found that on average, approximately one percent of all stations received new aggregate interference above one percent, and that the vast majority received less than the 0.5 percent interference constraint.

The data and information released are based on preliminary staff assumptions necessary for completing the analysis, and are meant to be illustrative only. The FCC will adopt final decisions regarding the repacking process at a later date. The document and its appendix relate only to the repacking process, and specifically to issues commenters raised regarding the necessity of an aggregate interference cap and the use of proxy channels when preserving coverage area and population served. The results of studies in the analysis do not reflect any FCC assumptions about auction participation or station valuation.

A number of commenters supported using a 0.5 percent pairwise limit approach for limiting interference in the repacking process, but argued that the FCC should impose a cap of one percent on allowable aggregate interference for each station to mitigate the risk that an individual station in a crowded market could receive significant new interference when the permitted pairwise interference from multiple stations is added up.

In response to that argument, FCC staff conducted studies to calculate potential aggregate interference using the updated constraint files, which are based on actual channels, versus proxy channels. The staff analysis shows that approximately one percent of all stations in simulated channel reassignments received new interference above a one percent cap, and that the majority of stations received new aggregate interference well below the pairwise interference limit adopted by the FCC. The analysis is presented in detail in the appendix, available at *https://apps.fcc.gov/edocs_public/attachmatch/DA-14-677A2.pdf.* The repacking scenarios relate only to the UHF band because the largest number of stations that could potentially be assigned a new channel will be in this band. The FCC staff is releasing updated constraint files based upon actual channels to assist interested parties in conducting their own repacking studies. The new constraint files are in the same format as those released in July 2013, and can be found on the FCC's LEARN Web site under the Repacking Section at: *http://fcc.gov/learn.* These files are also posted at: *http://data.fcc.gov/download/incentive-auctions/Constraint_Files/.*

To generate sufficient data from which to draw meaningful results, FCC staff performed 100 simulations using several variations of an approach developed for creating simulated sets of stations to be repacked. The output of each of these simulations was a set of stations that remain on the air in the UHF band, together with the respective channel assignments, called a channel plan. Consistent with the FCC's adopted approach to preserving population

served, none of the 100 channel plans involves new pairwise interference of greater than 0.5 percent. For each of these 100 channel plans, staff examined cell-level data generated by the *TVStudy* software to determine the aggregate interference experienced by each station. The results show that across all simulations, on average approximately one percent of stations are predicted to receive new aggregate interference after channel reassignment above the one percent cap proposed by commenters, while the average new aggregate interference level was less than 0.2 percent, well below the *de minimis* constraint threshold adopted by the FCC. In none of the results did any station receive new aggregate interference above 2 percent. Details about the methodology as well as study results can be found in the appendix, available at *https://apps.fcc.gov/edocs_public/attachmatch/DA-14-677A2.pdf.*

The analysis pertains only to constraints applied to prevent new interference under the approach adopted by the FCC, and does not consider any alternatives that stations may have, including the opportunity reassigned stations will have to request alternate channels or expanded facilities on their newly assigned channels. Similarly, the approach used in these studies does not factor in any post-auction optimization, which will be run after the completion of bidding in the auction. Such optimization could consider additional factors, such as minimizing the number of channel reassignments or the estimated costs of repacking.

To assist commenters in designing and running their own simulations, FCC staff is releasing information about how it conducted the analysis and performed interference calculations. The results are not exhaustive. The Incentive Auction Task Force invites parties to conduct their own simulations and interference analyses using these updated constraint files in conjunction with the publicly available *TVStudy* software.

The Incentive Auction Task Force seeks comment from interested parties on the data and analyses in the document and its appendix. New constraint files and all current and subsequent releases relating to the Broadcast Incentive Auction will be posted to and available on the LEARN Web site at: *http://www.fcc.gov/learn.*

Federal Communications Commission.

Roger Sherman,

Chief, Wireless Telecommunications Bureau.

[FR Doc. 2014–15585 Filed 7–1–14; 8:45 am]

BILLING CODE 6712–01–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

[Docket No. FWS–R4–ES–2014–0024; 92220–1113–0000–C5]

Endangered and Threatened Wildlife and Plants; 90-Day Finding on a Petition To Reclassify the West Indian Manatee From Endangered to Threatened

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of 90-day petition finding and initiation of status review.

SUMMARY: We, the U.S. Fish and Wildlife Service (Service or USFWS), announce a 90-day finding on a petition to reclassify the West Indian manatee (*Trichechus manatus*) as threatened 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 the petitioned action may be warranted. Therefore, with the publication of this notice, we are initiating a review of the status of the species to determine if reclassification is warranted. Section 4(c)(2)(A) of the Act also requires a status review of listed species at least once every 5 years. We are, therefore, electing to conduct the 5-year review simultaneously with the status review. To ensure that this status review is comprehensive, we are requesting scientific and commercial data and other information regarding the West Indian manatee, including its subspecies the Florida manatee and Antillean manatee. 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 September 2, 2014. After this date, you must submit information directly to the North Florida Ecological Services Field Office (see **FOR FURTHER INFORMATION CONTACT**). Please note that if you are using the Federal eRulemaking Portal (see **ADDRESSES**), the deadline for submitting an electronic comment is 11:59 p.m. Eastern Time on this date. We may not be able to address or incorporate information that we receive after this date.

ADDRESSES: You may submit information by one of the following methods:

- *Electronically:* Go to the Federal eRulemaking Portal: *http://www.regulations.gov.* In the Search box, enter Docket No. FWS–R4–ES–2014–0024, which is the docket number for this action. Then, in the Search panel on the left side of the screen under the Document Type heading, click on the Proposed Rules link to locate this document. You may submit a comment by clicking on ''Comment Now!''
- U.S. mail or hand delivery: Public Comments Processing, Attn: Docket No. FWS–R4–ES–2014–0024; U.S. Fish & Wildlife Headquarters, MS: BPHC, 5275 Leesburg Pike, Falls Church, VA 22041–3803.

We will post all information received 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: Jay Herrington, Field Supervisor of the North Florida Ecological Services Field Office, by telephone at 904–731–3191, or by facsimile at 904–731–3045; or at the following address, 7915 Baymeadows Way, Suite 200, Jacksonville, FL 32256; or Edwin Muñiz, Field Supervisor of the Caribbean Ecological Services Field Office, by telephone at 787–851–7297 (ext. 204), or by facsimile at 787–851–7441; or at the following address, Road 301, Km. 5.1, 491, Boqueron, PR 00622. 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 reclassifying a species may be warranted, we are required to promptly commence a review of the status of the species (status review). To ensure that the status review is complete and based on the best available scientific and commercial information, we request information from governmental agencies, Native American Tribes, the scientific community, industry, and any other interested parties concerning the status of the West Indian manatee throughout its entire range. We seek information on:

(1) The species' biology, including, but not limited to, distribution, abundance, population trends, demographics, and genetics.

(2) The factors that are the basis for making delisting and downlisting determinations 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.

(3) Habitat conditions, including, but not limited to, amount, distribution, and suitability.

(4) Whether or not climate change is a threat to the species, what regional climate change models are available, and whether they are reliable and credible to use as step-down models for assessing the effect of climate change on the species and its habitat.

(5) Past and ongoing conservation measures that have been implemented for the species, its habitat, or both.

(6) Threat status and trends within the geographical range currently occupied by the species.

(7) Any other new information, data, or corrections, including, but not limited to, taxonomic or nomenclatural changes, and improved analytical methods.

Please include sufficient information with your submission (such as scientific references) 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 you submit 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 public inspection at *http://www.regulations.gov/,* or by appointment, during normal business hours, at the U.S. Fish and Wildlife Service, North Florida Ecological Services Field Office and Caribbean Ecological Services Field Office (see **FOR FURTHER INFORMATION CONTACT**).

Background

Section 4(b)(3)(A) of the Act (16 U.S.C. 1533(b)(3)(A)) 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, and information otherwise available in our files at the time the petition is received. 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 promptly in the **Federal Register**.

Our standard for substantial scientific or commercial information 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 promptly commence a status review of the species, which we subsequently summarize in a 12-month finding.

To make a 90-day finding, we do not conduct additional research, do not solicit information from parties outside the agency to help us in our evaluation, and do not subject the petition to rigorous critical review. Rather, we accept the petitioners' sources and characterizations of the information presented if they appear based on accepted scientific principles (such as citing published and peer-reviewed articles, or studies done in accordance with valid methodologies), unless we have specific information to the contrary. Conclusive information indicating the species may meet the Act's requirements for listing is not required to make a substantial 90-day finding.

Petition History

On December 14, 2012, we received a petition submitted on the same date from the Pacific Legal Foundation, on behalf of Save Crystal River, Inc., requesting that the West Indian manatee and subspecies thereof be reclassified from its current status as endangered to threatened based primarily on the analysis and recommendation contained in our April 2007 5-year review for the species. The petition clearly identified itself as such and included the requisite identification information for the petitioner, as required at 50 CFR 424.14(a). We advised the petitioner of the status of our response in letters dated February 14, 2013, August 14, 2013, and March 26, 2014. This finding summarizes the information included in the petition and information available to us at the time the petition was received.

Previous Federal Actions

We listed the Florida manatee (*Trichechus manatus latirostris*), a subspecies of the West Indian manatee (*Trichechus manatus*), as endangered in 1967 (32 FR 4001) under the Endangered Species Preservation Act of 1966 (Pub. L. 89–669; 80 Stat. 926). In 1970, we amended Appendix A to 50 CFR part 17 to include additional names to the list of foreign endangered species (35 FR 8491). This listing incorporated West Indian manatees into the list under the Endangered Species Conservation Act of 1969 (Pub. L. 91–135; 83 Stat. 275) and encompassed the species' range in the Caribbean Sea and northern South America, thus including both Antillean (*Trichechus manatus manatus*) and Florida (*Trichechus manatus latirostris*) manatees. The West Indian manatee is currently listed as an endangered species under the Act, and is further protected as a depleted stock under the Marine Mammal Protection Act (MMPA; 16 U.S.C. 1361 *et seq.*). A 5-year review was completed on April 6, 2007, in which we recommended downlisting the species to threatened.

Species Information

West Indian manatees (*Trichechus manatus*) are massive, fusiform-shaped animals with skin that is uniformly dark grey, wrinkled, sparsely haired, and rubber-like. Manatees possess paddle-like forelimbs, no hind limbs, and a spatulate, horizontally flattened tail. Adults average about 3.0 m (9.8 ft) in length and 1,000 kg (2,200 lbs) in weight. Two subspecies of West Indian manatee are formally recognized: Antillean and Florida, *Trichechus manatus manatus* and *Trichechus manatus latirostris,* respectively (Hatt 1934, p. 538; Domning and Hayek 1986, p. 87; García-Rodríguez et al. 1998, p. 1137; Vianna et al. 2006, p. 433; Tucker et al. 2012, p. 1504).

In U.S. waters, Florida manatees are found in the southeastern United States, and Antillean manatees are found in Puerto Rico and possibly, but not confirmed Texas; a single sighting of a manatee in the U.S. Virgin Islands occurred in 1988 (Lefebvre et al. 2001, pp. 425–426; Domning and Hayek 1986,

p. 186). Antillean manatees also occur throughout the Caribbean Sea, coastal regions of northern South America, eastern Central America, and Mexico. West Indian manatees are found in coastal and nearshore marine, estuarine, and freshwater areas. Typical habitats include tidal rivers and streams, mangrove swamps, salt marshes, grassbeds, and freshwater springs (Florida Fish and Wildlife Conservation Commission (FWC) 2005, pp. 95–361). Manatees favor areas that include foraging sites, sources of fresh drinking water, sheltered areas for resting, and travel corridors used to transit between preferred sites. Florida manatees require sources of warm water, where they shelter during cold weather periods (USFWS 2007, p. 12). Antillean manatees in Puerto Rico favor foraging and drinking water sites protected from severe wave action (Powell et al. 1981, pp. 642–644; Rathbun et al. 1985, p. 16; and Mignucci-Giannoni 1989, p. 170).

Using information from the United Nations Environment Programme (UNEP) (2010), Castelblanco-Martínez et al. (2012, p. 132) estimated a rangewide population size of 6,700 Antillean manatees. The most recent surveys for Antillean manatees in Puerto Rico have produced the highest unadjusted count for the species to date of 194 manatees from the December 2013 aerial survey (ATKINS 2014, p. 6). While there are no statistically robust estimates of Florida manatee population size, a FWC winter survey conducted in January 2011 produced an unadjusted count of 4,834 manatees for the Florida subspecies (FWC Fish and Wildlife Research Institute (FWRI) 2011).

Deutsch et al. (2008, p. 4), projected an Antillean manatee population decline of over 20 percent for the next two generations of manatees, assuming a lack of effective conservation actions and ''current and projected future anthropogenic threats.'' While no trend analysis exists for Antillean manatees in Puerto Rico, the Service suggests that this population may be stable (USFWS 2007, p. 33). A demographic analysis for Florida manatees indicates that this population of manatees is likely increasing or stable throughout much of Florida (Runge et al. 2004, p. 316; Runge et al. 2007, p. 16). An adult survival rate analysis for the Florida manatee, through the winter of 2005—2006, identifies a rangewide survival rate of 96 percent (C.A. Langtimm, USGS, pers. comm., 2011). For more information on the biology and habitat needs of the West Indian manatee in United States waters, refer to the Florida Manatee Recovery Plan (USFWS 2001; available at *http://www.regulations.gov* and *http://www.fws.gov/northflorida/Manatee/manatees.htm*) and the Science Summary in Support of Manatee Protection Area Designation in Puerto Rico (Drew et al. 2012; available at *http://www.basic.ncsu.edu/eda/downloads/PR–MPA_Report_2012.pdf*).

Evaluation of Information for a 90-Day Finding on a Petition

Section 4 of the Act (16 U.S.C. 1533) and its implementing regulations (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 (List). A species may be determined to be an endangered or threatened species because of any of the five factors described in section 4(a)(1) of the Act:

(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.

This analysis of threats is an evaluation of both the threats currently facing the species and the threats that are reasonably likely to affect the species in the foreseeable future following the delisting or reclassification and the removal or reduction of the Act's protections. A species is an ''endangered species'' for purposes of the Act if it is in danger of extinction throughout all or a significant portion of its range and is a ''threatened species'' if it is likely to become an endangered species within the foreseeable future throughout all or a significant portion of its range.

As discussed above, in making this 90-day finding we evaluated whether information regarding threats to the West Indian manatee, as presented in the petition and other information available in our files, is substantial, thereby indicating that the petitioned action may be warranted. Our summary of this information is presented below.

Information Provided in the Petition

The petitioner requested the Service to reclassify the West Indian manatee, and subspecies thereof, including the Florida manatee and the Antillean manatee (in Puerto Rico and the U.S. Virgin Islands), from endangered to threatened. The petition cites and relies on information and recommendations from our 5-Year Review of the West Indian Manatee (USFWS 2007), the FWC's Final Biological Status Review of the Florida manatee (*Trichechus manatus latirostris*) (FWC 2006), and correspondence from the U.S. Marine Mammal Commission (MMC) to the U.S Fish and Wildlife Service (MMC 2011). Specifically, the petition asserts that our 5-year review of the West Indian Manatee (USFWS 2007) constitutes substantial information that indicates that a reclassification of the species is warranted. Our 5-year review recommended that the West Indian manatee be reclassified to threatened (USFWS 2007, p. 35). This review was based on the best available data at that time.

The petition also asserts that FWC's Final Biological Status Review of the Florida manatee (*Trichechus manatus latirostris*) (FWC 2006) constitutes substantial information that indicates that a reclassification of the species is warranted. FWC's status review concluded that, per then-current State of Florida listing criteria, the Florida manatee met State listing criteria as a threatened species and recommended that the State reclassify the subspecies as a threatened species (FWC 2006, p. 38). FWC's recommendation did not address the Antillean manatee since it does not occur in Florida.

The petition also asserts that correspondence from the MMC to the Service (MMC 2011) constitutes substantial information that indicates that a reclassification of the species is warranted. The MMC's letter of September 21, 2011, acknowledged that significant progress toward recovery of the Florida manatee had been made over the past 30 years and that downlisting may be warranted (MMC 2011, p. 2). The letter did not address a reclassification of the Antillean manatee and also cited State of Florida aerial survey data from 2010 and 2011 wherein Statewide surveys tallied 5,076 and 4,834 Florida manatees, respectively (MMC 2011, p. 2). The MMC qualified its belief that reclassification of the Florida manatee may be warranted by recommending that (1) the Service incorporate into any reclassification proposal an assessment of the effects of the high cold-stress mortality that occurred in 2010 and 2011, and consider the possibility that such mortality will continue to occur at least as often in the foreseeable future; (2) regional networks of warm-water refuges be established; and (3) a long-term strategy to minimize watercraft-related manatee deaths be in place (MMC 2011, pp. 2–3).

Summary of Information Provided in the Petition and Available in Service Files

The 2007 5-year review for the West Indian manatee recommended reclassification of the species. The rationale for this recommendation was that the Florida manatees were exhibiting positive population growth rates on the Atlantic Coast and because the magnitude of the primary threats to the species was minimized or reduced (USFWS 2007, pp. 25–35). The threats analysis for the Florida manatee indicated that the most significant threats for this subspecies are collisions with boats, potential loss of warm-water habitat throughout the State of Florida, red tide, and a broad regulatory framework that is variable in its implementation and effectiveness. The 2007 5-year review also determined that the population of the Antillean manatee in Puerto Rico was at least stable, if not slightly increasing, and that the most notable threats to this population were collisions with watercraft and a broad regulatory framework that is variable in its implementation and effectiveness. The State of Florida did not act on its recommendation in its 2006 status review to reclassify the Florida manatee and, in 2010, adopted new listing criteria that precluded a reclassification of this subspecies.

Information in Service files relevant to this petition includes: (1) FWC's Manatee Rescue and Mortality Response database of information on manatee mortality between our 2007 5-year review and the time of the petition (*http://www.myfwc.com/research/manatee/rescue-mortality-response/mortality-statistics*); (2) a population viability analysis for the Antillean manatee (Castelblanco-Martínez et al. 2012) that evaluated the potential effects of possible limiting factors, like habitat fragmentation and estimated times to extinction based on how these factors might change, to this subspecies; (3) a scientific paper on West Indian manatee genetics (Hunter et al. 2012) that shows Florida manatees are distinct from Antillean manatees in Puerto Rico; (4) a protection needs assessment and threats analysis for Antillean manatees that occur in Puerto Rico (Drew et al. 2012); and (5) reports that provide existing knowledge about the West Indian manatee subspecies and make recommendations for recovery actions where further data are needed (Deutsch et al. 2008; UNEP 2010; Marsh et al. 2011; Bossart et al. 2012).

Historically, West Indian manatees were found in 42 countries; Deutsch et al. (2008, p. 14) assessed 37 of these countries (not including the United States) and concluded that manatees are now found in 20 countries. This patchy distribution is likely due to habitat degradation and loss, hunting, incidental catch and accidental take, watercraft collisions, entanglement in fishing gear, pollution, natural disasters, and human disturbance (Deutsch et al. 2008, p. 14). In areas outside of the United States, habitat loss is considered to be one of the main threats to the species (Castelblanco-Martínez et al. 2012, p. 129).

The Florida manatee has not experienced any curtailment of its range throughout the southeastern United States. It has, however, experienced a shift in its winter distribution. Manatees are subtropical animals and require stable, long-term sources of warm water during cold weather (USFWS 2007, p. 16). Historically, manatees relied on the warm, temperate waters of south Florida and on natural warm-water springs scattered throughout their range as buffers to the lethal effects of cold winter temperatures (USFWS 2007, p. 16). Manatees have expanded their winter range to include industrial sites and associated warm-water discharges as refuges from the cold. Nearly two-thirds of the manatee population winters at industrial warm-water sites, which are now made up almost entirely of power plants (FWC FWRI, unpub. synoptic aerial survey data, 2011). A significant threat to Florida manatee habitat is the loss of natural and manmade warm-water refugia (Laist and Reynolds 2005a, b). Power plant discharges used by large numbers of wintering manatees can be disrupted and flows at natural springs can be reduced due to human consumption of groundwater. The Service and State of Florida are coordinating with other agencies and industry to address possible warm-water loss.

The Antillean manatee in Puerto Rico has not experienced a curtailment of its range throughout the island. Seagrass communities have been disrupted or eliminated in some areas due to marine construction and boating activities. These activities will continue to affect these areas. Human demands for potable water are expected to increase and will likely affect the availability of drinking water for manatees (USFWS 2007, p. 31).

In Puerto Rico, manatee poaching activities have been reduced (USFWS 2007, p.33). The West Indian manatee outside of United States jurisdiction continues to be hunted for meat, oil, and other products despite being illegal (UNEP 2010, p. xiv). Hunting has likely caused localized extirpation from certain areas (UNEP 2010, p. 12).

Florida and Antillean manatees are exposed to various disease processes and predators. Recently, a few Antillean manatee deaths in Puerto Rico have been attributed to toxoplasmosis (Bossart et al. 2012, p. 139), and the effect of this disease on the manatee population is poorly understood. A novel papillomavirus was discovered in Florida manatees; however, this disease was determined to be benign and not threatening to the Florida manatee population. A variety of parasites have been identified in manatees; however, none is known to cause death. Manatee predators include sharks and alligators. However, although bite marks and scars have been observed, only rare attacks have been described (Mon Sue et al. 1990, p. 239; D. Semeyn unpublished (in Marsh et al. 2010, p. 167).

Protection for the West Indian manatee outside of areas under United States jurisdiction is largely afforded through the Specially Protected Areas and Wildlife (SPAW) Protocol of the Cartegena Convention. The Ramsar Convention on Wetlands and the Convention on Biological Diversity protect manatee habitat. Many countries have country-specific legislation protecting manatees and their habitat (Marsh et al. 2011, p. 376). Further protection is afforded under the 1973 Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES) (Marsh et al. 2011, p. 376).

Within areas under United States jurisdiction, manatees are protected through a number of Federal, State, and Commonwealth laws. Primary Federal regulations include the Act and the MMPA. In Florida, manatees are protected under the Florida Manatee Sanctuary Act of 1978, and through regulation; Florida Administrative Code 68A–27.000 provides protective measures for Florida's fish and wildlife, including candidate and protected species. Additional measures exist to protect manatee habitat in Florida, including State and Federal regulations governing human activity in certain habitat areas where manatees congregate, and measures designed to protect spring flows used by wintering manatees. In Puerto Rico, protection and conservation of natural resources is primarily based on the 1952 Constitution of Puerto Rico. The Commonwealth's New Wildlife Law of 1999 provides protections for endangered species. Other Commonwealth laws exist to protect habitat in coastal waters. States outside of Florida and the Commonwealth

provide additional protections for manatees through a variety of State laws and regulations (USFWS 2007, pp. 19, 32).

Regulatory mechanisms that prohibit poaching throughout the manatee's range are in place. However, they are regionally difficult to enforce, and poaching remains a significant concern (UNEP 2010, pp. 89–90). Florida manatee protection areas are marked and enforced (USFWS 2007, p.72), and efforts to mark areas in Puerto Rico are ongoing (USFWS 2007, p.36).

Finding

In our 90-day finding, we are required to review a petition to reclassify a species, along with the information available in our files, for whether it contains information that would lead a reasonable person to believe that the action proposed in the petition is warranted. On the basis of the information presented, as summarized above, under section 4(b)(3)(A) of the Act, we find that the petition presents substantial scientific or commercial information indicating that the requested action, the reclassification of the West Indian manatee to threatened, may be warranted. Therefore, we are initiating a status review to determine whether the petitioned action is warranted. In our 12-month finding, we will evaluate, through a status review, each of the five listing factors closely to determine if the threats to the species have been reduced to the degree that the reclassification of the species is warranted. The ''best scientific and commercial data'' standard under the Act for the status review differs from the ''substantial information'' standard for a 90-day finding, under section 4(b)(3)(A) of the Act and 50 CFR 424.14(b) of our regulations. Because the Act's standards for 90-day and 12-month findings are different, as described above, this substantial 90-day finding does not necessarily mean that the 12-month finding will result in a warranted finding.

5-Year Review

Section 4(c)(2)(A) of the Act requires that we conduct a review of listed species at least once every 5 years. Under section 4(c)(2)(B), we are then to determine, on the basis of such review, whether or not such species should be recommended for removal from the List (delisted), or reclassified from endangered to threatened, or from threatened to endangered. Our regulations at 50 CFR 424.21 require that we publish a notice in the **Federal Register** announcing those species currently under review. This notice announces our active review of the status of the West Indian manatee.

References Cited

A complete list of references cited is available on the Internet at *http://www.regulations.gov* and upon request from the North Florida Ecological Services Field Office (see **FOR FURTHER INFORMATION CONTACT**).

Authors

The primary authors of this notice include staff from the North Florida Ecological Services Field Office and Caribbean Ecological Services Field Office (see **FOR FURTHER INFORMATION CONTACT**).

Authority

The authority for this action is the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 et seq.).

Dated: June 19, 2014 .

Stephen Guertin,

Acting Director, U.S. Fish and Wildlife Service.

[FR Doc. 2014–15458 Filed 7–1–14; 8:45 am]

BILLING CODE 4310–55–P

Notices

Federal Register

Vol. 79, No. 127

Wednesday, July 2, 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

Animal and Plant Health Inspection Service

[Docket No. APHIS–2014–0026]

Notice of Request for Extension of Approval of an Information Collection; Importation of Used Farm Equipment From Regions Affected With Foot-and-Mouth Disease

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Extension of approval of an information collection; comment request.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, this notice announces the Animal and Plant Health Inspection Service's intention to request an extension of approval of an information collection associated with the importation of used farm equipment into the United States from regions affected with foot-and-mouth disease.

DATES: We will consider all comments that we receive on or before September 2, 2014.

ADDRESSES: You may submit comments by either of the following methods:

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov/#!docket Detail;D=APHIS-2014-0026*.
- *Postal Mail/Commercial Delivery:* Send your comment to Docket No. APHIS–2014–0026, Regulatory Analysis and Development, PPD, APHIS, Station 3A–03.8, 4700 River Road Unit 118, Riverdale, MD 20737–1238.

Supporting documents and any comments we receive on this docket may be viewed at *http://www.regulations.gov/#!docketDetail;D=APHIS-2014-0026* or in our reading room, which is located in room 1141 of the USDA South Building, 14th Street and Independence Avenue SW., Washington, DC. Normal reading room hours are 8 a.m. to 4:30 p.m., Monday through Friday, except holidays. To be sure someone is there to help you, please call (202) 799–7039 before coming.

FOR FURTHER INFORMATION CONTACT: For information on the regulations for the importation of used farm equipment from regions affected with foot-and-mouth disease, contact Dr. Tracye Hernandez-Bynum, Senior Staff Veterinarian, National Import Export Services, VS, APHIS, 4700 River Road Unit 40, Riverdale, MD 20737; (301) 851–3300. For copies of more detailed information on the information collection, contact Mrs. Celeste Sickles, APHIS' Information Collection Coordinator, at (301) 851–2908.

SUPPLEMENTARY INFORMATION:

Title: Importation of Used Farm Equipment From Regions Affected With Foot-and-Mouth Disease.

OMB Control Number: 0579–0195.

Type of Request: Extension of approval of an information collection.

Abstract: Under the Animal Health Protection Act (7 U.S.C. 8301 *et seq.*), the Animal and Plant Health Inspection Service (APHIS) of the U.S. Department of Agriculture (USDA) is authorized, among other things, to prohibit or restrict the importation of animals, animal products, and other articles into the United States to prevent the introduction of animal diseases and pests. The regulations for the importation of animals, animal products, and other articles into the United States are contained in 9 CFR parts 92 through 98.

In part 94, § 94.1(c) prohibits the importation of used farm equipment into the United States from regions where APHIS considers foot-and-mouth disease (FMD) or rinderpest to exist unless the equipment has been steam-cleaned prior to export to the United States so that it is free of exposed dirt and other particulate matter. Such equipment must be accompanied by an original certificate, signed by an authorized official of the national animal health service of the exporting region, stating that the farm equipment after its last use and prior to export, was steam-cleaned free of all exposed dirt and other particulate matter.

Since the last approval of this activity by the Office of Management and Budget (OMB), APHIS has declared additional regions as free of FMD, which means that these regions are no longer subject to the requirements in § 94.1(c). As a result, there is a decrease in the estimated annual number of respondents from 150 to 91, and a decrease in the estimated annual number of responses from 1,000 to 910. In addition, the estimated total annual burden on respondents has decreased from 200 hours to 182 hours.

We are asking OMB to approve our use of this information collection activity for an additional 3 years.

The purpose of this notice is to solicit comments from the public (as well as affected agencies) concerning our information collection. These comments will help us:

(1) Evaluate whether the collection of information is necessary for the proper performance of the functions of the Agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of our estimate of the burden of the collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, through use, as appropriate, of automated, electronic, mechanical, and other collection technologies; e.g., permitting electronic submission of responses.

Estimate of burden: The public reporting burden for this collection of information is estimated to average 0.20 hours per response.

Respondents: Exporters of used farm equipment and foreign animal health officials in FMD-affected regions.

Estimated annual number of respondents: 91.

Estimated annual number of responses per respondent: 10.

Estimated annual number of responses: 910.

Estimated total annual burden on respondents: 182 hours. (Due to averaging, the total annual burden hours may not equal the product of the annual number of responses multiplied by the reporting burden per response.)

All responses to this notice will be summarized and included in the request for OMB approval. All comments will also become a matter of public record.

Done in Washington, DC, this 26th day of June 2014.

Michael C. Gregoire,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 2014–15494 Filed 7–1–14; 8:45 am]

BILLING CODE 3410–34–P

DEPARTMENT OF AGRICULTURE

Forest Service

Information Collection; Small Business Timber Sale Set-Aside Program; Appeal Procedures on Recomputation of Shares

AGENCY: Forest Service, USDA.

ACTION: Notice; request for comment.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, the Forest Service is seeking comments from all interested individuals and organizations on the extension with no revision of a currently approved information collection, Small Business Timber Sale Set-Aside Program; Appeal Procedures on Recomputation of Shares.

DATES: Comments must be received in writing on or before September 2, 2014 to be assured of consideration. Comments received after that date will be considered to the extent practicable.

ADDRESSES: Comments concerning this notice should be addressed to Sharon Nygaard-Scott, Forest Management Staff, Mail Stop 1103, Forest Service, USDA, 1400 Independence Avenue SW., Washington, DC 20250.

Comments also may be submitted via facsimile to (703) 605–1575, or by email to *wosbaprocess@fs.fed.us.*

Comments submitted in response to this notice may be made available to the public through relevant Web sites and upon request. For this reason, please do not include in your comments information of a confidential nature, such as sensitive personal information or proprietary information. If you send an email comment, 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. Please note that responses to this public comment request containing any routine notice about the confidentiality of the communication will be treated as public comments that may be made available to the public notwithstanding the inclusion of the routine notice.

The public may inspect the draft supporting statement and/or comments received at Forest Service, USDA, Forest Management Office, Third Floor SW Wing, 201 14th Street SW., Washington, DC, during normal business hours. Visitors are encouraged to call ahead to (202) 205–1766 to facilitate entry to the building. The public may request an electronic copy of the draft supporting statement and/or any comments received be sent via return email. Requests should be emailed to *wosbaprocess@fs.fed.us.*

FOR FURTHER INFORMATION CONTACT: Sharon Nygaard-Scott, Forest Management Staff, by phone (202) 205–1766 or by email at *wosbaprocess@fs.fed.us.* Individuals who use telecommunication devices for the deaf (TDD) may call the Federal Relay Service (FRS) at 1–800–877–8339 twenty-four hours a day, every day of the year, including holidays.

SUPPLEMENTARY INFORMATION:

Title: Small Business Timber Sale Set-Aside Program; Appeal Procedures on Recomputation of Shares.

OMB Number: 0596–0141.

Expiration Date of Approval: 12/31/2014.

Type of Request: Extension without change of a currently approved information collection.

Abstract: The Forest Service adopted the Small Business Timber Sale Set-Aside Program on July 26, 1990 (55 FR 30485). The Agency administers the program in cooperation with the Small Business Administration (SBA) under the authorities of the Small Business Act (15 U.S.C. 631), the National Forest Management Act of 1976, and SBA regulations in 13 CFR part 121. The program is designed to ensure that small business timber purchasers have the opportunity to purchase a fair proportion of National Forest System timber offered for sale.

Under the program, the Forest Service must recompute the shares of timber sales to be set aside for qualifying small businesses every 5 years based on the actual volume of sawtimber that has been purchased by small businesses. Additionally, shares must be recomputed if there is a change in manufacturing capability, if the purchaser size class changes, or if certain purchasers discontinue operations.

In 1992, the Agency adopted new administrative appeal procedures (36 CFR part 215), which excluded the Small Business Timber Sale Set-Aside Program. Prior to adoption of 36 CFR part 215, the Agency had accepted appeals of recomputation decisions under 36 CFR part 217; and therefore decided to establish procedures for providing notice to affected purchasers offering an opportunity to comment on the recomputation of shares (61 FR 7468). The Conference Report accompanying the 1997 Omnibus Appropriation Act (Pub. L. 104–208) directed the Forest Service to reinstate an appeals process for decisions concerning recomputation of Small Business Set-Aside shares, structural recomputations of SBA shares, or changes in policies impacting the Small Business Timber Sale Set-Aside Program prior to December 31, 1996. The Small Business Timber Sale Set-Aside Program; Appeal Procedures on Recomputation of Shares (36 CFR 223:118; 64 FR 411, January 5, 1999) outlines the types of decisions that are subject to appeal, who may appeal decisions, the procedures for appeal decisions, the timelines for appeal, and the contents of the notice of appeal.

The Forest Service provides qualifying timber sale purchasers 30-days for predecisional review and comment on draft decisions to reallocate shares, including the data used in making the proposed recomputation decision. Within 15 days after the close of the 30-day predecisional review period, an Agency official makes a decision on the shares to be set aside for small businesses and gives written notice of the decision to all parties on the national forest timber sale bidders list for the affected area. The written notice provides the date by which the appeal may be filed and how to obtain information on appeal procedures.

Only those timber sale purchasers, or their representatives, affected by small business share timber sale set-aside recomputation decisions and who have submitted predecisional comments may appeal recomputation decisions. The appellant must file a notice of appeal with the appropriate Forest Service official within 20 days of the date of the notice of decision. The notice of appeal must include:

1. The appellant's name, mailing address, and day time telephone number;
2. The title and date of the decision;
3. The name of the responsible Forest Service official;
4. A brief description and date of the decision being appealed;
5. A statement of how the appellant is adversely affected by the decision being appealed;
6. A statement of facts in dispute regarding the issue(s) raised by the appeal;
7. Specific references to law, regulation, or policy that the appellant believes have been violated (if any) and the basis for such an allegation;
8. A statement as to whether and how the appellant has tried to resolve the appeal issues with the appropriate

Forest Service official, including evidence of submission of written comments at the predecisional stage; and

9. A statement of the relief the appellant seeks.

The data gathered in this information collection is not available from other sources.

Estimate of Burden per Response: 1 to 8 hours.

Type of Respondents: Timber sale purchasers, or their representatives, who are affected by recomputations of the small business share of timber sales.

Estimated Annual Number of Respondents: 40.

Estimated Annual Number of Responses per Respondent: 2.

Estimated Total Annual Burden on Respondents: 360 hours.

Comment is Invited: Comment is invited on: (1) Whether this collection of information is necessary for the stated purposes and the proper performance of the functions of the agency, including whether the information will have practical or scientific utility; (2) the accuracy of the agency's estimate of the burden of the collection of information, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including the use of automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

All comments received in response to this notice, including names and addresses when provided, will be a matter of public record. Comments will be summarized and included in the submission request for Office of Management and Budget approval.

Dated: June 25, 2014.

Nicholas Douglas,

Acting Deputy Chief.

[FR Doc. 2014–15520 Filed 7–1–14; 8:45 am]

BILLING CODE 3411–15–P

DEPARTMENT OF COMMERCE

Bureau of Industry and Security

Sensors and Instrumentation Technical Advisory Committee; Notice of Partially Closed Meeting

The Sensors and Instrumentation Technical Advisory Committee (SITAC) will meet on July 22, 2014, 9:30 a.m., in the Herbert C. Hoover Building, Room 3884, 14th Street between Constitution and Pennsylvania Avenues NW., Washington, DC. The Committee advises the Office of the Assistant Secretary for Export Administration on technical questions that affect the level of export controls applicable to sensors and instrumentation equipment and technology.

Agenda

Public Session

1. Welcome and Introductions.

2. Remarks from the Bureau of Industry and Security Management.

3. Industry Presentations.

4. New Business.

Closed Session

5. Discussion of matters determined to be exempt from the provisions relating to public meetings found in 5 U.S.C. app. 2 §§ 10(a)(1) and 10(a)(3).

The open session will be accessible via teleconference to 20 participants on a first come, first serve basis. To join the conference, submit inquiries to Ms. Yvette Springer at *Yvette.Springer@bis.doc.gov* no later than July 15, 2014.

A limited number of seats will be available during the public session of the meeting. Reservations are not accepted. To the extent that time permits, members of the public may present oral statements to the Committee. The public may submit written statements at any time before or after the meeting. However, to facilitate distribution of public presentation materials to the Committee members, the Committee suggests that the materials be forwarded before the meeting to Ms. Springer.

The Assistant Secretary for Administration, with the concurrence of the General Counsel, formally determined on September 23, 2013 pursuant to Section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. app. 2 § 10(d), that the portion of this meeting dealing with pre-decisional changes to the Commerce Control List and U.S. export control policies shall be exempt from the provisions relating to public meetings found in 5 U.S.C. app. 2 §§ 10(a)(1) and 10(a)(3). The remaining portions of the meeting will be open to the public.

For more information contact Yvette Springer on (202) 482–2813.

Dated: June 26, 2014.

Yvette Springer,

Committee Liaison Officer.

[FR Doc. 2014–15491 Filed 7–1–14; 8:45 am]

BILLING CODE P

DEPARTMENT OF COMMERCE

Bureau of Industry and Security

Information Systems, Technical Advisory Committee; Notice of Partially Closed Meeting

The Information Systems Technical Advisory Committee (ISTAC) will meet on July 23 and 24, 2014, 9:00 a.m., in the Herbert C. Hoover Building, Room 3884, 14th Street between Constitution and Pennsylvania Avenues NW., Washington, DC. The Committee advises the Office of the Assistant Secretary for Export Administration on technical questions that affect the level of export controls applicable to information systems equipment and technology.

Wednesday, July 23

Open Session

1. Welcome and Introductions
2. Working Group Reports
3. Old Business
4. Industry Presentations
5. New business

Thursday, July 24

Closed Session

6. Discussion of matters determined to be exempt from the provisions relating to public meetings found in 5 U.S.C. app. 2 §§ 10(a)(1) and 10(a)(3).

The open session will be accessible via teleconference to 20 participants on a first come, first serve basis. To join the conference, submit inquiries to Ms. Yvette Springer at *Yvette.Springer@bis.doc.gov,* no later than July 16, 2014.

A limited number of seats will be available for the public session. Reservations are not accepted. To the extent time permits, members of the public may present oral statements to the Committee. The public may submit written statements at any time before or after the meeting. However, to facilitate distribution of public presentation materials to Committee members, the Committee suggests that public presentation materials or comments be forwarded before the meeting to Ms. Springer.

The Assistant Secretary for Administration, with the concurrence of the delegate of the General Counsel, formally determined on December 5, 2013, pursuant to Section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. app. 2 § (10)(d))), that the portion of the meeting concerning trade secrets and commercial or financial information deemed privileged or confidential as described in 5 U.S.C. 552b(c)(4) and the portion of the meeting concerning

matters the disclosure of which would be likely to frustrate significantly implementation of an agency action as described in 5 U.S.C. 552b(c)(9)(B) shall be exempt from the provisions relating to public meetings found in 5 U.S.C. app. 2 §§ 10(a)(1) and 10(a)(3). The remaining portions of the meeting will be open to the public.

For more information, call Yvette Springer at (202) 482–2813.

Dated: June 26, 2014.

Yvette Springer,

Committee Liaison Officer.

[FR Doc. 2014–15493 Filed 7–1–14; 8:45 am]

BILLING CODE 3510–JT–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–552–801]

Certain Frozen Fish Fillets From the Socialist Republic of Vietnam: Amended Final Results of Antidumping Duty Administrative Review; 2011–2012

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

SUMMARY: The Department of Commerce (''the Department'') is amending the final results of the ninth administrative review on certain frozen fish fillets (''fish fillets'') from the Socialist Republic of Vietnam (''Vietnam'') to correct certain ministerial errors.[1] The period of review (''POR'') is August 1, 2011, through July 31, 2012.

DATES: *Effective Date:* July 2, 2014.

FOR FURTHER INFORMATION CONTACT: Paul Walker (Hung Vuong Group) or Julia Hancock (Vinh Hoan), AD/CVD Operations, Office V, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230; telephone 202–482–0413 or 202–482–1394, respectively.

SUPPLEMENTARY INFORMATION:

Background

On April 2, 2014 the Department disclosed to interested parties its calculations for the *Final Results.* On April 7, 2014 we received ministerial error comments from Vinh Hoan Corporation and the Hung Vuong Group (''HVG''). On April 29, 2014 Vinh Hoan submitted an additional ministerial error comment, which was rejected as it was an untimely submission.[2]

Scope of the Order

For a full description of the products covered by the antidumping duty order, see the Memorandum to Paul Piquado, Assistant Secretary, Enforcement and Compliance, from Gary Taverman, Senior Advisor, ''Ninth Administrative Review of Certain Frozen Fish Fillets from the Socialist Republic of Vietnam: Ministerial Error Allegations Memorandum,'' dated concurrently with and hereby adopted by this notice (''Ministerial Error Memo'').

Ministerial Errors

Section 751(h) of the Tariff Act of 1930, as amended (''the Act''), and 19 CFR 351.224(f) define a ''ministerial error'' as an error ''in addition, subtraction, or other arithmetic function, clerical error resulting from inaccurate copying, duplication, or the like, and any similar type of unintentional error which the Secretary considers ministerial.'' After analyzing the ministerial error comments, we determine, in accordance with section 751(h) of the Act and 19 CFR 351.224(e), that we made the following ministerial errors in our calculations for the *Final Results:* (a) We inadvertently miscalculated a portion of HVG's international freight; and (b) we inadvertently miscalculated Vinh Hoan Corporation's fish oil by-product offset. For a detailed discussion of these ministerial errors, as well as the Department's analysis, *see* the Ministerial Error Memo.[3]

In accordance with section 751(h) of the Act and 19 CFR 351.224(e), we are amending the *Final Results* of the administrative review of fish fillets from Vietnam. The revised weighted-average dumping margins are detailed below.

Amended Final Results of the Administrative Review

The amended weighted-average dumping margins for the administrative review are as follows:

Exporter	Weighted-average margin (dollars/kilogram (''kg'')) [4]
Vinh Hoan Corporation [5]	0.00
Hung Vuong Group [6]	1.20
An My Fish Joint Stock Company	1.20
Anvifish Joint Stock Company [7]	1.20
Asia Commerce Fisheries Joint Stock Company	1.20
Binh An Seafood Joint Stock Company	1.20
Cadovimex II Seafood Import-Export and Processing Joint Stock Company	1.20
Cantho Import-Export Seafood Joint Stock Company	1.20
Cuu Long Fish Import-Export Corporation [8]	1.20
Cuu Long Fish Joint Stock Company	1.20
East Sea Seafoods Limited Liability Company [9]	1.20
Green Farms Seafood Joint Stock Company	1.20
Hiep Thanh Seafood Joint Stock Company	1.20
Hoa Phat Seafood Import-Export and Processing JSC	1.20
International Development & Investment Corporation	1.20
NTSF Seafoods Joint Stock Company	1.20
QVD Food Company Ltd. [10]	1.20
Saigon Mekong Fishery Co., Ltd.	1.20

[1] *See Certain Frozen Fish Fillets from the Socialist Republic of Vietnam: Final Results of Antidumping Duty Administrative Review and New Shipper Review; 2011–2012,* 79 FR 19053 (April 7, 2014) (''*Final Results*'').

[2] *See* the Department's letter to Vinh Hoan Corporation, ''Ninth Administrative Review of Certain Frozen Fish Fillets from the Socialist Republic of Vietnam: Alleged Untimely Ministerial Error Submission,'' dated April 30, 2014.

[3] The correction of these ministerial errors will not affect the final results with respect to new shipper Golden Quality Seafood Corporation. *See* Ministerial Error Memo.

[4] In the third administrative review of this order, the Department determined that it would calculate per-unit assessment and cash deposit rates for all future reviews. *See Certain Frozen Fish Fillets from the Socialist Republic of Vietnam: Final Results of Antidumping Duty Administrative Review and Partial Rescission,* 73 FR 15479 (March 24, 2008).

[5] This rate is applicable to the Vinh Hoan Group which includes: Vinh Hoan, Van Duc, and VDTG. In the sixth administrative review of this order, the Department found Vinh Hoan, Van Duc, and VDTG to be a single entity and, because there have been no changes to this determination since that administrative review, we continue to find these companies to be part of a single entity. Therefore, we will assign this rate to the companies in the single entity. *See Certain Frozen Fish Fillets From the Socialist Republic of Vietnam: Notice of Preliminary Results and Partial Rescission of the Sixth Antidumping Duty Administrative Review and Sixth New Shipper Review,* 75 FR 56061 (September 15, 2010).

[6] This rate is applicable to the Hung Vuong Group, which includes: An Giang Fisheries Import and Export Joint Stock Company, Asia Pangasius Company Limited, Europe Joint Stock Company, Hung Vuong Joint Stock Company, Hung Vuong Mascato Company Limited, Hung Vuong—Vinh Long Co., Ltd., and Hung Vuong—Sa Dec Co., Ltd.

[7] Includes the trade name Anvifish Co., Ltd. and Anvifish JSC.

Exporter	Weighted-average margin (dollars/kilogram ("kg")) [4]
Seafood Joint Stock Company No.4 Branch Dongtam Fisheries Processing Company	1.20
Southern Fishery Industries Company Ltd.	1.20
Sunrise Corporation	1.20
Thien Ma Seafood Co., Ltd.	1.20
To Chau Joint Stock Company	1.20
Viet Phu Food & Fish Corporation	1.20
Vinh Quang Fisheries Corporation	1.20
Vietnam-Wide Rate [11]	2.11

Disclosure

We will disclose the calculations performed for these amended final results to interested parties within five days of the date of publication of this notice in accordance with 19 CFR 351.224(b).

Assessment Rates

Pursuant to section 751(a)(2)(A) of the Act and 19 CFR 351.212(b), the Department will determine, and U.S. Customs and Border Protection ("CBP") shall assess, antidumping duties on all appropriate entries of subject merchandise in accordance with the amended final results of this review. The Department intends to issue appropriate assessment instructions directly to CBP 15 days after publication of the amended final results of this administrative review.

For assessment purposes, we calculated importer (or customer)-specific assessment rates for merchandise subject to this review. We will continue to direct CBP to assess importer-specific assessment rates based on the resulting per-unit (*i.e.,* per-kg) rates by the weight in kg of each entry of the subject merchandise during the POR. Specifically, we calculated importer-specific duty assessment rates on a per-unit rate basis by dividing the total dumping margins (calculated as the difference between normal value and export price, or constructed export price) for each importer by the total sales quantity of subject merchandise sold to that importer during the POR. If an importer (or customer)-specific assessment rate is *de minimis* (*i.e.,* less than 0.50 percent), the Department will instruct CBP to assess that importer (or customer's) entries of subject merchandise without regard to antidumping duties, in accordance with 19 CFR 351.106(c)(2).

Cash Deposit Requirements

The following cash deposit requirements are effective as of April 7, 2014, the date of publication of the *Final Results,* for all shipments of the subject merchandise entered, or withdrawn from warehouse, for consumption, as provided for by section 751(a)(2)(C) of the Act: (1) The cash deposit rate for the exporters listed above are the rates established in the amended final results of review; (2) for previously investigated or reviewed Vietnamese and non-Vietnamese exporters not listed in the *Final Results* or these amended final results that have separate rates, the cash deposit rate will continue to be the exporter-specific rate published for the most recent period; (3) for all Vietnamese exporters of subject merchandise which were not found to be entitled to a separate rate in the *Final Results* or these amended final results, the cash deposit rate will be the Vietnam-wide rate of 2.11 U.S. dollars/kg; and (4) for all non-Vietnamese exporters of subject merchandise which have not received their own rate, the cash deposit rate will be the rate applicable to the Vietnamese exporters that supplied that non-Vietnamese exporter. These deposit requirements shall remain in effect until further notice.

Reimbursement of Duties

This notice also serves as a final reminder to importers of their responsibility under 19 CFR 351.402(f) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this POR. Failure to comply with this requirement could result in the Department's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of doubled antidumping duties.

Administrative Protective Orders

This notice also serves as a 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 or destruction of APO materials, or conversion to judicial protective order, is hereby requested. Failure to comply with the regulations and terms of an APO is a violation which is subject to sanction.

These amended final results are published in accordance with sections 751(h) and 777(i)(1) of the Act.

Dated: May 9, 2014.

Paul Piquado,

Assistant Secretary for Enforcement and Compliance.

[FR Doc. 2014–15559 Filed 7–1–14; 8:45 am]

BILLING CODE 3510–DS–P

[8] Includes the trade name CL Panga Fish.

[9] Includes the trade names East Sea Seafoods LLC and ESS.

[10] This rate is also applicable to QVD Dong Thap Food Co., Ltd and Thuan Hung Co., Ltd. ("THUFICO"). In the second review of this order, the Department found QVD, QVD Dong Thap Food Co., Ltd. and THUFICO to be a single entity and, because there have been no changes to this determination since that administrative review, we continue to find these companies to be part of a single entity. Therefore, we will assign this rate to the companies in the single entity. *See Certain Frozen Fish Fillets from the Socialist Republic of Vietnam: Preliminary Results of Antidumping Duty Administrative Review,* 71 FR 53387 (September 11, 2006).

[11] The Vietnam-wide rate includes the following companies which are under review, but which did not submit a separate rate application or certification: East Sea Seafood Co., Ltd., East Sea Seafoods Joint Venture Co., Ltd., Hung Vuong Seafood Joint Stock Company, Nam Viet Company Limited, and Vinh Hoan Company Ltd.

DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–924]

Polyethylene Terephthalate Film, Sheet, and Strip From the People's Republic of China: Final Results of Antidumping Duty Administrative Review; 2011–2012

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

SUMMARY: On December 26, 2013, the Department of Commerce (the Department) published its *Preliminary Results* of the 2011–2012 administrative review of the antidumping duty order on polyethylene terephthalate film, sheet, and strip from the People's Republic of China (PRC).[1] The period of review (POR) is November 1, 2011, through October 31, 2012. This review covers six producers/exporters of subject merchandise: (1) Shaoxing Xiangyu Green Packing Co. Ltd. ("Green Packing"); (2) Tianjin Wanhua Co., Ltd. ("Wanhua"); (3) Fuwei Films (Shandong) Co. Ltd. ("Fuwei Films");

[1] *See Polyethylene Terephthalate Film, Sheet, and Strip From the People's Republic of China: Preliminary Results of Antidumping Duty Administrative Review; 2011–2012,* 78 FR 78333 (December 26, 2013) (*Preliminary Results*), and accompanying Preliminary Decision Memorandum.

(4) Sichuan Dongfang Insulating Material Co., Ltd. (''Dong Fang''); and (5) DuPont Teijin Films China Limited, DuPont Hongji Films Foshan Co., Ltd., and DuPont Teijin Hongji Films Ningbo Co., Ltd (''collectively the ''DuPont Group''). Green Packing and Wanhua are the selected mandatory respondents. We invited interested parties to comment on our *Preliminary Results.* Based on our analysis of the comments received, we made certain changes to our margin calculations for Green Packing. The final dumping margins for this review are listed in the ''Final Results'' section below.

DATES: *Effective date:* July 2, 2014.

FOR FURTHER INFORMATION CONTACT: Thomas Martin or Jonathan Hill, AD/CVD Operations, Office IV, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230; telephone: (202) 482–3936 or (202) 482–3518, respectively.

Background

On December 26, 2013, the Department published its *Preliminary Results.* We received case briefs from Mitsubishi Polyester Film, Inc. and SKC, Inc. (collectively ''Petitioners'') and Green Packing on February 11, 2014 and February 12, 2014, respectively.[2] Wanhua resubmitted its case brief to redact certain untimely new factual information on February 28, 2014,[3] rebuttal briefs from Petitioners and Wanhua on February 18, 2014. Petitioners resubmitted their rebuttal brief (redacting references to the untimely new information in Wanhua's original case brief) on March 17, 2014.[4] Additionally, on February 11, 2014, the Department received comments on the draft liquidation instructions from Bemis Company, Inc. and its affiliate, Milprint Inc. (collectively ''Bemis''), and a letter in lieu of a case brief from Terphane, Inc., in which Terphane, Inc. states that it supports all arguments made by Petitioners in Petitioners' case brief.[5]

Scope of the Order

The products covered by the order are all gauges of raw, pre-treated, or primed PET film, whether extruded or co-extruded. PET film is classifiable under subheading 3920.62.00.90 of the Harmonized Tariff Schedule of the United States (''HTSUS'').[6] Although the HTSUS subheadings are provided for convenience and customs purposes, our written description of the scope of the order is dispositive.

For the full text of the scope of the order, *see* ''Issues and Decision Memorandum for the Final Results of the 2011—2012 Administrative Review,'' (''Issues and Decision Memorandum''), dated concurrently with this notice.

Analysis of Comments Received

All issues raised in the case and rebuttal briefs filed by parties in this review are addressed in the Issues and Decision Memorandum, which is hereby adopted by this notice. A list of the issues that parties raised and to which we responded in the Issues and Decision Memorandum follows as an appendix to this notice. The Issues and Decision Memorandum is a public document and is on file electronically via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (IA ACCESS). IA ACCESS is available to registered users at *http://iaaccess.trade.gov* and in the Central Records Unit, room 7046 of the main Department of Commerce building. In addition, a complete version of the Issues and Decision Memorandum can be accessed directly on the Internet at *http://enforcement.trade.gov/frn/.* The paper copy and electronic version of the Issues and Decision Memorandum are identical in content.

Changes Since the Preliminary Results

Based on a review of the record and comments received from interested parties regarding our *Preliminary Results,* we revised the margin calculations for Green Packing. Specifically, the Department applied the correct Harmonized Tariff Schedule heading in the calculation of the surrogate value for a certain packing material used by Green Packing.[7]

Separate Rates

In our *Preliminary Results,* we determined that Green Packing, Wanhua, Fuwei Films, Dongfang, and the DuPont Group, each demonstrated their eligibility for separate rate status.[8] We have not received any information since the issuance of the *Preliminary Results* that provides a basis for reconsideration of this determination. Therefore, the Department continues to find that these companies are each eligible for separate rate status.

Final Results

We determine that the following weighted-average dumping margins exist for the POR:

Exporter	Weighted-average dumping margin (Percentage)
Shaoxing Xiangyu Green Packing Co. Ltd	34.00
Tianjin Wanhua Co., Ltd	22.07
Fuwei Films (Shandong) Co., Ltd.*	31.24

[2] *See* Letter from Petitioners, Commerce, ''Polyethylene Terephthalate Film, Sheet, and Strip from the People's Republic of China: Petitioners' Case Brief,'' dated February 11, 2014; *see also* letter from Green Packing, ''Polyethylene Terephthalate (PET) Film from China,'' dated February 12, 2014 (''Green Packing Brief'').

[3] *See* Letter from Wanhua to the Secretary of Commerce, ''Polyethylene Terephthalate (PET) Film from the People's Republic of China; A–570–924; Case Brief of Tianjin Wanhua Co., Ltd.,'' dated February 28, 2014 (''Wanhua Brief''); *see also* letter from Howard Smith, Program Manager, Office IV, Enforcement and Compliance to Wanhua dated February 27, 2014 in which the Department rejected Wanhua's Brief for the inclusion of untimely filed information and requested a redacted version be filed by March 5, 2014.

[4] *See* Letter from Wanhua, ''Polyethylene Terephthalate (PET) Film from the People's Republic of China; A–570–924; Rebuttal Brief of Tianjin Wanhua Co., Ltd.,'' dated February 18, 2014; *see also* letter from Petitioners, ''Polyethylene Terephthalate Film, Sheet, and Strip from the People's Republic of China: Petitioners' Rebuttal Brief,'' dated February 18, 2014; *see also* letter from Howard Smith, Program Manager, Office IV, Enforcement and Compliance to Petitioners dated March 14, 2014 in which the Department rejected Petitioners' rebuttal brief for its reference to untimely filed information found in Wanhua's original case brief and requested a redacted version be filed by March 17, 2014.

[5] *See* Letter from Bemis to the Secretary of Commerce, ''Comments on Draft Liquidation Instructions,'' dated February 11, 2014; *see also* letter from Terphane, Inc. to the Secretary of Commerce ''Administrative Review Of The Antidumping Duty Order On Polyethylene Terephthalate (PET) Film, Sheet, And Strip From The People's Republic Of China/Letter In Lieu Of Case Brief,'' dated February 11, 2014.

[6] *See* Memorandum to Paul Piquado, Assistant Secretary for Enforcement and Compliance from Christian Marsh, Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations ''Issues and Decision Memorandum for the Final Results of the 2011–2012 Administrative Review,'' issued concurrently with this notice (''Issues and Decision Memorandum'') for a complete description of the scope of the Order.

[7] *See* Issues and Decision Memorandum.

[8] *See Preliminary Results,* 78 FR at 78333, and accompanying Preliminary Decision Memorandum at ''Separate Rate.''

Exporter	Weighted-average dumping margin (Percentage)
DuPont Teijin Films China Limited, DuPont Hongji Films Foshan Co., Ltd., and DuPont Teijin Films Hongji Ningbo Co., Ltd.*	31.24
Sichuan Dongfang Insulating Material Co., Ltd.*	31.24

* These companies demonstrated eligibility for a separate rate in this administrative review. The rate for these companies is the simple average of the calculated antidumping duty rates for Green Packing and Wanhua.

Assessment Rates

The Department will determine, and U.S. Customs and Border Protection (CBP) shall assess, antidumping duties on all appropriate entries covered by this review. The Department intends to issue assessment instructions to CBP 15 days after the publication date of these final results of this review. In accordance with 19 CFR 351.212(b)(1), we are calculating importer- (or customer-) specific assessment rates for the merchandise subject to this review. For any individually examined respondent whose weighted-average dumping margin is above *de minimis* (*i.e.,* 0.50 percent), the Department will calculate importer- (or customer)-specific assessment rates for merchandise subject to this review. Where appropriate, we calculated an *ad valorem* rate for each importer (or customer) by dividing the total dumping margins for reviewed sales to that party by the total entered values associated with those transactions. For duty-assessment rates calculated on this basis, we will direct CBP to assess the resulting *ad valorem* rate against the entered customs values for the subject merchandise. Where appropriate, we calculated a per-unit rate for each importer (or customer) by dividing the total dumping margins for reviewed sales to that party by the total sales quantity associated with those transactions. For duty-assessment rates calculated on this basis, we will direct CBP to assess the resulting per-unit rate against the entered quantity of the subject merchandise.[9] We will instruct CBP to assess antidumping duties on all appropriate entries covered by this review when the importer-specific assessment rate is above *de minimis.* Where either the respondent's weighted-average dumping margin is zero or *de minimis,* or an importer-specific assessment rate is zero or *de minimis,* we will instruct CBP to liquidate the appropriate entries without regard to antidumping duties.

The Department announced a refinement to its assessment practice in non-market economy (NME) cases.[10] Pursuant to this refinement in practice, for entries that were not reported in the U.S. sales databases submitted by companies individually examined during this review, the Department will instruct CBP to liquidate such entries at the NME-wide rate (*i.e.,* 76.72 percent).[11] For a full discussion of this practice, *see Assessment in NME Antidumping Proceedings.*

Cash Deposit Requirements

The following cash deposit requirements will be effective upon publication of the final results of this administrative review for shipments of the subject merchandise from the PRC entered, or withdrawn from warehouse, for consumption on or after the publication date, as provided by section 751(a)(2)(C) of the Tariff Act of 1930, as amended (the Act): (1) For the exporters listed above, the cash deposit rate will be the rate listed for each exporter in the table in the ''Final Results'' section of this notice; (2) for previously investigated or reviewed PRC and non-PRC exporters that received a separate rate in a prior segment of this proceeding, the cash deposit rate will continue to be the existing exporter-specific rate; (3) for all PRC exporters of subject merchandise that have not been found to be entitled a separate rate, the cash deposit rate will be the rate of the PRC-wide entity established in the final determination of the less than fair value investigation (*i.e.,* 76.72 percent); and (4) for all non-PRC exporters of subject merchandise which have not received their own rate, the cash deposit rate will be the rate applicable to the PRC exporter that supplied that non-PRC exporter. These deposit requirements, when imposed, shall remain in effect until further notice.

Disclosure

We intend to disclose the calculations performed regarding these final results within five days of the date of publication of this notice in this proceeding in accordance with 19 CFR 351.224(b).

Notification to Importers Regarding the Reimbursement of Duties

This notice also serves as a final reminder to importers of their responsibility under 19 CFR 351.402(f) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this POR. Failure to comply with this requirement could result in the Department's presumption that reimbursement of antidumping duties has occurred and that subsequent assessment of doubled antidumping duties.

Administrative Protective Order (''APO'')

This notice also serves as a reminder to parties subject to 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 or destruction of APO materials, or conversion to judicial protective order, is hereby requested. Failure to comply with the regulations and terms of an APO is a violation which is subject to sanction.

We are issuing and publishing this administrative review and notice in accordance with sections 751(a)(1) and 777(i) of the Act.

Dated: June 24, 2014.

Paul Piquado,

Assistant Secretary for Enforcement and Compliance.

Appendix—Issues and Decision Memorandum

Summary
Scope of the Order
Discussion of the Issues
General Issues
Issue 1: Surrogate Country Selection

[9] *See Antidumping Proceedings: Calculation of the Weighted-Average Dumping Margin and Assessment Rate in Certain Antidumping Proceedings: Final Modification,* 77 FR 8101, 8103 (February 14, 2012).

[10] *See Non-Market Economy Antidumping Proceedings: Assessment of Antidumping Duties,* 76 FR 65694 (October 24, 2011) (''*Assessment in NME Antidumping Proceedings*'').

[11] *See Polyethylene Terephthalate Film, Sheet, and Strip from the People's Republic of China: Final Results of the 2009–2010 Antidumping Duty Administrative Review of the Antidumping Duty Order,* 77 FR 14493, 14494 (March 12, 2012).

A. Whether South Africa is a Significant Producer of Comparable Merchandise
B. Quality of the Indonesian and South African Surrogate Data to Value FOP
C. Surrogate Financial Statements to Value Financial Ratios
Issue 2: PET Chip Surrogate Value
Issue 3: Treatment of Generated and Reintroduced By-Product
Company-Specific Issues
Issue 4: Treatment of Green Packing's Reintroduced PET Waste By-Product
Issue 5: Green Packing's Sold By-Product
Issue 6: Treatment of Market Economy Purchases (''MEP'')
Issue 6: U.S. Sales Database
Issue 7: Plastic Stopper SV
Issue 8: Value-Added Tax (''VAT'') Adjustment to Wanhua's U.S. Sales Price
Issue 9: Importer of Record for Certain Sales to the U.S.
Recommendation

[FR Doc. 2014–15574 Filed 7–1–14; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–821–817]

Silicon Metal From the Russian Federation: Continuation of Antidumping Duty Order

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

DATES: *Effective Date:* July 2, 2014.

SUMMARY: As a result of the determinations by the Department of Commerce (the Department) and the International Trade Commission (ITC) that revocation of the antidumping duty order on silicon metal from the Russian Federation (Russia), would likely lead to a continuation or recurrence of dumping and material injury to an industry in the United States, the Department is publishing a notice of continuation for this antidumping duty order.

FOR FURTHER INFORMATION CONTACT: Contact Information: Elfi Blum or Jacqueline Arrowsmith, AD/CVD Operations, Office VII, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230; telephone (202) 482–0197 or (202) 482–5255, respectively.

SUPPLEMENTARY INFORMATION:

Background

The Department initiated and the ITC instituted sunset reviews of the antidumping duty order on silicon metal from Russia, pursuant to section 751(c) of the Tariff Act of 1930, as amended (the Act).[1] As a result of its review, the Department found that revocation of the antidumping duty order would likely lead to a continuation or recurrence of dumping and therefore notified the ITC of the magnitude of the margins likely to prevail were the order to be revoked.[2]

On June 17, 2014, the ITC published its determination pursuant to section 751(c) of the Act, that revocation of the antidumping duty order on silicon metal from Russia would likely lead to a continuation or recurrence of material injury to an industry in the United States within a reasonably foreseeable time.[3]

Scope of the Order

The product covered by this order is silicon metal, which generally contains at least 96.00 percent but less than 99.99 percent silicon by weight. The merchandise covered by this order also includes silicon metal from Russia containing between 89.00 and 96.00 percent silicon by weight, but containing more aluminum than the silicon metal which contains at least 96.00 percent but less than 99.99 percent silicon by weight. Silicon metal currently is classifiable under subheadings 2804.69.10 and 2804.69.50 of the Harmonized Tariff Schedule of the United States (HTSUS). This order covers all silicon metal meeting the above specification, regardless of tariff classification.

Continuation of the Order

As a result of the determinations by the Department and the ITC that revocation of this antidumping duty order would likely lead to a continuation or recurrence of dumping and material injury to an industry in the United States, pursuant to section 751(d)(2) of the Act, the Department hereby orders the continuation of the antidumping duty order on silicon metal from Russia. U.S. Customs and Border Protection will continue to collect antidumping duty cash deposits at the rates in effect at the time of entry for all imports of subject merchandise.

The effective date of the continuation of this order will be the date of publication in the **Federal Register** of this notice of continuation. Pursuant to section 751(c)(2) of the Act, the Department intends to initiate the next five-year review of this order not later than 30 days prior to the fifth anniversary of the effective date of continuation.

This five-year (sunset) review and this notice are in accordance with section 751(c) of the Act and published pursuant to section 777(i)(1) of the Act and 19 CFR 351.218(f)(4).

Dated: June 24, 2014.

Paul Piquado,

Assistant Secretary for Enforcement and Compliance.

[FR Doc. 2014–15567 Filed 7–1–14; 8:45 am]

BILLING CODE 3510–DS–P

[1] *See Initiation of Five Year (''Sunset'') Review,* 78 FR 33063 (June 3, 2013) (*Sunset Initiation Notice*).

[2] *See Silicon Metal from the Russian Federation: Final Results of the Expedited Second Sunset Review of the Antidumping Duty Order,* 78 FR 61334 (October 3, 2013).

[3] *See Silicon Metal from Russia,* 79 FR 34551 (June 17, 2014).

DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–996, A–428–843, A–588–872, A–401–809]

Non-Oriented Electrical Steel From the People's Republic of China, Germany, Japan, and Sweden: Postponement of Final Determinations of Sales at Less Than Fair Value

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

SUMMARY: The Department of Commerce (''the Department'') is postponing the deadline for issuing the final determinations in the less-than-fair-value (''LTFV'') investigations of non-oriented electrical steel from the People's Republic of China (''the PRC''), Germany, Japan, and Sweden and is extending the provisional measures from a four-month period to a period not more than six months in duration.

DATES: *Effective Date:* July 2, 2014.

FOR FURTHER INFORMATION CONTACT: Yang Jin Chun at (202) 482–5760 (the PRC); Patrick O'Connor at (202) 482–0989 (Germany); Thomas Martin at (202) 482–3936 (Japan); and Drew Jackson at (202) 482–4406 (Sweden); Antidumping and Countervailing Duty Operations, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230.

SUPPLEMENTARY INFORMATION: On November 18, 2013, the Department published a notice of initiation of the LTFV investigations of non-oriented electrical steel from the PRC, Germany, Japan, the Republic of Korea, Sweden and Taiwan.[1] The period of

[1] *See Non-Oriented Electrical Steel From the People's Republic of China, Germany, Japan, the Republic of Korea, Sweden and Taiwan: Initiation of Antidumping Duty Investigations,* 78 FR 69041 (November 18, 2013).

investigation is July 1, 2012, through June 30, 2013 for Germany, Japan and Sweden investigations and January 1, 2013, through June 30, 2013 for the PRC investigation. On May 22, 2014, the Department published its affirmative preliminary determinations in the LTFV investigations of non-oriented electrical steel from the PRC, Germany, Japan and Sweden.[2] Various exporters in each of these LTFV investigations submitted letters requesting that the Department extend the deadline for issuance of the final determinations in these LTFV investigations and agreeing to the extension of the provisional measures from a four-month period to a period not more than six months in duration.[3]

Postponement of Final Determination

Section 735(a)(2) of the Tariff Act of 1930, as amended (the Act), provides that a final determination may be postponed until not later than 135 days after the date of the publication of the preliminary determination if, in the event of an affirmative preliminary determination, a request for such postponement is made by exporters who account for a significant proportion of exports of the subject merchandise, or in the event of a negative preliminary determination, a request for such postponement is made by the petitioner. Section 351.210(e)(2) of the Department's regulations requires that requests by respondents for postponement of a final determination be accompanied by a request for extension of provisional measures from a four-month period to a period not more than six months in duration.

Baoshan, ThyssenKrupp, JFE Steel, Nippon, Surahammars, and CDW requested that the Department postpone its final determinations by 60 days (*i.e.,* to 135 days after publication of the *Preliminary Determinations*), and agreed to extend the application of the provisional measures prescribed under section 733(d) of the Act and 19 CFR 351.210(e)(2), from a four-month period to a period not to exceed six months. CDW, JFE Steel, and Surahammars are mandatory respondents in their respective investigations. While Baoshan, Nippon, and ThyssenKrupp are not mandatory respondents, they were identified as producers or exporters of subject merchandise in the Petitions.[4]

On May 22, 2014, AK Steel Corporation (''Petitioner'') objected to the requests that the deadline be postponed in the PRC, Germany and Japan investigations.[5] On June 9, 2014, Petitioner withdrew its opposition to postponement of the final determinations in the PRC, Germany and Japan investigations.[6]

In accordance with section 735(a)(2)(A) of the Act and 19 CFR 351.210(b)(2)(ii), because (1) our preliminary determinations were affirmative; (2) the requesting producers or exporters account for a significant proportion of exports of the subject merchandise from their respective country; and (3) no compelling reasons for denial exist, we are postponing the final determination until no later than 135 days after the publication of the *Preliminary Determinations* (*i.e.,* to October 4, 2014) and extending the provisional measures from a four-month period to a period not greater than six months. Accordingly, we will issue our final determination no later than 135 days after the date of publication of this preliminary determination, pursuant to section 735(a)(2) of the Act. Because October 4, 2014, is a Saturday, the actual due date for the final determinations of these LTFV investigations will be Monday, October 6, 2014.[7]

This notice is issued and published pursuant to section 735(a)(2)(A) of the Act and 19 CFR 351.210(g).

Dated: June 25, 2014.

Paul Piquado,

Assistant Secretary for Enforcement and Compliance.

[FR Doc. 2014–15562 Filed 7–1–14; 8:45 am]

BILLING CODE 3510–DS–P

[2] *See Non-Oriented Electrical Steel From Germany, Japan, and Sweden: Preliminary Determinations of Sales at Less Than Fair Value, Certain Affirmative Preliminary Determinations of Critical Circumstances, in Part,* 79 FR 29423 (May 22, 2014), and *Non-Oriented Electrical Steel From the People's Republic of China: Preliminary Determination of Sales at Less Than Fair Value,* 79 FR 29421 (May 22, 2014) (collectively *Preliminary Determinations).*

[3] *See* March 20, 2014 letter from Baohan Iron & Steel Co., Ltd. (''Baoshan''), entitled, ''Non-Oriented Electrical Steel from the People's Republic of China: Postponement Request of Final Determination.''; May 19, 2014 letter from ThyssenKrupp Steel Europe (''ThyssenKrupp'') entitled, ''Non-Oriented Electrical Steel from Germany: Request to Postpone Final Determination''; May 19, 2014 letter from JFE Steel Corporation (''JFE Steel'') entitled, ''Request Extension of Final Determination; Non-Oriented Electrical Steel from Japan''; May 19, 2014 letter from Nippon Steel & Sumitomo Metal Corporation (''Nippon'') entitled, ''Non-Oriented Electrical Steel from Japan (Antidumping Investigation): Request to Postpone Final Determination''; May 22, 2014 letter from Cogent Power Inc. and Surahammars Bruk AB (collectively ''Surahammars'') entitled, ''Non-Oriented Electrical Steel from Sweden: Request to Postpone the Final Determination''; and May 23, 2014 letter from CD Walzholz KG (''CDW''), entitled, ''Non-Oriented Electrical Steel from Germany: Request for Postponement.''

[4] *See* Petitions for the Imposition of Antidumping and Countervailing Duties on Imports of Non-Oriented Electrical Steel From the People's Republic of China, Germany, Japan, the Republic of Korea, Sweden, and Taiwan, dated September 30, 2013 (''Petitions'').

[5] *See* May 22, 2014 letters from Petitioner entitled, ''Non-Oriented Electrical Steel from the People's Republic of China: Petitioner's Opposition to Boashan's Request to Postpone The Final Determination;'' ''Non-Oriented Electrical Steel from Germany: Petitioner's Opposition to ThyssenKrupp Steel Europe's Request to Postpone The Final Determination;'' ''Non-Oriented Electrical Steel from Japan: Petitioner's Opposition to JFE Steel's and NSSMC's Requests to Postpone The Final Determination in This Investigation.''

[6] *See* June 9, 2014 letters from Petitioner entitled, ''Non-Oriented Electrical Steel from the People's Republic of China: Petitioners Withdrawal of Opposition to Postponement of the Final Determination;'' ''Non-Oriented Electrical Steel from Germany: Petitioners Withdrawal of Opposition to Postponement of the Final Determination;'' ''Non-Oriented Electrical Steel from Japan: Petitioners Withdrawal of Opposition to Postponement of the Final Determination.''

[7] *See Notice of Clarification: Application of ''Next Business Day'' Rule for Administrative Determination Deadlines Pursuant to the Tariff Act of 1930, As Amended,* 70 FR 24533 (May 10, 2005).

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XD340

Marine Mammals; File No. 18523

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

ACTION: Notice; receipt of application.

SUMMARY: Notice is hereby given that Heather Liwanag, Ph.D., Adelphi University, Biology Department, 1 South Avenue, Garden City, NY 11530 has applied in due form for a permit to receive, import, and export specimens of marine mammals for scientific research purposes.

DATES: Written, telefaxed, or email comments must be received on or before August 1, 2014.

ADDRESSES: The application and related documents are available for review by selecting ''Records Open for Public Comment'' from the *Features* box on the Applications and Permits for Protected Species (APPS) home page, *https://apps.nmfs.noaa.gov,* and then selecting File No. 18523 from the list of available applications.

These documents are also available upon written request or by appointment in the Permits and Conservation Division, Office of Protected Resources, NMFS, 1315 East-West Highway, Room 13705, Silver Spring, MD 20910; phone (301) 427–8401; fax (301) 713–0376.

Written comments on this application should be submitted to the Chief, Permits and Conservation Division, at the address listed above. Comments may

also be submitted by facsimile to (301) 713–0376, or by email to *NMFS.Pr1Comments@noaa.gov.* Please include the File No. 18523 in the subject line of the email comment.

Those individuals requesting a public hearing should submit a written request to the Chief, Permits and Conservation Division at the address listed above. The request should set forth the specific reasons why a hearing on this application would be appropriate.

FOR FURTHER INFORMATION CONTACT: Amy Sloan or Jennifer Skidmore, (301) 427–8401.

SUPPLEMENTARY INFORMATION: The subject permit is requested under the authority of the Marine Mammal Protection Act of 1972, as amended (MMPA; 16 U.S.C. 1361 *et seq.*), the regulations governing the taking and importing of marine mammals (50 CFR part 216), the Endangered Species Act of 1973, as amended (ESA; 16 U.S.C. 1531 *et seq.*), the regulations governing the taking, importing, and exporting of endangered and threatened species (50 CFR 222–226), and the Fur Seal Act of 1966, as amended (16 U.S.C. 1151 *et seq.*).

The applicant proposes to receive and maintain tissue and other specimen materials for opportunistic research on the physiology, morphology, evolutionary relationships, and other biological aspects of marine mammals. Unlimited samples from up to 1,500 individuals of each species of cetacean, and from up to 1,500 individuals of each species of pinniped (excluding walrus) are requested to be received, imported, or exported annually on an opportunistic basis. Marine mammal samples may be obtained from the following sources: (1) Animals killed during legal subsistence harvests in the U.S. and abroad; (2) Animals that died incidental to legal commercial fishing operations in the U.S. and in foreign countries; (3) Animals stranded alive or dead in foreign countries; (4) Samples collected from captive animals, including live animals and those that die in captivity, where such samples were taken as a result of routine husbandry procedures or under separate permit or authorization in the U.S. and abroad; and (5) Samples from other authorized researchers and collections in academic, federal, state or other institutions involved in marine mammal research in the U.S. and abroad. Samples collected from stranded animals in the U.S. and received under separate authorization may be exported and re-imported. The applicant has requested a 5-year permit.

In compliance with the National Environmental Policy Act of 1969 (42 U.S.C. 4321 *et seq.*), an initial determination has been made that the activity proposed is categorically excluded from the requirement to prepare an environmental assessment or environmental impact statement.

Concurrent with the publication of this notice in the **Federal Register**, NMFS is forwarding copies of the application to the Marine Mammal Commission and its Committee of Scientific Advisors.

Dated: June 26, 2014.

Jolie Harrison,

Acting Chief, Permits and Conservation Division, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 2014–15483 Filed 7–1–14; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF DEFENSE

Office of the Secretary

Defense Business Board; Notice of Federal Advisory Committee Meeting

AGENCY: DoD.

ACTION: Meeting notice.

SUMMARY: The Department of Defense is publishing this notice to announce the following Federal advisory committee meeting of the Defense Business Board. This meeting is open to the public.

DATES: The public meeting of the Defense Business Board (hereafter referred to as ''the Board'') will be held on Thursday, July 24, 2014. The meeting will begin at 9:15 a.m. and end at 10:45 a.m. (Escort required; see guidance in the **SUPPLEMENTARY INFORMATION** section, ''Public's Accessibility to the Meeting.'')

ADDRESSES: Room 3E863 in the Pentagon, Washington, DC (Escort required; see guidance in the **SUPPLEMENTARY INFORMATION** section, ''Public's Accessibility to the Meeting.'')

FOR FURTHER INFORMATION CONTACT: *Committee's Designated Federal Officer:* The Board's Designated Federal Officer is Phyllis Ferguson, Defense Business Board, 1155 Defense Pentagon, Room 5B1088A, Washington, DC 20301–1155, *phyllis.l.ferguson2.civ@mail.mil,* 703–695–7563. For meeting information please contact Ms. Debora Duffy, Defense Business Board, 1155 Defense Pentagon, Room 5B1088A, Washington, DC 20301–1155, *debora.k.duffy.civ@mail.mil,* (703) 697–2168.

SUPPLEMENTARY INFORMATION: This meeting is being held under the provisions of the Federal Advisory Committee Act of 1972 (5 U.S.C., Appendix, as amended), the Government in the Sunshine Act of 1976 (5 U.S.C. 552b, as amended), and 41 CFR 102–3.150.

Purpose of the Meeting: At this meeting, the Board will deliberate the findings and draft recommendations from the ''*Innovation: Incentives to Encourage Greater Private Sector Involvement*'' Task Group. The mission of the Board is to examine and advise the Secretary of Defense on overall DoD management and governance. The Board provides independent advice which reflects an outside private sector perspective on proven and effective best business practices that can be applied to DoD.

Availability of Materials for the Meeting: A copy of the agenda and the terms of reference for the Task Group study may be obtained from the Board's Web site at *http://dbb.defense.gov/meetings.asp*x. Copies will also be available at the meeting.

Meeting Agenda: 9:15 a.m.–10:45 a.m. Task Group Outbrief and Board Deliberations on ''*Innovation: Incentives to Encourage Greater Private Sector Involvement*''

Public's Accessibility to the Meeting: Pursuant to 5 U.S.C. 552b and 41 CFR 102–3.140 through 102–3.165, and the availability of space, this meeting is open to the public. Seating is limited and is on a first-come basis. All members of the public who wish to attend the public meeting must contact Ms. Debora Duffy at the number listed in the **FOR FURTHER INFORMATION CONTACT** section no later than 12:00 p.m. on Wednesday, July 16 to register and make arrangements for a Pentagon escort, if necessary. Public attendees requiring escort should arrive at the Pentagon Metro Entrance with sufficient time to complete security screening no later than 8:45 a.m. on July 24. To complete security screening, please come prepared to present two forms of identification and one must be a pictured identification card.

Special Accommodations: Individuals requiring special accommodations to access the public meeting should contact Ms. Duffy at least five (5) business days prior to the meeting so that appropriate arrangements can be made.

Procedures for Providing Public Comments

Pursuant to 41 CFR 102–3.105(j) and 102–3.140, and section 10(a)(3) of the Federal Advisory Committee Act of 1972, the public or interested organizations may submit written comments to the Board about its

mission and topics pertaining to this public meeting.

Written comments should be received by the DFO at least five (5) business days prior to the meeting date so that the comments may be made available to the Board for their consideration prior to the meeting. Written comments should be submitted via email to the address for the DFO given in the **FOR FURTHER INFORMATION CONTACT** section in either Adobe Acrobat or Microsoft Word format.

The public will be offered an opportunity for oral comments during the public session as time permits.

Please note that since the Board operates under the provisions of the Federal Advisory Committee Act, as amended, all submitted comments and public presentations will be treated as public documents and will be made available for public inspection, including, but not limited to, being posted on the Board's Web site.

Dated: June 26, 2014.

Aaron Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 2014–15431 Filed 7–1–14; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF EDUCATION

[Docket No. ED–2014–ICCD–0101]

Agency Information Collection Activities; Comment Request; Progress in International Reading Literacy Study (PIRLS 2016) Field Test and Recruitment for Main Study

AGENCY: Institute of Education Sciences, National Center for Education Statistics (IES–NCES), Department of Education (ED).

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. chapter 3501 *et seq.*), ED is proposing a reinstatement without change of an existing information collection.

DATES: Interested persons are invited to submit comments on or before September 2, 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–0101 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 Kubdzela, 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: Progress in International Reading Literacy Study (PIRLS 2016) Field Test and Recruitment for Main Study.

OMB Control Number: 1850–0645.

Type of Review: A reinstatement without change of an existing information collection.

Respondents/Affected Public: Individuals or households.

Total Estimated Number of Annual Responses: 1,919.

Total Estimated Number of Annual Burden Hours: 5,142.

Abstract: The Progress in International Reading Literacy Study (PIRLS) 2016 is coordinated by the International Association for the Evaluation of Educational Achievement (IEA) and in the U.S. administered by the National Center for Education Statistics (NCES). Since its inception in 2001, PIRLS has continued to assess students every five years (2001, 2006, 2011, 2016). It is administered in more than 40 countries and provides data for internationally benchmarking U.S. performance in fourth-grade reading. PIRLS also collects background information on students, teachers, schools, curricula, and official education policies. Each successive participation in PIRLS provides trend information about U.S. 4th-grade students' knowledge and abilities in reading relative to other countries, and about the cultural environments, teaching practices, curriculum goals, and institutional arrangements that are associated with student achievement, and how these change over time in different countries. This submission describes the overarching plan for all phases of the data collection, including the field test and the main study. The field test will take place in March–April, 2015, and the main study will take place in March–April, 2016. The purpose of the PIRLS field test is to evaluate new assessment items and background questions to ensure practices that promote low exclusion rates, and to ensure that classroom and student sampling procedures proposed for the main study are successful. This submission requests approval for recruiting for the 2015 field test and 2016 main study; conducting the 2015 field test data collection; and a description of the overarching plan for all of the phases of the data collection, including the 2016 main study.

Dated: June 26, 2014.

Stephanie Valentine,

Acting Director, Information Collection Clearance Division, Privacy, Information and Records Management Services, Office of Management.

[FR Doc. 2014–15479 Filed 7–1–14; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

Applications for New Awards; Technical Assistance and Dissemination To Improve Services and Results for Children With Disabilities—National Technical Assistance Center on Improving Transition to Postsecondary Education and Employment for Students With Disabilities

AGENCY: Office of Special Education and Rehabilitative Services, Department of Education.

ACTION: Notice.

Overview Information: Technical Assistance and Dissemination to Improve Services and Results for Children with Disabilities—National Technical Assistance Center on Improving Transition to Postsecondary Education and Employment for Students with Disabilities; Notice inviting applications for a new award for fiscal year (FY) 2014.

Catalog of Federal Domestic Assistance (CFDA) Number: 84.326E.

Dates: Applications Available: July 2, 2014.

Deadline for Transmittal of Applications: August 18, 2014.

Full Text of Announcement

I. Funding Opportunity Description

Purpose of Program: The purpose of the Technical Assistance and Dissemination to Improve Services and Results for Children with Disabilities program is to promote academic achievement and to improve results for children with disabilities by providing technical assistance (TA), supporting model demonstration projects, disseminating useful information, and implementing activities that are supported by scientifically based research.

Priority: In accordance with 34 CFR 75.105(b)(2)(v), this priority is developed from allowable activities specified in the Individuals with Disabilities Education Act (IDEA) (see sections 663 and 681(d) of IDEA, 20 U.S.C. 1463 and 1481(d)) and section 303(b) of the Rehabilitation Act of 1973, as amended (Rehabilitation Act), 29 U.S.C. 793(b). Under 34 CFR 373.6, the Secretary has the authority to fund these allowable activities under the Rehabilitation Act by publishing this notice in the **Federal Register**.

Absolute Priority: For FY 2014 and any subsequent year in which we make awards from the list of unfunded applicants from this competition, this priority is an absolute priority. Under 34 CFR 75.105(c)(3), we consider only applications that meet this priority.

This priority is: *National Technical Assistance Center on Improving Transition to Postsecondary Education and Employment for Students with Disabilities.*

Background: The purpose of this priority is to jointly fund a cooperative agreement to establish and operate a National Technical Assistance Center on Improving Transition to Postsecondary Education and Employment for Students with Disabilities (Center). The Center will assist State educational agencies (SEAs), local educational agencies (LEAs), State vocational rehabilitation (VR) agencies, and other VR service providers to implement evidence-based and promising practices and strategies to ensure that students with disabilities,[1] including those with significant disabilities, graduate from high school with the knowledge, skills, and supports needed for success in postsecondary education and employment.

Too many students with disabilities continue to experience difficulty in completing high school programs and gaining the content knowledge, work experiences, and other career-readiness skills and preparation needed to succeed as they transition from secondary education to postsecondary education and employment (Wagner, Newman, Cameto, Levine, & Garza, 2006). According to data from the National Longitudinal Transition Study-2 (NLTS–2), there are considerable gaps in achievement in the core academic subjects between students with disabilities and their non-disabled peers (Newman, Wagner, Cameto, Knokey, & Shaver, 2010). These gaps in achievement also manifest themselves in lower attainment and persistence rates for students with disabilities. According to the National Center for Education Statistics (2014), in 2012, 80 percent of students graduated high school with a regular diploma in four years, whereas, for students with disabilities, the four-year cohort graduation rate was 61 percent. According to data from the NLTS–2, in the 2009–2010 school year, 21 percent of students with disabilities dropped out of high school and only 45.6 percent of students with disabilities enrolled in some form of postsecondary education within four years of leaving high school (Newman et al., 2010).

Young adults with disabilities are also more likely to be unemployed and live in poverty than young adults without disabilities. The U.S. Bureau of Labor Statistics (BLS) reported that, in 2012, only 28.8 percent of people with a disability ages 20–24 were employed. In contrast, 62.7 percent of people without disabilities ages 20–24 were employed (U.S. Department of Labor, 2013). Given the lower rates of educational achievement and attainment, as well as the lower rates of employment, it is not surprising that people with disabilities were more likely to live in poverty than people without disabilities. In the 2010 Census, approximately 28.6 percent of people aged 15 to 64 with severe disabilities were living in poverty, while only 17.9 percent of adults with nonsevere disabilities and 14.3 percent of people without disabilities were living in poverty (U.S. Census Bureau, 2010). Based on the high incidence of unemployment and poverty experienced by students with disabilities after exiting high school, it is critically important for the Department of Education (Department) to fund a Center that will assist SEAs, LEAs, State VR agencies, and other VR service providers to equip these students with the necessary content knowledge, work experience, and other career-readiness skills that will prepare them for postsecondary education and employment.

To improve post-school outcomes for students with disabilities, SEAs, LEAs, State VR agencies, and other VR service providers need to implement evidence-based and promising practices and strategies designed to prepare students with disabilities for postsecondary education and employment. Research suggests that enrollment in more rigorous, academically intense programs (e.g., Advanced Placement (AP), International Baccalaureate (IB) or dual enrollment) in high school can prepare students, including those with low achievement levels, to enroll and persist in postsecondary education at higher rates than similar students who pursue less challenging courses of study (Adelman, 2006; College Board, 2010; Karp, Calcagno, Hughes, Jeong, & Bailey, 2007; Tierney, Bailey, Constantine, Finkelstein, & Hurd, 2009). In addition, the use of context-based approaches in

[1] For the purposes of this priority, the term ''students with disabilities'', has the same meaning as the term ''child with a disability'' in IDEA. Under section 602(3)(A) of IDEA, the term ''child with a disability'' means a child— (i) with intellectual disabilities [see P.L. 111–256, Section 2(b)(2)(A), Oct. 5, 2010; 124 Stat. 2643], hearing impairments (including deafness), speech or language impairments, visual impairments (including blindness), serious emotional disturbance (referred to in this title as emotional disturbance), orthopedic impairments, autism, traumatic brain injury, other health impairments, or specific learning disabilities; and (ii) who, by reason thereof, needs special education and related services. (20 U.S.C. 1401(3)(A).) [Section 602 of IDEA is 20 U.S.C. 1401.]

which academic content and career and technical education curricula are integrated has resulted in improved student performance on standardized measures of math and literacy achievement (Pearson et al., 2010; Stone, Alfeld, Pearson, Lewis, & Jensen, 2006).

For students with disabilities to be career-ready, they also need effective transition services. Effective transition services are directly linked to better post-school outcomes for students with disabilities (National Alliance for Secondary Education and Transition (NASET), 2005; Test, Fowler, et al., 2009; Test, Mazzotti, et al., 2009). Researchers have identified evidence-based and promising practices for transition services (e.g., teaching employment skills using community-based instruction, ensuring that students have paid work experiences, encouraging and facilitating self-directed individualized education programs (IEPs), teaching parents and families about transition, and structuring programs to extend services beyond secondary school) that help to improve student outcomes and better prepare students for postsecondary education and employment (Cobb & Alwell, 2009; NASET, 2005; Test, Fowler, et al., 2009; Test, Mazzotti, et al., 2009). Further research indicates that LEAs and schools can implement and scale-up evidence-based practices with fidelity when proper supports, such as professional development, ongoing consultation and coaching for key staff, regular evaluation of staff performance, and data-based decision-making, are in place (Fixsen, Naoom, Blase, Friedman, & Wallace, 2005; Klingner, Boardman, & McMaster, 2013). Finally, the literature on transition and postsecondary success for students with disabilities emphasizes the need for SEAs, LEAs, State VR agencies, and other VR service providers to work together, along with other service providers, to ensure the delivery and implementation of effective transition services (Landmark, Ju, & Zhang, 2010; National Council on Disability, 2008; U.S. Government Accountability Office, 2012).

Ultimately, it is essential that students with disabilities complete high school. Research indicates that the most powerful predictors of whether a student will complete high school include: Attendance, academic achievement, suspensions, poor behavior grades, and status variables (special education and English learners) (Balfanz, Herzog, & Mac Iver, 2007). As a result, some States and districts have implemented a systematic collection of student attendance, behavior, and course performance data that is used to develop an early warning system to predict whether a student is likely to drop out of high school. Based on the ''early warning,'' strategies are put in place to reduce the likelihood of a student dropping out. The use of an early warning system is particularly important as students with disabilities, especially those with serious emotional disabilities, are at high risk of dropping out of school and less likely to graduate and transition to postsecondary education and employment (Losen & Skiba, 2010; Wagner, Newman, Cameto, Garza, & Levine, 2005).

In order for students with disabilities to graduate from high school and successfully transition to postsecondary education and employment, SEAs, LEAs, and State VR agencies must provide the necessary preparation, services, and supports. The Office of Special Education Programs (OSEP) previously funded TA centers to assist States in providing some of these supports. (For further information, please see the following Web sites: *www.npso.org; www.ndpc-sd.org;* and *www.nsttac.org.*) Also, the National VR Transition Network, sponsored by the Technical Assistance and Continuing Education (TACE) Centers (funded by the Rehabilitation Services Administration (RSA)) and the Council of State Administrators of Vocational Rehabilitation (CSAVR), connects transition practitioners in all parts of the country in order to problem-solve and share resources and effective VR transition practices. (For further information, please see the following Web site: *http://tacesoutheast.org/network/transition/national_transition.php).*

To further support States in their efforts to be accountable for the outcomes of students with disabilities and also assist these students in achieving grade-level standards, OSEP has developed a Results-Driven Accountability (RDA) system that requires all States to develop a State Systemic Improvement Plan (SSIP) [2] that will incorporate strategies to produce improved outcomes for students with disabilities. States will need TA to support the implementation of their SSIP strategies to increase graduation rates and improve transition to postsecondary education and employment for students with disabilities.

In addition, RSA uses the annual information reported by State VR agencies on the outcomes and services received by individuals with disabilities who exit the VR program (RSA 911 Case Service Report) to monitor agency performance, including the outcomes of transition-aged youth with disabilities who have IEPs. State VR agencies will need TA to help identify and implement effective practices and coordinate the delivery of services that will lead to improved employment outcomes for students with disabilities.

The Department is committed to the goal of ensuring that every student, including every student with a disability, has access to the necessary supports and services needed to graduate from high school with the essential knowledge and skills for success in postsecondary education and employment. In order to improve outcomes for students with disabilities, the Department is working to better coordinate its expertise and resources. Under this priority, OSEP and RSA are collaborating to support a TA Center that will help build the capacity of SEAs, LEAs, State VR agencies, and other VR service providers to implement evidence-based and promising practices and strategies to ensure that students with disabilities graduate from high school and are prepared for success in postsecondary education and employment.

Priority: The purpose of this priority is to fund a cooperative agreement to establish and operate a National Technical Assistance Center on Improving Transition to Postsecondary Education and Employment for Students with Disabilities (Center). The Center will assist SEAs, LEAs, State VR agencies, and other VR service providers to implement evidence-based and promising practices and strategies that ensure that students with disabilities, including those with significant disabilities, graduate from high school with the knowledge, skills, and supports needed for success in postsecondary education and employment.

The Center must achieve, at a minimum, the following outcomes:

(a) Increased participation of students with disabilities in rigorous academic coursework, including AP or IB courses and dual enrollment programs;

(b) Improved capacity of SEA, LEA, and State VR agency personnel, and other VR service providers to implement evidence-based and promising practices and strategies designed to increase the percentage of students with disabilities who meet challenging academic

[2] For more information about the SSIP, see page 18 of the Part B Measurement Table under ''Forms and Instructions'' at *www.regulations.gov/#!docketDetail;D=ED-2013-ICCD-0047.* For more information about RDA, see *http://www2.ed.gov/about/offices/list/osers/osep/rda/index.html.*

expectations in high school so that they are prepared for postsecondary education;

(c) Students with disabilities are prepared for postsecondary education through increased participation in postsecondary education preparation and access activities (e.g., participating in summer college orientation programs, preparing for and taking college admissions tests, learning how to advocate for their needs in the postsecondary setting, and collecting current evaluations to meet college disability documentation requirements);

(d) Increased understanding on the part of SEAs and LEAs of State-adopted high school academic standards and assessments as they relate to students with disabilities in order to tailor services to local context;

(e) Increased participation of students with disabilities in career-related curricula designed to develop the knowledge and skills needed for success in competitive integrated employment such as:

(1) Work-based learning experiences, including job shadowing, paid on-the-job training and internships, and structured career-related experiences, including supported or customized employment experiences;

(2) Career planning;

(3) Career awareness, exploration, and preparatory activities, including knowledge of careers that are aligned with labor-market trends and up-to-date job requirements;

(4) Employability and technical skills; and

(5) Community life (e.g., housing, transportation, and health management) and financial literacy skills needed to participate in postsecondary education and employment;

(f) Improved capacity of SEA, LEA, and State VR agency personnel and other VR service providers to implement evidence-based and promising practices and strategies designed to improve opportunities for students with disabilities to participate in the career-related curricula described under paragraph (e);

(g) Improved capacity of SEA, LEA, and State VR agency personnel and other VR service providers to implement evidence-based and promising secondary transition practices and strategies through:

(1) Ongoing consultation and coaching for educators and other VR service providers;

(2) Meetings and trainings for SEAs, LEAs, State VR agencies, and other VR service providers to coordinate and collaborate on transition-related issues; and

(3) Staff and program evaluation;

(h) Improved collaboration between SEAs, LEAs, State VR agencies, and other VR service providers in the following:

(1) Providing coordinated TA and services to families and students with disabilities;

(2) Transition planning, including specifying postsecondary goals and transition services in IEPs and individualized plans for employment (IPEs);

(3) Identifying roles and responsibilities and procedures for outreach; and

(4) Addressing all of the provisions in the formal interagency agreement between the SEA and State VR agency pursuant to section 101(a)(11)(D) of the Rehabilitation Act;

(i) Increased sharing and use of data and other information by SEAs, LEAs, State VR agencies, and other VR service providers—including State Performance Plan/Annual Performance Report Data on Indicators 1, 2, 13, and 14; VR Case Service Report (RSA 911) data on the VR services and outcomes of transition-aged youth with disabilities who have IEPs; and student-related information from the Summary of Performance required under Section 614(c)(5)(B)(ii) of IDEA—to support decision-making for program improvement related to transition and postsecondary components of the SSIP and strategies for improving employment outcomes outlined in VR State Plans;

(j) Improved capacity of SEA, LEA, and State VR agency personnel and other VR service providers to implement evidence-based and promising practices and strategies, including the use of early warning systems, designed to decrease high school dropout rates and increase graduation rates of students with disabilities, and strategies to increase the knowledge and use of self-advocacy skills, including the use of self-directed IEP processes by transition-aged youth; and

(k) Expanded dissemination of lessons learned from implementing evidence-based and promising practices and strategies to:

(1) Inform national, State, and local efforts to prevent students from dropping out of high school and facilitate successful graduation from high school; and

(2) Reduce the incidence of students with disabilities dropping out of high school.

In addition to these programmatic requirements, to be considered for funding under this priority, applicants must meet the application and administrative requirements in this priority. OSEP encourages innovative approaches to meet the following requirements:

(a) Demonstrate, in the narrative section of the application under ''Significance of the Project,'' how the proposed project will—

(1) Address the training and information needs of SEAs, LEAs, State VR agencies, and other VR service providers to implement evidence-based and promising practices and strategies that will prevent high school dropout and facilitate transition to postsecondary education and employment for students with disabilities. To meet this requirement, the applicant must—

(i) Present applicable national and State data demonstrating the training needs of SEAs, LEAs, State VR agencies, and other VR service providers to implement evidence-based and promising practices and strategies that will prepare students with disabilities for postsecondary education and employment; and

(ii) Demonstrate knowledge of current issues and policy initiatives relating to dropout prevention, secondary transition, postsecondary education, career preparation, and employment, including supported employment for students with disabilities; and

(2) Address the current and emerging needs of SEAs, LEAs, State VR agencies, and other VR service providers to implement SSIP strategies to increase graduation rates and improve transition to postsecondary education and employment for students with disabilities.

(b) Demonstrate, in the narrative section of the application under ''Quality of the Project Services,'' how the proposed project will—

(1) Ensure equal access and treatment for members of groups that have traditionally been underrepresented based on race, color, national origin, gender, age, or disability in accessing transition, postsecondary education, and employment. To meet this requirement, the applicant must describe how it will—

(i) Identify the needs of the intended recipients for TA and information; and

(ii) Ensure that services and products meet the needs of the intended recipients (e.g., by creating materials in formats and languages accessible to the stakeholders served by the intended recipients);

(2) Achieve its goals, objectives, and intended outcomes. To meet this requirement, the applicant must provide—

(i) Measurable intended project outcomes; and

(ii) The logic model by which the proposed project will achieve its intended outcomes;

(3) Use a conceptual framework to develop project plans and activities, describing any underlying concepts, assumptions, expectations, beliefs, or theories, as well as the presumed relationships or linkages among these variables, and any empirical support for this framework;

(4) Be based on current research and make use of evidence-based practices, strategies, and programs. To meet this requirement, the applicant must describe—

(i) The current research on the most effective ways to prepare students to participate in transition and dropout prevention activities, postsecondary education, and employment;

(ii) The current research on the use of adult learning principles and implementation science to inform the proposed TA; and

(iii) How the proposed project will incorporate current research and evidence-based and promising practices and strategies in the development and delivery of its products and services;

(5) Develop products, create training modules, and hold meetings to encourage collaborative activities between transition services providers;

(6) Provide TA that is of high quality and sufficient intensity and duration to achieve the intended outcomes of the proposed project. To address this requirement, the applicant must describe—

(i) How it proposes to identify or develop the knowledge base on supporting students to stay in school, receive effective transition and VR services, and be prepared for postsecondary education and employment;

(ii) Its proposed approach to universal, general TA,[3] which must identify the intended recipients of the products and services under this approach;

(iii) Its proposed approach to targeted, specialized TA,[4] which must identify—

(A) The intended recipients of the products and services under this approach; and

(B) Its proposed approach to measure the readiness of potential TA recipients to work with the project, assessing, at a minimum, their current infrastructure, available resources, and ability to build capacity at the local level; and

(iv) Its proposed approach to intensive, sustained TA,[5] which must identify—

(A) The intended recipients of the products and services under this approach;

(B) Its proposed approach to measure the readiness of SEAs, LEAs, State VR agencies, and other VR service providers to work with the project, including their commitment to the initiative, alignment of the initiative to their needs, current infrastructure, available resources, and ability to build capacity at the local, district, or State level;

(C) Its proposed plan for assisting SEAs, LEAs, State VR agencies, and other VR service providers to build training systems that include professional development based on adult learning principles and coaching;

(D) Its proposed plan to provide TA to SEAs that are using the State Toolkit for Examining Post School Success (STEPSS; for further information, please see the following Web site: *http://www.psocenter.org/*);

(E) Its proposed plan to identify and disseminate effective practices and strategies used by States with approved Elementary and Secondary Education Act of 1965 (ESEA) Flexibility Requests to ensure that students with disabilities graduate from high school with the knowledge and skills needed for success in postsecondary education and employment;

(F) Its proposed plan for working with SEAs, LEAs, State VR agencies, other VR service providers, families, and other relevant personnel at the State and local levels (e.g., regional TA providers, school districts, schools, transition coordinators, VR counselors, guidance counselors, career and technical education educators, Department of Labor personnel, health and human services personnel, private industry, dropout prevention specialists, and postsecondary education professionals) to ensure that there is communication between each level and that there are systems in place to support the transition of students with disabilities from school to postsecondary education and employment;

(G) Its proposed plan for collaborating and coordinating with RSA TA investments, where appropriate, in order to align complementary work and jointly develop and implement products and services to ensure the successful transition of youth with disabilities who have IEPs; and

(H) Its proposed plan for collaborating and coordinating with the Office of Elementary and Secondary Education's (OESE's) College and Career Readiness and Success Center;

(7) Develop products and implement services that maximize efficiency. To address this requirement, the applicant must describe—

(i) How the proposed project will use technology to achieve the intended project outcomes;

(ii) With whom the proposed project will collaborate and the intended outcomes of this collaboration; and

(iii) How the proposed project will use non-project resources to achieve the intended project outcomes.

(c) In the narrative section of the application under ''Quality of the Evaluation Plan,'' include an evaluation plan for the project as described in the following paragraphs. The evaluation plan must describe: Measures of progress in implementation, including the extent to which the project's products and services have reached its target population; and measures of intended outcomes or results of the project's activities in order to assess the effectiveness of those activities.

In designing the evaluation plan, the project must—

(1) Designate, with the approval of the OSEP project officer, a project liaison staff person with sufficient dedicated time, experience in evaluation, and knowledge of the project to work in collaboration with the Center to Improve Project Performance (CIPP),[6]

[3] ''Universal, general TA'' means TA and information provided to independent users through their own initiative, resulting in minimal interaction with TA center staff and including one-time, invited or offered conference presentations by TA center staff. This category of TA also includes information or products, such as newsletters, guidebooks, or research syntheses, downloaded from the TA center's Web site by independent users. Brief communications by TA center staff with recipients, either by telephone or email, are also considered universal, general TA.

[4] ''Targeted, specialized TA'' means TA service based on needs common to multiple recipients and not extensively individualized. A relationship is established between the TA recipient and one or more TA center staff. This category of TA includes one-time, labor-intensive events, such as facilitating strategic planning or hosting regional or national conferences. It can also include episodic, less labor-intensive events that extend over a period of time, such as facilitating a series of conference calls on single or multiple topics that are designed around the needs of the recipients. Facilitating communities of practice can also be considered targeted, specialized TA.

[5] ''Intensive, sustained TA'' means TA services often provided onsite and requiring a stable, ongoing relationship between the TA center staff and the TA recipient. ''TA services'' are defined as negotiated series of activities designed to reach a valued outcome. This category of TA should result in changes to policy, program, practice, or operations that support increased recipient capacity or improved outcomes at one or more systems levels.

[6] The major tasks of CIPP are to guide, coordinate, and oversee the design of formative evaluations for every large discretionary investment (i.e., those awarded $500,000 or more per year and required to participate in the 3+2 process) in OSEP's Technical Assistance and Dissemination; Personnel Development; Parent Training and Information

Continued

the project director, and the OSEP project officer on the following tasks:

(i) Revise, as needed, the logic model submitted in the grant application to provide for a more comprehensive measurement of implementation and outcomes and to reflect any changes or clarifications to the model discussed at the kick-off meeting;

(ii) Refine the evaluation design and instrumentation proposed in the grant application consistent with the logic model (e.g., preparing evaluation questions about significant program processes and outcomes, developing quantitative or qualitative data collections that permit both the collection of progress data, including fidelity of implementation, as appropriate, and the assessment of effectiveness, selecting respondent samples if appropriate, designing instruments or identifying data sources, and identifying analytic strategies); and

(iii) Revise, as needed, the evaluation plan submitted in the grant application such that it clearly—

(A) Specifies the measures and associated instruments or sources for data appropriate to the evaluation questions, suggests analytic strategies for those data, provides a timeline for conducting the evaluation, and includes staff assignments for completion of the plan;

(B) Delineates the data expected to be available by the end of the second project year for use during the project's intensive review for continued funding described under the heading *Fourth and Fifth Years of the Project;* and

(C) Can be used to assist the project director and the OSEP project officer, with the assistance of CIPP, as needed, to specify the performance measures to be addressed in the project's Annual Performance Report;

(2) Cooperate with CIPP staff in order to accomplish the tasks described in paragraph (1) of this section; and

(3) Dedicate sufficient funds in each budget year to cover the costs of carrying out the tasks described in paragraphs (1) and (2) of this section and implementing the evaluation plan.

(d) Demonstrate, in the narrative section of the application under ''Adequacy of Project Resources,'' how—

(1) The proposed project will encourage applications for employment from persons who are members of groups that have traditionally been underrepresented based on race, color, national origin, gender, age, or disability, as appropriate;

(2) The proposed key project personnel, consultants, and subcontractors have the qualifications and experience to carry out the proposed activities and achieve the project's intended outcomes;

(3) The applicant and any key partners have adequate resources to carry out the proposed activities; and

(4) The proposed costs are reasonable in relation to the anticipated results and benefits.

(e) Demonstrate, in the narrative section of the application under ''Quality of the Management Plan,'' how—

(1) The proposed management plan will ensure that the project's intended outcomes will be achieved on time and within budget. To address this requirement, the applicant must describe—

(i) Clearly defined responsibilities for key project personnel, consultants, and subcontractors, as appropriate; and

(ii) Timelines and milestones for accomplishing the project tasks;

(2) Key project personnel and any consultants and subcontractors will be allocated to the project and how these allocations are appropriate and adequate to achieve the project's intended outcomes;

(3) The proposed management plan will ensure that the products and services provided are of high quality; and

(4) The proposed project will benefit from a diversity of perspectives, including families, health and human services providers, transition specialists, career and technical education professionals, school guidance counselors, postsecondary education professionals, VR counselors, private industry, TA providers, researchers, and policy makers, among others, in its development and operation.

(f) Address the following application requirements. The applicant must—

(1) Include in Appendix A a logic model that depicts, at a minimum, the goals, activities, outputs, and intended outcomes of the proposed project. A logic model communicates how a project will achieve its intended outcomes and provides a framework for both the formative and summative evaluations of the project.

Note: The following Web sites provide more information on logic models: *www.researchutilization.org/matrix/logicmodel_resource3c.html and www.tadnet.org/pages/589;*

(2) Include in Appendix A a conceptual framework for the project;

(3) Include in Appendix A person-loading charts and timelines, as applicable, to illustrate the management plan described in the narrative;

(4) Include in the proposed project the following activities:

(i) Developing products, training modules, and holding meetings to encourage collaborative activities between transition services providers;

(ii) Collaborating and coordinating with RSA TA investments, where appropriate, in order to align complementary work and jointly develop and implement products and services to ensure the successful transition of youth with disabilities who have IEPs to postsecondary education and employment;

(iii) Implementing practices and strategies that ensure that students with disabilities, including those with significant disabilities, receive VR services from State VR agencies and other VR service providers when necessary and appropriate;

(iv) Providing TA to SEAs, LEAs, State VR agencies, and other VR service providers on working with businesses and agencies in developing paid internships and structured career-related experiences, including supported or customized employment experiences, job shadowing, community-based activities, and industry certifications;

(5) Include in the budget attendance at the following:

(i) A one and one-half day kick-off meeting in Washington, DC, after receipt of the award, and an annual planning meeting in Washington, DC, with the OSEP project officer and other relevant staff during each subsequent year of the project period.

Note: Within 30 days of receipt of the award, a post-award teleconference must be held between the OSEP project officer and the grantee's project director or other authorized representative;

(ii) A two and one-half day project directors' conference in Washington, DC, during each year of the project period;

(iii) Two, two-day trips annually to attend Department briefings, Department-sponsored conferences, and other meetings, as requested by OSEP; and

(iv) A one-day intensive review meeting in Washington, DC, during the last half of the second year of the project period;

(6) Include in the budget a line item for an annual set-aside of five percent of the grant amount to support emerging

Centers; and Educational Technology, Media, and Materials programs. The efforts of CIPP are expected to enhance individual project evaluation plans by providing expert and unbiased TA in designing the evaluations with due consideration of the project's budget. CIPP does not function as a third-party evaluator.

needs that are consistent with the proposed project's intended outcomes, as those needs are identified in consultation with OSEP and RSA.

Note: With approval from the OSEP and RSA project officers, the project must reallocate any remaining funds from this annual set-aside no later than the end of the third quarter of each budget period; and

(7) Maintain a Web site that meets government or industry-recognized standards for accessibility.

Fourth and Fifth Years of the Project: In deciding whether to continue funding the project for the fourth and fifth years, the Secretary will consider the requirements of 34 CFR 75.253(a), as well as—

(a) The recommendation of a review team consisting of experts selected by the Secretary. This review will be conducted by OSEP and RSA during a one-day intensive meeting that will be held during the last half of the second year of the project period;

(b) The timeliness and effectiveness with which all requirements of the negotiated cooperative agreement have been or are being met by the project; and

(c) The quality, relevance, and usefulness of the project's products and services and the extent to which the project's products and services are aligned with the project's objectives and likely to result in the project achieving its intended outcomes.

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Waiver of Proposed Rulemaking:

Under the Administrative Procedure Act (APA) (5 U.S.C. 553), the Department generally offers interested parties the opportunity to comment on proposed priorities and requirements. Section 681(d) of IDEA, however, makes the public comment requirements of the APA inapplicable to the priority in this notice.

Program Authority: 20 U.S.C. 1463 and 1481, 29 U.S.C. 773.

Applicable Regulations:

(a) The Education Department General Administrative Regulations (EDGAR) in 34 CFR parts 74, 75, 77, 79, 81, 82, 84, 86, 97, 98, 99. (b) The Education Department debarment and suspension regulations in 2 CFR part 3485. (c) The regulations for this program in 34 CFR part 373.

Note: The regulations in 34 CFR part 79 apply to all applicants except federally recognized Indian tribes.

Note: The regulations in 34 CFR part 86 apply to institutions of higher education (IHEs) only.

II. Award Information

Type of Award: Cooperative agreement.

Estimated Available Funds: $2,500,000.

Contingent upon the availability of funds and the quality of applications, we may make additional awards in FY 2015 from the list of unfunded applicants from this competition.

Estimated Range of Awards: $2,500,000 per year.

Estimated Average Size of Awards: $2,500,000 per year.

Maximum Award: We will reject any application that proposes a budget exceeding $2,500,000 for a single budget period of 12 months. The Assistant Secretary for Special Education and Rehabilitative Services may change the maximum amount through a notice published in the **Federal Register**.

Estimated Number of Awards: 1.

Note: The Department is not bound by any estimates in this notice.

Project Period: Up to 36 months with an optional additional 24 months based on performance. Applications must include plans for both the 36-month award and the 24-month extension.

III. Eligibility Information

1. *Eligible Applicants:* SEAs; LEAs, including public charter schools that are considered LEAs under State law; State VR agencies; IHEs; other public agencies; private nonprofit organizations; outlying areas; freely associated States; Indian tribes or tribal organizations; and for-profit organizations.

2. *Cost Sharing or Matching:* This program does not require cost sharing or matching.

3. *Other General Requirements:*

(a) Recipients of funding under this program must make positive efforts to employ and advance in employment qualified individuals with disabilities (see section 606 of IDEA).

(b) Each applicant for, and recipient of, funding under this program must involve individuals with disabilities, or parents of individuals with disabilities ages birth through 26, in planning, implementing, and evaluating the project (see section 682(a)(1)(A) of IDEA).

IV. Application and Submission Information

1. *Address to Request Application Package:* You can obtain an application package via the Internet or from the Education Publications Center (ED Pubs). To obtain a copy via the Internet, use the following address: *www.ed.gov/fund/grant/apply/grantapps/index.html.* To obtain a copy from ED Pubs, write, fax, or call the following: ED Pubs, U.S. Department of Education, P.O. Box 22207, Alexandria, VA 22304. Telephone, toll free: 1–877–433–7827. FAX: (703) 605–6794. If you use a telecommunications device for the deaf (TDD) or a text telephone (TTY), call, toll free: 1–877–576–7734.

You can contact ED Pubs at its Web site, also: *www.EDPubs.gov* or at its email address: *edpubs@inet.ed.gov.*

If you request an application from ED Pubs, be sure to identify this competition as follows: CFDA number 84.326E.

Individuals with disabilities can obtain a copy of the application package in an accessible format (e.g., braille, large print, audiotape, or compact disc) by contacting the person or team listed under *Accessible Format* in section VIII of this notice.

2. *Content and Form of Application Submission:* Requirements concerning the content of an application, together with the forms you must submit, are in the application package for this competition.

Page Limit: The application narrative (Part III of the application) is where you, the applicant, address the selection criteria that reviewers use to evaluate your application. You must limit Part III to no more than 70 pages, using the following standards:

- A ''page'' is 8.5′ x 11′, on one side only, with 1′ margins at the top, bottom, and both sides.
- Double-space (no more than three lines per vertical inch) all text in the application narrative, including titles, headings, footnotes, quotations, reference citations, and captions, as well as all text in charts, tables, figures, graphs, and screen shots.
- Use a font that is 12 point or larger.
- Use one of the following fonts: Times New Roman, Courier, Courier New, or Arial. An application submitted in any other font (including Times Roman or Arial Narrow) will not be accepted.

The page limit and double-spacing requirement does not apply to Part I, the cover sheet; Part II, the budget section, including the narrative budget justification; Part IV, the assurances and certifications; or the abstract (follow the guidance provided in the application package for completing the abstract), the table of contents, the list of priority requirements, the resumes, the reference list, the letters of support, or the appendices. However, the page limit and double-spacing requirement does apply to all of Part III, the application narrative, including all text in charts, tables, figures, graphs, and screen shots.

We will reject your application if you exceed the page limit in the application narrative section; or if you apply standards other than those specified in the application package.

3. *Submission Dates and Times:* Applications Available: July 2, 2014.

Deadline for Transmittal of Applications: August 18, 2014.

Applications for grants under this competition *must be submitted electronically* using the Grants.gov Apply site (Grants.gov). For information (including dates and times) about how to submit your application electronically, or in paper format by mail or hand delivery if you qualify for an exception to the electronic submission requirement, please refer to section IV. 7. *Other Submission Requirements* of this notice.

We do not consider an application that does not comply with the deadline requirements.

Individuals with disabilities who need an accommodation or auxiliary aid in connection with the application process should contact the person listed under **FOR FURTHER INFORMATION CONTACT** in section VII of this notice. If the Department provides an accommodation or auxiliary aid to an individual with a disability in connection with the application process, the individual's application remains subject to all other requirements and limitations in this notice.

4. *Intergovernmental Review:* This program is subject to Executive Order 12372 and the regulations in 34 CFR part 79. However, under 34 CFR 79.8(a), we waive the intergovernmental review in order to make an award by the end of FY 2014.

5. *Funding Restrictions:* We reference regulations outlining funding restrictions in the *Applicable Regulations* section of this notice.

6. *Data Universal Numbering System Number, Taxpayer Identification Number, and System for Award Management:* To do business with the Department of Education, you must—

a. Have a Data Universal Numbering System (DUNS) number and a Taxpayer Identification Number (TIN);

b. Register both your DUNS number and TIN with the System for Award Management (SAM) (formerly the Central Contractor Registry (CCR)), the Government's primary registrant database;

c. Provide your DUNS number and TIN on your application; and

d. Maintain an active SAM registration with current information while your application is under review by the Department and, if you are awarded a grant, during the project period.

You can obtain a DUNS number from Dun and Bradstreet. A DUNS number can be created within one to two business days.

If you are a corporate entity, agency, institution, or organization, you can obtain a TIN from the Internal Revenue Service. If you are an individual, you can obtain a TIN from the Internal Revenue Service or the Social Security Administration. If you need a new TIN, please allow 2–5 weeks for your TIN to become active.

The SAM registration process can take approximately seven business days, but may take upwards of several weeks, depending on the completeness and accuracy of the data entered into the SAM database by an entity. Thus, if you think you might want to apply for Federal financial assistance under a program administered by the Department, please allow sufficient time to obtain and register your DUNS number and TIN. We strongly recommend that you register early.

Note: Once your SAM registration is active, you will need to allow 24 to 48 hours for the information to be available in Grants.gov and before you can submit an application through Grants.gov.

If you are currently registered with SAM, you may not need to make any changes. However, please make certain that the TIN associated with your DUNS number is correct. Also note that you will need to update your registration annually. This may take three or more business days.

Information about SAM is available at *www.SAM.gov.* To further assist you with obtaining and registering your DUNS number and TIN in SAM or updating your existing SAM account, we have prepared a SAM.gov Tip Sheet, which you can find at: *http://www2.ed.gov/fund/grant/apply/sam-faqs.html.*

In addition, if you are submitting your application via Grants.gov, you must (1) be designated by your organization as an Authorized Organization Representative (AOR); and (2) register yourself with Grants.gov as an AOR. Details on these steps are outlined at the following Grants.gov Web page: *www.grants.gov/web/grants/register.html.*

7. *Other Submission Requirements:* Applications for grants under this competition must be submitted electronically unless you qualify for an exception to this requirement in accordance with the instructions in this section.

a. *Electronic Submission of Applications.*

Applications for grants under the National Technical Assistance Center on Improving Transition to Postsecondary Education and Employment for Students with Disabilities competition, CFDA number 84.326E, must be submitted electronically using the Governmentwide Grants.gov Apply site at *www.Grants.gov.* Through this site, you will be able to download a copy of the application package, complete it offline, and then upload and submit your application. You may not email an electronic copy of a grant application to us.

We will reject your application if you submit it in paper format unless, as described elsewhere in this section, you qualify for one of the exceptions to the electronic submission requirement *and* submit, no later than two weeks before the application deadline date, a written statement to the Department that you qualify for one of these exceptions. Further information regarding calculation of the date that is two weeks before the application deadline date is provided later in this section under *Exception to Electronic Submission Requirement.*

You may access the electronic grant application for the National Technical Assistance Center on Improving Transition to Postsecondary Education and Employment for Students with Disabilities competition at *www.Grants.gov.* You must search for the downloadable application package for this competition by the CFDA number. Do not include the CFDA number's alpha suffix in your search (e.g., search for 84.326, not 84.326E).

Please note the following:

- When you enter the Grants.gov site, you will find information about submitting an application electronically through the site, as well as the hours of operation.
- Applications received by Grants.gov are date and time stamped. Your application must be fully uploaded and submitted and must be date and time stamped by the Grants.gov system no later than 4:30:00 p.m., Washington, DC time, on the application deadline date. Except as otherwise noted in this section, we will not accept your application if it is received—that is, date and time stamped by the Grants.gov system—after 4:30:00 p.m., Washington, DC time, on the application deadline date. We do not consider an application that does not comply with the deadline requirements. When we retrieve your application from Grants.gov, we will notify you if we are rejecting your application because it was date and time stamped by the Grants.gov system after 4:30:00 p.m., Washington, DC time, on the application deadline date.
- The amount of time it can take to upload an application will vary depending on a variety of factors, including the size of the application and the speed of your Internet connection. Therefore, we strongly recommend that you do not wait until the application deadline date to begin the submission process through Grants.gov.
- You should review and follow the Education Submission Procedures for submitting an application through Grants.gov that are included in the application package for this competition to ensure that you submit your application in a timely manner to the Grants.gov system. You can also find the Education Submission Procedures pertaining to Grants.gov under News and Events on the Department's G5 system home page at *www.G5.gov.*
- You will not receive additional point value because you submit your application in electronic format, nor will we penalize you if you qualify for an exception to the electronic submission requirement, as described elsewhere in this section, and submit your application in paper format.
- You must submit all documents electronically, including all information you typically provide on the following forms: the Application for Federal Assistance (SF 424), the Department of Education Supplemental Information for SF 424, Budget Information—Non-

Construction Programs (ED 524), and all necessary assurances and certifications.

• You must upload any narrative sections and all other attachments to your application as files in a PDF (Portable Document) read-only, non-modifiable format. Do not upload an interactive or fillable PDF file. If you upload a file type other than a read-only, non-modifiable PDF or submit a password-protected file, we will not review that material. Additional, detailed information on how to attach files is in the application instructions.

• Your electronic application must comply with any page-limit requirements described in this notice.

• After you electronically submit your application, you will receive from Grants.gov an automatic notification of receipt that contains a Grants.gov tracking number. (This notification indicates receipt by Grants.gov only, not receipt by the Department.) The Department then will retrieve your application from Grants.gov and send a second notification to you by email. This second notification indicates that the Department has received your application and has assigned your application a PR/Award number (an ED-specified identifying number unique to your application).

• We may request that you provide us original signatures on forms at a later date.

Application Deadline Date Extension in Case of Technical Issues with the Grants.gov System: If you are experiencing problems submitting your application through Grants.gov, please contact the Grants.gov Support Desk, toll free, at 1–800–518–4726. You must obtain a Grants.gov Support Desk Case Number and must keep a record of it.

If you are prevented from electronically submitting your application on the application deadline date because of technical problems with the Grants.gov system, we will grant you an extension until 4:30:00 p.m., Washington, DC time, the following business day to enable you to transmit your application electronically or by hand delivery. You also may mail your application by following the mailing instructions described elsewhere in this notice.

If you submit an application after 4:30:00 p.m., Washington, DC time, on the application deadline date, please contact the person listed under **FOR FURTHER INFORMATION CONTACT** in section VII of this notice and provide an explanation of the technical problem you experienced with Grants.gov, along with the Grants.gov Support Desk Case Number. We will accept your application if we can confirm that a technical problem occurred with the Grants.gov system and that that problem affected your ability to submit your application by 4:30:00 p.m., Washington, DC time, on the application deadline date. The Department will contact you after a determination is made on whether your application will be accepted.

Note: The extensions to which we refer in this section apply only to the unavailability of, or technical problems with, the Grants.gov system. We will not grant you an extension if you failed to fully register to submit your application to Grants.gov before the application deadline date and time or if the technical problem you experienced is unrelated to the Grants.gov system.

Exception to Electronic Submission Requirement: You qualify for an exception to the electronic submission requirement, and may submit your application in paper format, if you are unable to submit an application through the Grants.gov system because—

• You do not have access to the Internet; or

• You do not have the capacity to upload large documents to the Grants.gov system;

and

• No later than two weeks before the application deadline date (14 calendar days or, if the fourteenth calendar day before the application deadline date falls on a Federal holiday, the next business day following the Federal holiday), you mail or fax a written statement to the Department, explaining which of the two grounds for an exception prevent you from using the Internet to submit your application.

If you mail your written statement to the Department, it must be postmarked no later than two weeks before the application deadline date. If you fax your written statement to the Department, we must receive the faxed statement no later than two weeks before the application deadline date.

Address and mail or fax your statement to: Selete Avoke, U.S. Department of Education, 400 Maryland Avenue SW., Room 4158, Potomac Center Plaza (PCP), Washington, DC 20202–2600. FAX: (202) 245–7617.

Your paper application must be submitted in accordance with the mail or hand delivery instructions described in this notice.

b. *Submission of Paper Applications by Mail.*

If you qualify for an exception to the electronic submission requirement, you may mail (through the U.S. Postal Service or a commercial carrier) your application to the Department. You must mail the original and two copies of your application, on or before the application deadline date, to the Department at the following address: U.S. Department of Education, Application Control Center, Attention: (CFDA Number 84.326E), LBJ Basement Level 1, 400 Maryland Avenue SW., Washington, DC 20202–4260.

You must show proof of mailing consisting of one of the following:

(1) A legibly dated U.S. Postal Service postmark.

(2) A legible mail receipt with the date of mailing stamped by the U.S. Postal Service.

(3) A dated shipping label, invoice, or receipt from a commercial carrier.

(4) Any other proof of mailing acceptable to the Secretary of the U.S. Department of Education.

If you mail your application through the U.S. Postal Service, we do not accept either of the following as proof of mailing:

(1) A private metered postmark.

(2) A mail receipt that is not dated by the U.S. Postal Service.

If your application is postmarked after the application deadline date, we will not consider your application.

Note: The U.S. Postal Service does not uniformly provide a dated postmark. Before relying on this method, you should check with your local post office.

c. *Submission of Paper Applications by Hand Delivery.*

If you qualify for an exception to the electronic submission requirement, you (or a courier service) may deliver your paper application to the Department by hand. You must deliver the original and two copies of your application by hand, on or before the application deadline date, to the Department at the following address: U.S. Department of Education, Application Control Center, Attention: (CFDA Number 84.326E), 550 12th Street SW., Room 7039, Potomac Center Plaza, Washington, DC 20202–4260.

The Application Control Center accepts hand deliveries daily between 8:00 a.m. and 4:30:00 p.m., Washington, DC time, except Saturdays, Sundays, and Federal holidays.

Note for Mail or Hand Delivery of Paper Applications: If you mail or hand deliver your application to the Department—

(1) You must indicate on the envelope and—if not provided by the Department—in Item 11 of the SF 424 the CFDA number, including suffix letter, if any, of the competition under which you are submitting your application; and

(2) The Application Control Center will mail to you a notification of receipt of your grant application. If you do not receive this notification within 15 business days from the application deadline date, you should call the U.S. Department of Education Application Control Center at (202) 245–6288.

V. Application Review Information

1. *Selection Criteria:* The selection criteria for this competition are from 34 CFR 75.210 and are listed in the application package.

2. *Review and Selection Process:* We remind potential applicants that in reviewing applications in any discretionary grant competition, the Secretary may consider, under 34 CFR 75.217(d)(3), the past performance of the applicant in carrying out a previous award, such as the applicant's use of funds, achievement of project objectives, and compliance with grant conditions. The Secretary may also consider whether the applicant failed to submit a timely performance report or submitted a report of unacceptable quality.

In addition, in making a competitive grant award, the Secretary also requires various assurances including those applicable to Federal civil rights laws that prohibit discrimination in programs or activities receiving Federal financial assistance from the Department of Education (34 CFR 100.4, 104.5, 106.4, 108.8, and 110.23).

3. *Additional Review and Selection Process Factors:* In the past, the Department has had difficulty finding peer reviewers for certain competitions because so many individuals who are eligible to serve as peer reviewers have conflicts of interest. The standing panel requirements under section 682(b) of IDEA also have placed additional constraints on the availability of reviewers. Therefore, the Department has determined that, for some discretionary grant competitions, applications may be separated into two or more groups and ranked and selected for funding within specific groups. This procedure will make it easier for the Department to find peer reviewers by ensuring that greater numbers of individuals who are eligible to serve as reviewers for any particular group of applicants will not have conflicts of interest. It also will increase the quality, independence, and fairness of the review process, while permitting panel members to review applications under discretionary grant competitions for which they also have submitted applications. However, if the Department decides to select an equal number of applications in each group for funding, this may result in different cut-off points for fundable applications in each group.

4. *Special Conditions:* Under 34 CFR 74.14 and 80.12, the Secretary may impose special conditions on a grant if the applicant or grantee is not financially stable; has a history of unsatisfactory performance; has a financial or other management system that does not meet the standards in 34 CFR parts 74 or 80, as applicable; has not fulfilled the conditions of a prior grant; or is otherwise not responsible.

VI. Award Administration Information

1. *Award Notices:* If your application is successful, we notify your U.S. Representative and U.S. Senators and send you a Grant Award Notification (GAN); or we may send you an email containing a link to access an electronic version of your GAN. We may notify you informally, also.

If your application is not evaluated or not selected for funding, we notify you.

2. *Administrative and National Policy Requirements:* We identify administrative and national policy requirements in the application package and reference these and other requirements in the *Applicable Regulations* section of this notice.

We reference the regulations outlining the terms and conditions of an award in the *Applicable Regulations* section of this notice and include these and other specific conditions in the GAN. The GAN also incorporates your approved application as part of your binding commitments under the grant.

3. *Reporting:* (a) If you apply for a grant under this competition, you must ensure that you have in place the necessary processes and systems to comply with the reporting requirements in 2 CFR part 170 should you receive funding under the competition. This does not apply if you have an exception under 2 CFR 170.110(b).

(b) At the end of your project period, you must submit a final performance report, including financial information, as directed by the Secretary. If you receive a multi-year award, you must submit an annual performance report that provides the most current performance and financial expenditure information as directed by the Secretary under 34 CFR 75.118. The Secretary may also require more frequent performance reports under 34 CFR 75.720(c). For specific requirements on reporting, please go to *www.ed.gov/fund/grant/apply/appforms/appforms.html*.

4. *Performance Measures:* Under the Government Performance and Results Act of 1993 (GPRA), the Department has established a set of performance measures, including long-term measures, that are designed to yield information on various aspects of the effectiveness and quality of the Technical Assistance and Dissemination to Improve Services and Results for Children with Disabilities program. These measures focus on the extent to which projects provide high-quality products and services, the relevance of project products and services to educational and early intervention policy and practice, and the use of products and services to improve educational and early intervention policy and practice. Projects funded under this competition are required to submit data on these measures as directed by OSEP.

Grantees will be required to report information on their project's performance in annual and final performance reports to the Department (34 CFR 75.590).

5. *Continuation Awards:* In making a continuation award, the Secretary may consider, under 34 CFR 75.253, the extent to which a grantee has made ''substantial progress toward meeting the objectives in its approved application.'' This consideration includes the review of a grantee's progress in meeting the targets and projected outcomes in its approved application, and whether the grantee has expended funds in a manner that is consistent with its approved application and budget. In making a continuation grant, the Secretary also considers whether the grantee is operating in compliance with the assurances in its approved application, including those applicable to Federal civil rights laws that prohibit discrimination in programs or activities receiving Federal financial assistance from the Department (34 CFR 100.4, 104.5, 106.4, 108.8, and 110.23).

VII. Agency Contact

FOR FURTHER INFORMATION CONTACT: Selete Avoke, U.S. Department of Education, 400 Maryland Avenue SW., Room 4158, PCP, Washington, DC 20202–2600. Telephone: (202) 245–7260.

If you use a TDD or a TTY, call the Federal Relay Service (FRS), toll free, at 1–800–877–8339.

VIII. Other Information

Accessible Format: Individuals with disabilities can obtain this document and a copy of the application package in an accessible format (e.g., braille, large print, audiotape, or compact disc) by contacting the Grants and Contracts Services Team, U.S. Department of Education, 400 Maryland Avenue SW., Room 5075, PCP, Washington, DC 20202–2550. Telephone: (202) 245–7363. If you use a TDD or a TTY, call the FRS, toll free, at 1–800–877–8339.

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.

Dated: June 26, 2014.

Michael K. Yudin,

Acting Assistant Secretary for Special Education and Rehabilitative Services.

[FR Doc. 2014–15437 Filed 7–1–14; 8:45 am]

BILLING CODE 4000–01–P

ELECTION ASSISTANCE COMMISSION

Publication of State Plan Pursuant to the Help America Vote Act

AGENCY: U.S. Election Assistance Commission (EAC).

ACTION: Notice.

SUMMARY: Pursuant to Sections 254(a)(11)(A) and 255(b) of the Help America Vote Act (HAVA), Public Law 107–252, as amended by Section 622 of the Consolidated Appropriations Act, 2012, the U.S. Election Assistance Commission (EAC) hereby causes to be published in the **Federal Register** this notice in reference to the changes made to the HAVA State plan previously submitted by South Dakota. The revised State plan will be posted on the EAC Web site at *www.eac.gov.*

DATES: This notice is effective upon publication in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: Bryan Whitener, Telephone 301–563–3919 or 1–866–747–1471 (toll-free).

SUBMIT COMMENTS: Any comments regarding the plans published herewith should be made in writing to the chief election official of the individual State at the address listed below.

SUPPLEMENTARY INFORMATION: On March 24, 2004, the U.S. Election Assistance Commission published in the **Federal Register** the original HAVA State plans filed by the fifty States, the District of Columbia and the territories of American Samoa, Guam, Puerto Rico, and the U.S. Virgin Islands. 69 FR 14002. HAVA anticipated that States, territories and the District of Columbia would change or update their plans from time to time pursuant to HAVA Section 254(a)(11) through (13). HAVA Sections 254(a)(11)(A) and 255 require EAC to publish such updates. This is the fifth revision to the State plan for South Dakota.

The amendments to South Dakota's State plan provide for compliance with Title III and with the Military and Overseas Voter Empowerment Act (MOVE Act). In accordance with HAVA Section 254(a)(12), all the State plans submitted for publication provide information on how the respective State succeeded in carrying out its previous State plan. South Dakota confirms that its amendments to the State plan were developed and submitted to public comment in accordance with HAVA Sections 254(a)(11), 255, and 256.

Upon the expiration of thirty days from July 2, 2014, the State is eligible to implement the changes addressed in the plan that is published herein, in accordance with HAVA Section 254(a)(11)(C). EAC wishes to acknowledge the effort that went into revising this State plan and encourages further public comment, in writing, to the State election official listed below.

Chief State Election Official

Mr. Jason M. Gant, Secretary of State, State Capitol 500 E. Capitol Ave., Pierre, South Dakota 57501, Phone: (605) 773–3537 or (605) 773–4845, Fax: (605) 773–6580.

Thank you for your interest in improving the voting process in America.

Dated: June 26, 2014.

Alice P. Miller,

Chief Operating Officer & Acting Executive Director, U.S. Election Assistance Commission.

[FR Doc. 2014–15497 Filed 7–1–14; 8:45 am]

BILLING CODE 6820–KF–P

DEPARTMENT OF ENERGY

Environmental Management Site-Specific Advisory Board, Savannah River Site

AGENCY: Department of Energy.

ACTION: Notice of open meeting.

SUMMARY: This notice announces a meeting of the Environmental Management Site-Specific Advisory Board (EM SSAB), Savannah River Site. The Federal Advisory Committee Act (Pub. L. 92–463, 86 Stat. 770) requires that public notice of this meeting be announced in the **Federal Register**.

DATES: Monday, July 21, 2014 1:00 p.m.–6:00 p.m. Tuesday, July 22, 2014 8:30 a.m.–5:00 p.m.

ADDRESSES: Doubletree Hotel, 2651 Perimeter Parkway, Augusta, GA 30909.

FOR FURTHER INFORMATION CONTACT: Gerri Flemming, Office of External Affairs, Department of Energy, Savannah River Operations Office, P.O. Box A, Aiken, SC, 29802; Phone: (803) 952–7886.

SUPPLEMENTARY INFORMATION:

Purpose of the Board: The purpose of the Board is to make recommendations to DOE–EM and site management in the areas of environmental restoration, waste management, and related activities.

Tentative Agenda

Monday, July 21, 2014

1:00 p.m. Combined Committees Session

Order of committees:
- Nuclear Materials
- Waste Management
- Strategic & Legacy Management
- Facilities Disposition & Site Remediation
- Administrative & Outreach

3:15 p.m. Public Comments Session
3:30 p.m. Adjourn
4:00–6:00 p.m. Savannah River Site Citizens' Advisory Board 20th Celebration
- Held in Doubletree Atrium

Tuesday, July 22, 2014

8:30 a.m. Opening, Pledge, Approval of Minutes, and Chair Update
9:00 a.m. Nuclear Materials Committee Report
10:00 a.m. Recommendation and Work Plan Status
10:15 a.m. Public Comments Session BREAK (10:30 a.m.)
10:45 a.m. DOE–EM Headquarters Report
11:30 a.m. Agency Updates
12:30 p.m. Administrative & Outreach Committee Report
12:45 p.m. Public Comments Session
1:00 p.m. Lunch Break
2:15 p.m. Waste Management Committee Report Strategic & Legacy Management Committee Report Facilities Disposition & Site Remediation Committee Report
4:45 p.m. Public Comments Session
5:00 p.m. Adjourn

Public Participation: The EM SSAB, Savannah River Site, 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 Gerri Flemming at least seven days in advance of the meeting at the phone number listed above. Written statements may be filed with the Board either before or after the meeting. Individuals who wish to make oral statements pertaining to agenda items should contact Gerri Flemming's office at the address or telephone listed above. Requests must be received five days prior to the meeting and reasonable provision will be made to include the presentation in the agenda. The Deputy Designated Federal Officer is empowered to conduct the meeting in a fashion that will facilitate the orderly conduct of business. Individuals wishing to make public comments will be provided a maximum of five minutes to present their comments.

Minutes: Minutes will be available by writing or calling Gerri Flemming at the address or phone number listed above. Minutes will also be available at the following Web site: *http://cab.srs.gov/srs-cab.html.*

Issued at Washington, DC, on June 27, 2014.

LaTanya R. Butler,

Deputy Committee Management Officer.

[FR Doc. 2014–15513 Filed 7–1–14; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Secretary of Energy Advisory Board, Task Force on Technology Development for Environmental Management

AGENCY: Department of Energy.

ACTION: Notice of open meeting.

SUMMARY: This notice announces an open meeting of the Secretary of Energy Advisory Board (SEAB), Task Force on Technology Development for Environmental Management (EM). SEAB was reestablished pursuant to the Federal Advisory Committee Act (Pub. L. 92–463, 86 Stat. 770) (the Act). This notice is provided in accordance with the Act.

DATES: Tuesday, July 15, 2014; 9:45 a.m.–3:00 p.m.

ADDRESSES: Department of Energy, 1000 Independence Avenue SW., Washington, DC 20585.

FOR FURTHER INFORMATION CONTACT: Corey Williams-Allen, Deputy Designated Federal Officer, U.S. Department of Energy, 1000 Independence Avenue SW., Washington, DC 20585; telephone (202) 586–1916; *seab@hq.doe.gov.*

SUPPLEMENTARY INFORMATION:

Background: The Board was established to provide advice and recommendations to the Secretary on the Department's basic and applied research, economic and national security policy, educational issues, operational issues and other activities as directed by the Secretary. The Task Force on Technology Development for EM is charged with assessing the value of a renewed EM science and technology development effort and how such a program would be structured.

Purpose of the Meeting: The meeting will be an opportunity to hear an overview of environmental management at the Department.

Tentative Agenda: The meeting will start at 9:45 a.m. on July 15, 2014. The tentative meeting agenda includes presentations from DOE program offices and national laboratories. From approximately 9:45 a.m. to 12:00 p.m. and 12:30 p.m. to 2:45 p.m., the Task Force will hear presentations from DOE program offices/national laboratories on environmental management. The meeting will conclude at 3:00 p.m.

Public Participation: The meeting is open to the public. Individuals who would like to attend must RSVP to Corey Williams-Allen no later than 5:00 p.m. on Thursday, July 10, 2014 at <*seab@hq.doe.gov*>. Please provide your name, organization, citizenship and contact information. Anyone attending the meeting will be required to present government issued identification. Individuals and representatives of organizations who would like to offer comments and suggestions may do so at the end of the meeting on Tuesday, July 15, 2014. Approximately 15 minutes will be reserved for public comments. Time allotted per speaker will depend on the number who wish to speak but will not exceed 5 minutes. The Designated Federal Officer (or designee) is empowered to conduct the meeting in a fashion that will facilitate the orderly conduct of business. Those wishing to speak should register to do so beginning at 9:30 a.m. on July 15, 2014.

Those not able to attend the meeting or have insufficient time to address the committee are invited to send a written statement to Corey Williams-Allen, U.S. Department of Energy, 1000 Independence Avenue SW., Washington DC 20585, or by email to: *seab@hq.doe.gov.*

This notice is being published less than 15 days prior to the meeting date due to programmatic issues and members' availability.

Minutes: The minutes of the meeting will be available by contacting Mr. Williams-Allen. He may be reached at the postal address or email address above.

Issued in Washington, DC on June 27, 2014.

LaTanya R. Butler,

Deputy Committee Management Officer.

[FR Doc. 2014–15512 Filed 7–1–14; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Wind and Water Power Program: Guidance for Hydroelectric Incentive Payments

AGENCY: Office of Energy Efficiency and Renewable Energy, Department of Energy.

ACTION: Notice of availability of draft guidance

SUMMARY: The U.S. Department of Energy (DOE) invites public comment on its draft Guidance for EPAct 2005 Section 242 Program. The guidance describes how DOE intends to provide incentive payments to the owners or operators of qualified hydroelectric facilities for electric energy generated and sold for a specified 10-year period as authorized under section 242 of the Energy Policy Act of 2005.

DATES: Comments regarding this draft guidance must be received on or before July 17, 2014.

ADDRESSES: Written comments may be sent to the Office of Energy Efficiency and Renewable Energy (EE–4), U.S. Department of Energy, 1000 Independence Avenue SW., Washington, DC 20585–0121, or by email at *hydroincentive@ee.doe.gov.*

FOR FURTHER INFORMATION CONTACT: Requests for additional information should be directed to Mr. Steven Lindenberg, Office of Energy Efficiency and Renewable Energy (EE–4), U.S. Department of Energy, 1000 Independence Avenue SW., Washington, DC 20585–0121, (202) 586–2783, *hydroincentive@ee.doe.gov.*

SUPPLEMENTARY INFORMATION: In the Energy Policy Act of 2005 (EPAct 2005; Pub. L. 109–58) Congress established a new program to support the expansion of hydropower energy development at existing dams and impoundments through an incentive payment procedure. Under section 242 of EPAct 2005, the Secretary of Energy is directed to provide incentive payments to the owner or operator of qualified hydroelectric facilities for electric energy generated and sold by a qualified hydroelectric facility for a specified 10-year period. (See 42 U.S.C. 15881) DOE has not made these incentive payments

in the past due to a lack of appropriations for the hydroelectric production incentive. The conference report to the Fiscal Year 2014 Omnibus Appropriations bill, however, includes $3,600,000 for conventional hydropower under section 242 of EPAct 2005.

In response, DOE developed draft guidance intended to describe the application process and the information necessary for DOE to make a determination of eligibility under section 242. The draft guidance is available at: *http://energy.gov/eere/water/water-power-program.*

Issued in Washington, DC, on June 26, 2014.

David Danielson,

Assistant Secretary, Energy Efficiency and Renewable Energy.

[FR Doc. 2014–15553 Filed 7–1–14; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Office of Energy Efficiency and Renewable Energy

Bioenergy Technologies Office; Request for Information (RFI) Regarding Integrated Biorefinery Lessons Learned and Best Practices

AGENCY: Office of Energy Efficiency and Renewable Energy, Department of Energy.

ACTION: Notice.

SUMMARY: The U.S. Department of Energy (DOE), Bioenergy Technologies Office (BETO), invites public comment on its Request for Information (RFI) regarding Integrated Biorefinery Lessons Learned and Best Practices. The purpose of this RFI is to solicit feedback from industry, academia, research laboratories, government agencies, and other stakeholders on issues related to lessons learned and best practices developed during the design, financing, construction, commissioning, startup, shakedown and operations of pilot-, demonstration-, and commercial-scale integrated biorefineries.

DATES: Comments regarding the RFI must be received on or before July 15, 2014.

ADDRESSES: Comments may be emailed to: *IBR_LL_RFI@go.doe.gov.*

FOR FURTHER INFORMATION CONTACT: Requests for additional information should be directed to: *IBR_LL_RFI@go.doe.gov.*

SUPPLEMENTARY INFORMATION: The Office of Energy Efficiency and Renewable Energy (EERE), within the Department of Energy (DOE), accelerates development and facilitates deployment of energy efficiency and renewable energy technologies. EERE, through its Bioenergy Technologies Office (BETO) is seeking public comment on Integrated Biorefinery Lessons Learned and Best Practices. Since 2006, many companies that specialize in converting biomass to fuels and products have taken the next step to build and operate integrated pilot-, demonstration-, and commercial-scale facilities. During the design, financing, and construction of these projects many lessons learned and best practices have been developed. BETO compiles and updates the lesson learned and best practices information from its portfolio of integrated biorefinery projects as they move forward towards completion.

At a series of recent workshops conducted by BETO to garner industry input on potential Funding Opportunity Announcements (FOAs), BETO was repeatedly informed that the dissemination of lessons learned and best practices was of great interest to the bioindustry. BETO recognizes that some lessons learned and best practices may be considered business sensitive, proprietary, privileged or otherwise confidential information. As such, BETO does not generally release this type of information without prior approval. However, lessons learned and best practices that are of a general and common nature can be shared and it is BETO's objective to help advance the state of the bioenergy technology industry as a whole by compiling and disseminating this type of high-level, cross-cutting information.

One way in which BETO is attempting to focus its efforts in this area is to request industry input through this Request for Information (RFI). BETO hopes to collect information regarding what lessons learned and best practices the industry has developed and is interested in, discover what lessons learned and best practices the industry is willing to share, and provide a forum in which to share this information with the bioenergy community. Assuming sufficient interest is provided in response to this RFI and meaningful data can be collected, BETO anticipates inaugurating an interactive forum focused on lessons learned and best practices at its upcoming Biomass 2014 Conference (*http://www.energy.gov/eere/bioenergy/biomass-2014-growing-future-bioeconomy*), which is currently scheduled to be held on July 29–30, 2014 in Washington, DC. In its RFI, DOE requests comments, information, and recommendations on Lessons Learned and Best practices associated with the design financing, construction, commissioning, startup, shakedown and operations of pilot-, demonstration-, and commercial-scale integrated biorefineries. Because information received in response to this RFI may be used to structure future programs and FOAs and/or otherwise be made available to the public, respondents are strongly advised to clearly and conspicuously mark any business sensitive, proprietary, privileged or otherwise confidential information in their response. The RFI, titled, ''Integrated Biorefinery Lessons Learned and Best Practices'', is available at: *https://eere-exchange.energy.gov.*

Issued in Washington, DC, on: June 25, 2014.

Jonathan Male,

Technology Office Director, Bioenergy Technologies Office, Energy Efficiency and Renewable Energy.

[FR Doc. 2014–15511 Filed 7–1–14; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Office of Energy Efficiency and Renewable Energy

Notice of Request for Information (RFI) on Fuel Cells for Continuous On-Board Recharging Application for Battery Electric Light-Duty Vehicles

AGENCY: Office of Energy Efficiency and Renewable Energy, Department of Energy (DOE).

ACTION: Request for Information.

SUMMARY: The U.S. Department of Energy (DOE) invites public comment on its Request for Information (RFI) number DE–FOA–0001145 regarding Fuel Cells for Continuous On-Board Recharging Application for Battery Electric Light-Duty Vehicles. The RFI document is posted at *https://eere-exchange.energy.gov/.*

The RFI solicits feedback from industry, academia, research laboratories, government agencies, and other stakeholders on issues related to the technical and economic feasibility of commercializing fuel cell range extenders for available battery electric vehicles (BEVs) in the United States market. The Department of Energy is specifically interested in information on BEV makes and models where an after-market modification to extend the vehicle range using a Polymer Electrolyte Membrane (PEM) fuel cell system would be most feasible. This is solely a request for information and not a Funding Opportunity Announcement

(FOA). EERE is not accepting FOA applications on this topic.

DATES: Responses to the RFI must be received on or before August 7, 2014.

ADDRESSES: The complete RFI document is located at *https://eere-exchange.energy.gov/.*

FOR FURTHER INFORMATION CONTACT: Responses to the RFI and questions should be sent via email or email attachment to *FuelCellCOBRA@ee.doe.gov.* Further instruction can be found in the RFI document posted on EERE Exchange.

SUPPLEMENTARY INFORMATION: The RFI is not a Funding Opportunity Announcement (FOA); therefore, EERE is not accepting applications at this time. EERE may issue a FOA in the future based on or related to the content and responses to the RFI; however, EERE may also elect not to issue a FOA. There is no guarantee that a FOA will be issued as a result of the RFI. Responding to the RFI does not provide any advantage or disadvantage to potential applicants if EERE chooses to issue a FOA regarding the subject matter. Final details, including the anticipated award size, quantity, and timing of EERE funded awards, will be subject to Congressional appropriations and direction.

Any information obtained as a result of the RFI is intended to be used by the Government on a non-attribution basis for planning and strategy development; the RFI does not constitute a formal solicitation for proposals or abstracts. Responses to the RFI will be treated as information only.

EERE will review and consider all responses in its formulation of program strategies for the identified materials of interest that are the subject of this request. EERE will not provide reimbursement for costs incurred in responding to the RFI. Respondents are advised that EERE is under no obligation to acknowledge receipt of the information received or provide feedback to respondents with respect to any information submitted under the RFI. Responses to the RFI do not bind EERE to any further actions related to this topic.

Issued in Golden, CO on June 24, 2014.

Sunita Satyapal,

Director, Fuel Cell Technologies Office, Energy Efficiency and Renewable Energy.

[FR Doc. 2014–15509 Filed 7–1–14; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 12713–003]

Notice of Application Accepted for Filing, Soliciting Comments, Motions To Intervene, and Protests; Reedsport OPT Wave Park, LLC

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection:

a. *Type of Proceeding:* Surrender of License.

b. *Project No.:* 12713–003.

c. *Date Filed:* May 30, 2014.

d. *Licensee:* Reedsport OPT Wave Park, LLC.

e. *Name of Project:* Reedsport OPT Wave Park Project.

f. *Location:* The project is located in the Pacific Ocean in state waters about 2.5 miles off the coast near Reedsport, in Douglas County, Oregon. The project would occupy about 5 acres of federal lands in the Siuslaw National Forest (Oregon Dunes National Recreation Area).

g. *Filed Pursuant to:* 18 CFR 6.2.

h. *Licensee Contact:* Mr. David R. Heinz, Vice President of Sole Member, Ocean Power Technologies, Inc., 1590 Reed Road, Pennington, NJ 08534, Telephone: 609–730–0400, Email: *dheniz@oceanpowertech.com.*

i. *FERC Contact:* Ms. Patricia W. Gillis, (202) 502–8735, patricia.gillis@ferc.gov.

j. Deadline for filing comments and protests is 30 days from the issuance of this notice by the Commission. Please file your submittal electronically via the Internet (eFiling) in lieu of paper. Please refer to the instructions on the Commission's Web site under *http://www.ferc.gov/docs-filing/efiling.asp* and filing instructions in the Commission's Regulations at 18 CFR section 385.2001(a)(1)(iii). To assist you with eFilings you should refer to the submission guidelines document at *http://www.ferc.gov/help/submission-guide/user-guide.pdf.* In addition, certain filing requirements have statutory or regulatory formatting and other instructions. You should refer to a list of these ''qualified documents'' at *http://www.ferc.gov/docs-filing/efiling/filing.pdf.* You must include your name and contact information at the end of your comments. Please include the project number (P–12713–003) on any documents or motions filed. The Commission strongly encourages electronic filings; otherwise, you should submit an original and seven copies of any submittal to the following address: The Secretary, Federal Energy Regulatory Commission, Mail Code: DHAC, PJ–12, 888 First Street NE., Washington, DC 20426.

k. *Description of Project Facilities:* The single Floating Gravity Based Anchor is the only project feature that has not been removed. A Decommissioning Plan will be submitted to the Commission for approval once the resources agencies have submitted their comments to Reedsport OPT Wave Park, LLC.

l. *Description of Proceeding:* On May 30, 2014, Reedsport OPT Wave Park, LLC filed an application stating that due to financial and regulatory challenges they unfortunately have been forced to conclude that they cannot proceed with the development of the Reedsport OPT Wave Park Project.

m. This notice is available for review and reproduction at the Commission in the Public Reference Room, Room 2A, 888 First Street NE., Washington, DC 20426. The filing may also be viewed on the Commission's Web site at *http://www.ferc.gov/docs-filing/elibrary.asp.* Enter the Docket number (P–12713–003) excluding the last three digits in the docket number field to access the notice. You may also register online at *http://www.ferc.gov/docs-filing/esubscription.asp* to be notified via email of new filings and issuances related to this or other pending projects. For assistance, call toll-free 1–866–208–3676 or email *FERCOnlineSupport@ferc.gov.* For TTY, call (202) 502–8659.

n. Individuals desiring to be included on the Commission's mailing list should so indicate by writing to the Secretary of the Commission.

o. *Comments, Protests, or Motions to Intervene:* Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, .211, .214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

p. *Filing and Service of Responsive Documents:* Any filing must (1) bear in all capital letters the title ''COMMENTS'', ''PROTEST'', or ''MOTION TO INTERVENE'' as applicable; (2) set forth in the heading the name of the applicant and the project number of the application to

which the filing responds; (3) furnish the name, address, and telephone number of the person protesting or intervening; and (4) otherwise comply with the requirements of 18 CFR 385.2001 through 385.2005. All comments, motions to intervene, or protests must set forth their evidentiary basis and otherwise comply with the requirements of 18 CFR 4.34(b). All comments, motions to intervene, or protests should relate to project works which are the subject of the license surrender. Agencies may obtain copies of the application directly from the applicant. A copy of any protest or motion to intervene must be served upon each representative of the applicant specified in the particular application. If an intervener files comments or documents with the Commission relating to the merits of an issue that may affect the responsibilities of a particular resource agency, they must also serve a copy of the document on that resource agency. A copy of all other filings in reference to this application must be accompanied by proof of service on all persons listed in the service list prepared by the Commission in this proceeding, in accordance with 18 CFR 4.34(b) and 385.2010.

q. Agency Comments—Federal, state, and local agencies are invited to file comments on the described proceeding. If any agency does not file comments within the time specified for filing comments, it will be presumed to have no comments.

Dated: June 26, 2014.

Kimberly D. Bose,

Secretary.

[FR Doc. 2014–15518 Filed 7–1–14; 8:45 am]

BILLING CODE 6717–01–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–9913–24–OEI]

Cross-Media Electronic Reporting: Authorized Program Revision Approval, State of California

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces the Environmental Protection Agency (EPA's) approval of the State of California's request to revise its EPA Administered Permit Programs: The National Pollutant Discharge Elimination System EPA-authorized program to allow electronic reporting.

DATES: EPA's approval is effective on July 2, 2014.

FOR FURTHER INFORMATION CONTACT: Karen Seeh, U.S. Environmental Protection Agency, Office of Environmental Information, Mail Stop 2823T, 1200 Pennsylvania Avenue NW., Washington, DC 20460, (202) 566–1175, *seeh.karen@epa.gov.*

SUPPLEMENTARY INFORMATION: On October 13, 2005, the final Cross-Media Electronic Reporting Rule (CROMERR) was published in the **Federal Register** (70 FR 59848) and codified as part 3 of title 40 of the CFR. CROMERR establishes electronic reporting as an acceptable regulatory alternative to paper reporting and establishes requirements to assure that electronic documents are as legally dependable as their paper counterparts. Subpart D of CROMERR requires that state, tribal or local government agencies that receive, or wish to begin receiving, electronic reports under their EPA-authorized programs must apply to EPA for a revision or modification of those programs and obtain EPA approval. Subpart D provides standards for such approvals based on consideration of the electronic document receiving systems that the state, tribe, or local government will use to implement the electronic reporting. Additionally, § 3.1000(b) through (e) of 40 CFR part 3, subpart D provides special procedures for program revisions and modifications to allow electronic reporting, to be used at the option of the state, tribe or local government in place of procedures available under existing program-specific authorization regulations. An application submitted under the subpart D procedures must show that the state, tribe or local government has sufficient legal authority to implement the electronic reporting components of the programs covered by the application and will use electronic document receiving systems that meet the applicable subpart D requirements.

On August 19, 2013, the California State Water Resources Control Board (CA SWRCB) submitted an application titled ''Electronic Self Monitoring Report'' for revision of its EPA-authorized authorized Part 123 program under title 40 CFR. EPA reviewed CA SWRCB's request to revise its EPA-authorized Part 123—EPA Administered Permit Programs: The National Pollutant Discharge Elimination System program and, based on this review, EPA determined that the application met the standards for approval of authorized program revision set out in 40 CFR part 3, subpart D. In accordance with 40 CFR 3.1000(d), this notice of EPA's decision to approve California's request to revise its Part 123—EPA Administered Permit Programs: The National Pollutant Discharge Elimination System program to allow electronic reporting under 40 CFR part 122 is being published in the **Federal Register**.

CA SWRCB was notified of EPA's determination to approve its application with respect to the authorized program listed above.

Dated: June 23, 2014.

Matthew Leopard,

Acting Director, Office of Information Collection.

[FR Doc. 2014–15547 Filed 7–1–14; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–9913–23–OEI]

Cross-Media Electronic Reporting: Authorized Program Revision Approval, State of Idaho

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces the Environmental Protection Agency (EPA's) approval of the State of Idaho's request to revise its State Operating Permit Programs EPA-authorized program to allow electronic reporting.

DATES: EPA's approval is effective on July 2, 2014.

FOR FURTHER INFORMATION CONTACT: Karen Seeh, U.S. Environmental Protection Agency, Office of Environmental Information, Mail Stop 2823T, 1200 Pennsylvania Avenue NW, Washington, DC 20460, (202) 566–1175, *seeh.karen@epa.gov.*

SUPPLEMENTARY INFORMATION: On October 13, 2005, the final Cross-Media Electronic Reporting Rule (CROMERR) was published in the **Federal Register** (70 FR 59848) and codified as part 3 of title 40 of the CFR. CROMERR establishes electronic reporting as an acceptable regulatory alternative to paper reporting and establishes requirements to assure that electronic documents are as legally dependable as their paper counterparts. Subpart D of CROMERR requires that state, tribal or local government agencies that receive, or wish to begin receiving, electronic reports under their EPA-authorized programs must apply to EPA for a revision or modification of those programs and obtain EPA approval. Subpart D provides standards for such approvals based on consideration of the electronic document receiving systems

that the state, tribe, or local government will use to implement the electronic reporting. Additionally, § 3.1000(b) through (e) of 40 CFR part 3, subpart D provides special procedures for program revisions and modifications to allow electronic reporting, to be used at the option of the state, tribe or local government in place of procedures available under existing program-specific authorization regulations. An application submitted under the subpart D procedures must show that the state, tribe or local government has sufficient legal authority to implement the electronic reporting components of the programs covered by the application and will use electronic document receiving systems that meet the applicable subpart D requirements.

On March 14, 2014, the Idaho Department of Environmental Quality (IDEQ) submitted an amended application titled ''Point Source Survey Tool'' for revision of its EPA-authorized Part 70 program under title 40 CFR. EPA reviewed IDEQ's request to revise/modify its EPA-authorized Part 70—State Operating Permit Program and, based on this review, EPA determined that the application met the standards for approval of authorized program revision set out in 40 CFR part 3, subpart D. In accordance with 40 CFR 3.1000(d), this notice of EPA's decision to approve Idaho's request to revise/modify its Part 70—State Operating Permit Program to allow electronic reporting under 40 CFR part 70 is being published in the **Federal Register**.

IDEQ was notified of EPA's determination to approve its application with respect to the authorized program listed above.

Dated: June 23, 2014.

Matthew Leopard,

Acting Director, Office of Information Collection.

[FR Doc. 2014–15546 Filed 7–1–14; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

Information Collections Being Submitted for Review and Approval to the Office of Management and Budget

AGENCY: Federal Communications Commission.

ACTION: Notice and request for comments.

SUMMARY: As part of its continuing effort to reduce paperwork burdens, and as required by the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C. 3501–3520), the Federal Communication Commission (FCC or Commission) invites the general public and other Federal agencies to take this opportunity to comment on the following information collections. Comments are requested concerning: Whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; the accuracy of the Commission's burden estimate; ways to enhance the quality, utility, and clarity of the information collected; ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology; and ways to further reduce the information collection burden on small business concerns with fewer than 25 employees.

The FCC may not conduct or sponsor a collection of information unless it displays a currently valid OMB control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the PRA that does not display a valid OMB control number.

DATES: Written comments should be submitted on or before August 1, 2014. If you anticipate that you will be submitting comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the contacts below as soon as possible.

ADDRESSES: Direct all PRA comments to Nicholas A. Fraser, OMB, via email *Nicholas_A._Fraser@omb.eop.gov*; and to Cathy Williams, FCC, via email *PRA@fcc.gov* and to *Cathy.Williams@fcc.gov.* Include in the comments the OMB control number as shown in the **SUPPLEMENTARY INFORMATION** section below.

FOR FURTHER INFORMATION CONTACT: For additional information or copies of the information collection, contact Cathy Williams at (202) 418–2918. To view a copy of this information collection request (ICR) submitted to OMB: (1) Go to the Web page <*http://www.reginfo.gov/public/do/PRAMain*>, (2) look for the section of the Web page called ''Currently Under Review,'' (3) click on the downward-pointing arrow in the ''Select Agency'' box below the ''Currently Under Review'' heading, (4) select ''Federal Communications Commission'' from the list of agencies presented in the ''Select Agency'' box, (5) click the ''Submit'' button to the right of the ''Select Agency'' box, (6) when the list of FCC ICRs currently under review appears, look for the OMB control number of this ICR and then click on the ICR Reference Number. A copy of the FCC submission to OMB will be displayed.

SUPPLEMENTARY INFORMATION:

OMB Control Number: 3060–1158.

Title: Disclosure of Network Management Practices, Preserving the Open Internet and Broadband Industry Practices, Report and Order, GN Docket No. 09–191 and WC Docket No. 07–52.

Form Number: N/A.

Type of Review: Extension of a currently approved collection.

Respondents: Business or other for-profit entities; Not-for profit entities; State, local or tribal governments.

Number of Respondents and Responses: 1,712 respondents; 1,712 responses.

Estimated Time per Response: 24.4 hours (average).

Frequency of Response: On occasion reporting requirements; Third party disclosure requirement.

Obligation to Respond: Mandatory. The statutory authority for the information collection requirements are contained in section contained in 47 U.S.C. 151, 152, 153, 154, 201, 218, 230, 251, 254, 256, 257, 301, 303, 304, 307, 309, 316, 332, 403, 503, 522, 536, 548, 1302. Interpret or apply S. Rep. No. 104–23, at 51 (1995).

Total Annual Burden: 41,773 hours.

Total Annual Cost: $560,000.

Nature and Extent of Confidentiality: An assurance of confidentiality is not offered because this information collection does not require the collection of personally identifiable information from individuals.

Privacy Impact Assessment: No impacts(s).

Needs and Uses: The rules adopted in the Open Internet and Broadband Industry Practices, Report and Order, GN Docket No. 09–191, WC Docket No. 07–52, FCC 10–201, require all providers of broadband Internet access service to publicly disclose accurate information regarding the network management practices, performance, and commercial terms of their broadband Internet access services sufficient for consumers to make informed choices regarding use of such services and for content, application, service, and device providers to develop, market, and maintain Internet offerings. The rules ensure transparency and continued Internet openness, while making clear that broadband providers can manage their networks effectively. The Commission anticipates that small entities may have less of a burden, and larger entities may have more of a burden than the average compliance burden.

OMB Control Number: 3060–0390.

Title: Broadcast Station Annual Employment Report, FCC Form 395–B.

Form Number: FCC 395–B.

Type of Review: Extension of a currently approved collection.

Respondents: Business and other for-profit entities; not-for-profit institutions.

Number of Respondents and Responses: 14,000 respondents, 14,000 responses.

Estimated Time per Response: 1 hour.

Frequency of Response: Annual reporting requirement.

Total Annual Burden: 14,000 hours.

Total Annual Cost: None.

Obligation to Respond: Required to obtain or retain benefits. The statutory authority of this collection of information is contained in Sections 154(i) and 334 of the Communications Act of 1934, as amended.

Nature and Extend of Confidentiality: There is no need for confidentiality with this collection of information.

Privacy Impact Assessment(s): No impact(s).

Needs and Uses: FCC Form 395–B, the ''Broadcast Station Annual Employment Report,'' is a data collection device used by the Commission to assess industry employment trends and provide reports to Congress. By the form, broadcast licensees and permittees identify employees by gender and race/ethnicity in ten specified major job categories in the form.

OMB Control Number: 3060–1086.

Title: Section 74.787, Digital Licensing; Section 74.790, Permissible Service of Digital TV Translator and LPTV Stations; Section 74.794, Digital Emissions, Section 74.796, Modification of Digital Transmission Systems and Analog Transmission Systems for Digital Operation; Section 74.798, LPTV Digital Transition Consumer Education Information; Protection of Analog LPTV.

Type of Review: Extension of a currently approved collection.

Respondents: Business or other for-profit entities; Not-for-profit institutions; State, Local or Tribal Government.

Number of Respondents and Responses: 8,345 respondents; 27,286 responses.

Estimated Time per Response: 0.50–4 hours.

Frequency of Response: One-time reporting requirement, Recordkeeping requirement and Third party disclosure requirement.

Obligation to Respond: Required to obtain or retain benefits. The statutory authority for this collection is contained in 47 U.S.C. 301 of the Communications Act of 1934, as amended.

Total Annual Burden: 56,286 hours.

Total Annual Cost: $68,978,000.

Privacy Act Impact Assessment: No impact(s).

Nature and Extent of Confidentiality: There is no need for confidentiality with this collection of information.

Needs and Uses: On July 15, 2011, the Commission adopted the Second Report and Order, In the Matter of Amendment of Parts 73 and 74 of the Commission's Rules to Establish Rules for Digital Low Power Television Translator, and Television Booster Stations and to Amend Rules for Digital Class A Television Stations, MB Docket No. 03–185, FCC 11–110 (''LPTV Digital Second Report and Order''). This document contains rules and policies for low power television stations (''LPTV'') to transition from analog to digital broadcasting. Due to the Commission adopting these rules and policies to effectuate the low power digital transition, the LPTV Digital Second Report and Order imposed Paperwork Reduction Act (PRA) burdens on licensees.

Due to the Commission initiating these new services, the Commission adopted a number of rules and regulations entailing PRA burdens on licensees and manufacturers. These rules have already been approved by the Office of Management and Budget (OMB) and are as follows:

47 CFR 74.787(a)(2)(iii) provides that mutually exclusive LPTV and TV translator applicants for companion digital stations will be afforded an opportunity to submit in writing to the Commission, settlements and engineering solutions to resolve their situation.

47 CFR 74.787(a)(3) provides that mutually exclusive applicants applying for construction permits for new digital stations and for major changes to existing stations in the LPTV service will similarly be allowed to submit in writing to the Commission, settlements and engineering solutions to rectify the problem.

47 CFR 74.787(a)(4) provides that mutually exclusive displacement relief applicants filing applications for digital LPTV and TV translator stations may be resolved by submitting settlements and engineering solutions in writing to the Commission.

47 CFR 74.787(a)(5)(i) states that an application for replacement digital television translator may be filed by a full-service television station that can demonstrate that a portion of its analog service area will not be served by its full, post-transition digital facilities. The service area of the replacement translator shall be limited to only a demonstrated loss area.

47 CFR 74.787(a)(5)(i) states that an applicant for a replacement digital television translator may propose a de minimis expansion of its full-service pre-transition analog service area upon demonstrating that it is necessary to replace its post-transition analog loss area.

47 CFR 74.790(f) permits digital TV translator stations to originate emergency warnings over the air deemed necessary to protect and safeguard life and property, and to originate local public service announcements (PSAs) or messages seeking or acknowledging financial support necessary for its continued operation. These announcements or messages shall not exceed 30 seconds each, and be broadcast no more than once per hour.

47 CFR 74.790(e) requires that a digital TV translator station shall not retransmit the programs and signal of any TV broadcast or DTV broadcast station(s) without prior written consent of such station(s). A digital TV translator operator electing to multiplex signals must negotiate arrangements and obtain written consent of involved DTV station licensee(s).

47 CFR 74.790(g) requires a digital LPTV station who transmits the programming of a TV broadcast or DTV broadcast station received prior written consent of the station whose signal is being transmitted.

47 CFR 74.794 mandates that digital LPTV and TV translator stations operating on TV channels 22–24, 32–36 and 38 with a digital transmitter not specifically FCC-certificated for the channel purchase and utilize a low pass filter or equivalent device rated by its manufacturer to have an attenuation of at least 85 dB in the GPS band. The licensees must retain with their station license a description of the low pass filter or equivalent device with the manufacturer's rating or a report of measurements by a qualified individual.

47 CFR 74.796(b)(5) requires digital LPTV or TV translator station licensees that modify their existing transmitter by use of a manufacturer-provided modification kit would need to purchase the kit and must notify the Commission upon completion of the transmitter modifications. In addition, a digital LPTV or TV translator station licensees that modify their existing transmitter and do not use a manufacturer-provided modification kit, but instead perform custom modification (those not related to installation of manufacturer-supplied and FCC-certified equipment) must

notify the Commission upon completion of the transmitter modifications and shall certify compliance with all applicable transmission system requirements.

47 CFR 74.796(b)(6) provides that operators who modify their existing transmitter by use of a manufacturer-provided modification kit must maintain with the station's records for a period of not less than two years, and will make available to the Commission upon request, a description of the nature of the modifications, installation and test instructions, and other material provided by the manufacturer, the results of performance-tests and measurements on the modified transmitter, and copies of related correspondence with the Commission. In addition, digital LPTV and TV translator operators who custom modify their transmitter must maintain with the station's records for a period of not less than two years, and will make available to the Commission upon request, a description of the modifications performed and performance tests, the results of performance-tests and measurements on the modified transmitter, and copies of related correspondence with the Commission.

Protection of Analog LPTV. In situations where protection of an existing analog LPTV or translator station without a frequency offset prevents acceptance of a proposed new or modified LPTV, TV translator, or Class A station, the Commission requires that the existing non-offset station install at its expense offset equipment and notify the Commission that it has done so, or, alternatively, negotiate an interference agreement with the new station and notify the Commission of that agreement.

47 CFR 74.798 requires all stations in the low power television services to provide notice of their upcoming digital transition to their viewers.

Revised Information Collection Requirements: The Commission removed the information collection requirements that were contained in 47 CFR 74.786(d) and (e), and the requirements related to resolving channel conflict from this collection. The requirements were ''sunsetted'' when operation on channels 52 to 69 went away on December 31, 2011. Therefore, since stations cannot operate on these channels, they cannot file for these channels. This means that the requirements in the rule sections mentioned above are no longer applicable or used by respondents (stations).

Federal Communications Commission.

Marlene H. Dortch,

Secretary, Office of the Secretary, Office of the Managing Director.

[FR Doc. 2014–15454 Filed 7–1–14; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL FINANCIAL INSTITUTIONS EXAMINATION COUNCIL

[Docket No. AS14–07]

Meeting of the Appraisal Subcommittee Advisory Committee for Development of Regulations

AGENCY: Appraisal Subcommittee of the Federal Financial Institutions Examination Council (ASC).

ACTION: Notice of open meeting.

SUMMARY: The Appraisal Subcommittee Advisory Committee for Development of Regulations (ASCAC or Committee) will meet in open session on Tuesday, July 22, 2014 from 9:00 a.m. to 5:00 p.m. and Wednesday, July 23, 2014 from 9:00 a.m. to 5:00 p.m. All times are in the Eastern time zone. The primary purpose of this meeting is to continue discussion on potential recommendations to the ASC regarding Temporary Practice, National Registries (Appraisers and Appraisal Management Companies), Information Sharing and Enforcement. The final agenda will be posted on the ASC Web site at *https://www.asc.gov.*

DATES: ASCAC will meet on Tuesday, July 22, 2014 from 9:00 a.m. to 5:00 p.m. and Wednesday, July 23, 2014 from 9:00 a.m. to 5:00 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 Embassy Suites Hotel located at 1900 Diagonal Road, Alexandria, VA 22314. Directional signs noting the meeting location for the ASCAC Meeting will be located in the hotel lobby.

FOR FURTHER INFORMATION CONTACT: Ms. Lori Schuster, Designated Federal Officer, ASC, 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 eighteen members nominated by the ASC Executive Director and approved by the Chairman of the ASC in consultation with ASC members. ASCAC members 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 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: 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, Thursday, July 17, 2014, in order to attend.

Procedures for Public Comment: There will be a public comment period, not to exceed thirty minutes, the morning of July 22, 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. Requests to comment must be received by 5:00 p.m. Eastern time on July 16, 2014. Registered speakers/organizations will be allowed a maximum of 5 minutes each and will need to provide written copies of their comments. Written comments also may be provided to Ms. Lori Schuster at *Lori@asc.gov* until 5:00 p.m. Eastern time, Friday, July 18, 2014.

Dated: June 26, 2014.

James R. Park,

Executive Director.

[FR Doc. 2014–15523 Filed 7–1–14; 8:45 am]

BILLING CODE 6700–01–P

FEDERAL MARITIME COMMISSION

Notice of Agreements Filed

The Commission hereby gives notice of the filing of the following agreements under the Shipping Act of 1984. Interested parties may submit comments on the agreements to the Secretary,

Federal Maritime Commission, Washington, DC 20573, within twelve days of the date this notice appears in the **Federal Register**. Copies of the agreements are available through the Commission's Web site (*www.fmc.gov*) or by contacting the Office of Agreements at (202) 523–5793 or *tradeanalysis@fmc.gov*.

Agreement No.: 011539–016.

Title: Norasia Group/HLAG Space Charter and Sailing Agreement.

Parties: Companhia Libra de Navegacao (Libra); Compania Sud Americana de Vapores, S.A. (CSAV); Compania Libra de Navegacion Uruguay S.A.; Hapag-Lloyd AG.; and Norasia Container Lines Limited.

Filing Party: Wayne R. Rohde, Esq.; Cozen O'Connor; 1627 I Street NW., Suite 1100; Washington, DC 20006.

Synopsis: The amendment adds Norasia as a party to the agreement, changes references to CSAV to refer to Norasia, and adds language relating to the transfer of the agreement to Norasia in connection with a corporate transaction between CSAV and Hapag Lloyd. The amendment also changes the name of the agreement and restates the agreement.

Agreement No.: 011839–008.

Title: Med-Gulf Space Charter Agreement.

Parties: Hapag-Lloyd AG; Compania Sud Americana de Vapores S.A.; and Norasia Lines Limited.

Filing Party: Wayne R. Rohde, Esq.; Cozen O'Connor; 1627 I Street NW., Suite 1100; Washington, DC 20006.

Synopsis: The amendment adds Norasia as a party to the agreement, changes references to CSAV to refer to Norasia, and adds language relating to the transfer of the agreement to Norasia in connection with a corporate transaction between CSAV and Hapag Lloyd. The amendment also restates the agreement.

Agreement No.: 012220–001.

Title: Crowley/Seaboard Space Charter and Sailing Agreement.

Parties: Crowley Latin America Services, LLC; and Seaboard Marine, Ltd.

Filing Party: Wayne R. Rohde, Esq.; Cozen O'Connor; 1627 I Street NW., Suite 1100; Washington, DC 20006.

Synopsis: The amendment would add authority for the parties to compensate one another for differences in vessel operating costs, and update and clarify restrictions related to this authority.

Agreement No.: 012245–001.

Title: Eastern Car Liner Ltd./ Rickmers-Linie GmbH & Cie. KG Space Charter Agreement.

Parties: Eastern Car Liner Ltd. and Rickmers-Linie GmbH & Cie. KG

Filing Party: Wayne R. Rohde, Esq.; Cozen O'Connor; 1627 I Street NW., Suite 1100; Washington, DC 20006.

Synopsis: The amendment expands the geographic scope of the agreement to cover all U.S. inbound and outbound trades.

Agreement No.: 012249–001.

Title: Norasia/Hapag Lloyd Mexico Space Charter Agreement.

Parties: Compania Sud Americana de Vapores S.A.; Hapag Lloyd A.G.; and Norasia Container Lines Limited.

Filing Party: Wayne R. Rohde, Esq.; Cozen O'Connor; 1627 I Street NW., Suite 1100; Washington, DC 20006.

Synopsis: The amendment adds Norasia as a party to the agreement, changes references to CSAV to refer to Norasia, and adds language relating to the transfer of the agreement to Norasia in connection with a corporate transaction between CSAV and Hapag Lloyd. The amendment also changes the name of the agreement and restates the agreement.

Agreement No.: 012266–001.

Title: HLAG/Norasia Trans-Atlantic Space Charter Agreement.

Parties: Hapag-Lloyd AG; Compania Sud Americana de Vapores S.A.; and Norasia Container Lines Limited.

Filing Party: Wayne R. Rohde, Esq.; Cozen O'Connor; 1627 I Street NW., Suite 1100; Washington, DC 20006.

Synopsis: The amendment adds Norasia as a party to the agreement, changes references to CSAV to refer to Norasia, and adds language relating to the transfer of the agreement to Norasia in connection with a corporate transaction between CSAV and Hapag Lloyd. The amendment also changes the name of the agreement and restates the agreement.

Agreement No.: 201212–002.

Title: Marine Terminal Lease and Operating Agreement Between Broward County and King Ocean Services Limited (Cayman Islands) Incorporated.

Parties: Broward County and King Ocean Services Limited (Cayman Islands) Incorporated.

Filing Party: Candace J. Running; Broward County Board of County Commissioners; Office of the County Attorney; 1850 Eller Drive, Suite 502; Fort Lauderdale, FL 33316.

Synopsis: The amendment increases the number of acres being leased, the rent, and the annual minimum guarantee payments.

By Order of the Federal Maritime Commission.

Dated: June 27, 2014.

Karen V. Gregory,

Secretary.

[FR Doc. 2014–15532 Filed 7–1–14; 8:45 am]

BILLING CODE 6730–01–P

FEDERAL RESERVE SYSTEM

Change in Bank Control Notices; Acquisitions of Shares of a Bank or Bank Holding Company

The notificants listed below have applied under the Change in Bank Control Act (12 U.S.C. 1817(j)) and § 225.41 of the Board's Regulation Y (12 CFR 225.41) to acquire shares of a bank or bank holding company. The factors that are considered in acting on the notices are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The notices are available for immediate inspection at the Federal Reserve Bank indicated. The notices also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank indicated for that notice or to the offices of the Board of Governors. Comments must be received not later than July 17, 2014.

A. Federal Reserve Bank of Kansas City (Dennis Denney, Assistant Vice President) 1 Memorial Drive, Kansas City, Missouri 64198–0001:

1. Deborah Krumme, Tulsa, Oklahoma; John Krumme and Dayna Krumm, both of Jenks, Oklahoma; Carolyn Krumme, El Paso, Texas; Cynthia Krumme, Matthew Krumme, and Catherine Krumme, all of Estes Park, Colorado; and Royal Capital, LLC, Tulsa, Oklahoma, all as part of the Krumme Family Group; to retain voting shares of Sooner Southwest Bankshares, Inc., Tulsa, Oklahoma, and thereby indirectly acquire voting shares of Community Bank, Bristow, Oklahoma; Security First National Bank, Hugo, Oklahoma; and First National Bank, Heavener, Oklahoma.

Board of Governors of the Federal Reserve System, June 27, 2014.

Robert deV. Frierson,

Secretary of the Board.

[FR Doc. 2014–15516 Filed 7–1–14; 8:45 am]

BILLING CODE 6210–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Advisory Board on Radiation and Worker Health (ABRWH or Advisory Board), National Institute for Occupational Safety and Health (NIOSH)

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), and pursuant to the requirements of 42 CFR 83.15(a), the Centers for Disease Control and Prevention (CDC), announces the following meeting of the aforementioned committee:

Board Public Meeting Time and Date (All times are Mountain Time):

8:15 a.m.–5:30 p.m., July 29, 2014

Public Comment Time and Date (All times are Mountain Time):

5:30 p.m.–6:30 p.m.*, July 29, 2014

**Please note that the public comment periods may end before the times indicated, following the last call for comments. Members of the public who wish to provide public comments should plan to attend public comment sessions at the start times listed.*

Place: Hotel On The Falls, 475 River Parkway, Idaho Falls, Idaho 83402; Phone: (208) 523–8000; Fax: (208) 529–9610. Audio Conference Call via FTS Conferencing. The USA toll-free, dial-in number is 1–866–659–0537 with a pass code of 9933701. Live Meeting CONNECTION: *https://www.livemeeting.com/cc/cdc/join?id=988QJ4&role=attend&pw=ABRWH;* Meeting ID: 988QJ4; Entry Code: ABRWH

Status: Open to the public, limited only by the space available. The meeting space accommodates approximately 100 people.

Background: The Advisory Board was established under the Energy Employees Occupational Illness Compensation Program Act of 2000 to advise the President on a variety of policy and technical functions required to implement and effectively manage the new compensation program. Key functions of the Advisory Board include providing advice on the development of probability of causation guidelines which have been promulgated by the Department of Health and Human Services (HHS) as a final rule, advice on methods of dose reconstruction which have also been promulgated by HHS as a final rule, advice on the scientific validity and quality of dose estimation and reconstruction efforts being performed for purposes of the compensation program, and advice on petitions to add classes of workers to the Special Exposure Cohort (SEC).

In December 2000, the President delegated responsibility for funding, staffing, and operating the Advisory Board to HHS, which subsequently delegated this authority to the CDC. NIOSH implements this responsibility for CDC. The charter was issued on August 3, 2001, renewed at appropriate intervals, and will expire on August 3, 2015.

Purpose: This Advisory Board is charged with a) providing advice to the Secretary, HHS, on the development of guidelines under Executive Order 13179; b) providing advice to the Secretary, HHS, on the scientific validity and quality of dose reconstruction efforts performed for this program; and c) upon request by the Secretary, HHS, advising the Secretary on whether there is a class of employees at any Department of Energy facility who were exposed to radiation but for whom it is not feasible to estimate their radiation dose, and on whether there is reasonable likelihood that such radiation doses may have endangered the health of members of this class.

Matters for Discussion: The agenda for the Advisory Board meeting includes: NIOSH Program Update; Department of Labor Program Update; Department of Energy Program Update; SEC petitions for: General Atomics (La Jolla, CA), and Simonds Saw and Steel (Lockport, NY); SEC Issues Work Group Report on ''Sufficient Accuracy''/Co-Worker Dose Modeling; Worker Outreach Work Group Report; SEC Petitions Update; and Board Work Session.

The agenda is subject to change as priorities dictate.

In the event an individual cannot attend, written comments may be submitted in accordance with the redaction policy provided below. Any written comments received will be provided at the meeting and should be submitted to the contact person below well in advance of the meeting.

Policy on Redaction of Board Meeting Transcripts (Public Comment): (1) If a person making a comment gives his or her personal information, no attempt will be made to redact the name; however, NIOSH will redact other personally identifiable information, such as contact information, social security numbers, case numbers, etc., of the commenter. (2) If an individual in making a statement reveals personal information (e.g., medical or employment information) about themselves that information will not usually be redacted. The NIOSH Freedom of Information Act (FOIA) coordinator will, however, review such revelations in accordance with the Federal Advisory Committee Act and if deemed appropriate, will redact such information. (3) If a commenter reveals personal information concerning a living third party, that information will be reviewed by the NIOSH FOIA coordinator, and upon determination, if deemed appropriated, such information will be redacted, unless the disclosure is made by the third party's authorized representative under the Energy Employees Occupational Illness Compensation Program Act (EEOICPA) program. (4) In general, information concerning a deceased third party may be disclosed; however, such information will be redacted if (a) the disclosure is made by an individual other than the survivor claimant, a parent, spouse, or child, or the authorized representative of the deceased third party; (b) if it is unclear whether the third party is living or deceased; or (c) the information is unrelated or irrelevant to the purpose of the disclosure. (5) The Board will take reasonable steps to ensure that individuals making public comment are aware of the fact that their comments (including their name, if provided) will appear in a transcript of the meeting posted on a public Web site. Such reasonable steps include: (a) A statement read at the start of each public comment period stating that transcripts will be posted and names of speakers will not be redacted; (b) A printed copy of the statement mentioned in (a) above will be displayed on the table where individuals sign up to make public comments; (c) A statement such as outlined in (a) above will also appear with the agenda for a Board Meeting when it is posted on the NIOSH Web site; (d) A statement such as in (a) above will appear in the **Federal Register** Notice that announces Board and Subcommittee meetings.

Contact Person For More Information: Theodore Katz, Designated Federal Officer, NIOSH, CDC, 1600 Clifton Road NE., MS E–20, Atlanta, Georgia 30333, telephone: (513) 533–6800, toll free: 1–800–CDC–INFO, email: *dcas@cdc.gov.*

The Director, Management Analysis and Services Office, has been delegated the authority to sign **Federal Register** Notices pertaining to announcements of meetings and other committee management activities, for both the Centers for Disease Control and

Prevention and the Agency for Toxic Substances and Disease Registry.

Gary Johnson,

Acting Director, Management Analysis and Services Office Centers for Disease Control and Prevention.

[FR Doc. 2014–15522 Filed 7–1–14; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2013–D–1444]

Final Guidance; Pharmacy Compounding of Human Drug Products Under Section 503A of the Federal Food, Drug, and Cosmetic Act; Availability

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA or the Agency) is announcing the availability of a guidance entitled ''Pharmacy Compounding of Human Drug Products Under Section 503A of the Federal Food, Drug, and Cosmetic Act.'' The guidance announces the Agency's intention with regard to enforcement of the Federal Food, Drug, and Cosmetic Act (the FD&C Act) to regulate entities that compound drugs, now that the FD&C Act has been amended by the Drug Quality and Security Act (DQSA). The guidance reflects the Agency's current thinking on the issues addressed by the guidance.

DATES: Submit either electronic or written comments on Agency guidances at any time.

ADDRESSES: Submit written requests for single copies of this guidance to the Office of Communications, Division of Drug Information, Center for Drug Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 51, Rm. 2201, Silver Spring, MD 20993–0002. Send one self-addressed adhesive label to assist that office in processing your request. 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: Marissa Chaet Brykman, Center for Drug Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 51, suite 5100, Silver Spring, MD 20993–0002, 301–796–3110.

SUPPLEMENTARY INFORMATION:

I. Background

FDA is announcing the availability of a guidance entitled ''Pharmacy Compounding of Human Drug Products Under Section 503A of the Federal Food, Drug, and Cosmetic Act.'' The guidance provides information to compounders of human drug products on the Agency's application of section 503A of the FD&C Act (21 U.S.C. 353a) and current enforcement policies relating to the compounding of human drug products.

Section 503A of the FD&C Act describes the conditions that must be satisfied for drug products compounded by a licensed pharmacist or licensed physician to be exempt from the following three sections of the FD&C Act: (1) Section 501(a)(2)(B) (21 U.S.C. 351(a)(2)(B)) (concerning current good manufacturing practice); (2) section 502(f)(1) (21 U.S.C. 352(f)(1)) (concerning the labeling of drugs with adequate directions for use); and (3) section 505 (21 U.S.C. 355) (concerning the approval of drugs under new drug applications or abbreviated new drug applications). All other applicable provisions of the FD&C Act remain in effect for compounded drugs, however, even if the conditions in section 503A are met.

Previously, the conditions of section 503A of the FD&C Act also included restrictions on the advertising or promotion of the compounding of any particular drug, class of drug, or type of drug, and the solicitation of prescriptions for compounded drugs. These provisions were challenged in court and held unconstitutional by the U.S. Supreme Court in 2002.[1] In 2013, the DQSA amended section 503A of the FD&C Act to remove the unconstitutional advertising, promotion, and solicitation provisions. As a result, it is necessary to explain FDA's current thinking with regard to section 503A of the FD&C Act. Several provisions of section 503A of the FD&C Act require rulemaking and consultation with a Pharmacy Compounding Advisory Committee to implement. In the guidance, FDA explains how those provisions will be applied pending those consultations and rulemaking.

Among other things, the guidance restates the provisions in section 503A of the FD&C Act that remain in effect, describes FDA's interim policies with respect to specific provisions in section 503A that require implementing regulations or other actions, and contains a non-exhaustive list of potential enforcement actions against individuals or firms that compound human drug products that do not meet the conditions of section 503A.

In the **Federal Register** of December 4, 2013 (78 FR 72901), FDA issued a document announcing the availability of the draft version of this guidance and the withdrawal of both the May 2002 Compliance Policy Guide entitled ''Pharmacy Compounding'' and the November 1998 guidance for industry entitled ''Enforcement Policy During Implementation of Section 503A of the Federal Food, Drug, and Cosmetic Act.'' The comment period on the draft guidance ended on February 3, 2014. Many of the received comments raise issues that the Agency intends to address in other policy documents and were not directly pertinent to the topics addressed in this guidance. These comments will be further considered if relevant to another policy document developed by the Agency.

FDA made the following changes in the final guidance: (1) Inserted references to the **Federal Register** documents seeking nominations for the bulk drug substances and difficult-to-compound lists under section 503A (78 FR 72841, December 4, 2013, and 78 FR 72840, December 4, 2013, respectively); (2) modified the language that discusses the time period during which the MOU will be made available to the States for their consideration and signature and the time period with regard to the enforcement of the 5 percent limit if a State chooses not to sign the MOU; and (3) made grammatical and other minor editorial changes for clarity.

This guidance is being issued consistent with FDA's good guidance practices regulation (21 CFR 10.115). The guidance represents the Agency's current thinking regarding section 503A of the FD&C Act and human drug compounding. 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

[1] See *Thompson* v. *Western States Med. Ctr.,* 535 U.S. 357 (2002).

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/Drugs/GuidanceComplianceRegulatoryInformation/Guidances/default.htm* or *http://www.regulations.gov*.

Dated: June 25, 2014.

Leslie Kux,

Assistant Commissioner for Policy.

[FR Doc. 2014–15372 Filed 7–1–14; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2014–D–0779]

Draft Guidance for Industry on Current Good Manufacturing Practice—Interim Guidance for Human Drug Compounding Outsourcing Facilities Under the Federal Food, Drug and Cosmetic Act; Availability

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the availability of a draft guidance for industry entitled ''Current Good Manufacturing Practice—Interim Guidance for Human Drug Compounding Outsourcing Facilities under Section 503B of the FD&C Act.'' This draft guidance describes FDA's current expectations regarding compliance with current good manufacturing practice (CGMP) requirements for facilities that compound human drugs and register with FDA as outsourcing facilities under the Federal Food, Drug, and Cosmetic Act (the FD&C Act), in accordance with provisions added by the Drug Quality and Security Act (DQSA). FDA is also soliciting public input on specific potential alternative approaches regarding certain CGMP requirements. These potential approaches are explained in detail in the draft guidance.

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 September 2, 2014.

ADDRESSES: Submit written requests for single copies of the draft guidance to the Division of Drug Information, Center for Drug Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 51, Rm. 2201, Silver Spring, MD 20993–0002. Send one self-addressed adhesive label to assist that office in processing your requests. See the **SUPPLEMENTARY INFORMATION** section for electronic access to the draft guidance document.

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: Brian Hasselbalch, Center for Drug Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 51, Rm. 4364, Silver Spring, MD 20993–0002, 301–796–3279.

SUPPLEMENTARY INFORMATION:

I. Background

FDA is announcing the availability of a draft guidance for industry entitled ''Current Good Manufacturing Practice-Interim Guidance for Human Drug Compounding Outsourcing Facilities under Section 503B of the FD&C Act.'' On November 27, 2013, President Obama signed the DQSA (Public Law 113–54), which added section 503B to the FD&C Act (21 U.S.C. 353b). Under section 503B(b) of the FD&C Act, a compounder can register as an outsourcing facility with FDA. Drug products compounded in a registered outsourcing facility can qualify for exemptions from the FDA approval requirements in section 505 of the FD&C Act (21 U.S.C. 355) and the requirement to label products with adequate directions for use under section 502(f)(1) of the FD&C Act (21 U.S.C. 352(f)(1)) if the requirements in section 503B are met. Outsourcing facilities will be inspected by FDA and must comply with other provisions of the FD&C Act, including CGMP requirements under section 501(a)(2)(B) (21 U.S.C. 351(a)(2)(B)).

Under section 501(a)(2)(B) of the FD&C Act, a drug is deemed to be adulterated if it is not produced in accordance with CGMP. FDA's regulations regarding CGMP requirements for the preparation of drug products have been established in 21 CFR parts 210 and 211. FDA intends to issue more specific CGMP regulations for outsourcing facilities. Until final regulations are issued, this draft guidance describes FDA's expectations regarding outsourcing facilities and the CGMP requirements in parts 210 and 211 during this interim period. This draft guidance reflects FDA's intent to recognize the differences between compounding outsourcing facilities and conventional drug manufacturers, and to tailor CGMP requirements to the nature of the specific compounding operations conducted by outsourcing facilities while maintaining the minimum standards necessary to protect patients from the risks of contaminated or otherwise substandard compounded drug products. This draft guidance is only applicable to drugs compounded in accordance with section 503B of the FD&C Act.

FDA intends to focus its inspectional and enforcement efforts on those aspects of compounding operations that pose the highest risk to patient safety. In particular, the primary focus of this draft guidance is on those aspects of part 211 that relate to sterility assurance of sterile drug products and the safety of compounded drug products more generally, with respect to strength (e.g., subpotency, superpotency), and labeling or drug product mix-ups.

II. Specific Request for Comments and Information

In addition to comments on the draft guidance generally, FDA is requesting comments and related supporting information on the following specific issues: (1) alternative approaches that would enable an outsourcing facility to have confidence in the quality of incoming components from sources used by multiple outsourcing facilities without each individual outsourcing facility having to conduct periodic laboratory testing to confirm the information in the third-party supplier's certificate of analysis and (2) alternative approaches that would minimize the need for outsourcing facilities to establish an in-house laboratory while providing confidence about the accuracy of testing performed by a third party used by more than one outsourcing facility. FDA has described these potential alternative approaches in the draft guidance and is seeking public comment on these and any other alternative approaches.

This draft guidance is being issued consistent with FDA's good guidance practices regulation (21 CFR 10.115). The draft guidance, when finalized, will

represent the Agency's current thinking on ''Current Good Manufacturing Practice-Interim Guidance for Human Drug Compounding Outsourcing Facilities under Section 503B of the FD&C Act.'' 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.

III. Comments

Interested persons may submit electronic comments regarding this document to *http://www.regulations.gov,* or written comments to the Division of Dockets Management (see **ADDRESSES**). It is only necessary to send one set of comments. Identify comments with the docket number found in brackets in the heading of this document. Received comments may be seen in the Division of Dockets Management between 9 a.m. and 4 p.m., Monday through Friday, and will be posted to the docket at *http://www.regulations.gov*.

IV. Paperwork Reduction Act of 1995

This draft guidance contains information collection provisions that are subject to review by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (the PRA) (44 U.S.C. 3501–3520). The title, description, and respondent description of the information collection are given under this section with an estimate of the annual recordkeeping, third-party disclosure, and reporting burdens. Included in the estimate is the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.

We invite comments on these topics: (1) Whether the proposed collection of information is necessary for the proper performance of FDA's functions, including whether the information will have practical utility; (2) the accuracy of FDA's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques, when appropriate, and other forms of information technology.

Title: Guidance for Industry, Current Good Manufacturing Practice—Interim Guidance for Human Drug Compounding Outsourcing Facilities under Section 503B of the FD&C Act.

Description: The draft guidance describes FDA's expectations regarding compliance with CGMP requirements for facilities that register with FDA as outsourcing facilities under section 503B of the FD&C Act. The primary focus of the draft guidance is on sterility assurance of sterile products and the safety of compounded drug products with respect to strength (e.g., subpotency, superpotency), and labeling or drug product mix-ups. OMB has already approved the information collection (recordkeeping) contained in FDA's CGMP regulations in part 211 (OMB control number 0910–0139). FDA believes that much of the recordkeeping burden that would result from the draft guidance is already incurred by outsourcing facilities in the normal course of their business activities. Thus, the burden estimates for these ''usual and customary'' business practices are not included in the calculation of burden that follows (see 5 CFR 1320.3(b)(2).

The draft guidance contains the following collections of information under the PRA:

1. Facility Design

The draft guidance describes those elements of facility design of outsourcing facilities that are considered critical to assuring the quality of compounded sterile drug products at those facilities. For example, the draft guidance states that sterile drugs should be produced only in ISO 5 or better air quality, and that the ISO 5 zone or critical area must be qualified (i.e., shown to meet the specifications). In section III.A, the draft guidance lists certain studies and tests which should be successfully performed for outsourcing facilities, and states that the results of these studies and tests should be documented.

We estimate that annually a total of approximately 50 outsourcing facilities [1] (''No. of Recordkeepers'' in table 1, row 1) will individually document approximately 20 studies and tests (''Total Annual Records'' in table 1, row 1) that are critical to assuring the quality of compounded sterile drug products. We also estimate that preparing and maintaining each record as described in the draft guidance will take on average approximately 1.5 hours for each record (''Average Burden per Recordkeeping'' in table 1, row 1).

2. Control Systems and Procedures for Maintaining Suitable Facilities

The draft guidance describes certain controls, procedures, and documentation that should be established and followed for maintaining suitable facilities and to prevent contamination and mix-ups during the course of aseptic operations at outsourcing facilities. Procedures must be established that assign responsibility for and describe cleaning schedules, methods, equipment, and materials. In addition, the guidance describes that procedures should ensure recording of instances when there is a loss of positive pressure in the clean room during production.

We estimate that annually a total of approximately 50 outsourcing facilities (''No. of Recordkeepers'' in table 1, row 2) will individually establish and maintain approximately 3 records (procedures and documentation) for maintaining suitable outsourcing facilities (''Total Annual Records'' in table 1, row 2). We also estimate that preparing and maintaining each record as described in section III.B of the draft guidance will take on average approximately 5 hours for each record (''Average Burden per Recordkeeping'' in table 1, row 2).

3. Environmental and Personnel Monitoring

Under the draft guidance, procedures for environmental and personnel monitoring in the aseptic processing area for viable, nonviable, and total particulate matter should be established and followed in outsourcing facilities. The procedures should include establishing the validity of the microbiological media, including the preparation, sterilization, and growth potential of the media used in performing tests.

We estimate that annually a total of approximately 50 outsourcing facilities (''No. of Recordkeepers'' in table 1, row 3) will individually establish approximately 1,200 environmental and personnel monitoring procedures and records to document test results (''Total Annual Records'' in table 1, row 3) for the aseptic processing areas. We also estimate that preparing and maintaining the environmental and personnel monitoring procedures as described in section III.C of the draft guidance will take on average approximately 0.25

[1] This is an estimate of the number of facilities that will register as outsourcing facilities in fiscal year 2014 (which runs from October 1, 2013 to September 30, 2014). As of April 30, 2014, 40 facilities had registered as outsourcing facilities, and on average, 2 facilities have registered each month for the past 3 months, but these estimates are highly uncertain. Annual establishment fees will be assessed for each outsourcing facility registered on or after October 1, 2014. It is unknown how many facilities will remain as registered outsourcing facilities once these fees take effect.

hours for each record (''Average Burden per Recordkeeping'' in table 1, row 3).

4. Equipment, Containers, and Closures

Procedures and documentation should be established and maintained for testing compounding equipment and containers and closures to ensure the quality of compounded drug products at outsourcing facilities.

We estimate that annually a total of approximately 50 outsourcing facilities (''No. of Recordkeepers'' in table 1, row 4) will individually establish and maintain approximately 1,000 procedures and documentation for testing equipment, containers, and closures (''Total Annual Records'' in table 1, row 4) in the aseptic processing areas. We also estimate that preparing and maintaining these procedures and documentation as described in section III.D of the draft guidance will take on average approximately 0.25 hours for each record (''Average Burden per Recordkeeping'' in table 1, row 4).

5. Components

Procedures should be established and records maintained concerning the source and quality of components such as raw materials or ingredients used in producing compounded sterile drug products at outsourcing facilities.

We estimate that annually a total of approximately 50 outsourcing facilities (''No. of Recordkeepers'' in table 1, row 5) will individually establish and maintain approximately 240 records of testing to ensure the quality of components used in producing compounded drugs, as recommended in section III.E of the draft guidance (''Total Annual Records'' in table 1, row 5). We also estimate that preparing and maintaining these records will take on average approximately 4 hours for each record (''Average Burden per Recordkeeping'' in table 1, row 5).

6. Production and Process Controls

Production and process documentation and procedures, such as batch records, must be established to assure the quality of compounded sterile drug products at outsourcing facilities. Training on aseptic technique, cleanroom behavior, gowning, and procedures covering aseptic manufacturing area operations must be established. Sterilization validation of operations (e.g., holding vessels, filling equipment, lyophilizer) and periodic verification activities and results must be documented.

We estimate that annually a total of approximately 50 outsourcing facilities (''No. of Recordkeepers'' in table 1, row 6) will individually establish and maintain approximately 5,000 records pertaining to production and process controls, such as validation procedures and training, to assure the quality of compounded sterile drug products (''Total Annual Records'' in table 1, row 6). We also estimate that preparing and maintaining these records, as described in section III.F of the draft guidance, will take on average approximately 0.25 hours for each record (''Average Burden per Recordkeeping'' in table 1, row 6).

7. Release Testing

Compounded drug products produced at outsourcing facilities must be tested to determine whether they meet final product specifications prior to release for distribution, and procedures for final release testing must be established and followed.

We estimate that annually a total of approximately 50 outsourcing facilities (''No. of Recordkeepers'' in table 1, row 7) will individually establish and maintain approximately 240 records pertaining to final release testing of compounded drug products, including release testing procedures and documentation (''Total Annual Records'' in table 1, row 7). We also estimate that preparing and maintaining these records, as described in section III.G of the draft guidance, will take on average approximately 4 hours for each record (''Average Burden per Recordkeeping'' in table 1, row 7).

If sterility testing is not completed prior to release under certain conditions described in section III.G of the draft guidance, procedures must be established that specify that if the product fails to meet a criterion for sterility, all healthcare and other facilities that received the product must be immediately notified of the test results and provided with any appropriate information and recommendations to aid in the treatment of patients; the notification must be documented; and FDA must be notified in writing.

We estimate that annually a total of approximately 10 outsourcing facilities (''No. of Respondents'' in table 2, row 1) will individually send approximately 1 notification of test results to all healthcare and other facilities that received the compounded drug product and provide them with any appropriate information and recommendations to aid in the treatment of patients (''Total Annual Disclosures'' in table 2, row 1). We also estimate that preparing and sending each notification will take approximately 5 hours (''Average Burden per Disclosure'' in table 2, row 1).

We also estimate that annually, a total of approximately 10 outsourcing facilities (''No. of Respondents'' in table 3) will individually submit to FDA 1 notification of the test results for any compounded drug product that fails to meet a sterility criterion (''Total Annual Responses'' in table 3). Preparing and submitting this information will take approximately 5 hours per notification (''Average Burden per Response'' in table 3).

8. Laboratory Controls

Each laboratory used to conduct testing of components, in-process materials, and finished drug products for outsourcing facilities must follow written procedures for the conduct of each test and document the results, establish sampling and testing procedures to ensure that components, in-process materials, and drug products conform to the product specifications, and keep complete records of all tests performed to ensure compliance with established specifications and standards, including examinations and assays.

We estimate that annually a total of approximately 50 outsourcing facilities (''No. of Recordkeepers'' in table 1, row 8) will individually establish and maintain approximately 1,000 laboratory records as described in section III.H of the draft guidance (''Total Annual Records'' in table 1, row 8). We also estimate that preparing and maintaining these records will take on average approximately 0.5 hours for each record (''Average Burden per Recordkeeping'' in table 1, row 8).

9. Stability/Expiration Dating

Stability testing is used to ensure that a drug product will retain its quality (in particular, strength) and remain sterile through the labeled expiration date. The draft guidance recommends that procedures established by outsourcing facilities for assessing the stability of drug products should include: (1) using stability-indicating test methods that are reliable, meaningful and specific; (2) evaluating samples of the drug product in the same container closure system in which the drug product will be marketed; (3) evaluating samples for stability that are representative of the lot or batch from which they were obtained and are stored under suitable conditions; and (4) testing to evaluate antimicrobial effectiveness (resistance to antimicrobial contamination) for drug products labeled or intended to be multiple dose.

We estimate that annually a total of approximately 50 outsourcing facilities (''No. of Recordkeepers'' in table 1, row

9) will individually establish and maintain approximately 90 procedures for stability studies to determine an expiration date (''Total Annual Records'' in table 1, row 9) for compounded drug products. We also estimate that preparing and maintaining these procedures as described in section III.I of the draft guidance will take approximately 5 hours for each record (''Average Burden per Recordkeeping'' in table 1, row 9).

10. Packaging and Labels

Packaging of sterile drugs must ensure the sterility and integrity of the product until it is administered to a patient, and product labels must contain required information and labeling operations must include controls to prevent mix-ups. Procedures should be established by outsourcing facilities for packaging and labeling operations for compounded sterile drug products, including the following: (1) The container, closure, and packaging systems should provide adequate protection against foreseeable external factors in storage, shipment, and use that can cause contamination or deterioration; (2) packaging records should include specimens of all labels used; procedures should be established for issuance of labels, examination of issued labels, reconciliation of used labels to prevent mix-ups; (3) there should be physical/spatial separation between different labeling and packaging operations to prevent mix-ups; and (4) controls should be established that assure proper identification of any filled containers of sterile products that are stored unlabeled for any period of time.

We estimate that annually a total of approximately 50 outsourcing facilities (''No. of Recordkeepers'' in table 1, row 10) will individually establish and maintain approximately 20 procedures and records for packaging operations and labels (''Total Annual Records'' in table 1, row 10) for compounded drug products. We also estimate that preparing and maintaining these procedures and records as described in section III.J of the draft guidance will take approximately 5.5 hours for each record (''Average Burden per Recordkeeping'' in table 1, row 10).

11. Quality Assurance Activities

A quality control unit must be established by outsourcing facilities to oversee various aspects of compounded sterile drug production and to monitor quality assurance. The responsibilities of the quality control unit must be established in procedures and should include investigations and development and oversight of appropriate corrective actions and preventive actions regarding: Rejected lots of finished product, unexpected results or trends, validation and stability failures, and process deviations or equipment malfunctions that involve critical equipment. The quality control unit also is responsible for ensuring that sampling and testing are conducted to ensure that appropriate specifications are met, and for product complaint handling.

We estimate that annually a total of approximately 50 outsourcing facilities (''No. of Recordkeepers'' in table 1, row 11) will individually establish approximately 8 procedures on the responsibilities of the quality control unit (''Total Annual Records'' in table 1, row 10) as described in section III.K of the draft guidance. We also estimate that preparing and maintaining these procedures will take approximately 3 hours for each record (''Average Burden per Recordkeeping'' in table 1, row 11).

The total estimated recordkeeping, third party disclosure, and reporting burdens for the draft guidance are as follows:

TABLE 1—ESTIMATED ANNUAL RECORDKEEPING BURDEN [1]

Type of recordkeeping	Number of recordkeepers	Number of records per recordkeeper	Total annual records	Average burden per recordkeeping	Total hours
Facility Design	50	20	1,000	1.5	1,500
Control Systems and Procedures For Maintaining Suitable Facilities.	50	3	150	5	750
Environmental and Personnel Monitoring.	50	1,200	60,000	0.25 (15 minutes)	15,000
Equipment, Containers, and Closures.	50	1,000	50,000	0.25 (15 minutes)	12,500
Components	50	240	12,000	4	48,000
Production and Process Controls	50	5,000	250,000	0.25 (15 minutes)	62,500
Release Testing	50	240	12,000	4	48,000
Laboratory Controls	50	1,000	50,000	0.5 (30 minutes)	25,000
Stability/Expiration Dating	50	90	4,500	5	22,500
Packaging and Labels	50	20	1,000	5.5	5,500
Quality Assurance Activities	50	8	400	3	1,200
Total	50	8,821	441,050		242,450

[1] There are no capital costs or operating and maintenance costs associated with this collection of information.

TABLE 2—ESTIMATED ANNUAL THIRD-PARTY DISCLOSURE BURDEN [1]

Type of disclosure & proposed 21 CFR section	Number of respondents	Frequency per disclosure	Total annual disclosures	Average burden per disclosure	Total hours
Notification that a compounded drug product fails to meet a sterility criterion.	10	1	10	5	50
An expiration date is added to the compounded drug product's label.	50	540	27,000	0.25 (15 minutes)	6,750
Total	6,800				

[1] There are no capital costs or operating and maintenance costs associated with this collection of information.

TABLE 3—ESTIMATED ANNUAL REPORTING BURDEN [1]

Type of reporting & proposed 21 CFR section	Number of respondents	Number of responses per respondent	Total annual responses	Average burden per response	Total hours
Notification to FDA that a compounded drug product fails to meet a sterility criterion	10	1	10	5	50

[1] There are no capital costs or operating and maintenance costs associated with this collection of information.

V. Electronic Access

Persons with access to the Internet may obtain the document at either *http://www.fda.gov/Drugs/GuidanceComplianceRegulatoryInformation/Guidances/default.htm* or *http://www.regulations.gov*.

Dated: June 25, 2014.

Leslie Kux,

Assistant Commissioner for Policy.

[FR Doc. 2014–15370 Filed 7–1–14; 8:45 am]

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DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2013–N–1525]

Bulk Drug Substances That May Be Used To Compound Drug Products in Accordance With Section 503A of the Federal Food, Drug, and Cosmetic Act; Revised Request for Nominations

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice; revised request for nominations.

SUMMARY: The Food and Drug Administration (FDA or Agency) is preparing to develop a list of bulk drug substances (active ingredients) that may be used to compound drug products in accordance with section 503A of the Federal Food, Drug, and Cosmetic Act (the FD&C Act), although they are neither the subject of a United States Pharmacopeia (USP) or National Formulary (NF) monograph nor components of FDA-approved drugs. In response to a notice published in the **Federal Register** of December 4, 2013, interested groups and individuals previously nominated a wide variety of substances for this list. However, many of those nominations either were for a substance that is already the subject of a USP monograph or a component of an FDA-approved drug, were not for bulk drug substances used in compounding as active ingredients, or did not include sufficient information to justify inclusion of the nominated substance on the list. To improve the efficiency of the process for developing the list of bulk drug substances that may be used to compound drug products under section 503A, FDA is providing more detailed information on what it needs to evaluate a nomination. Because the deadline for nominations has passed, FDA is reopening the nomination process so that interested persons can submit nominations of bulk drug substances that are not the subject of a USP or NF monograph or a component of an FDA-approved drug. Interested persons will also have the opportunity to provide adequate support to justify placement of the substances on the list. Bulk drug substances that were previously nominated will not be further considered unless they are renominated and those nominations are adequately supported. Substances that are already eligible for use in compounding or that are not adequately supported will not be placed on the list.

DATES: Submit written or electronic nominations for the bulk drug substances list by September 30, 2014.

ADDRESSES: You may submit nominations, identified by Docket No. FDA–2013–N–1525, by any of the following methods.

Electronic Submissions

Submit electronic nominations in the following way:

• *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting ''comments.''

Written Submissions

Submit written nominations in the following ways:

• *Mail/Hand delivery/Courier (for paper submissions):* Division of Dockets Management (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852.

Instructions: All submissions received must include the Agency name and Docket No. FDA–2013–N–1525 for this request for nominations. All nominations received may be posted without change to *http://www.regulations.gov*, including any personal information provided. For additional information on submitting nominations, see the ''Request for Nominations'' heading of the **SUPPLEMENTARY INFORMATION** section of this document.

Docket: For access to the docket to read background documents or nominations received, go to *http://www.regulations.gov* and insert the docket number, found in brackets in the heading of this document, into the ''Search'' box and follow the prompts and/or go to the Division of Dockets Management, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.

FOR FURTHER INFORMATION CONTACT: Emily Helms Williams, Center for Drug Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 51, Rm. 6280, Silver Spring, MD 20993–0002, 301–796–3381.

SUPPLEMENTARY INFORMATION:

I. Background

Section 503A of the FD&C Act (21 U.S.C. 353a) describes the conditions under which a compounded drug product may be entitled to an exemption from certain sections of the FD&C Act. Those conditions include that the licensed pharmacist or licensed physician compounds the drug product using bulk drug substances that (1) comply with the standards of an applicable USP or NF monograph, if a monograph exists, and the USP chapter on pharmacy compounding; (2) if such a monograph does not exist, are drug substances that are components of drugs approved by the Secretary; or (3) if such a monograph does not exist and the drug substance is not a component of a drug approved by the Secretary, that appear on a list developed by the Secretary through regulations issued by the Secretary under subsection (c) of section 503A. See section 503A(b)(1)(A)(i) of the FD&C Act. Under section 503A(c)(2), the criteria for determining which substances should appear on the 503A bulk drugs list ''shall include historical use, reports in peer reviewed medical literature, or other criteria the Secretary may identify.''

Section 503A refers to the definition of ''bulk drug substance'' in FDA regulations at § 207.3(a)(4) (21 CFR 207.3(a)(4)). See section 503A(b)(1)(A) of the FD&C Act. As defined in

§ 207.3(a)(4), a ''bulk drug substance'' is any substance that is represented for use in a drug and that, when used in the manufacturing, processing, or packaging of a drug, becomes an active ingredient or a finished dosage form of the drug, but the term does not include intermediates used in the synthesis of such substances.

An ''active ingredient'' is any component that is intended to furnish pharmacological activity or other direct effect in the diagnosis, cure, mitigation, treatment, or prevention of disease, or to affect the structure or any function of the body of man or other animals. The term includes those components that may undergo chemical change in the manufacture of the drug product and be present in the drug product in a modified form intended to furnish the specified activity or effect. See 21 CFR 210.3(b)(7).

Any component other than an active ingredient is an ''inactive ingredient.'' See 21 CFR 210.3(b)(8). Inactive ingredients used in compounded drug products, which commonly include flavorings, dyes, diluents, or other excipients, need not appear on the Secretary's list of bulk drug substances to be eligible for use in compounding drug products and will not be included on the list.

In a notice dated November 27, 2013 (the November 27, 2013, notice), published in the **Federal Register** of December 4, 2013 (78 FR 72841), FDA requested nominations for specific bulk drug substances for the Agency to consider placing on the list. In response to that request, 115 comments were submitted to the docket, most of which nominated substances for inclusion on the bulk drug substances list. Some comments nominated several hundred substances, and approximately 10 comments nominated thousands of substances, including en bloc nominations of substances listed in the British Pharmacopeia, the European Pharmacopeia, the Japanese Pharmacopeia, the Food Chemicals Codex, the Homeopathic Pharmacopeia of the United States, and the USP Dietary Supplements Compendium. Several submissions referenced a spreadsheet entitled ''OTC Active Ingredients,'' available on FDA's Web site at *http://www.fda.gov/downloads/AboutFDA/CentersOffices/CDER/UCM135688.pdf.* Those submissions nominated all of the ingredients on the spreadsheet, which numbered over 1,700 entries.[1]

However, many of the nominated substances are typically inactive ingredients or foods. Some commonly used inactive ingredients are occasionally used as the active ingredient in a drug product. See 55 FR 46914 at 46916, November 7, 1990 (noting that 21 CFR 310.545 only affects the use of the listed ingredients as active ingredients for the specific indications, and that some of the ingredients listed in the rule, such as sorbitol, sugars, and eucalyptol, have valid uses as inactive ingredients). Ingredients commonly used as inactive ingredients in compounded drug products, such as flavorings, dyes, diluents, or other excipients, need not appear on the Secretary's list of bulk drug substances to be eligible for use as an inactive ingredient in compounded drug products, should not be nominated, and will not be included on the list. All nominations must demonstrate how the ingredient is used as an active ingredient in a particular compounded drug product.

Additionally, many of the nominated substances are already eligible for use in compounded drug products, namely, those that are components of approved products or are the subject of a USP or NF monograph. Substances that are in one of those two categories need not appear on the list of bulk drug substances to be used in compounded drug products.

Further, many of the nominations did not include sufficient information for the Agency to evaluate whether the substance is appropriate for use in compounded drug products. As stated previously, under section 503A(c)(2) of the FD&C Act, the criteria for determining which substances should appear on the 503A bulk drugs list shall include historical use, reports in peer reviewed medical literature, or other criteria the Secretary may identify. Based on this statutory language and prior consultations with the USP and the Pharmacy Compounding Advisory Committee,[2] FDA is proposing to examine the following four criteria when determining whether a bulk drug substance is appropriate for use in compounded drug products: (1) The physical and chemical characterization of the substance; (2) any safety issues raised by the use of the substance in compounded drug products; (3) historical use of the substance in compounded drug products, including information about the medical condition(s) the substance has been used to treat and any references in peer-reviewed medical literature; and (4) the available evidence of effectiveness or lack of effectiveness of a drug product compounded with the substance, if any such evidence exists. Therefore, to qualify for placement on the list, it is necessary to identify this information about the nominated substances. FDA will evaluate the nominated substances in consultation with the Pharmacy Compounding Advisory Committee.

The November 27, 2013, notice requested that nominations include ''[i]nformation about the past and proposed use(s) of the compounded product(s), including the rationale for its use or why the compounded product(s), as opposed to an FDA-approved product, is necessary.'' However, many comments to the docket did not provide any information in response to this request. The nominators of the en bloc submissions provided no justification for listing any of the specific substances on the list. To the extent information about the rationale for compounding with a bulk drug substance was provided in individual nominations, many of the comments to the docket included only a brief statement about the use of the compounded drug product and a statement that the product is not available as a commercially made drug. Such statements do not provide sufficient information for FDA to determine whether the nominated bulk drug substance is appropriate for use in compounded drug products. Because the information submitted with previous nominations was insufficient, FDA is unable to determine whether those substances should be included on the list.

To improve the efficiency of the process for developing the list of bulk drug substances that may be used to compound drug products under section 503A, and because the deadline for submitting nominations has passed, FDA is reopening the nomination process so that interested persons have the opportunity to submit nominations of bulk drug substances and provide adequate support for placing them on the list. FDA will be able to evaluate only those bulk drug substances submitted in response to this notice that are supported with adequate data and information, as described in section II.

Bulk drug substances that were previously nominated will not be

[1] The total number of unique ingredients on the spreadsheet available on FDA's Web site and the nominations that mirrored that document is lower than this total because the same substances were listed separately for different indications, according to how they are listed in the over-the-counter (OTC) monographs and regulations.

[2] See 64 FR 996, January 7, 1999 (proposed rule listing bulk drug substances that may be used in pharmacy compounding). This proposed rule was withdrawn in the November 27, 2013, notice but sets forth additional background about the criteria used in the evaluation of nominated bulk drug substances.

further considered unless they are renominated and adequately supported. Substances that are not adequately supported will not be placed on the list. FDA expects the submissions for each bulk drug substance to provide the information described in section II. For example, nominations must include sufficient information to demonstrate that a particular ingredient meets the definition of ''bulk drug substance,'' as defined in § 207.3(a)(4). See section 503A(b)(1)(A) of the FD&C Act. The identification of an ingredient as an ''active ingredient'' in a regulation, or on a spreadsheet such as the one listing ''OTC Active Ingredients,'' is not sufficient to demonstrate that a substance is a bulk drug substance for purposes of the 503A list. En bloc nominations of substances listed in compendia, pharmacopeia, or similar reference materials cannot be placed on the list unless the Agency receives adequate information for each bulk drug substance to justify its placement on the list. FDA will only be able to consider bulk drug substances that are supported with the information requested.

In section II, FDA identifies the type of information needed to support a nomination to the 503A list.

II. Request for Nominations

Interested groups and individuals may nominate specific bulk substances for inclusion on the list. Nominations will only be evaluated if they are for specific active ingredients that meet the definition of a bulk drug substance in § 207.3(a)(4), are not for components of approved products, and are not for the subject of a USP or NF monograph. To fully evaluate a bulk drug substance, FDA needs the following information about both the bulk drug substance being nominated and the drug product(s) that will be compounded using such substance:

A. Confirmation That the Nominated Substance Is a Bulk Drug Substance and Is Not Already Eligible for 503A Compounding

- A statement that the nominated substance is an active ingredient that meets the definition of ''bulk drug substance'' in § 207.3(a)(4), and an explanation of why the substance is considered an active ingredient when it is used in the identified compounded drug product(s), citing to specific sources that describe the active properties of the substance.
- A statement that the nominator has searched for the active ingredient in all three sections of the Orange Book (for prescription drug products, over-the-counter drug products, and discontinued drug products), available at *http://www.accessdata.fda.gov/scripts/cder/ob/docs/queryai.cfm*, and the drug substance did not appear in any of those searches, confirming that the substance is not a component of any FDA-approved product.
- A statement that the nominator has searched USP and NF monographs, available at *http://www.uspnf.com*, and the drug substance is not the subject of such a monograph.

B. General Background on the Bulk Drug Substance

- Ingredient name;
- Chemical name;
- Common name(s);
- Identifying codes, as available, from FDA's Unique Ingredient Identifiers (UNII) used in the FDA/USP Substance Registration System, available at *http://fdasis.nlm.nih.gov/srs/*. Because substance names can vary, this code, where available, will be used by the Agency to confirm the exact substance nominated and to identify multiple nominations of the same substance so the information can be reviewed together.
- Chemical grade of the ingredient;
- Description of the strength, quality, stability, and purity of the ingredient;
- Information about how the ingredient is supplied (e.g., powder, liquid); and
- Information about recognition of the substance in foreign pharmacopeias and the status of its registration(s) in other countries, including whether information has been submitted to USP for consideration of monograph development.

C. Information on the Drug Product That Will Be Compounded With the Bulk Drug Substance

- Information about the dosage form(s) into which the bulk drug substance will be compounded;
- Information about the strength(s) of the compounded drug product(s);
- Information about the anticipated route(s) of administration of the compounded product(s);
- A bibliography of safety and efficacy data for the drug compounded using the nominated substance, if available,[3] including any relevant peer-reviewed medical literature; and
- Information about the past and proposed use(s) of the compounded drug product(s), including the rationale for its use and why the compounded product(s), as opposed to an FDA-approved product, is necessary. Information on the rationale for use of the bulk drug substance and why a compounded drug product is necessary must be specific to the compounded drug product at issue. General or boilerplate statements regarding the need for compounded drug products or the benefits of compounding generally will not be considered sufficient to address this issue.

D. Nomination Process

Because the deadline for submitting nominations has passed, FDA is reopening the nomination process so that interested persons can submit nominations of bulk drug substances and have the opportunity to provide adequate support for placing them on the list. Bulk drug substances that were previously nominated need to be renominated. Nominators are encouraged to submit as much of the information identified in this document as possible. Unless adequate supporting data is received for a bulk drug substance, FDA will be unable to consider it further for inclusion on the list. Individuals and organizations will be able to comment on nominated substances after the nomination period has closed or petition FDA to make additional list amendments after the list is published, in accordance with 21 CFR 10.30.

For efficient consolidation and review of nominations, nominators are encouraged to submit their nominations in an editable Excel file. Specifically, nominators are encouraged to format their nominations as follows:

Column A—What information is requested?	Column B—Put data specific to the nominated substance
What is the name of the nominated ingredient?	Provide the ingredient name.
Is the ingredient an active ingredient that meets the definition of ''bulk drug substance'' in § 207.3(a)(4)?	Provide an explanation for why it is considered an active ingredient when it is used in specific compounded drug products, and provide citations to specific sources that describe its active properties.

[3] FDA recognizes that the available safety and efficacy data supporting consideration of a bulk drug substance for inclusion on the list may not be of the same type, amount, or quality as is required to support a new drug application.

Column A—What information is requested?	Column B—Put data specific to the nominated substance
Is the ingredient listed in any of the three sections of the Orange Book?	Confirm whether the ingredient is a component of an FDA-approved product.
Were any monographs for the ingredient found in the USP or NF monographs?	Confirm whether the ingredient is the subject of a USP or NF monograph.
What is the chemical name of the substance?	Chemical name.
What is the common name of the substance?	Common name.
Does the substance have a UNII Code?	UNII code.
What is the chemical grade of the substance?	Provide the chemical grade.
What is the strength, quality, stability, and purity of the ingredient?	Provide the strength, quality, stability, and purity information.
How is the ingredient supplied?	Describe how the ingredient is supplied (e.g., powder, liquid).
Is the substance recognized in foreign pharmacopeias or registered in other countries?	List the foreign pharmacopeias or other countries in which it is registered.
Has information been submitted about the substance to the USP for consideration of monograph development?	Put yes, no, or unknown. If yes, state the status of the monograph, if known.
What dosage form(s) will be compounded using the bulk drug substance?	State the dosage form(s).
What strength(s) will be compounded from the nominated substance?	List the strength(s) of the drug product(s) that will be compounded from the nominated substance, or a range of strengths, if known.
What are the anticipated route(s) of administration of the compounded drug product(s)?	List the route(s) of administration of the compounded drug product(s).
Are there safety and efficacy data on compounded drugs using the nominated substance?	Provide a bibliography of safety and efficacy data for the drug compounded using the nominated substance, if available, including any relevant peer-reviewed medical literature.
Has the bulk drug substance been used previously to compound drug product(s)?	Describe past uses of the bulk drug substance in compounding.
What is the proposed use for the drug product(s) to be compounded with the nominated substance?	Provide information on the proposed use of the compounded drug product.
What is the reason for use of a compounded drug product rather than an FDA-approved product?	Provide a rationale for the use of a compounded drug product.
Is there any other relevant information?	Provide any other information you would like FDA to consider in evaluating the nomination.

Interested persons may submit either electronic nominations to *http://www.regulations.gov* or written nominations to the Division of Dockets Management (see **ADDRESSES**). It is only necessary to send one set of nominations. Identify nominations with the docket number found in the brackets in the heading of this document. Received nominations may be seen in the Division of Dockets Management between 9 a.m. and 4 p.m., Monday through Friday, and will be posted to the docket at *http://www.regulations.gov.*

Dated: June 25, 2014.

Leslie Kux,

Assistant Commissioner for Policy.

[FR Doc. 2014–15367 Filed 7–1–14; 8:45 am]

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DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2013–N–1524]

Bulk Drug Substances That May Be Used To Compound Drug Products in Accordance With Section 503B of the Federal Food, Drug, and Cosmetic Act, Concerning Outsourcing Facilities; Revised Request for Nominations

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice; revised request for nominations.

SUMMARY: The Food and Drug Administration (FDA or Agency) is preparing to develop a list of bulk drug substances (active ingredients) that may be used to compound drug products in accordance with section 503B of the Federal Food, Drug, and Cosmetic Act (the FD&C Act) concerning outsourcing facilities. In response to a notice published in the **Federal Register** of December 4, 2013, interested groups and individuals previously nominated a wide variety of substances for this list. However, many of those nominations were not for bulk drug substances used in compounding as active ingredients, and none included sufficient information to justify inclusion of the nominated substances on the list. To improve the efficiency of the process for developing the list of bulk drug substances that may be used to compound drug products under section 503B of the FD&C Act, FDA is providing more detailed information on what it needs to evaluate a nomination. Because the deadline for nominations has passed, FDA is reopening the nomination process so that interested persons can submit nominations of bulk drug substances and provide adequate support to justify placing the substances on the list. Bulk drug substances that were previously nominated will not be further considered unless they are renominated and adequately supported. Substances that are not adequately supported will not be placed on the list.

DATES: Submit written or electronic nominations for the bulk drug substances list by September 30, 2014.

ADDRESSES: You may submit nominations, identified by Docket No. FDA–2013–N–1524, by any of the following methods.

Electronic Submissions

Submit electronic nominations in the following way:

- Federal eRulemaking Portal: *http://www.regulations.gov*. Follow the instructions for submitting comments.

Written Submissions

Submit written nominations in the following ways:

• Mail/Hand delivery/Courier (for paper submissions): Division of Dockets Management (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.

Instructions: All submissions received must include the Agency name and Docket No. FDA–2013–N–1524 for this request for nominations. All nominations received may be posted without change to *http://www.regulations.gov,* including any personal information provided. For additional information on submitting nominations, see the ''Request for Nominations'' heading of the **SUPPLEMENTARY INFORMATION** section of this document.

Docket: For access to the docket to read background documents or nominations received, go to *http://www.regulations.gov* and insert the docket number, found in brackets in the heading of this document, into the ''Search'' box and follow the prompts and/or go to the Division of Dockets Management, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.

FOR FURTHER INFORMATION CONTACT: Emily Helms Williams, Center for Drug Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 51, Rm. 6280, Silver Spring, MD 20993–0002, 301–796–3381.

SUPPLEMENTARY INFORMATION:

I. Background

Under the Drug Quality and Security Act (Pub. L. 113–54), which added section 503B to the Federal Food, Drug, and Cosmetic Act (FD&C Act) (21 U.S.C. 353b), outsourcing facilities [1] may qualify for certain exemptions from the FD&C Act if the conditions set forth in the statute are satisfied. Those conditions include that an outsourcing facility does not compound drug products using a bulk drug substance unless the bulk drug substance appears on a list established by the Secretary identifying bulk drug substances for which there is a clinical need (the 503B list), or the drug product compounded from such bulk drug substance appears on the drug shortage list in effect under section 506E of the FD&C Act (21 U.S.C. 356e) (FDA drug shortage list) at the time of compounding, distribution, and dispensing, and each of the following conditions are met: (1) If an applicable monograph exists under the United States Pharmacopeia, the National Formulary, or another compendium or pharmacopeia recognized by the Secretary for purposes of this paragraph, the bulk drug substance complies with the monograph; (2) the bulk drug substance is manufactured by an establishment that is registered under section 510 of the FD&C Act (21 U.S.C. 360); and (3) the bulk drug substance is accompanied by a valid certificate of analysis (see section 503B(a)(2) of the FD&C Act).

Section 503B refers to the definition of ''bulk drug substance'' in FDA regulations at § 207.3(a)(4) (21 CFR 207.3(a)(4)). See section 503B(a)(2) of the FD&C Act. As defined in § 207.3(a)(4), a ''bulk drug substance'' is any substance that is represented for use in a drug and that, when used in the manufacturing, processing, or packaging of a drug, becomes an active ingredient or a finished dosage form of the drug, but the term does not include intermediates used in the synthesis of such substances.

An ''active ingredient'' is any component that is intended to furnish pharmacological activity or other direct effect in the diagnosis, cure, mitigation, treatment, or prevention of disease, or to affect the structure or any function of the body of man or other animals. The term includes those components that may undergo chemical change in the manufacture of the drug product and be present in the drug product in a modified form intended to furnish the specified activity or effect. See 21 CFR 210.3(b)(7).

Any component other than an active ingredient is an ''inactive ingredient.'' See 21 CFR 210.3(b)(8). Inactive ingredients used in compounded drug products, which commonly include flavorings, dyes, diluents, or other excipients, need not appear on the Secretary's list of bulk drug substances to be eligible for use in compounding drug products and will not be included on the list.

In a notice dated November 27, 2013, published in the **Federal Register** of December 4, 2013 (78 FR 72838), FDA requested nominations for specific bulk drug substances for the Agency to consider for placement on the 503B list. In response to that request, 753 comments were submitted to the docket, most of which nominated substances for inclusion on the bulk drug substances list. Some comments nominated several hundred substances, and approximately 10 comments nominated thousands of substances, including en bloc nominations of substances listed in the United States Pharmacopeia (USP) or National Formulary, the British Pharmacopeia, the European Pharmacopeia, the Japanese Pharmacopeia, the Food Chemicals Codex, the Homeopathic Pharmacopeia of the United States, and the USP Dietary Supplements Compendium. Several submissions referenced a spreadsheet entitled ''OTC Active Ingredients,'' available on FDA's Web site at *http://www.fda.gov/downloads/AboutFDA/CentersOffices/CDER/UCM135688.pdf.* Those submissions nominated all of the ingredients on the spreadsheet, which numbered over 1,700 entries.[2]

However, many of the nominated substances are typically inactive ingredients or foods. Some commonly used inactive ingredients are occasionally used as the active ingredient in a drug product. See 55 FR 46914 at 46916, November 7, 1990 (noting that 21 CFR 310.545 only affects the use of the listed ingredients as active ingredients for the specific indications and that some of the ingredients listed in the rule, such as sorbitol, sugars, and eucalyptol, have valid uses as inactive ingredients). Ingredients commonly used as inactive ingredients in compounded drug products, such as flavorings, dyes, diluents, or other excipients, need not appear on the Secretary's list of bulk drug substances to be eligible for use as an inactive ingredient in compounded drug products, should not be nominated, and will not be included on the list. All nominations must demonstrate how the ingredient is used as an active ingredient in a particular compounded drug product.

Further, the nominations did not include sufficient information for the Agency to evaluate the clinical need for drug products compounded using the bulk drug substance. As stated previously, section 503B requires FDA to create a list ''identifying bulk drug substances for which there is a clinical need . . . .'' Section 503B(a)(2)(A)(i) of the FD&C Act. Although this language is ambiguous, the Agency has interpreted it to mean that a clinical need to compound with a bulk drug substance exists where there is a clinical need for a specific drug product to be compounded with the nominated bulk drug substance. The Agency believes that this interpretation is consistent with both the language and purpose of

[1] ''Outsourcing facilities'' are facilities that meet certain conditions described in section 503B of the FD&C Act, including registering with FDA as an outsourcing facility.

[2] The total number of unique ingredients on the spreadsheet available on FDA's Web site and the nominations that mirrored that document is lower than this total because the same substances were listed separately for different indications, according to how they are listed in the over-the-counter (OTC) monographs and regulations.

the statute. Therefore, to qualify for placement on the 503B list, it is necessary to identify the compounded drug product for which there is a clinical need and to demonstrate that the nominated bulk drug substance is required to compound that drug product.

The nominators of the en bloc submissions provided no justification for listing any of the specific substances on the list. To the extent information about the clinical need for the use of a bulk drug substance in compounded drug products was provided at all in individual nominations, many of the comments to the docket included a statement about the need for the use of bulk drug substances in compounding generally rather than information about the specific clinical need for drug products compounded using a particular bulk drug substance. For example, many nominations included the following standardized language as the explanation of clinical need for compounding with the bulk drug substance: ''Prescribed dosage forms and strengths not available commercially. Manufacturer backorders. Possible patient sensitivities to manufactured product dyes, fillers, preservatives and other excipients.'' Such statements do not provide sufficient information for FDA to determine that there is a clinical need to compound a particular drug product from the nominated bulk drug substance. Because the information submitted with previous nominations was insufficient, FDA is unable to determine whether those substances should be included on the list.

To improve the efficiency of the process for the development of the list of bulk drug substances that may be used to compound drug products under section 503B of the FD&C Act, and because the deadline for submitting nominations has passed, FDA is reopening the nomination process so that interested persons have the opportunity to submit nominations of bulk drug substances and provide adequate support for placing them on the list. FDA will be able to evaluate only those bulk drug substances submitted in response to this notice that are supported with adequate data and information, as described in section II.

Bulk drug substances that were previously nominated will not be further considered unless they are renominated and adequately supported. Substances that are not adequately supported will not be placed on the list. FDA expects the submissions for each bulk drug substance to provide the information described in section II. For example, nominations must include sufficient information to demonstrate that a particular ingredient meets the definition of ''bulk drug substance,'' as defined in § 207.3(a)(4). See section 503B(a)(2) of the FD&C Act. The identification of an ingredient as an ''active ingredient'' in a regulation, or on a spreadsheet such as the one listing ''OTC Active Ingredients,'' is not sufficient to demonstrate that a substance is a bulk drug substance for purposes of the 503B List. En bloc nominations of substances listed in compendia, pharmacopeia, or similar reference materials cannot be placed on the list unless the Agency receives adequate information for each bulk drug substance to justify its placement on the list. FDA will only be able to consider bulk drug substances that are supported with the information requested in section II.

In section II, FDA identifies the type of information needed to support a nomination to the 503B list.

II. Request for Nominations

A. Active Ingredients

Interested groups and individuals may nominate specific bulk substances for inclusion on the list. Nominations will only be evaluated if they are for specific active ingredients that meet the definition of a bulk drug substance in § 207.3(a)(4). Nominated substances that do not meet this definition will not be included on the list.

To fully evaluate a bulk drug substance, FDA needs the following information about both the bulk drug substance being nominated and the drug product(s) that will be compounded using such substance:

1. Confirmation That the Nominated Substance Is a Bulk Drug Substance

A statement that the nominated substance is an active ingredient that meets the definition of ''bulk drug substance'' in § 207.3(a)(4), and an explanation of why the substance is considered an active ingredient when it is used in compounded drug products, citing to specific sources that describe the active properties of the substance.

2. General Background on the Bulk Drug Substance

- Ingredient name;
- chemical name;
- common name(s); and
- identifying codes, as available, from FDA's Unique Ingredient Identifiers (UNII) used in the FDA/USP Substance Registration System, available at *http://fdasis.nlm.nih.gov/srs/*. Because substance names can vary, this code, where available, will be used by the Agency to confirm the exact substance nominated and to identify multiple nominations of the same substance so the information can be reviewed together.
- Chemical grade of the ingredient;
- description of the strength, quality, stability, and purity of the ingredient;
- information about how the ingredient is supplied (e.g., powder, liquid); and
- information about recognition of the substance in foreign pharmacopeias and the status of its registration(s) in other countries, including whether information has been submitted to USP for consideration of monograph development.

B. Clinical Need To Compound

For FDA to be able to meaningfully evaluate a substance, the information provided regarding the clinical need for compounding with a bulk drug substance must be specific to the particular substance nominated and drug product to be compounded. A ''boilerplate'' or general explanation of clinical need for compounding with bulk drug substances will not enable FDA to conduct an adequate review. Prescribers of the compounded drug products who may be in the best position to explain why there is a clinical need for a compounded drug product may provide data in support of a nomination. The following information about clinical need is necessary to provide adequate support for nominations to the 503B list:

- A statement describing the medical condition(s) that the drug product to be compounded with the nominated bulk drug substances is intended to treat (i.e., what patient need is met by the drug product compounded with the bulk drug substance);
- a list of FDA-approved drug products, if any, that address the same medical condition;
- if there are FDA-approved drug products that address the same medical condition, an explanation of why a compounded drug product is necessary (i.e., why the approved drug product is not suitable for a particular patient population);
- if the approved drug product is not suitable for a particular patient population, an estimate of the size of the population that would need a compounded drug product (e.g., for a drug product compounded from bulk because of patient allergies or other intolerances to excipients in FDA-approved drug products, FDA expects the supporting information to include a good faith estimate of the patient

population with the specific medical condition that suffers from the allergy or intolerance, with citations to the literature regarding the incidence of the condition or a statement that a search was conducted and no references were found); [3]

• a bibliography of safety and efficacy data for the drug compounded using the nominated substance,[4] if available, including any relevant peer-reviewed medical literature; and

• if there is an FDA-approved drug product that includes the bulk drug substance nominated, an explanation of why the drug product proposed to be compounded must be compounded from bulk rather than with the FDA-approved drug product.

General or boilerplate statements regarding the need to compound from the bulk drug substance or the benefits of compounding generally will not be considered sufficient. Note that the Agency does not consider supply issues, such as backorders, that do not rise to the level of a drug shortage listed on FDA's drug shortage Web site as evidence of a clinical need for compounding with a bulk drug substance, and section 503B of the FD&C Act already allows compounding from bulk drug substances if the compounded drug product is on the FDA drug shortage list. Similarly, considerations of cost and convenience will not be considered indicators of clinical need.

C. Information on the Drug Product That Will Be Compounded With the Bulk Drug Substance

• Information about the dosage form(s) into which the bulk drug substance will be compounded;

• information about the strength(s) of the compounded drug product(s);

• information about the anticipated route(s) of administration of the compounded drug product(s); and

• information about the previous use(s) of the compounded drug product(s).

D. Nomination Process

Because the deadline for submitting nominations has passed, FDA is reopening the nomination process so that interested persons can submit nominations of bulk drug substances and have the opportunity to provide adequate support for placing them on the list. Bulk drug substances that were previously nominated need to be renominated. Nominators are encouraged to submit as much of the information identified in this document as possible. Unless adequate supporting data is received for a bulk drug substance, FDA will be unable to consider it further for inclusion on the list.

Individuals and organizations will be able to comment on nominated substances after the nomination period has closed or petition FDA to make additional list amendments after the list is published, in accordance with 21 CFR 10.30.

For efficient consolidation and review of nominations, nominators are encouraged to submit their nominations in an editable Excel file. Specifically, nominators are encouraged to format their nominations as follows:

Column A—What information is requested?	Column B—put data specific to the nominated substance
What is the name of the nominated ingredient?	Provide the ingredient name.
Is the ingredient an active ingredient that meets the definition of "bulk drug substance" in § 207.3(a)(4)?	Provide an explanation for why it is considered an active ingredient when it is used in specific compounded drug products, and provide citations to specific sources that describe its active properties.
What is the chemical name of the substance?	Chemical name.
What is the common name of the substance?	Common name.
Does the substance have a UNII Code?	UNII code.
What is the chemical grade of the substance?	Provide the chemical grade.
What is the strength, quality, stability, and purity of the ingredient?	Provide the strength, quality, stability, and purity information.
How is the ingredient supplied?	Describe how the ingredient is supplied (e.g., powder, liquid).
Is the substance recognized in foreign pharmacopeias or registered in other countries?	List the foreign pharmacopeias or other countries in which it is registered.
Has information been submitted about the substance to the USP for consideration of monograph development?	Put yes, no, or unknown. If yes, state the status of the monograph, if known.
What medical condition(s) is the drug product compounded with the bulk drug substances intended to treat?	Describe the medical condition(s) that the drug product compounded with the bulk drug substances is intended to treat.
Are there other drug products approved by FDA to treat the same medical condition?	List the other approved treatments.
If there are FDA-approved drug products that address the same medical condition, why is there a clinical need for a compounded drug product?	Provide a justification for clinical need, including an estimate of the size of the population that would need the compounded drug.
Are there safety and efficacy data on compounded drugs using the nominated substance?	Provide a bibliography of safety and efficacy data for the drug compounded using the nominated substance, if available, including any relevant peer-reviewed medical literature.
If there is an FDA-approved drug product that includes the bulk drug substance nominated, is it necessary to compound a drug product from the bulk drug substance rather than from the FDA-approved drug product?	Provide an explanation of why it is necessary to compound from the bulk drug substance.
What dosage form(s) will be compounded using the bulk drug substance?	State the dosage form(s).
What strength(s) will be compounded from the nominated substance?	List the strength(s) of the drug product(s) that will be compounded from the nominated substance, or a range of strengths, if known.
What are the anticipated route(s) of administration of the compounded drug product(s)?	List the route(s) of administration of the compounded drug product(s).

[3] For example, if there is a need to compound a drug product from bulk drug substances due to patient sensitivity to a preservative or other excipient in the approved drug product, the supporting data is expected to set forth the number of patients for whom the drug product is prescribed that are allergic or sensitive to that particular excipient.

[4] FDA recognizes that the available safety and efficacy data supporting consideration of a bulk drug substance for inclusion on the list may not be of the same type, amount, or quality as is required to support a new drug application. Note that data regarding safety and efficacy, while relevant, is not indicative of a clinical need for a particular bulk drug substance, and additional information regarding the clinical need must be provided.

Column A—What information is requested?	Column B—put data specific to the nominated substance
Has the bulk drug substance been used previously to compound drug product(s)?	Describe previous uses of the bulk drug substance in compounding.
Is there any other relevant information?	Provide any other information you would like FDA to consider in evaluating the nomination.

Interested persons may submit either electronic nominations to *http://www.regulations.gov* or written nominations to the Division of Dockets Management (see **ADDRESSES**). It is only necessary to send one set of nominations. Identify nominations with the docket number found in the brackets in the heading of this document. Received nominations may be seen in the Division of Dockets Management between 9 a.m. and 4 p.m., Monday through Friday, and will be posted to the docket at *http://www.regulations.gov*.

Dated: June 25, 2014.

Leslie Kux,

Assistant Commissioner for Policy.

[FR Doc. 2014–15373 Filed 7–1–14; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration

Statement of Organization, Functions and Delegations of Authority

This notice amends Part R of the Statement of Organization, Functions and Delegations of Authority of the Department of Health and Human Services (HHS), Health Resources and Services Administration (HRSA) (60 FR 56605, as amended November 6, 1995; 67 FR 46519, as amended June 11, 2008; 73 FR 33099, as amended September 30, 2009, 78 FR 50227, as last amended January 24, 2013, 78 FR 7436). This Order of Succession supersedes the Order of Succession for the Administrator, HRSA, published at 78 FR 7436, February 1, 2013.

This notice deletes the Bureau of Health Professions; the Bureau of Clinician Recruitment and Services; and Regional Division Directors from the order of succession, and adds the Bureau of Health Workforce and Regional Administrators to HRSA's hierarchy affecting the Order of Succession. This notice reflects the new Order of Succession for HRSA.

Section R–30, Order of Succession

During the absence or disability of the Administrator, or in the event of a vacancy in the office, the officials designated below shall act as Administrator in the order in which they are listed:

1. Deputy Administrator;

2. Chief Operating Officer;

3. Associate Administrator, Bureau of Primary Health Care;

4. Associate Administrator, Bureau of Health Workforce;

5. Associate Administrator, HIV/AIDS Bureau;

6. Associate Administrator, Maternal and Child Health Bureau;

7. Associate Administrator, Healthcare Systems Bureau;

8. Associate Administrator, Office of Regional Operations; and

9. HRSA Regional Administrators in the order in which they have received their permanent appointment as such.

Exceptions

(a) No official listed in this section who is serving in acting or temporary capacity shall, by virtue of so serving, act as Administrator pursuant to this section.

(b) Notwithstanding the provisions of this section, during a planned period of absence, the Administrator retains the discretion to specify a different order of succession.

Section R–40, Delegations of Authority

All delegations of authority and re-delegations of authority made to HRSA officials that were in effect immediately prior to this action, and that are consistent with this action, shall continue in effect pending further re-delegation, pending further re-delegation, provided they are consistent with this action.

This document is effective upon date of signature.

Dated: June 25, 2014.

Mary K. Wakefield,

Administrator.

[FR Doc. 2014–15498 Filed 7–1–14; 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; Population Assessment of Tobacco and Health (PATH) Study

SUMMARY: Under the provisions of Section 3507(a)(1)(D) of the Paperwork Reduction Act of 1995, the National Institute on Drug Abuse (NIDA), the National Institutes of Health (NIH), has submitted to the Office of Management and Budget (OMB) a request for review and approval of the information collection listed below. This proposed information collection was previously published in the **Federal Register** on February 6, 2014, pages 7206–7207, and allowed 60-days for public comment. One public comment was received. The purpose of this notice is to allow an additional 30 days for public comment. The National Institutes of Health may not conduct or sponsor, and the respondent is not required to respond to, an information collection that has been extended, revised, or implemented on or after October 1, 1995, unless it displays a currently valid OMB control number.

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, submit comments in writing, or request more information on the proposed project contact: Kevin P. Conway, Ph.D., Deputy Director, Division of Epidemiology, Services, and Prevention Research, National Institute on Drug Abuse, 6001 Executive Boulevard., Room 5185; or call non-toll-free number (301)-443–8755; or Email your request,

including your address to: *PATHprojectofficer@mail.nih.gov.* Formal requests for additional plans and instruments must be requested in writing.

Proposed Collection: Population Assessment of Tobacco and Health (PATH) Study—Second Wave of Data Collection—0925–0664–Revision—National Institutes of Health (NIH), National Institute on Drug Abuse (NIDA), in partnership with the Food and Drug Administration (FDA).

Need and Use of Information Collection: This is a revision request (OMB 0925–0664, expires 11/30/2015) for the Population Assessment of Tobacco and Health (PATH) Study to conduct the second wave of data collection. The PATH Study is a large national longitudinal cohort study on tobacco use behavior and health among the U.S. household population of adults age 18 and older and youth ages 12 to 17. The PATH Study conducts annual interviews and collects biospecimens from adults to help inform the development, implementation, and evaluation of tobacco-product regulations by FDA in meeting its mission under the Family Smoking Prevention and Tobacco Control Act (TCA) to regulate tobacco products, including tobacco-product advertising, labeling, marketing, constituents, ingredients, and additives. The longitudinal design of the PATH Study enables it to measure and report within-person changes and between-person differences in tobacco product use behaviors and health effects within the cohort over time. These data will help to inform regulatory decisions and actions by FDA.

OMB approval is requested for 3 years. There are no capital, operating, or maintenance costs to report. There are no costs to respondents other than their time. The total estimated annualized burden hours are 56,939. Factors accounting for the difference between the baseline and Wave 2 total hours include the following: (1) Wave 2 does not have a screening phase; (2) as indicated in Supporting Statement B, a 86 percent response rate for adult interviews and a 90 percent response rate for youth interviews are projected for Wave 2; and (3) fewer biological samples will be collected in Wave 2.

ESTIMATED ANNUALIZED BURDEN HOURS

Type of respondent and instrument	Estimated number of respondents	Estimated number of responses per respondent	Average burden hours per response	Estimated total annual burden hours requested
Adults—Extended Interview	* 27,113	1	1	27,113
Adults—Baseline youth respondents who age into adult cohort—Consent for Extended Interview	2,295	1	2/60	77
Adults—Baseline youth respondents who age into adult cohort—Extended Interview	* 1,990	1	68/60	2,255
Adults—Baseline youth respondents who age into the adult cohort—Consent for Biological Samples	1,990	1	4/60	133
Adults—Biospecimen Collection: Urine	11,373	1	10/60	1,896
Adults—Biospecimen Collection: Blood	896	1	18/60	269
Adults—Tobacco Use Form	12,269	1	4/60	818
Adults—Follow-up/Tracking Participant Information Form	33,615	2	8/60	8,964
Youth—Extended Interview	** 10,537	1	32/60	5,620
Youth—Shadow youth who age into youth cohort—Assent for Extended Interview	2,338	1	2/60	78
Youth—Shadow youth who age into youth cohort—Extended Interview	** 2,105	1	42/60	1,474
Parent Interview	10,748	1	14/60	2,508
Parents of Shadow youth who age into youth cohort—Parent Permission and Consent for Parent Interview	2,338	1	2/60	78
Parents of Shadow youth who age into youth cohort—Parent Interview	2,147	1	17/60	608
Parents of youth—Follow-up/Tracking Participant Information Form for Youth	14,165	2	8/60	3,777
Adults—Follow-up/Tracking Participant Information Form for sample Shadow youth (completed by parents)	4,772	2	8/60	1,273

* Estimated total number of adult extended interview respondents is 27,113 adults from Wave 1 + 1,990 youth from Wave 1 who turn 18 by Wave 2 = 29,103.

** Estimated total number of youth extended interview respondents is 10,537 youth from Wave 1+ 2,105 shadow youth who turn 12 by Wave 2 = 12,642.

Dated: June 25, 2014.

Genevieve R. deAlmeida,

Project Clearance Liaison, National Institute on Drug Abuse.

[FR Doc. 2014–15584 Filed 7–1–14; 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, Kidney Disease Ancillary Studies.

Date: July 23, 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: Michele L. Barnard, Ph.D., Scientific Review Officer, Review Branch, DEA, NIDDK, National Institutes of Health, Room 753, 6707 Democracy Boulevard, Bethesda, MD 20892–2542, (301) 594–8898, *barnardm@extra.niddk.nih.gov*.

Name of Committee: National Institute of Diabetes and Digestive and Kidney Diseases Special Emphasis Panel, Time-Sensitive Obesity Prevention.
Date: July 30, 2014.
Time: 2:00 p.m. to 3:30 p.m.
Agenda: To review and evaluate grant applications.
Place: National Institutes of Health, Two Democracy Plaza, 6707 Democracy Boulevard, Bethesda, MD 20892, (Telephone Conference Call).
Contact Person: Michele L. Barnard, Ph.D., Scientific Review Officer, Review Branch, DEA, NIDDK, National Institutes of Health, Room 753, 6707 Democracy Boulevard, Bethesda, MD 20892–2542, (301) 594–8898, *barnardm@extra.niddk.nih.gov*.

Name of Committee: National Institute of Diabetes and Digestive and Kidney Diseases Special Emphasis Panel, RFA–DK13–017 Human Islet Research Network Consortium on Modeling Autoimmune Interactions (HIRN–CMAI).
Date: August 4, 2014.
Time: 1:00 p.m. to 5:00 p.m.
Agenda: To review and evaluate cooperative agreement applications.
Place: National Institutes of Health, Two Democracy Plaza, 6707 Democracy Boulevard, Bethesda, MD 20892, (Telephone Conference Call).
Contact Person: Ann A. Jerkins, Ph.D., Scientific Review Officer, Review Branch, DEA, NIDDK, National Institutes of Health, Room 759, 6707 Democracy Boulevard, Bethesda, MD 20892–5452, 301–594–2242, *jerkinsa@niddk.nih.gov*.

(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: June 26, 2014.

David Clary,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2014–15424 Filed 7–1–14; 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 Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Center for Scientific Review Special Emphasis Panel; RFA Panel: Ethical Issues Related to Central IRBs and Research Using Clinical Records.
Date: July 8, 2014.
Time: 12:00 p.m. to 6:00 p.m.
Agenda: To review and evaluate grant applications.
Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Virtual Meeting).
Contact Person: Denise Wiesch, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3138, MSC 7770, Bethesda, MD 20892, (301) 437–3478, *wieschd@csr.nih.gov*.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel; RFA Panel: Ethical Issues Related to Central IRBs and Research Using Clinical Records.
Date: July 8, 2014.
Time: 12:00 p.m. to 6:00 p.m.
Agenda: To review and evaluate grant applications.
Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).
Contact Person: Karin F Helmers, Ph.D., Scientific Review Officer, Center for Scientific Review National Institutes of Health, 6701 Rockledge Drive, Room 3144, MSC 7770, Bethesda, MD 20892, (301) 254–9975, helmersk@csr.nih.gov.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

(Catalogue of Federal Domestic Assistance Program Nos. 93.306, Comparative Medicine; 93.333, Clinical Research, 93.306, 93.333, 93.337, 93.393–93.396, 93.837–93.844, 93.846–93.878, 93.892, 93.893, National Institutes of Health, HHS).

Dated: June 26, 2014

Carolyn A. Baum,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2014–15422 Filed 7–1–14; 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 Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Center for Scientific Review Special Emphasis Panel Member Conflict: Topics in Virology.
Date: July 22–23, 2014.
Time: 9:00 a.m. to 5:00 p.m.
Agenda: To review and evaluate grant applications.
Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Virtual Meeting).
Contact Person: Marci Scidmore, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3192, MSC 7808, Bethesda, MD 20892, 301–435–1149, *marci.scidmore@nih.gov*.

Name of Committee: Center for Scientific Review Special Emphasis Panel Member Conflict: Neurological, Aging and Musculoskeletal Epidemiology.
Date: July 22, 2014.
Time: 2:00 p.m. to 5:00 p.m.
Agenda: To review and evaluate grant applications.
Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Virtual Meeting).
Contact Person: George Vogler, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3140, MSC 7770, Bethesda, MD 20892, (301) 237–2693, *voglergp@csr.nih.gov*.

Name of Committee: AIDS and Related Research Integrated Review Group AIDS Discovery and Development of Therapeutics Study Section.
Date: July 25, 2014.
Time: 8:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Renaissance Mayflower Hotel, 1127 Connecticut Avenue NW., Washington, DC 20036.

Contact Person: Shiv A Prasad, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5220, MSC 7852, Bethesda, MD 20892, 301–443–5779, *prasads@csr.nih.gov*.

Name of Committee: Center for Scientific Review Special Emphasis Panel Program Project: National Biomedical NMR Resource.

Date: July 27–29, 2014.

Time: 8:00 p.m. to 12:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Hampton Inn & Suites Madison/Downtown, 440 W. Johnson St., Madison, WI 53703.

Contact Person: Mike Radtke, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4176, MSC 7806, Bethesda, MD 20892, 301–435–1728, *radtkem@csr.nih.gov*.

(Catalogue of Federal Domestic Assistance Program Nos. 93.306, Comparative Medicine; 93.333, Clinical Research, 93.306, 93.333, 93.337, 93.393–93.396, 93.837–93.844, 93.846–93.878, 93.892, 93.893, National Institutes of Health, HHS).

Dated: June 26, 2014.

Carolyn A. Baum,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2014–15423 Filed 7–1–14; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Docket ID FEMA–2104–0010; OMB No. 1660–0010]

Agency Information Collection Activities: Submission for OMB Review; Comment Request; Implementation of Coastal Barrier Legislation.

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Notice.

SUMMARY: The Federal Emergency Management Agency (FEMA) will submit the information collection abstracted below to the Office of Management and Budget for review and clearance in accordance with the requirements of the Paperwork Reduction Act of 1995. The submission will describe the nature of the information collection, the categories of respondents, the estimated burden (i.e., the time, effort and resources used by respondents to respond) and cost, and the actual data collection instruments FEMA will use.

DATES: Comments must be submitted on or before August 1, 2014.

ADDRESSES: Submit written comments on the proposed information collection to the Office of Information and Regulatory Affairs, Office of Management and Budget. Comments should be addressed to the Desk Officer for the Department of Homeland Security, Federal Emergency Management Agency, and sent via electronic mail to *oira.submission@omb.eop.gov* or faxed to (202) 395–5806.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection should be made to Director, Records Management Division, 500 C Street SW., Room 7NE, Washington, DC 20472–3100, facsimile number (202) 212–4701, or email address *FEMA-Information-Collections-Management@dhs.gov.*

SUPPLEMENTARY INFORMATION:

Collection of Information

Title: Implementation of Coastal Barrier Legislation.

Type of information collection: Extension, without change, of a currently approved information collection.

Form Titles and Numbers: None.

Abstract: When an application for flood insurance is submitted for buildings located in a Coastal Barrier Resource System (CBRS) or an otherwise protected area, one of the following types of documentation must be submitted as evidence of eligibility: (a) Certification from a community official stating the building is not located in a designated CBRS area; (b) A legally valid building permit or certification from a community official stating that the start date of a building's construction preceded the date that the community was identified in the CBRS; or (c) Certification from the governmental body overseeing the area indicating that the building is used in a manner consistent with the purpose for which the area is protected.

Affected Public: Individuals or households; Businesses or other for profits; Not-for-profit institutions; Farms; and State, local or Tribal governments.

Estimated Number of Respondents: 1600.

Estimated Total Annual Burden Hours: 400.

Estimated Cost: The estimated annual operations and maintenance costs for technical services is $1,600.00. There is no annual start-up or capital costs. The change in number of respondents since the 60 day **Federal Register** Notice (79 FR 12699 (March 6, 2014)) is based on an updated calculation of flood insurance applications received requiring this CBRS documentation. The estimated total annual burden hour and cost have been updated to reflect this adjusted estimated number of respondents.

Dated: June 23, 2014.

Charlene D. Myrthil,

Director, Records Management Division, Mission Support Bureau, Federal Emergency Management Agency, Department of Homeland Security.

[FR Doc. 2014–15462 Filed 7–1–14; 8:45 am]

BILLING CODE 9110–11–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Docket ID FEMA–2014–0007; OMB No. 1660–0128]

Agency Information Collection Activities: Submission for OMB Review; Comment Request; Federal Emergency Management Agency Individual Assistance Program Effectiveness & Recovery Survey

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Notice.

SUMMARY: The Federal Emergency Management Agency (FEMA) will submit the information collection abstracted below to the Office of Management and Budget for review and clearance in accordance with the requirements of the Paperwork Reduction Act of 1995. The submission will describe the nature of the information collection, the categories of respondents, the estimated burden (i.e., the time, effort and resources used by respondents to respond) and cost, and the actual data collection instruments FEMA will use.

DATES: Comments must be submitted on or before August 1, 2014.

ADDRESSES: Submit written comments on the proposed information collection to the Office of Information and Regulatory Affairs, Office of Management and Budget. Comments should be addressed to the Desk Officer for the Department of Homeland Security, Federal Emergency Management Agency, and sent via electronic mail to *oira.submission@omb.eop.gov* or faxed to (202) 395–5806.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or

copies of the information collection should be made to Director, Records Management Division, 500 C Street SW., Washington DC 20472, facsimile number (202) 212–4701, or email address *FEMA-Information-Collections-Management@dhs.gov.*

SUPPLEMENTARY INFORMATION:

Burden Hour Change Since Publication of the 60 Day **Federal Register** *Notice:* The burden hours have increased since publication of the 60 day **Federal Register** notice. The increase in burden hours is due to the addition of questions covering survey topics whose results will provide timely customer satisfaction results and will benefit the divisions and offices managing FEMA's Individual Assistance programs. The burden hours increased from 2,698 hours to 2,979 hours or 281 additional hours.

Collection of Information

Title: Federal Emergency Management Agency Individual Assistance Program Effectiveness & Recovery Survey.

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

Form Titles and Numbers: FEMA Form 007–0–20 Program Effectiveness & Recovery Survey.

Abstract: Federal agencies are required to survey their customers to determine the kind and quality of services customers want and their level of satisfaction with those services. FEMA managers use the survey results to measure performance against standards for performance and customer service, measure achievement of strategic planning objectives, and generally gauge and make improvements to disaster service that increase customer satisfaction.

Affected Public: Individuals and Households.

Estimated Number of Respondents: 8,976.

Estimated Total Annual Burden Hours: 2,698.

Estimated Cost: $8,064 for travel to focus groups.

Dated: June 16, 2014.

Charlene D. Myrthil,

Director, Records Management Division, Mission Support Bureau, Federal Emergency Management Agency, Department of Homeland Security.

[FR Doc. 2014–15463 Filed 7–1–14; 8:45 am]

BILLING CODE 9111–23–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Docket ID FEMA 2014–0021]

Notice of Intent To Prepare a Programmatic Environmental Assessment and Notice of Public Scoping Period; Wildfire Mitigation Programmatic Environmental Assessment

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Notice.

SUMMARY: In compliance with the National Environmental Policy Act of 1969, the Federal Emergency Management Agency (FEMA) is proposing to prepare a programmatic environmental assessment (PEA) to evaluate the potential beneficial and adverse impacts from eligible wildfire mitigation activities funded under the Hazard Mitigation Grant Program (HMGP) and Pre-Disaster Mitigation (PDM) Program. This PEA will evaluate the environmental impacts of continuing to fund eligible activities under these programs (Proposed Action). FEMA anticipates that this programmatic approach will result in better decision-making, and will improve the timeliness and efficiency of environmental reviews. The identification of specific activities that would not require additional environmental review, along with project-specific reviews informed by or ''tiered to'' the PEA, will improve efficiency by helping to streamline the process of environmental review.

FEMA provides this notice to advise other Federal and State agencies, Territories, Indian Tribal Governments, local governments, private non-profit and other non-governmental organizations, and the public of our intent to prepare a PEA, to provide information on the nature of the analysis, and to invite public input on the scope of issues, proposed alternatives, potential effects and measures to lessen those effects that may be considered. Agencies, interested parties, and the public are invited to submit comments on the scope of the PEA at any time during the public comment period.

DATES: Comments must be received by August 18, 2014.

ADDRESSES: Comments must be identified by Docket ID FEMA–2014–0021 and may be submitted by the following method:

Federal eRulemaking Portal: http://www.regulations.gov. Follow the instructions for submitting comments. Please note that this notice of intent is not a rulemaking and that the Federal Rulemaking Portal is being utilized only as a mechanism for receiving comments.

Mail: Regulatory Affairs Division, Office of Chief Counsel, Federal Emergency Management Agency, 8NE, 500 C Street SW., Washington, DC 20472–3100.

FOR FURTHER INFORMATION CONTACT: Cecelia Rosenberg, Chief, Grants Policy Branch, Federal Insurance and Mitigation Administration, Federal Emergency Management Agency, 1800 South Bell Street Room 608, Arlington, VA 20598–3015, (202) 646–3321.

SUPPLEMENTARY INFORMATION:

I. Public Participation

Instructions: All submissions received must include the agency name and docket ID. Regardless of the method used for submitting comments or material, all submissions will be posted, without change, to the Federal eRulemaking Portal at *http://www.regulations.gov,* and will include any personal information you provide. Therefore, submitting this information makes it public. You may wish to read the Privacy Act notice, which can be viewed by clicking on the ''Privacy Notice'' link in the footer of *www.regulations.gov.*

You may submit your comments and material by the methods specified in the **ADDRESSES** section above. Please submit your comments and any supporting material by only one means to avoid the receipt and review of duplicate submissions.

II. Background

The Robert T. Stafford Disaster Relief and Emergency Assistance Act (Stafford Act), 42 U.S.C. 5121 *et seq.,* authorizes FEMA to provide funding for the purpose of reducing or eliminating risks to human life and property from future hazard events, such as wildfire. Wildfires are defined as any uncontrolled fires occurring within natural landscapes such as forests and brush. FEMA funds wildfire mitigation activities through two programs: the Pre-Disaster Mitigation (PDM) program (authorized by Section 203 of the Stafford Act, 42 U.S.C. 5133) and the Hazard Mitigation Grant Program (HMGP) (authorized by Section 404 of the Stafford Act, 42 U.S.C. 5170c). Through these programs, FEMA provides grants to local governments, private non-profit organizations, Territories, Indian Tribal Governments,

and State governments to implement comprehensive, long-term, and cost-effective hazard mitigation measures in conformance with State and local mitigation plans. The PDM program and HMGP are available to mitigate the risk to health and safety and risk of damage to clearly defined vulnerable buildings and structures from wildfires.

In 2008, FEMA issued the *Wildfire Mitigation Grant Policy for the Hazard Mitigation Grant Program (HMGP) and Pre-Disaster Mitigation (PDM) Program* (FEMA Policy MRR–2–08–1) which established funding eligibility criteria. The policy clarified the use of program funds for wildfire hazard reduction, the types of activities that would be eligible for grant assistance, and other conditions that would apply. FEMA substantively reviewed the policy three years later and found that revisions were not warranted. At that time, FEMA incorporated the policy into Part B of the Addendum to the Hazard Mitigation Assistance Unified Guidance (June 2013), found at *https://www.fema.gov/media-library/assets/documents/33634?id=7851*. Also at that time, FEMA decided it would be prudent to look at eligible wildfire mitigation activities programmatically because it had not previously done so. The nationwide PEA will assess the potential environmental impacts of wildfire mitigation activities for which subsequent actions will be implemented, based on either the PEA without requiring additional environmental review, or on subsequent project-specific reviews tiered to the PEA. In addition, environmental considerations may lead to identification of potential improvements to program operations.

Eligible Activities: Following are three types of wildfire mitigation projects:

- Defensible space—The creation of perimeters around residential and non-residential buildings and structures through the removal or reduction of flammable vegetation;
- Structural Protection through Ignition-Resistant Construction—The application of non-combustible building envelope assemblies, the use of ignition-resistant materials, and the use of proper retrofit techniques in new and existing structures; and
- Hazardous Fuels Reduction—Vegetation management to decrease the amount of hazardous fuels; vegetation thinning; and reduction of flammable materials to protect life and property beyond defensible space perimeters but proximate to at-risk structures.

Eligible wildfire mitigation projects must clearly demonstrate reduction or elimination of the threat of damages to buildings and structures from future wildfires.

Area of Study: Eligible projects must be located within a Wildland-Urban Interface (WUI), where wildland vegetation is adjacent to or intermingled with the built environment, or be located within two miles of a large contiguous block of wildland vegetation, and must provide protection to life and the built environment from future wildfires. The WUI is not a place, per se, but a set of conditions that can exist anywhere. The eligibility of wildfire mitigation projects located up to two miles from wildlands recognizes the danger from flaming embers to ignite structures even when they are not immediately adjacent to wildland vegetation. Eligible projects may be located anywhere in the United States. However, most past HMGP and PDM grant applications for wildfire hazard reduction projects have come from FEMA Regions V, VI, VIII, IX, and X, which correspond to areas of greatest wildfire frequency. These regions include the following States:

- Region V: Illinois, Indiana, Michigan, Minnesota, Ohio, and Wisconsin.
- Region VI: Oklahoma, Texas, New Mexico, Arkansas, and Louisiana.
- Region VIII: Colorado, Montana, North Dakota, South Dakota, Utah, and Wyoming.
- Region IX: Arizona, California, Hawaii, Nevada, and the Pacific Islands.
- Region X: Washington, Oregon, Idaho, and Alaska.

Duplication of Programs: FEMA mitigation grant programs target at-risk structures and are for activities in areas outside of the primary focus of other Federal agencies' fire threat reduction programs. FEMA hazard mitigation assistance for wildfires is available only for long-term and cost-effective actions that reduce the risk to specific property or structures from future wildfires. The FEMA goal of reducing the risk from wildfire hazards to human life and property, including loss of function of critical facilities, is intended to complement, and not duplicate, the programs of other Federal agencies such as the U.S. Forest Service or the Bureau of Land Management, to address wildfire threat to the built human environment within or proximate to the WUI. FEMA does not have authority to fund projects on land owned by another Federal entity, or projects with the purpose of addressing forest health conditions or ecological or agricultural issues related to land and forest management.

Proposed Scope of the PEA: This PEA will be used to evaluate the environmental impacts of continuing to fund eligible activities under the PDM program and HMGP as described in Part B of the Addendum to the Hazard Mitigation Assistance Unified Guidance (June 2013) (Proposed Action). FEMA will compare the Proposed Action with the No Action Alternative, which would consider the elimination of FEMA grant funding for wildfire hazard mitigation. Environmental effects of each alternative to be evaluated will include impacts on fish, wildlife, and vegetation; cultural and historic resources; visual resources and aesthetics; air quality and climate change; geology and soils; water quality; wetlands; floodplains; land use; and socioeconomic factors including environmental justice.

Public Involvement and Comments: Public comment is invited on the scope of the PEA and specifically on the scope of issues, proposed alternatives, potential effects and measures to lessen effects that may be considered (40 CFR 1501.7). Public comments are being accepted during the scoping period as described under the **DATES** section of this Notice and comments may be submitted as described under the **ADDRESSES** section of the this Notice.

FEMA specifically invites comments that relate to the environmental effects that may result from implementation of the Proposed Action. FEMA will consider these comments in developing the draft PEA. We particularly seek comments on the following:

1. The direct, indirect, and cumulative effects that implementation of any reasonable alternative could have on the natural and cultural environment;

2. Other reasonable alternatives for consideration and their associated effects;

3. Any other environmental issues that should be considered with regard to the proposed wildfire hazard mitigation measures.

After gathering public comments on the scope of the PEA, FEMA will develop a draft PEA that will be available for public review and comment according to 44 CFR part 10. FEMA will publish a notice of availability in the **Federal Register** when the draft PEA is available for public review, and will notify parties who provided comments during this scoping period.

Authority: 42 U.S.C. 4331 *et seq.;* 40 CFR part 1500; 44 CFR part 10.

Dated: June 25, 2014.

W. Craig Fugate,

Administrator, Federal Emergency Management Agency.

[FR Doc. 2014–15486 Filed 7–1–14; 8:45 am]

BILLING CODE 9110–13–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Internal Agency Docket No. FEMA–4179–DR; Docket ID FEMA–2014–0003]

Nebraska; Major Disaster and Related Determinations

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Notice.

SUMMARY: This is a notice of the Presidential declaration of a major disaster for the State of Nebraska (FEMA–4179–DR), dated June 17, 2014, and related determinations.

DATES: *Effective Date:* June 17, 2014.

FOR FURTHER INFORMATION CONTACT: Dean Webster, Office of Response and Recovery, Federal Emergency Management Agency, 500 C Street SW., Washington, DC 20472, (202) 646–2833.

SUPPLEMENTARY INFORMATION: Notice is hereby given that, in a letter dated June 17, 2014, the President issued a major disaster declaration under the authority of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. 5121 et seq. (the ''Stafford Act''), as follows:

I have determined that the damage in certain areas of the State of Nebraska resulting from severe storms, tornadoes, straight-line winds, and flooding during the period of May 11–12, 2014, is of sufficient severity and magnitude to warrant a major disaster declaration under the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. 5121 et seq. (the ''Stafford Act''). Therefore, I declare that such a major disaster exists in the State of Nebraska.

In order to provide Federal assistance, you are hereby authorized to allocate from funds available for these purposes such amounts as you find necessary for Federal disaster assistance and administrative expenses.

You are authorized to provide Public Assistance in the designated areas and Hazard Mitigation throughout the State. Consistent with the requirement that Federal assistance be supplemental, any Federal funds provided under the Stafford Act for Hazard Mitigation will be limited to 75 percent of the total eligible costs. Federal funds provided under the Stafford Act for Public Assistance also will be limited to 75 percent of the total eligible costs, with the exception of projects that meet the eligibility criteria for a higher Federal cost-sharing percentage under the Public Assistance Alternative Procedures Pilot Program for Debris Removal implemented pursuant to Section 428 of the Stafford Act.

Further, you are authorized to make changes to this declaration for the approved assistance to the extent allowable under the Stafford Act.

The Federal Emergency Management Agency (FEMA) hereby gives notice that pursuant to the authority vested in the Administrator, under Executive Order 12148, as amended, Christian Mark Van Alstyne, of FEMA is appointed to act as the Federal Coordinating Officer for this major disaster.

The following areas of the State of Nebraska have been designated as adversely affected by this major disaster:

Clay, Fillmore, Saline, Saunders, Seward, and York Counties for Public Assistance.

All counties within the State of Nebraska are eligible to apply for assistance under the Hazard Mitigation Grant Program.

The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 97.030, Community Disaster Loans; 97.031, Cora Brown Fund; 97.032, Crisis Counseling; 97.033, Disaster Legal Services; 97.034, Disaster Unemployment Assistance (DUA); 97.046, Fire Management Assistance Grant; 97.048, Disaster Housing Assistance to Individuals and Households in Presidentially Declared Disaster Areas; 97.049, Presidentially Declared Disaster Assistance—Disaster Housing Operations for Individuals and Households; 97.050, Presidentially Declared Disaster Assistance to Individuals and Households—Other Needs; 97.036, Disaster Grants—Public Assistance (Presidentially Declared Disasters); 97.039, Hazard Mitigation Grant.

W. Craig Fugate,

Administrator, Federal Emergency Management Agency.

[FR Doc. 2014–15484 Filed 7–1–14; 8:45 am]

BILLING CODE 9111–23–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Internal Agency Docket No. FEMA–4177–DR; Docket ID FEMA–2014–0003]

Florida; Amendment No. 5 to Notice of a Major Disaster Declaration

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster declaration for State of Florida (FEMA–4177–DR), dated May 6, 2014, and related determinations.

DATES: *Effective Date:* June 13, 2014.

FOR FURTHER INFORMATION CONTACT: Dean Webster, Office of Response and Recovery, Federal Emergency Management Agency, 500 C Street SW., Washington, DC 20472, (202) 646–2833.

SUPPLEMENTARY INFORMATION: The Federal Emergency Management Agency (FEMA) hereby gives notice that pursuant to the authority vested in the Administrator, under Executive Order 12148, as amended, Laura S. Hevesi, of FEMA is appointed to act as the Federal Coordinating Officer for this disaster.

This action terminates the appointment of Gracia B. Szczech as Federal Coordinating Officer for this disaster.

The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 97.030, Community Disaster Loans; 97.031, Cora Brown Fund; 97.032, Crisis Counseling; 97.033, Disaster Legal Services; 97.034, Disaster Unemployment Assistance (DUA); 97.046, Fire Management Assistance Grant; 97.048, Disaster Housing Assistance to Individuals and Households In Presidentially Declared Disaster Areas; 97.049, Presidentially Declared Disaster Assistance—Disaster Housing Operations for Individuals and Households; 97.050, Presidentially Declared Disaster Assistance to Individuals and Households—Other Needs; 97.036, Disaster Grants—Public Assistance (Presidentially Declared Disasters); 97.039, Hazard Mitigation Grant.

W. Craig Fugate,

Administrator, Federal Emergency Management Agency.

[FR Doc. 2014–15576 Filed 7–1–14; 8:45 am]

BILLING CODE 9111–23–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Internal Agency Docket No. FEMA–4173–DR; Docket ID FEMA–2014–0003]

Indiana; Amendment No. 1 to Notice of a Major Disaster Declaration

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster declaration for the State of Indiana (FEMA–4173–DR), dated April 22, 2014, and related determinations.

DATES: *Effective Date:* May 23, 2014.

FOR FURTHER INFORMATION CONTACT: Dean Webster, Office of Response and Recovery, Federal Emergency Management Agency, 500 C Street SW., Washington, DC 20472, (202) 646–2833.

SUPPLEMENTARY INFORMATION: The notice of a major disaster declaration for the State of Indiana is hereby amended to include the following areas among those areas determined to have been adversely affected by the event declared a major disaster by the President in his declaration of April 22, 2014.

Blackford, Clinton, Fulton, Hamilton, Johnson, LaGrange, Marion, Montgomery, and Vanderburgh Counties for Public Assistance.

Blackford, Clinton, Fulton, Hamilton, Johnson, LaGrange, Marion, and Montgomery Counties for snow assistance under the Public Assistance program for any continuous 48-hour period during or proximate to the incident period.

The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 97.030, Community Disaster Loans; 97.031, Cora Brown Fund; 97.032, Crisis Counseling; 97.033, Disaster Legal Services; 97.034, Disaster Unemployment Assistance (DUA); 97.046, Fire Management Assistance Grant; 97.048, Disaster Housing Assistance to Individuals and Households In Presidentially Declared Disaster Areas; 97.049, Presidentially Declared Disaster Assistance—Disaster Housing Operations for Individuals and Households; 97.050 Presidentially Declared Disaster Assistance to Individuals and Households—Other Needs; 97.036, Disaster Grants—Public Assistance (Presidentially Declared Disasters); 97.039, Hazard Mitigation Grant.

W. Craig Fugate,

Administrator, Federal Emergency Management Agency.

[FR Doc. 2014–15490 Filed 7–1–14; 8:45 am]

BILLING CODE 9111–23–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Internal Agency Docket No. FEMA–4177–DR; Docket ID FEMA–2014–0003]

Florida; Amendment No. 3 to Notice of a Major Disaster Declaration

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster declaration for the State of Florida (FEMA–4177–DR), dated May 6, 2014, and related determinations.

DATES: *Effective Date:* May 21, 2014.

FOR FURTHER INFORMATION CONTACT: Dean Webster, Office of Response and Recovery, Federal Emergency Management Agency, 500 C Street SW., Washington, DC 20472, (202) 646–2833.

SUPPLEMENTARY INFORMATION: The notice of a major disaster declaration for the State of Florida is hereby amended to include the following area among those areas determined to have been adversely affected by the event declared a major disaster by the President in his declaration of May 6, 2014.

Jackson County for Individual Assistance.

The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 97.030, Community Disaster Loans; 97.031, Cora Brown Fund; 97.032, Crisis Counseling; 97.033, Disaster Legal Services; 97.034, Disaster Unemployment Assistance (DUA); 97.046, Fire Management Assistance Grant; 97.048, Disaster Housing Assistance to Individuals and Households In Presidentially Declared Disaster Areas; 97.049, Presidentially Declared Disaster Assistance—Disaster Housing Operations for Individuals and Households; 97.050 Presidentially Declared Disaster Assistance to Individuals and Households—Other Needs; 97.036, Disaster Grants—Public Assistance (Presidentially Declared Disasters); 97.039, Hazard Mitigation Grant.

W. Craig Fugate,

Administrator, Federal Emergency Management Agency.

[FR Doc. 2014–15536 Filed 7–1–14; 8:45 am]

BILLING CODE 9111–23–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Internal Agency Docket No. FEMA–4177–DR; Docket ID FEMA–2014–0003]

Florida; Amendment No. 4 to Notice of a Major Disaster Declaration

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster declaration for the State of Florida (FEMA–4177–DR), dated May 6, 2014, and related determinations.

DATES: *Effective Date:* June 13, 2014.

FOR FURTHER INFORMATION CONTACT: Dean Webster, Office of Response and Recovery, Federal Emergency Management Agency, 500 C Street SW., Washington, DC 20472, (202) 646–2833.

SUPPLEMENTARY INFORMATION: The notice of a major disaster declaration for the State of Florida is hereby amended to include the following areas among those areas determined to have been adversely affected by the event declared a major disaster by the President in his declaration of May 6, 2014.

Bay, Calhoun, Holmes, and Washington Counties for Public Assistance.

Jackson County for Public Assistance (already designated for Individual Assistance).

The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 97.030, Community Disaster Loans; 97.031, Cora Brown Fund; 97.032, Crisis Counseling; 97.033, Disaster Legal Services; 97.034, Disaster Unemployment Assistance (DUA); 97.046, Fire Management Assistance Grant; 97.048, Disaster Housing Assistance to Individuals and Households In Presidentially Declared Disaster Areas; 97.049, Presidentially Declared Disaster Assistance—Disaster Housing Operations for Individuals and Households; 97.050 Presidentially Declared Disaster Assistance to Individuals and Households—Other Needs; 97.036, Disaster Grants—Public Assistance (Presidentially Declared Disasters); 97.039, Hazard Mitigation Grant.

W. Craig Fugate,

Administrator, Federal Emergency Management Agency.

[FR Doc. 2014–15460 Filed 7–1–14; 8:45 am]

BILLING CODE 9111–23–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Internal Agency Docket No. FEMA–4176–DR; Docket ID FEMA–2014–0003]

Alabama; Amendment No. 5 to Notice of a Major Disaster Declaration

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster declaration for the State of Alabama (FEMA–4176–DR), dated May 2, 2014, and related determinations.

DATES: *Effective Date:* June 5, 2014.

FOR FURTHER INFORMATION CONTACT: Dean Webster, Office of Response and Recovery, Federal Emergency Management Agency, 500 C Street SW., Washington, DC 20472, (202) 646–2833.

SUPPLEMENTARY INFORMATION: The notice of a major disaster declaration for the State of Alabama is hereby amended to include the following area among those areas determined to have been adversely affected by the event declared a major disaster by the President in his declaration of May 2, 2014.

Bullock County for Public Assistance (Categories A–G).

The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 97.030, Community Disaster Loans; 97.031, Cora Brown Fund; 97.032, Crisis Counseling; 97.033, Disaster Legal Services; 97.034, Disaster Unemployment Assistance (DUA); 97.046, Fire Management Assistance Grant; 97.048, Disaster Housing Assistance to Individuals and Households In Presidentially Declared Disaster Areas; 97.049, Presidentially Declared Disaster Assistance—Disaster Housing Operations for Individuals and Households; 97.050 Presidentially Declared Disaster Assistance to Individuals and Households—Other Needs; 97.036, Disaster Grants—Public Assistance (Presidentially Declared Disasters); 97.039, Hazard Mitigation Grant.

W. Craig Fugate,

Administrator, Federal Emergency Management Agency.

[FR Doc. 2014–15459 Filed 7–1–14; 8:45 am]

BILLING CODE 9111–23–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Internal Agency Docket No. FEMA–4175–DR; Docket ID FEMA–2014–0003]

Mississippi; Amendment No. 1 to Notice of a Major Disaster Declaration

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster declaration for the State of Mississippi (FEMA–4175–DR), dated April 30, 2014, and related determinations.

DATES: *Effective Date:* May 3, 2014.

FOR FURTHER INFORMATION CONTACT: Dean Webster, Office of Response and Recovery, Federal Emergency Management Agency, 500 C Street SW., Washington, DC 20472, (202) 646–2833.

SUPPLEMENTARY INFORMATION: Notice is hereby given that the incident period for this major disaster is closed effective May 3, 2014.

The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 97.030, Community Disaster Loans; 97.031, Cora Brown Fund; 97.032, Crisis Counseling; 97.033, Disaster Legal Services; 97.034, Disaster Unemployment Assistance (DUA); 97.046, Fire Management Assistance Grant; 97.048, Disaster Housing Assistance to Individuals and Households in Presidentially Declared Disaster Areas; 97.049, Presidentially Declared Disaster Assistance—Disaster Housing Operations for Individuals and Households; 97.050, Presidentially Declared Disaster Assistance to Individuals and Households—Other Needs; 97.036, Disaster Grants—Public Assistance (Presidentially Declared Disasters); 97.039, Hazard Mitigation Grant.

W. Craig Fugate,

Administrator, Federal Emergency Management Agency.

[FR Doc. 2014–15566 Filed 7–1–14; 8:45 am]

BILLING CODE 9111–23–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Internal Agency Docket No. FEMA–4173–DR; Docket ID FEMA–2014–0003]

Indiana; Amendment No. 2 to Notice of a Major Disaster Declaration

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster declaration for the State of Indiana (FEMA–4173–DR), dated April 22, 2014, and related determinations.

DATES: *Effective Date:* June 23, 2014.

FOR FURTHER INFORMATION CONTACT: Dean Webster, Office of Response and Recovery, Federal Emergency Management Agency, 500 C Street SW., Washington, DC 20472, (202) 646–2833.

SUPPLEMENTARY INFORMATION: The notice of a major disaster declaration for the State of Indiana is hereby amended to include the following area among those areas determined to have been adversely affected by the event declared a major disaster by the President in his declaration of April 22, 2014.

Allen County for Public Assistance.

Allen County for snow assistance under the Public Assistance program for any continuous 48-hour period during or proximate to the incident period.

The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 97.030, Community Disaster Loans; 97.031, Cora Brown Fund; 97.032, Crisis Counseling; 97.033, Disaster Legal Services; 97.034, Disaster Unemployment Assistance (DUA); 97.046, Fire Management Assistance Grant; 97.048, Disaster Housing Assistance to Individuals and Households In Presidentially Declared Disaster Areas; 97.049, Presidentially Declared Disaster Assistance—Disaster Housing Operations for Individuals and Households; 97.050 Presidentially Declared Disaster Assistance to Individuals and Households—Other Needs; 97.036, Disaster Grants—Public Assistance (Presidentially Declared Disasters); 97.039, Hazard Mitigation Grant.

W. Craig Fugate,

Administrator, Federal Emergency Management Agency.

[FR Doc. 2014–15571 Filed 7–1–14; 8:45 am]

BILLING CODE 9111–23–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Internal Agency Docket No. FEMA–4175–DR; Docket ID FEMA–2014–0003]

Mississippi; Amendment No. 2 to Notice of a Major Disaster Declaration

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster declaration for the State of Mississippi (FEMA–4175–DR), dated April 30, 2014, and related determinations.

DATES: *Effective Date:* May 6, 2014.

FOR FURTHER INFORMATION CONTACT: Dean Webster, Office of Response and Recovery, Federal Emergency Management Agency, 500 C Street SW., Washington, DC 20472, (202) 646–2833.

SUPPLEMENTARY INFORMATION: The notice of a major disaster declaration for the State of Mississippi is hereby amended to include the following areas among those areas determined to have been adversely affected by the event declared a major disaster by the President in his declaration of April 30, 2014.

Jones, Leake, Montgomery, Simpson, and Warren Counties for Individual Assistance.

The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 97.030, Community Disaster Loans; 97.031, Cora Brown Fund; 97.032, Crisis Counseling; 97.033, Disaster Legal Services; 97.034, Disaster Unemployment Assistance (DUA); 97.046, Fire Management Assistance Grant; 97.048, Disaster Housing Assistance to Individuals and Households In Presidentially Declared Disaster Areas; 97.049, Presidentially Declared Disaster Assistance—Disaster Housing Operations for Individuals and Households; 97.050 Presidentially Declared Disaster Assistance to Individuals and Households—Other Needs; 97.036, Disaster Grants—Public Assistance (Presidentially Declared Disasters); 97.039, Hazard Mitigation Grant.

W. Craig Fugate,

Administrator, Federal Emergency Management Agency.

[FR Doc. 2014–15485 Filed 7–1–14; 8:45 am]

BILLING CODE 9111–23–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Internal Agency Docket No. FEMA–4178–DR; Docket ID FEMA–2014–0003]

Vermont; Major Disaster and Related Determinations

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Notice.

SUMMARY: This is a notice of the Presidential declaration of a major disaster for the State of Vermont (FEMA–4178–DR), dated June 11, 2014, and related determinations.

DATES: *Effective Date:* June 11, 2014.

FOR FURTHER INFORMATION CONTACT: Dean Webster, Office of Response and Recovery, Federal Emergency Management Agency, 500 C Street SW., Washington, DC 20472, (202) 646–2833.

SUPPLEMENTARY INFORMATION: Notice is hereby given that, in a letter dated June 11, 2014, the President issued a major disaster declaration under the authority of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. 5121 *et seq.* (the ''Stafford Act''), as follows:

I have determined that the damage in certain areas of the State of Vermont resulting from severe storms and flooding during the period of April 15–18, 2014, is of sufficient severity and magnitude to warrant a major disaster declaration under the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. 5121 et seq. (the ''Stafford Act''). Therefore, I declare that such a major disaster exists in the State of Vermont.

In order to provide Federal assistance, you are hereby authorized to allocate from funds available for these purposes such amounts as you find necessary for Federal disaster assistance and administrative expenses.

You are authorized to provide Public Assistance in the designated areas and Hazard Mitigation throughout the State. Consistent with the requirement that Federal assistance be supplemental, any Federal funds provided under the Stafford Act for Hazard Mitigation will be limited to 75 percent of the total eligible costs. Federal funds provided under the Stafford Act for Public Assistance also will be limited to 75 percent of the total eligible costs, with the exception of projects that meet the eligibility criteria for a higher Federal cost-sharing percentage under the Public Assistance Alternative Procedures Pilot Program for Debris Removal implemented pursuant to Section 428 of the Stafford Act.

Further, you are authorized to make changes to this declaration for the approved assistance to the extent allowable under the Stafford Act.

The Federal Emergency Management Agency (FEMA) hereby gives notice that pursuant to the authority vested in the Administrator, under Executive Order 12148, as amended, James N. Russo, of FEMA is appointed to act as the Federal Coordinating Officer for this major disaster.

The following areas of the State of Vermont have been designated as adversely affected by this major disaster:

Caledonia, Essex, Franklin, Lamoille, Orange, Orleans, and Washington Counties for Public Assistance.

All counties within the State of Vermont are eligible to apply for assistance under the Hazard Mitigation Grant Program.

The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 97.030, Community Disaster Loans; 97.031, Cora Brown Fund; 97.032, Crisis Counseling; 97.033, Disaster Legal Services; 97.034, Disaster Unemployment Assistance (DUA); 97.046, Fire Management Assistance Grant; 97.048, Disaster Housing Assistance to Individuals and Households In Presidentially Declared Disaster Areas; 97.049, Presidentially Declared Disaster Assistance—Disaster Housing Operations for Individuals and Households; 97.050, Presidentially Declared Disaster Assistance to Individuals and Households—Other Needs; 97.036, Disaster Grants—Public Assistance (Presidentially Declared Disasters); 97.039, Hazard Mitigation Grant.

W. Craig Fugate,

Administrator, Federal Emergency Management Agency.

[FR Doc. 2014–15580 Filed 7–1–14; 8:45 am]

BILLING CODE 9111–23–P

DEPARTMENT OF HOMELAND SECURITY

Transportation Security Administration

Intent To Request Approval From OMB of One New Public Collection of Information: Application To Participate in the Screening Partnership Program (SPP)

AGENCY: Transportation Security Administration, DHS.

ACTION: Notice.

SUMMARY: The Transportation Security Administration (TSA) invites public comment on a new Information Collection Request (ICR) abstracted below that we will submit to the Office of Management and Budget (OMB) for approval in compliance with the Paperwork Reduction Act (PRA). The ICR describes the nature of the information collection and its expected burden. The collection involves an application completed by airports desiring to opt-out of federal passenger and baggage screening, and preferring that a qualified private screening company perform screening functions.

DATES: Send your comments by September 2, 2014.

ADDRESSES: Comments may be emailed to *TSAPRA@dhs.gov* or delivered to the TSA PRA Officer, Office of Information Technology (OIT), TSA–11, Transportation Security Administration, 601 South 12th Street, Arlington, VA 20598–6011.

FOR FURTHER INFORMATION CONTACT: Christina A. Walsh at the above address, or by telephone (571) 227–2062.

SUPPLEMENTARY INFORMATION:

Comments Invited

In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 et seq.), an agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a valid OMB control number. The ICR documentation is available at *http://www.reginfo.gov.* Therefore, in preparation for OMB review and approval of the following information collection, TSA is soliciting comments to—

(1) Evaluate whether the proposed information requirement is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agency's estimate of the burden;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, including using appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

Information Collection Requirement

TSA's Screening Partnership Program (SPP) (implementing 49 U.S.C. 44920) enables commercial airports to apply for a private screening company to provide passenger and baggage security screening services. An airport submits the SPP application to have employees of a qualified private company carry out the screening of passengers and property at the airport. The SPP application will collect the following from each airport seeking to participate in SPP:

- Basic airport information: airport name, FAA identifier, and airport operating authority;
- Primary airport operator contact: name, position, phone, mailing address and email address;

• Indication of whether or not the airport desires to provide its own screening services;

• Recommendation on which private screening company should perform the screening function, and why, and whether or not the airport intends to enter into a business relationship with the recommended company;

• Information on any major activities scheduled to occur at the airport within the next five years that could impact the transition from federal screening to private screening (for example, major construction); and

• Optional information may be provided to support the consideration of their application.

Purpose and Description of Data Collection

The submission of the SPP application represents the initial notification to TSA of an airport's desire to opt-out of the federal screening provided by TSA employees. TSA currently has a screening presence at approximately 450 airports, of which 18 airports are actively participating in SPP.

The annual burden for the information collection related to SPP is estimated to be two-hours thirty minutes (2.5 hours). TSA estimates that 10 airports will respond annually. The agency estimates that each respondent airport will spend approximately one quarter (.25) hour to complete the application for a total burden of two-hours thirty minutes (2.50 hours). TSA does not require the airports to maintain records of the application submission. However, if the airport choses to do so, the burden associated with this action is anticipated to be minimal.

Use of Information

TSA will acknowledge receipt of the application, review for completeness, and provide an official response within 120 days from the date of acknowledgement. If the application submission is complete, TSA will provide the applicant with an appropriate approval response and include a status update. If the application is incomplete, TSA will provide a detailed response identifying the actions required for a successful application submission.

The application contains no personally identifiable information, sensitive security information, or classified information, so no special handling or protection is required.

Dated: June 26, 2014.

Christina A. Walsh,

TSA Paperwork Reduction Act Officer, Office of Information Technology.

[FR Doc. 2014–15541 Filed 7–1–14; 8:45 am]

BILLING CODE 9110–05–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–5752–N–54]

30-Day Notice of Proposed Information Collection: Public Housing Financial Management Template

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:* August 1, 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 April 15, 2014.

A. Overview of Information Collection

Title of Information Collection: Public Housing Financial Management Template.

OMB Approval Number: 2535–0107.

Type of Request: Extension of currently approved collection.

Form Number: None.

Description of the need for the information and proposed use: To meet the requirements of the Uniform Financial Standards Rule (24 CFR Part 5, Subpart H) and the continued implementation of asset management contained in 24 CFR Part 990, the Department has developed the financial management template that public housing agencies (PHAs) use to annually submit electronically financial information to HUD. HUD uses the financial information it collects from each PHA to assist in the evaluation and assessment of the PHAs' overall condition. Requiring PHAs to report electronically has enabled HUD to provide a comprehensive financial assessment of the PHAs receiving federal funds from HUD.

Respondents: Public Housing Agencies.

Estimated Number of Respondents: 4,055.

Estimated Number of Responses: 7,614.

Frequency of Response: 4,055 PHAs submit one unaudited financial management template annually and 3, 559 PHAs also submit one audited financial management template annually.

Average Hours per Response: Average of 5.31 hours per response, for a total reporting burden of 40,448 hours

Total Estimated Burdens: Average cost of $196.54 per response, for a total annual cost of $1,496,434.66 for both unaudited and audited templates.

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: June 27, 2014.

Colette Pollard,

Department Reports Management Officer, Office of the Chief Information Officer.

[FR Doc. 2014–15590 Filed 7–1–14; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–5752–N–55]

30-Day Notice of Proposed Information Collection: Technical Suitability of Products Program Section 521 of the National Housing Act

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:* August 1, 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 May 2, 2014.

A. Overview of Information Collection

Title of Information Collection: Technical Suitability of Products Program Section 521 of the National Housing Act.

OMB Approval Number: 2502–0313.

Type of Request: Extension of currently approved collection.

Form Number: None.

Description of the need for the information and proposed use: This information is needed under HUD's Technical Suitability of Products Program to determine the acceptance of materials and products to be used in structures approved for mortgages insured under the National Housing Act.

Respondents: General Purpose Statistics and Research.

Estimated Number of Respondents: 50.

Estimated Number of Responses: 50.

Frequency of Response: 1.

Average Hours per Response: 26.

Total Estimated Burdens: 2,200.

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: June 27, 2014.

Colette Pollard,

Department Reports Management Officer, Office of the Chief Information Officer.

[FR Doc. 2014–15589 Filed 7–1–14; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–5756–N–22]

60-Day Notice of Proposed Information Collection: Mortgagor's Certificate of Actual Cost

AGENCY: Office of the Assistant Secretary for Housing—Federal Housing Commissioner, HUD.

ACTION: Notice.

SUMMARY: HUD is seeking approval from the Office of Management and Budget (OMB) for the information collection described below. In accordance with the Paperwork Reduction Act, HUD is requesting comment from all interested parties on the proposed collection of information. The purpose of this notice is to allow for 60 days of public comment.

DATES: *Comments Due Date: September 2, 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: Colette Pollard, Reports Management Officer, QDAM, Department of Housing and Urban Development, 451 7th Street SW., Room 4176, Washington, DC 20410–5000; telephone 202–402–3400 (this is not a toll-free number) or email at *Colette.Pollard@hud.gov* for a copy of the proposed forms or other available information. Persons with hearing or speech impairments may access this number through TTY by calling the toll-free Federal Relay Service at (800) 877–8339.

FOR FURTHER INFORMATION CONTACT: Ted K. Toon, Director, Office of Multifamily Development, Department of Housing and Urban Development, 451 7th Street SW., Washington, DC 20410, telephone (202) 402–8386 for copies of the proposed forms and other available information.

This is not a toll-free number. Persons with hearing or speech impairments may access this number through TTY by calling the toll-free Federal Relay Service at (800) 877–8339. Copies of available documents submitted to OMB may be obtained from Ms. Pollard.

SUPPLEMENTARY INFORMATION: This notice informs the public that HUD is seeking approval from OMB for the information collection described in Section A.

A. Overview of Information Collection

Title of Information Collection: Mortgagor's Certificate of Actual Cost.

OMB Approval Number: 2502–0112.

Type of Request: Extension of currently approved collection.

Form Number: HUD–92330.

Description of the need for the information and proposed use: HUD uses the form to obtain data from a mortgagor relative to the actual cost of a project. HUD uses the cost information to determine the maximum insurable mortgage for final endorsement of an insured mortgage. Actual cost is defined in section 227(c) of the National Housing Act. In addition Form HUD–92330 must be accompanied by an audited balance sheet certified by an accountant unless the project has less than 40 units, or if it is a refinancing or a purchase of an existing project under 207/223f or 232/223f.

Respondents: Insured Mortgagees.

Estimated Number of Respondents: 2151.

Estimated Number of Responses: 2151.

Frequency of Response: 1.

Average Hours per Response: 8.

Total Estimated Burdens: 17,208.

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: June 25, 2014.

Laura M. Marin,

Associate General Deputy Assistant Secretary for Housing-Associate Deputy Federal Housing Commissioner.

[FR Doc. 2014–15588 Filed 7–1–14; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–5747–N–02]

Public Housing Assessment System (PHAS) Capital Fund Interim Scoring Notice: Reinstitution of Five Points for Occupancy Sub-Indicator and Request for Comment

AGENCY: Office of the Assistant Secretary for Public and Indian Housing, HUD.

ACTION: Notice.

SUMMARY: This notice makes final a prior notice reinstating, temporarily, the award of 5 points for the occupancy sub-indicator of the Capital Fund Program Indicator to all PHAs for the PHAS Capital Fund Program Indicator. This award of points is provided as regulatory relief from a non-statutory element of PHAS and intended to help lessen the impact of decreases in funding in recent appropriations acts. Adding automatic points for the occupancy sub-indicator will allow PHAs to focus on the statutory criteria for assessing performance under the Capital Fund Indicator, which is timely obligation of the Capital Funds and will in no way limit HUD's oversight and monitoring of PHAs. This notice, in order to ensure there is no confusion on this point, is explicit about the fact that the remainder of the Capital Fund Scoring Notice of February 23, 2011 remains in effect and unchanged by this notice, and if the PHA receives 0 points for the timeliness of obligation subindicator, it is not eligible for points for the occupancy subindicator.

DATES: *Effective Date:* July 2, 2014.

Applicability Dates: This notice applies to PHAs with fiscal years ending March 31, 2014, June 30, 2014, September 30, 2014, December 31, 2014, March 31, 2015, June 30 2015, September 30, 2015, and December 31, 2015.

FOR FURTHER INFORMATION CONTACT: Claudia J. Yarus, Real Estate Assessment Center (REAC), Office of Public and Indian Housing, Department of Housing and Urban Development, 550 12th Street SW., Suite 100, Washington, DC 20410, telephone 202–475–8830 (this is not a toll-free number). Persons with hearing or speech impairments may access this number through TTY by calling the toll-free Federal Relay Service at 800–877–8339. Additional information is available from the REAC Internet site at *http://www.hud.gov/offices/reac/.*

SUPPLEMENTARY INFORMATION:

I. Background

On December 16, 2013, HUD published a notice proposing for public comment its intent to reinstitute, temporarily, the award of 5 points for the occupancy sub-indicator of the Capital Fund Program Indicator to all PHAs for the PHAS Capital Fund Program Indicator (78 FR 76160). This final notice follows that proposed notice.

II. The Public Comments

The public comment period ended on January 15, 2014. By the end of the public comment period, HUD received 12 public submissions on a variety of issues. While all commenters except for one agreed with the result of the notice, only one stated unqualified agreement; the other supportive commenters raised issues notwithstanding their overall agreement. A summary of the significant issues raised and HUD's response follows.

Issue: Six commenters agreed with the notice but stated that the change should be implemented permanently. Some of these commenters stated that, absent this relief, the 40 percent reduction in capital funding over the years combined with the elevated standards imposed by UPCS, would increase the number of troubled PHAs due to uncontrollable circumstances. A commenter stated that given the current financial climate, especially in rural areas, the award of five points will make a definite difference. Another commenter stated that it is important to keep up with the area private housing market and maintain the good will of residents.

Response: HUD has determined at this time to not make this a permanent change in the scoring. The purpose of awarding PHAs the full five points for the Capital Fund occupancy sub-indicator automatically for a two year period allows PHAs to focus on the statutory criteria of assessing performance under the Capital Fund Indicator which is the timely obligation of Capital Funds. HUD is providing this relief to help lessen the impact of some of the automatic across-the-board funding cuts on PHAs. Even in times of difficult funding, however, HUD believes PHAs must maximize occupancy to the extent possible.

Issue: Three commenters agreed with the notice but requested that the fiscal years covered by the notice be increased. One commenter stated that the notice should be retroactive to the previous fiscal year. One commenter stated that the notice should include at least fiscal years ending December 31, 2013, and possibly September 30, 2013,

out of fairness because of the negative budget impacts of prior Continuing Resolutions and sequestration, which resulted in a full year of reduced allocations, which in turn reduced the commenter's ability to adequately address vacancies during the entire period.

One commenter stated that the notice should be applied to fiscal year 2013 because of the effect of sequestration cuts, which forced them to cut maintenance staff and increased unit turn-around time, and that if the commenter had known that HUD would issue the notice, it would have waited until 2014 to institute certain policy changes which, although good for the future, increased its short-term vacancy rate. The commenter stated that ''We had operating reserves recaptured in 2012 and in 2013 we were only funded at 82 percent. We had to reduce our maintenance staff due to the sequestration and budget cuts. At the same time our units are older and require a longer 'make ready' time frame. We have more vacant units than we have ever had. We have 78 applications on our waiting list and 22 vacant units. Our maximum unit turn-around is 4 units a week. Two policy changes contributed to our having a much higher vacancy than usual. First on 7/1/13 we implemented a 'Smoke-Free' policy in our elderly high-rise and some family units and we allowed elderly residents to transfer to non-Smoke-Free units. We also implemented a Prompt Rent Pay Policy in 2013, whereby residents that are late paying rent more than 3 times in 12 months, are sent an eviction notice. This caused several evictions in 2013.''

Response: HUD has determined at this time to neither increase the number of fiscal year end dates nor to change the fiscal year end dates for which all PHAs will be awarded five points in the Capital Fund occupancy sub-indicator assessment. HUD declines to make an adjustment in to the applicability date section of the notice because of the spending decisions of particular PHAs in prior fiscal years even given program-wide budget shortfalls. It is the decision of each PHA, based on the funding available in any given year, how to best serve the families in their communities and operate their housing agency during that year, including how best to allocate their funding between the most important capital needs and other programs given the recent funding environment. Going forward, this notice will provide relief to PHAs for two full fiscal years.

Issue: Two commenters stated that, while the notice was ''appreciated'' and ''a welcome and needed form of regulatory relief,'' the occupancy sub-indicator under the Capital Fund Indicator should be permanently removed from the PHAS scoring regulations. One commenter stated that housing agencies are already scored in occupancy under the Management Indicator, and the occupancy sub-indicator under the Capital Fund Indicator deters housing agencies from having vacant units necessary to perform construction work to preserve their public housing stock. The other commenter stated that ''as the occupancy is already applied in the Management Indicator,'' this subindicator is a double penalty.

Response: Removal of the Capital Fund occupancy sub-indicator from PHAS is outside the scope of this notice. This notice is limited to the temporary award to PHAs of the full five points for the Capital Fund occupancy sub-indicator for PHA fiscal years ending March 31, 2014, through and including December 31, 2015. Removal of the occupancy sub-indicator would require a regulatory revision of 24 CFR 902.50(c).

HUD remains concerned about the time dwelling units are in modernization status. The scoring of the Capital Fund occupancy sub-indicator allows up to 4 percent of a PHA's dwelling units to be vacant at any one time for non-dwelling uses and modernization for the PHA to receive the full 5 points and up to 7 percent to receive partial points. To achieve a higher occupancy rate, which in turn results in a higher Capital Fund occupancy score, HUD encourages PHAs to continue ongoing proactive capital projects, to strategize and stage modernization projects minimizing the number of off-line units, as well as the time they are off-line, and, because not all modernization requires a family to vacate, to consider performing modernization work in occupied units. With the Capital Fund occupancy measure based on data the PHA enters in the Public and Indian Housing Information Center (PIC) as of the last day of the PHA's fiscal year, HUD believes PHAs can effectively plan modernization projects early each fiscal year as preparation for the calculation of the occupancy percentage that will be performed at the end of the PHA's fiscal year.

Issue: One commenter opposed the notice, stating that ''reinstatement of this scoring sub indicator is duplicative and unfair, and therefore should not occur. PHAs are already rated on occupancy as part of the scoring under management. It makes no sense to score twice on exactly the same criteria, especially since the outcomes are often out of control of the PHA. Further, occupancy rates are in no way linked to the capital fund. The Capital Fund is currently scored based on timely obligation of funds and completion of work. This should remain in place as these are the only factors of any relevance to the Capital Fund.''

Response: It appears this commenter misinterpreted the notice as reinstating the Capital Fund subindicator for occupancy. This notice does not reinstate this subindicator, which is established by regulation at 24 CFR 902.50(c). This notice grants relief to scores under this subindicator. PHAs are reminded that the remainder of the Capital Fund Scoring Notice of February 23, 2011 remains in effect and unchanged by this notice, and if the PHA receives 0 points for the timeliness of obligation subindicator, it is not eligible for points for the occupancy subindicator (see 76 FR 10054).

III. Action

For the foregoing reasons this notice makes final the proposed notice issued on December 16, 2013. Accordingly, this notice advises that HUD is awarding an automatic 5 points for the Capital Fund occupancy sub-indicator for fiscal years ending March 31, 2014, June 30, 2014, September 30, 2014, December 31, 2014, March 31, 2015, June 30, 2015, September 30, 2015, and December 31, 2015.

Dated: June 26, 2014.

Sandra B. Henriquez,

Assistant Secretary for Public and Indian Housing.

[FR Doc. 2014–15586 Filed 7–1–14; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[FWS–R2–ES–2014–N136; FRES480102200B0–XXX–FF02ENEH00]

Information Collection Request Sent to the Office of Management and Budget (OMB) for Approval; Survey of Rancher Opinions About Wildlife and Jaguar Habitat Management

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice; request for comments.

SUMMARY: We (U.S. Fish and Wildlife Service) have sent an Information Collection Request (ICR) to OMB for review and approval. We summarize the ICR below and describe the nature of the

collection and the estimated burden and cost. We may not conduct or sponsor and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number.

DATES: You must submit comments on or before August 1, 2014.

ADDRESSES: Send your comments and suggestions on this information collection to the Desk Officer for the Department of the Interior at OMB–OIRA at (202) 395–5806 (fax) or *OIRA__Submission@omb.eop.gov* (email). Please provide a copy of your comments to the Service Information Collection Clearance Officer, U.S. Fish and Wildlife Service, MS 2042–PDM, 4401 North Fairfax Drive, Arlington, VA 22203 (mail), or *hope__grey@fws.gov* (email). Please include ''1018–Jaguar Rancher'' in the subject line of your comments.

FOR FURTHER INFORMATION CONTACT: To request additional information about this ICR, contact Hope Grey at *hope__grey@fws.gov* (email) or 703–358–2482 (telephone). You may review the ICR online at *http://www.reginfo.gov.* Follow the instructions to review Department of the Interior collections under review by OMB.

SUPPLEMENTARY INFORMATION:

Information Collection Request

OMB Control Number: 1018–XXXX. This is a new collection.

Title: Survey of Rancher Opinions about Wildlife and Jaguar Habitat Management.

Service Form Number: None.

Type of Request: Request for a new OMB control number.

Number of Respondents: 325.

Description of Respondents: Ranchers in southern Arizona and southwestern New Mexico.

Respondent's Obligation: Voluntary.

Frequency of Collection: One time.

Activity	Number of annual responses	Completion time per response	Total annual burden hours
Initial Contact	325	2.5 minutes	14
Reminders	243	1 minute	4
Complete Survey	228	30 minutes	114
Totals	796		132

Estimated Annual Nonhour Burden Cost: None.

Abstract: We have contracted with the University of Arizona to conduct a survey of southern Arizona and southwestern New Mexico ranchers to determine their knowledge of and attitudes toward jaguar habitat, their level of knowledge regarding payments for ecosystem services, and their attitudes and interest toward a payment for ecosystem services intended to benefit jaguar habitat. This survey is necessary because there is currently no statistically significant information available about rancher attitudes toward jaguar habitat or their understanding of payments for ecosystem services.

The survey will improve rancher knowledge on these issues and will inform our evaluation of the practicality of a payment for ecosystem services for the benefit of jaguar habitat in southern Arizona and southwestern New Mexico. It will also aid in the implementation of jaguar habitat conservation efforts by increasing our knowledge of rancher attitudes toward jaguars and jaguar habitat management in southern Arizona and southwestern New Mexico.

Information collected in the survey will include data on knowledge of jaguar habitat attributes, opinions and attitudes about the designation of critical habitat in southern Arizona and southwestern New Mexico, knowledge of payment for ecosystem services programs generally, and opinions and attitudes about participation in payment for ecosystem services programs.

Comments Received and Our Responses

On December 17, 2013, we published in the **Federal Register** (78 FR 76315) a notice of our intent to request that OMB approve this information collection. In that notice, we solicited comments for 60 days, ending on February 18, 2014. We received three comments:

Comment: One commenter objected to the survey and stated that it is a waste of taxpayer dollars. The commenter did not address the information collection requirements, and we have not made any changes to the survey.

Comment: Two commenters requested inclusion of New Mexico ranchers in the survey sample.

Response: Ranchers located in southwestern New Mexico (Hidalgo County) will be included in the survey sample. The survey sample will include ranchers in Pima, Santa Cruz, and Cochise Counties in Arizona and Hidalgo County in New Mexico.

Request for Public Comments

We again invite comments concerning this information collection on:

- Whether or not the collection of information is necessary, including whether or not the information will have practical utility;
- The accuracy of our estimate of the burden for this collection of information;
- Ways to enhance the quality, utility, and clarity of the information to be collected; and
- Ways to minimize the burden of the collection of information on respondents.

Comments that you submit in response to this notice are a matter of public record. Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment, including your personal identifying information, may be made publicly available at any time. While you can ask OMB in your comment to withhold your personal identifying information from public review, we cannot guarantee that it will be done.

Dated: June 26, 2014.

Tina A. Campbell,

Chief, Division of Policy and Directives Management, U.S. Fish and Wildlife Service.

[FR Doc. 2014–15482 Filed 7–1–14; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS–NCR–NACA–14983; PPNCNCROL0, PPMPSPD1Y.M000]

Notice of Intent To Prepare an Environmental Impact Statement for the Potomac River Tunnel in the National Capital Region

AGENCY: National Park Service, Interior.

ACTION: Notice of Intent.

SUMMARY: Pursuant to Section 102 (2)(C) of the National Environmental Policy

Act of 1969, 42 U.S.C. 4332(2)(C), the National Park Service) and DC Water as co-lead agencies are preparing an Environmental Impact Statement for the Potomac River Tunnel in the National Capital Region. The area affected is within the Chesapeake and Ohio Canal National Historical Park, Rock Creek Park, and National Mall and Memorial Parks in Washington, DC. The purpose of this EIS is to analyze the impacts of constructing a tunnel and supporting infrastructure for capture, conveyance, and storage of combined sewer overflows when the combined sewer system capacity is exceeded.

DATES: The NPS will accept comments from the public through September 2, 2014. The NPS intends to hold a public scoping meeting during the scoping period. Details regarding the exact times and locations of these meetings will be announced through local media at least 15 days before the meetings. Information about public meetings will also be provided on the three parks' planning Web site: *http://parkplanning.nps.gov/NCRO* (click on the link to the Potomac River Tunnel EIS).

ADDRESSES: Information will be available for public review and comment online at *http://parkplanning.nps.gov/NCRO* and at all three park headquarters listed below.

Office of the Superintendent, Chesapeake and Ohio Canal National Historical Park, 1850 Dual Highway, Suite 100, Hagerstown, Maryland 21740, Telephone: (301) 714–2201.

Office of the Superintendent, Rock Creek Park, 3545 Williamsburg Lane NW., Washington, DC 20008, Telephone: (202) 895–6004.

Office of the Superintendent, National Mall and Memorial Parks, 900 Ohio Drive SW., Washington, DC 20024, Telephone: (202) 485–9880.

FOR FURTHER INFORMATION CONTACT: Moussa Wone, DC Clean Rivers Project, (202) 787–4729 or Joel Gorder, National Park Service Regional Environmental Coordinator, (202) 619–7405.

SUPPLEMENTARY INFORMATION: This planning effort is needed because combined sewer overflows (CSOs) cause or contribute to water quality degradation in the receiving waters of the Potomac River. In addition, the project is required by a Federal Consent Decree entered into by DC Water, the United States Environmental Protection Agency, the United States Department of Justice and the District of Columbia. The Federal Consent Decree identifies a completion milestone of 2025 for a series of projects designed to reduce discharges of CSOs into the Anacostia River, Potomac River, and Rock Creek. For the Potomac River Tunnel project, the Federal Consent Decree requires an underground storage tunnel be constructed to provide 58 million gallons of CSO storage and a dewatering pump station sufficiently sized to dewater the tunnel within 59 hours.

While DC Water is the agency tasked with the construction and operation of the Potomac River Tunnel, the majority of the associated infrastructure is to be built on or below NPS administered properties, including Rock Creek Park; Chesapeake and Ohio Canal National Historical Park; the National Mall and Memorial Parks; and the bed of the Potomac River.

A scoping newsletter will be prepared that details the issues identified to date and include the purpose, need, and objectives of the Environmental Impact Statement. Copies of that information may be obtained online at *http://parkplanning.nps.gov/NCRO* or at one of the three parks' headquarters addresses above.

If you wish to comment on the purpose, need, objectives, alternatives, or on any other issues associated with the EIS, you may submit your comments via the Internet at *http://parkplanning.nps.gov/NRCO* (preferred method) or by mail or hand-delivery to any of the addresses listed above.

Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Dated: May 20, 2014.

Stephen E. Whitesell,

Regional Director, National Park Service, National Capital Region.

[FR Doc. 2014–15542 Filed 7–1–14; 8:45 am]

BILLING CODE 4310–DL–P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS–NERO–CAJO–16042; PPNECAJO00, PPMPSPD1Z.YM0000]

Amendment of Captain John Smith Chesapeake National Historic Trail Advisory Council Meeting Date

AGENCY: National Park Service, Interior.

ACTION: Notice of amendment of meeting date.

SUMMARY: In accordance with the Federal Advisory Committee Act (5 U.S.C. Appendix 1–16), notice is hereby given of the change in date for the June 3, 2014, meeting of the Captain John Smith Chesapeake National Historic Trail Advisory Council.

DATES: The meeting date originally published on April 7, 2014, in the **Federal Register**, 79 FR 19121, has been changed. The new meeting date will be Tuesday, July 22, 2014, from 9:00 a.m.–12:00 p.m. (Eastern).

ADDRESSES: The meeting will be held at Wilson House on the campus of the Virginia Institute of Marine Science at 1375 Greate Road, Gloucester Point, VA 23062.

FOR FURTHER INFORMATION CONTACT: Christine Lucero, Partnership Coordinator, telephone (757) 258–8914 or email Christine_Lucero@nps.gov.

SUPPLEMENTARY INFORMATION: This meeting is open to the public. Preregistration is required for both public attendance and comment. Any individual who wishes to attend the meeting and/or participate in the public comment session should register via email at Christine_Lucero@nps.gov or telephone (757) 258–8914. For those wishing to make comments, please provide a written summary of your comments prior to the meeting. Before including your address, telephone 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 may ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Dated: June 25, 2014.

Alma Ripps,

Chief, Office of Policy.

[FR Doc. 2014–15558 Filed 7–1–14; 8:45 am]

BILLING CODE 4310–EE–P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS–WASO–NRNHL–16060; PPWOCRADI0, PCU00RP14.R50000]

National Register of Historic Places; Notification of Pending Nominations and Related Actions

Nominations for the following properties being considered for listing

or related actions in the National Register were received by the National Park Service before June 14, 2014. Pursuant to § 60.13 of 36 CFR Part 60, written comments are being accepted concerning the significance of the nominated properties under the National Register criteria for evaluation. Comments may be forwarded by United States Postal Service, to the National Register of Historic Places, National Park Service, 1849 C St. NW., MS 2280, Washington, DC 20240; by all other carriers, National Register of Historic Places, National Park Service,1201 Eye St. NW., 8th Floor, Washington, DC 20005; or by fax, 202–371–6447. Written or faxed comments should be submitted by July 17, 2014. Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Dated: June 19, 2014.

Alexandra Lord,

Acting Chief, National Register of Historic Places/National Historic Landmarks Program.

COLORADO

El Paso County

People's Methodist Episcopal Church, 527 E. St. Vrain St., Colorado Springs, 14000432

Saguache County

Saguache Downtown Historic District, Roughly 300 & 400 blks. of 4th St., Saguache, 14000433

CONNECTICUT

Windham County

American Thread Company, 322, 440, 480, 560 Main & 157 Union Sts., Willimantic, 14000434

Wilkinson Mill, 52–58 Pomfret St., Putnam, 14000435

DISTRICT OF COLUMBIA

District of Columbia

Hebrew Home for the Aged and Jewish Social Service Agency, 1125–1131 Spring Rd. NW., Washington, 14000436

KANSAS

Mitchell County

Antelope Creek Masonry Arch Bridge, (Masonry Arch Bridges of Kansas TR) 1000 mi. of Cty. Rd. 210, Tipton, 14000437

Brown's Creek Tributary Masonry Arch Bridge, (Masonry Arch Bridges of Kansas TR) 2300 mi. on Cty. Rd. B, Glen Elder, 14000438

North Rock Creek Masonry Arch Bridge, (Masonry Arch Bridges of Kansas TR) V Rd., .4 mi. E. of 190th Rd., Hunter, 14000439

MASSACHUSETTS

Berkshire County

Ramsdell Public Library, 1087 Main St., Great Barrington, 14000440

NEBRASKA

Saunders County

Hoffman Building, 1325 & 1341 Silver St., Ashland, 14000441

NEW JERSEY

Middlesex County

St. Ladislaus Magyar Roman Catholic Church, 213 Somerset St., New Brunswick, 14000442

Morris County

L'Ecole, 25 Kiel Ave., Kinnelon, 14000443

NEW MEXICO

Dona Ana County

Jones, Frank and Amelia, House, 18000 Castillo Rd., La Mesa, 14000444

NORTH CAROLINA

Martin County

Williamston Colored School, 705 Washington St., Williamson, 14000445

TENNESSEE

Anderson County

Norris Dam State Park Rustic Cabins Historic District, 125 Village Green Cir., Lake City, 14000446

Carter County

Miller Farmstead, Dave Miller Hollow Rd., Roan Mountain, 14000449

Haywood County

College Hill Historic District, (Brownsville, Tennessee MPS) Roughly bounded by Haralson, Margin & Cherry Sts., N. Wilson Ave., Brownsville, 14000447

North Washington Historic District, (Brownsville, Tennessee MPS) Roughly bounded by N. Wilson & N. Park Aves., Thomas & E. Main Sts., Brownsville, 14000448

Shelby County

Picardy Place Historic District, (Memphis MPS) 157–205 S. Fenwick Rd., 160–201 Picardy Place, Memphis, 14000450

VERMONT

Chittenden County

Battery Street Historic District (Boundary Increase II), 214 through 240 Pine St. (excluding 235), Burlington, 14000451

WISCONSIN

Racine County

Kane Street Historic District, Generally bounded by Washington & Rudolph Sts., Perkins Blvd., Gardner Ave., Burlington, 14000452

A request for removal has been received for the following resources:

TENNESSEE

Macon County

Keystone School, TN 52 W. of Lafayette, just E. of Gap of the Ridge, Lafayette, 93000031

Shelby County

Wells—Arrington Historic District, (Residential Resources of Memphis MPS) 563–610 Arrington Ave. & 556–601 Wells Ave., Memphis, 99000463

[FR Doc. 2014–15492 Filed 7–1–14; 8:45 am]

BILLING CODE 4312&ndash51–P

INTERNATIONAL TRADE COMMISSION

[Investigation No. 337–TA–920]

Certain Integrated Circuits and Products Containing the Same Institution of Investigation Pursuant to 19 U.S.C. 1337

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that a complaint was filed with the U.S. International Trade Commission on May 12, 2014, under section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. 1337, on behalf of Freescale Semiconductor, Inc. of Austin, Texas. An amended complaint was filed May 27, 2014. The complaint, as amended, alleges violations of section 337 based upon the importation into the United States, the sale for importation, and the sale within the United States after importation of certain integrated circuits and products containing the same by reason of infringement of certain claims of U.S. Patent No. 5,962,926 (''the '926 patent''); U.S. Patent No. 7,158,432 (''the '432 patent''); U.S. Patent No. 7,230,505 (''the '505 patent''); U.S. Patent No. 7,518,947 (''the '947 patent''); U.S. Patent No. 7,626,276 (''the '276 patent''); and 7,746,716 (''the '716 patent''). The complaint, as amended, further alleges that an industry in the United States exists as required by subsection (a)(2) of section 337.

The complainant requests that the Commission institute an investigation and, after the investigation, issue a general exclusion order, or in the alternative a limited exclusion order, and cease and desist orders.

ADDRESSES: The complaint, as amended, except for any confidential information contained therein, is available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S.

International Trade Commission, 500 E Street SW., Room 112, Washington, DC 20436, telephone (202) 205–2000. Hearing impaired individuals are advised that information on this matter can be obtained 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 at *http://www.usitc.gov.* The public record for this investigation may be viewed on the Commission's electronic docket (EDIS) at *http://edis.usitc.gov.*

FOR FURTHER INFORMATION CONTACT: The Office of Unfair Import Investigations, U.S. International Trade Commission, telephone (202) 205–2560.

Authority: The authority for institution of this investigation is contained in section 337 of the Tariff Act of 1930, as amended, and in section 210.10 of the Commission's Rules of Practice and Procedure, 19 CFR 210.10 (2014).

Scope Of Investigation: Having considered the complaint, as amended, the U.S. International Trade Commission, on June 26, 2014, *ordered that*—

(1) Pursuant to subsection (b) of section 337 of the Tariff Act of 1930, as amended, an investigation be instituted to determine whether there is a violation of subsection (a)(1)(B) of section 337 in the importation into the United States, the sale for importation, or the sale within the United States after importation of certain integrated circuits and products containing the same by reason of infringement of one or more of claims 1, 7, 11, and 16 of the '926 patent; claims 1, 4, and 5 of the '432 patent; claims 1 and 2 of the '505 patent; claims 1, 2, 17, and 18 of the '947 patent; claims 1, 2, 5, 8, 9, 16, and 17 of the '276 patent; and claims 1 and 5–8 of the '716 patent, and whether an industry in the United States exists as required by subsection (a)(2) of section 337;

(2) For the purpose of the investigation so instituted, the following are hereby named as parties upon which this notice of investigation shall be served:

(a) The complainant is: Freescale Semiconductor, Inc., 6501 William Cannon Drive West, Austin, TX 78735.

(b) The respondents are the following entities alleged to be in violation of section 337, and are the parties upon which the complaint is to be served:

MediaTek Inc., No. 1 Dusing 1st Road, Hsinchu Science Park, Hsinchu City 30078, Taiwan.

MediaTek USA Inc., 2860 Junction Avenue, San Jose, California 95134.

Acer Inc., 8F, 88 Sec. 1, Xintai 5th Road, Xizhi, New Taipei City 221, Taiwan.

AmTRAN Technology Co. Ltd., No. 268, Lien Chen Road, 17th Floor, Chung Ho City, New Taipei 11235, Taiwan.

AmTRAN Logistics, Inc., 9351 Irvine Center Drive, Irvine, California 92618.

ASUSTek Computer Inc., No.15, Li-Te Rd., Peitou, Taipei 11259, Taiwan.

ASUS Computer International, Inc., 800 Corporate Way, Fremont, California 94539.

BLU Products, Inc., 10814 NW 33rd St # 100, Doral, Florida 33172.

Sharp Corporation, 22–22 Nagaike-cho, Abeno-ku, Osaka 545–8522, Japan.

Sharp Electronics Corporation, Sharp Plaza, Mahwah, New Jersey 07495.

Sharp Electronics Manufacturing Company of America Inc., 9295 Siempre Viva Road, Suite J–2, San Diego, California 92154.

Sony Corporation, 1–7–1 Konan, Minato-ku, Tokyo 108–0075, Japan.

Sony Corporation of America, 550 Madison Avenue, New York, New York 10022.

Sony Electronics, Inc., 16530 Via Esprillo, San Diego, California 92127.

Sony EMCS (Malaysia) Sdn Bhd, Lot 5 Jalan Kemujuan, Kawasan Perindustrian Bangi, 43650 Bandar Baru Bangi, Selangor, Tingkat Perusahaan 4a 13600, Prai Free Trade Zone, Prai, Penang, Malaysia.

Toshiba America Information Systems, Inc., 9740 Irvine Boulevard, Irvine, California 92618.

Toshiba Logistics America, Inc., 9740 Irvine Boulevard, Irvine, California 92618.

TPV Display Technology (Xiamen) Co., Ltd., No. 1, Xianghai Road, (Xiang'An) Industrial Zone, Torch Hi-New Zon, Xiamen, Fujian, 361101, China.

Trend Smart America, Ltd., 2 South Pointe Drive, Suite 152, Lake Forest, California 92630.

Trend Smart Ce México, S.r.l. de C.V., Sor Juana Ines De La Cruz No. 196202, Tijuana, Baja California, 22435, Mexico.

Vizio, Inc., 39 Tesla, Irvine, California 92618.

Yamaha Corporation, 10–1, Nakazawa-cho, Naka-ku, Hamamatsu, Shizuoka 430–8650, Japan, Yamaha Corporation of America, 6600 Orangethorpe Avenue, Buena Park, California 90620.

Lenovo Group Ltd., No. 6 Chuangye Road, Shangdi Information Industry Base, Haidian District, Beijing, 100085, China.

Lenovo (United States) Inc., 1009 Think Place, Morrisville, North Carolina 27560.

Best Buy Co., Inc., 7601 Penn Avenue South, Richfield, Minnesota 55423.

Newegg Inc., 16839 East Gale Avenue, City Of Industry, California 91745.

Buy.com Inc. d/b/a Rakuten.com Shopping, 85 Enterprise Suite 100, Aliso Viejo, California 92656.

Walmart Stores, Inc., 702 SW. 8th Street, Bentonville, Arkansas 72716.

Amazon.com, Inc., 410 Terry Avenue North, Seattle, Washington 98109.

B&H Foto & Electronics Corp., 420 Ninth Avenue, New York, New York 10001.

Costco Wholesale Corporation, 999 Lake Drive, Issaquah, Washington 98027.

(c) The Office of Unfair Import Investigations, U.S. International Trade Commission, 500 E Street, SW., Suite 401, Washington, DC 20436; and

(3) For the investigation so instituted, the Chief Administrative Law Judge, U.S. International Trade Commission, shall designate the presiding Administrative Law Judge.

Responses to the complaint, as amended, and the notice of investigation must be submitted by the named respondents in accordance with section 210.13 of the Commission's Rules of Practice and Procedure, 19 CFR 210.13. Pursuant to 19 CFR 201.16(e) and 210.13(a), such responses will be considered by the Commission if received not later than 20 days after the date of service by the Commission of the complaint, as amended, and the notice of investigation. Extensions of time for submitting responses to the complaint and the notice of investigation will not be granted unless good cause therefor is shown.

Failure of a respondent to file a timely response to each allegation in the complaint and in this notice may be deemed to constitute a waiver of the right to appear and contest the allegations of the complaint and this notice, and to authorize the administrative law judge and the Commission, without further notice to the respondent, to find the facts to be as alleged in the complaint and this notice and to enter an initial determination and a final determination containing such findings, and may result in the issuance of an exclusion order or a cease and desist order or both directed against the respondent.

By order of the Commission.

Issued: June 26, 2014.

Lisa R. Barton,

Secretary to the Commission.

[FR Doc. 2014–15501 Filed 7–1–14; 8:45 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

[USITC SE–14–023]

Sunshine Act Meetings

AGENCY HOLDING THE MEETING: United States International Trade Commission.

TIME AND DATE: July 11, 2014 at 11 a.m.

PLACE: Room 101, 500 E Street SW., Washington, DC 20436, Telephone: (202) 205–2000.

STATUS: Open to the public.

MATTERS TO BE CONSIDERED:

1. Agendas for future meetings: None.
2. Minutes.
3. Ratification List.
4. Vote in Inv. Nos. 701–TA–515–521 and 731–TA–1251–1257 (Preliminary)(Certain Steel Nails from India, Korea, Malaysia, Oman, Taiwan, Turkey, and Vietnam). The Commission is currently scheduled to complete and file its determinations on July 14, 2014; views of the Commission are currently scheduled to be completed and filed on July 21, 2014.
5. Outstanding action jackets: None.

In accordance with Commission policy, subject matter listed above, not disposed of at the scheduled meeting, may be carried over to the agenda of the following meeting.

By order of the Commission:

Issued: June 30, 2014.

William R. Bishop,

Supervisory Hearings and Information Officer.

[FR Doc. 2014–15679 Filed 6–30–14; 4:15 pm]

BILLING CODE 7020–02–P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

[Docket No. DEA–393]

Proposed Aggregate Production Quotas for Schedule I and II Controlled Substances and Assessment of Annual Needs for the List I Chemicals Ephedrine, Pseudoephedrine, and Phenylpropanolamine for 2015

AGENCY: Drug Enforcement Administration, Department of Justice.

ACTION: Notice with request for comments.

SUMMARY: The Drug Enforcement Administration proposes to establish the 2015 aggregate production quotas for controlled substances in schedules I and II of the Controlled Substances Act and assessment of annual needs for the list I chemicals ephedrine, pseudoephedrine, and phenylpropanolamine.

DATES: Interested persons may file written comments on this notice in accordance with 21 CFR 1303.11(c) and 1315.11(d). Electronic comments must be submitted, and written comments must be postmarked, on or before August 1, 2014. Commenters should be aware that the electronic Federal Docket Management System will not accept comments after midnight Eastern Time on the last day of the comment period.

ADDRESSES: To ensure proper handling of comments, please reference ''Docket No. DEA–393'' on all electronic and written correspondence. The DEA encourages that all comments be submitted electronically through the Federal eRulemaking Portal which provides the ability to type short comments directly into the comment field on the Web page or attach a file for lengthier comments. Please go to *http://www.regulations.gov* and follow the online instructions at that site for submitting comments. Paper comments that duplicate electronic submissions are not necessary. Should you, however, wish to submit written comments, in lieu of electronic comments, they should be sent via regular or express mail to: Drug Enforcement Administration, Attention: DEA **Federal Register** Representative/ODW, 8701 Morrissette Drive, Springfield, Virginia 22152.

FOR FURTHER INFORMATION CONTACT: Erika Gehrmann, Office of Diversion Control, Drug Enforcement Administration, 8701 Morrissette Drive, Springfield, Virginia 22152, Telephone: (202) 598–6812.

SUPPLEMENTARY INFORMATION:

Posting of Public Comments

Please note that all comments received in response to this docket are considered part of the public record and will be made available for public inspection online at *http://www.regulations.gov.* Such information includes personal identifying information (such as your name, address, etc.) voluntarily submitted by the commenter.

The Freedom of Information Act (FOIA) applies to all comments received. If you want to submit personal identifying information (such as your name, address, etc.) as part of your comment, but do not want it to be made publicly available, you must include the phrase ''PERSONAL IDENTIFYING INFORMATION'' in the first paragraph of your comment. You must also place all the personal identifying information you do not want made publicly available in the first paragraph of your comment and identify what information you want redacted.

If you want to submit confidential business information as part of your comment, but do not want it to be made publicly available, you must include the phrase ''CONFIDENTIAL BUSINESS INFORMATION'' in the first paragraph of your comment. You must also prominently identify the confidential business information to be redacted within the comment. If a comment has so much confidential business information that it cannot be effectively redacted, all or part of that comment may not be made publicly available. Comments containing personal identifying information or confidential business information identified as directed above will be made publicly available in redacted form.

An electronic copy of this document is available at *http://www.regulations.gov* for easy reference. If you wish to personally inspect the comments and materials received or the supporting documentation the DEA used in preparing the proposed action, these materials will be available for public inspection by appointment. To arrange a viewing, please see the **FOR FURTHER INFORMATION CONTACT** paragraph above.

Legal Authority

Section 306 of the Controlled Substances Act (CSA), 21 U.S.C. 826, requires the Attorney General to determine the total quantity and establish aggregate production quotas for each basic class of controlled substance listed in schedules I and II and for the list I chemicals ephedrine, pseudoephedrine, and phenylpropanolamine. This responsibility has been delegated to the Administrator of the DEA pursuant to 28 CFR 0.100(b). The Administrator, in turn, has redelegated that authority to the Deputy Administrator, pursuant to 28 CFR part 0 subpart R, App.

Analysis for Proposed 2015 Aggregate Production Quotas and Assessment of Annual Needs

The proposed year 2015 aggregate production quotas and assessment of annual needs represent those quantities of schedule I and II controlled substances, and the list I chemicals ephedrine, pseudoephedrine, and phenylpropanolamine, to be manufactured in the United States in 2015 to provide for the estimated medical, scientific, research, and industrial needs of the United States, lawful export requirements, and the establishment and maintenance of reserve stocks. These quotas include

imports of ephedrine, pseudoephedrine, and phenylpropanolamine but do not include imports of controlled substances necessary to provide for the medical, scientific, or other legitimate needs of the United States.

In determining the proposed 2015 aggregate production quotas and assessment of annual needs, the DEA has taken into account the criteria that the DEA is required to consider in accordance with 21 U.S.C. 826(a), 21 CFR 1303.11 (aggregate production quotas for controlled substances), and 21 CFR 1315.11 (assessment of annual needs for ephedrine, pseudoephedrine, and phenylpropanolamine). The DEA proposes the aggregate production quotas and assessment of annual needs for 2015 by considering: (1) Total net disposal of the class or chemical by all manufacturers and chemical importers during the current and two preceding years; (2) trends in the national rate of net disposal of the class or chemical; (3) total actual (or estimated) inventories of the class or chemical and of all substances manufactured from the class or chemical, and trends in inventory accumulation; (4) projected demand for such class or chemical as indicated by procurement and chemical import quotas requested in accordance with 21 CFR 1303.12, 1315.32, and 1315.34; and (5) other factors affecting the medical, scientific, research, and industrial needs in the United States, lawful export requirements, and reserve stocks, as the Deputy Administrator finds relevant. Other factors the DEA considered in calculating the aggregate production quotas, but not the assessment of annual needs, include product development requirements of both bulk and finished dosage form manufacturers, and other pertinent information. In determining the proposed 2015 assessment of annual needs, the DEA used the calculation methodology previously described in the 2010 and 2011 assessment of annual needs (74 FR 60294, Nov. 20, 2009, and 75 FR 79407, Dec. 20, 2010, respectively).

The DEA also specifically considered that inventory allowances granted to individual manufacturers may not always result in the availability of sufficient quantities to maintain an adequate reserve stock pursuant to 21 U.S.C. 826(a), as intended. See 21 CFR 1303.24. This would be concerning if a natural disaster or other unforeseen event resulted in substantial disruption to the amount of controlled substances available to provide for legitimate public need. As such, the DEA proposes to include in all schedule II aggregate production quotas, and certain schedule I aggregate production quotas (gamma-hydroxybutyric acid and tetrahydrocannabinols), an additional 25% of the estimated medical, scientific, and research needs as part of the amount necessary to ensure the establishment and maintenance of reserve stocks. The resulting established aggregate production quotas will reflect these included amounts. This action will not affect the ability of manufacturers to maintain inventory allowances as specified by regulation. The DEA expects that maintaining this reserve in certain established aggregate production quotas will mitigate adverse public effects if an unforeseen event resulted in substantial disruption to the amount of controlled substances available to provide for legitimate public need, as determined by the DEA. The DEA does not anticipate utilizing the reserve in the absence of these circumstances.

The Deputy Administrator, therefore, proposes to establish the 2015 aggregate production quotas for the following schedule I and II controlled substances and assessment of annual needs for the list I chemicals ephedrine, pseudoephedrine, and phenylpropanolamine, expressed in grams of anhydrous acid or base, as follows:

Basic class	Proposed established 2015 quotas (g)
Schedule I	
(1-Pentyl-1H-indol-3-yl)(2,2,3,3-tetramethylcyclopropyl)methanone (UR-144)	15
[1-(5-Fluoro-pentyl)-1H-indol-3-yl](2,2,3,3-tetramethylcyclopropyl)methanone (XLR11)	15
1-(1,3-Benzodioxol-5-yl)-2-(methylamino)butan-1-one (butylone)	15
1-(1,3-Benzodioxol-5-yl)-2-(methylamino)pentan-1-one (pentylone)	15
1-(1-Phenylcyclohexyl)pyrrolidine	10
1-(5-Fluoropentyl)-3-(1-naphthoyl)indole (AM2201)	45
1-(5-Fluoropentyl)-3-(2-iodobenzoyl)indole (AM694)	45
1-[1-(2-Thienyl)cyclohexyl]piperidine	15
1-[2-(4-Morpholinyl)ethyl]-3-(1-naphthoyl)indole (JWH-200)	45
1-Butyl-3-(1-naphthoyl)indole (JWH-073)	45
1-Cyclohexylethyl-3-(2-methoxyphenylacetyl)indole (SR-18 and RCS-8)	45
1-Hexyl-3-(1-naphthoyl)indole (JWH-019)	45
1-Methyl-4-phenyl-4-propionoxypiperidine	2
1-Pentyl-3-(1-naphthoyl)indole (JWH-018 and AM678)	45
1-Pentyl-3-(2-chlorophenylacetyl)indole (JWH-203)	45
1-Pentyl-3-(2-methoxyphenylacetyl)indole (JWH-250)	45
1-Pentyl-3-(4-chloro-1-naphthoyl)indole (JWH-398)	45
1-Pentyl-3-(4-methyl-1-naphthoyl)indole (JWH-122)	45
1-Pentyl-3-[(4-methoxy)-benzoyl]indole (SR-19, RCS-4)	45
1-Pentyl-3-[1-(4-methoxynaphthoyl)]indole (JWH-081)	45
2-(2,5-Dimethoxy-4-n-propylphenyl)ethanamine (2C-P)	30
2-(2,5-Dimethoxy-4-ethylphenyl)ethanamine (2C-E)	30
2-(2,5-Dimethoxy-4-methylphenyl)ethanamine (2C-D)	30
2-(2,5-Dimethoxy-4-nitro-phenyl)ethanamine (2C-N)	30
2-(2,5-Dimethoxyphenyl)ethanamine (2C-H)	30
2-(4-Bromo-2,5-dimethoxyphenyl)-N-(2-methoxybenzyl)ethanamine (25B-NBOMe; 2C-B-NBOMe; 25B; Cimbi-36)	15
2-(4-Chloro-2,5-dimethoxyphenyl)ethanamine (2C-C)	30
2-(4-Chloro-2,5-dimethoxyphenyl)-N-(2-methoxybenzyl)ethanamine (25C-NBOMe; 2C-C-NBOMe; 25C; Cimbi-82)	15
2-(4-Iodo-2,5-dimethoxyphenyl)ethanamine (2C-I)	30
2-(4-Iodo-2,5-dimethoxyphenyl)-N-(2-methoxybenzyl)ethanamine (25I-NBOMe; 2C-I-NBOMe; 25I; Cimbi-5)	15
2-(Methylamino)-1-phenylpentan-1-one (pentedrone)	15

Basic class	Proposed established 2015 quotas (g)
2,5-Dimethoxy-4-ethylamphetamine (DOET)	25
2,5-Dimethoxy-4-n-propylthiophenethylamine	25
2,5-Dimethoxyamphetamine	25
2-[4-(Ethylthio)-2,5-dimethoxyphenyl]ethanamine (2C-T-2)	30
2-[4-(Isopropylthio)-2,5-dimethoxyphenyl]ethanamine (2C-T-4)	30
3,4,5-Trimethoxyamphetamine	25
3,4-Methylenedioxyamphetamine (MDA)	55
3,4-Methylenedioxymethamphetamine (MDMA)	50
3,4-Methylenedioxy-N-ethylamphetamine (MDEA)	40
3,4-Methylenedioxy-N-methylcathinone (methylone)	50
3,4-Methylenedioxypyrovalerone (MDPV)	35
3-Fluoro-N-methylcathinone (3-FMC)	15
3-Methylfentanyl	2
3-Methylthiofentanyl	2
4-Bromo-2,5-dimethoxyamphetamine (DOB)	25
4-Bromo-2,5-dimethoxyphenethylamine (2-CB)	25
4-Fluoro-N-methylcathinone (4-FMC)	15
4-Methoxyamphetamine	100
4-Methyl-2,5-dimethoxyamphetamine (DOM)	25
4-Methylaminorex	25
4-Methyl-N-ethylcathinone (4-MEC)	15
4-Methyl-N-methylcathinone (mephedrone)	45
4-Methyl-alpha-pyrrolidinopropiophenone (4-MePPP)	15
5-(1,1-Dimethylheptyl)-2-[(1R,3S)-3-hydroxycyclohexyl]-phenol	68
5-(1,1-Dimethyloctyl)-2-[(1R,3S)-3-hydroxycyclohexyl]-phenol (cannabicyclohexanol or CP-47,497 C8-homolog)	53
5-Methoxy-3,4-methylenedioxyamphetamine	25
5-Methoxy-N,N-diisopropyltryptamine	25
5-Methoxy-N,N-dimethyltryptamine	25
Acetyl-alpha-methylfentanyl	2
Acetyldihydrocodeine	2
Acetylmethadol	2
Allylprodine	2
Alphacetylmethadol	2
alpha-Ethyltryptamine	25
Alphameprodine	2
Alphamethadol	2
alpha-Methylfentanyl	2
alpha-Methylthiofentanyl	2
alpha-Methyltryptamine (AMT)	25
alpha-Pyrrolidinobutiophenone (α-PBP)	15
alpha-Pyrrolidinopentiophenone (α-PVP)	15
Aminorex	25
Benzylmorphine	2
Betacetylmethadol	2
beta-Hydroxy-3-methylfentanyl	2
beta-Hydroxyfentanyl	2
Betameprodine	2
Betamethadol	4
Betaprodine	2
Bufotenine	3
Cathinone	70
Codeine methylbromide	5
Codeine-N-oxide	200
Desomorphine	5
Diethyltryptamine	25
Difenoxin	50
Dihydromorphine	3,990,000
Dimethyltryptamine	35
Dipipanone	5
Fenethylline	5
gamma-Hydroxybutyric acid	70,250,000
Heroin	25
Hydromorphinol	2
Hydroxypethidine	2
Ibogaine	5
Lysergic acid diethylamide (LSD)	35
Marihuana	21,000
Mescaline	25
Methaqualone	10
Methcathinone	25
Methyldesorphine	5
Methyldihydromorphine	2

Basic class	Proposed established 2015 quotas (g)
Morphine methylbromide	5
Morphine methylsulfonate	5
Morphine-N-oxide	350
N-(1-Adamantyl)-1-pentyl-1H-indazole-3-carboxamide (AKB48)	15
N-(1-Amino-3,3-dimethyl-1-oxobutan-2-yl)-1-pentyl-1H-indazole-3-carboxamide (ADB-PINACA)	15
N-(1-Amino-3-methyl-1-oxobutan-2-yl)-1-(4-fluorobenzyl)-1H-indazole-3-carboxamide (AB-FUBINACA)	15
N,N-Dimethylamphetamine	25
Naphthylpyrovalerone (naphyrone)	15
N-Benzylpiperazine	25
N-Ethyl-1-phenylcyclohexylamine	5
N-Ethylamphetamine	24
N-Hydroxy-3,4-methylenedioxyamphetamine	24
Noracymethadol	2
Norlevorphanol	52
Normethadone	2
Normorphine	18
Phenomorphan	2
Psilocybin	30
Psilocyn	30
Quinolin-8-yl 1-(5-fluoropentyl)-1H-indole-3-carboxylate (5-fluoro-PB-22; 5F-PB-22)	15
Quinolin-8-yl 1-pentyl-1H-indole-3-carboxylate (PB-22; QUPIC)	15
Tetrahydrocannabinols	497,500
Thiofentanyl	2
Tilidine	10
Trimeperidine	2
Schedule II	
1-Phenylcyclohexylamine	5
1-Piperidinocyclohexanecarbonitrile	5
4-Anilino-N-phenethyl-4-piperidine (ANPP)	2,687,500
Alfentanil	17,625
Alphaprodine	3
Amobarbital	25,125
Amphetamine (for conversion)	21,875,000
Amphetamine (for sale)	37,500,000
Carfentanil	19
Cocaine	240,000
Codeine (for conversion)	50,000,000
Codeine (for sale)	46,125,000
Dextropropoxyphene	19
Dihydrocodeine	101,375
Diphenoxylate	1,337,500
Ecgonine	174,375
Ethylmorphine	3
Fentanyl	2,108,750
Glutethimide	3
Hydrocodone (for conversion)	137,500
Hydrocodone (for sale)	99,625,000
Hydromorphone	6,250,000
Isomethadone	5
levo-Alphacetylmethadol (LAAM)	4
Levomethorphan	5
Levorphanol	3,375
Lisdexamfetamine	29,750,000
Meperidine	6,250,000
Meperidine Intermediate-A	6
Meperidine Intermediate-B	11
Meperidine Intermediate-C	6
Metazocine	19
Methadone (for sale)	31,875,000
Methadone Intermediate	34,375,000
Methamphetamine	2,061,375
[1,250,000 grams of levo-desoxyephedrine for use in a non-controlled, non-prescription product; 750,000 grams for methamphetamine mostly for conversion to a schedule III product; and 61,375 grams for methamphetamine (for sale)].	
Methylphenidate	83,750,000
Morphine (for conversion)	91,250,000
Morphine (for sale)	62,500,000
Nabilone	18,750
Noroxymorphone (for conversion)	17,500,000

Basic class	Proposed established 2015 quotas (g)
Noroxymorphone (for sale)	1,475,000
Opium (powder)	112,500
Opium (tincture)	687,500
Oripavine	22,750,000
Oxycodone (for conversion)	8,350,000
Oxycodone (for sale)	137,500,000
Oxymorphone (for conversion)	21,875,000
Oxymorphone (for sale)	7,750,000
Pentobarbital	35,000,000
Phenazocine	6
Phencyclidine	19
Phenmetrazine	3
Phenylacetone	9,375,000
Racemethorphan	3
Remifentanil	3,750
Secobarbital	215,003
Sufentanil	6,255
Tapentadol	12,500,000
Thebaine	125,000,000
List I Chemicals	
Ephedrine (for conversion)	1,000,000
Ephedrine (for sale)	3,000,000
Phenylpropanolamine (for conversion)	44,800,000
Phenylpropanolamine (for sale)	8,500,000
Pseudoephedrine (for conversion)	7,000
Pseudoephedrine (for sale)	224,500,000

The Deputy Administrator further proposes that aggregate production quotas for all other schedule I and II controlled substances included in 21 CFR 1308.11 and 1308.12 remain at zero. Pursuant to 21 CFR 1303.13 and 21 CFR 1315.13, upon consideration of the relevant factors, the Deputy Administrator may adjust the 2015 aggregate production quotas and assessment of annual needs as necessary.

Comments

In accordance with 21 CFR 1303.11(c) and 1315.11(d), any interested person may submit written comments on or objections to these proposed determinations. Based on comments received in response to this notice, the Deputy Administrator may hold a public hearing on one or more issues raised. 21 CFR 1303.11(c) and 1515.11(e). In the event the Deputy Administrator decides to hold such a hearing, the Deputy Administrator will publish a notice of the hearing in the **Federal Register**. After consideration of any comments or objections, or after a hearing, if one is held, the Deputy Administrator will issue and publish in the **Federal Register** a final order establishing the 2015 aggregate production quota for each basic class of controlled substance and establishing the assessment of annual needs for the list I chemicals ephedrine, pseudoephedrine, and phenylpropanolamine. 21 CFR 1303.11(c) and 1315.11(f).

Dated: June 26, 2014.

Thomas M. Harrigan,

Deputy Administrator.

[FR Doc. 2014–15549 Filed 7–1–14; 8:45 am]

BILLING CODE 4410–09–P

OFFICE OF MANAGEMENT AND BUDGET

Draft 2014 Report to Congress on the Benefits and Costs of Federal Regulations and Unfunded Mandates on State, Local, and Tribal Entities

AGENCY: Executive Office of the President, Office of Management and Budget.

ACTION: Notice of availability and request for comments.

SUMMARY: The Office of Management and Budget (OMB) requests comments on its Draft 2014 Report to Congress on the Benefits and Costs of Federal Regulations, available at: *http://www.whitehouse.gov/omb/inforeg_regpol_reports_congress/.* The Draft Report is divided into two parts. Part I contains two chapters. Chapter I examines the benefits and costs of major Federal regulations issued in fiscal year 2013 and summarizes the benefits and costs of major regulations issued between October 2003 and September 2013. It also discusses regulatory impacts on State, local, and tribal governments, small business, wages, and economic growth. Chapter II offers recommendations for regulatory reform. Part II summarizes agency compliance with the Unfunded Mandates Reform Act.

OMB requests that comments be submitted electronically to OMB by September 2, 2014 through *www.regulations.gov.*

DATES: To ensure consideration of comments as OMB prepares this Draft Report for submission to Congress, comments must be in writing and received by September 2, 2014.

ADDRESSES: Submit comments by one of the following methods:

- *www.regulations.gov:* Direct comments to Docket ID OMB–2014–0002
- *Fax:* (202) 395–7285
- *Mail:* Office of Information and Regulatory Affairs, Office of Management and Budget, Attn: Mabel Echols, NEOB, Room 10202, 725 17th Street NW., Washington, DC 20503. To ensure that your comments are received, we recommend that comments on this draft report be electronically submitted.

All comments and recommendations submitted in response to this notice will be made available to the public, including by posting them on OMB's Web site. For this reason, please do not

include in your comments information of a confidential nature, such as sensitive personal information or proprietary information. The *www.regulations.gov* Web site is an ''anonymous access'' system, which means OMB will not know your identity or contact information unless you provide it in the body of your comment.

FOR FURTHER INFORMATION CONTACT: Mabel Echols, Office of Information and Regulatory Affairs, Office of Management and Budget, NEOB, Room 10202, 725 17th Street NW., Washington, DC 20503. Telephone: (202) 395–3741.

SUPPLEMENTARY INFORMATION: Congress directed the Office of Management and Budget (OMB) to prepare an annual Report to Congress on the Benefits and Costs of Federal Regulations. Specifically, Section 624 of the FY 2001 Treasury and General Government Appropriations Act, also known as the ''Regulatory Right-to-Know Act,'' (the Act) requires OMB to submit a report on the benefits and costs of Federal regulations together with recommendations for reform. The Act states that the report should contain estimates of the costs and benefits of regulations in the aggregate, by agency and agency program, and by major rule, as well as an analysis of impacts of Federal regulation on State, local, and tribal governments, small businesses, wages, and economic growth. The Act also states that the report should be subject to notice and comment and peer review.

Howard Shelanski,

Administrator, Office of Information and Regulatory Affairs.

[FR Doc. 2014–15535 Filed 7–1–14; 8:45 am]

BILLING CODE 3110–01–P

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice: (14–059)]

Notice of Information Collection

AGENCY: National Aeronautics and Space Administration (NASA).

ACTION: Notice of information collection

SUMMARY: The National Aeronautics and Space Administration, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995 (Pub. L. 104–13, 44 U.S.C. 3506(c)(2)(A)).

DATES: Consideration will be given to all comments received within 30 days after from the date of this publication.

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 and Budget, 725 7th Street NW., Washington, DC 20503, Attention: Desk Officer for NASA.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection instrument(s) and instructions should be directed to Ms. Frances Teel, NASA PRA Clearance Officer, NASA Headquarters, 300 E Street SW., Mail Code JF0000, Washington, DC 20546 or *frances.c.teel@nasa.gov*

SUPPLEMENTARY INFORMATION:

I. Abstract

Homeland Security Presidential Directive 12 (HSPD–12) established a mandatory requirement for a Government-wide identify verification standard. In compliance with HSPD–12 and the National Institute of Standards and Technology (NIST) Federal Information Processing Standard (FIPS) 201: Personal Identity Verification of Federal Employees and Contractors, and OMB Policy memorandum M–05–24 Implementation of Homeland Security Presidential Directive 12, NASA must collect information from members of the public to: (1) Validate identity and (2) issue secure and reliable federal credentials to enable access to NASA facilities/sites and NASA information systems. Information collected is consistent with background investigation data to include but not limited to name, date of birth, citizenship, social security number (SSN), address, employment history, biometric identifiers (e.g. fingerprints), signature, digital photograph.

NASA collects information from U.S. Citizens requiring access 30 or more days in a calendar year. NASA also collects information from foreign nationals regardless of their affiliation time.

NASA collects, stores, and secures information from individuals identified above in the NASA Identify Management System (IdMAX) in a manner consistent with the Constitution and applicable laws, including the Privacy Act (5 U.S.C. 552a.)

II. Method of Collection

Information is collected via a combination of electronic (90%) and paper processes (10%).

III. Data

Title: Personal Identity Validation for Routine and Intermittent Access to NASA Facilities, Sites, and Information Systems

OMB Number: 2700–XXXX.

Type of Review: Active Information Collection without OMB Approval.

Affected Public: Individuals.

Estimated Number of Respondents: 52,000.

Estimated Time per Response: 10 minutes.

Estimated Total Annual Public Burden Hours: 8,667.

IV. Request for Comments

Comments are invited on: (1) Whether the proposed collection of information is necessary for the proper performance of the functions of NASA, including whether the information collected has practical utility; (2) the accuracy of NASA's estimate of the burden (including hours and cost) of the proposed collection of information; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including automated collection techniques or the use of other forms of information technology.

Comments submitted in response to this notice will be summarized and included in the request for OMB approval of this information collection. They will also become a matter of public record.

Frances Teel,

NASA PRA Clearance Officer.

[FR Doc. 2014–15515 Filed 7–1–14; 8:45 am]

BILLING CODE 7510–13–P

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

Meetings of Humanities Panel

AGENCY: National Endowment for the Humanities.

ACTION: Notice of Meetings.

SUMMARY: The National Endowment for the Humanities (NEH) will hold twenty-six meetings of the Humanities Panel, a federal advisory committee, during July, 2014 as follows. The purpose of the meetings is for panel review, discussion, evaluation, and recommendation of applications for financial assistance under the National Foundation on the Arts and Humanities Act of 1965.

DATES: See **SUPPLEMENTARY INFORMATION** section for meeting dates.

ADDRESSES: The meetings will be held at Constitution Center, 400 7th Street SW.,

Washington, DC 20506. See **SUPPLEMENTARY INFORMATION** section for meeting room numbers.

FOR FURTHER INFORMATION CONTACT: Lisette Voyatzis, Committee Management Officer, 400 7th Street SW., Room 4060, Washington, DC 20506, or call (202) 606–8322. Hearing-impaired individuals are advised that information on this matter may be obtained by contacting the National Endowment for the Humanities' TDD terminal at (202) 606–8282.

SUPPLEMENTARY INFORMATION: Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (5 U.S.C. App.), notice is hereby given of the following meetings:

1. DATE: July 15, 2014.
TIME: 8:30 a.m. to 5:00 p.m.
ROOM: P002.
This meeting will discuss applications on the subjects of Literature, Arts, Philosophy, and Religion for the Awards for Faculty grant program, submitted to the Division of Research Programs.

2. DATE: July 15, 2014.
TIME: 8:30 a.m. to 5:00 p.m.
ROOM: P003.
This meeting will discuss applications on the subjects of History and Social Science for the Awards for Faculty grant program, submitted to Division of Research Programs.

3. DATE: July 15, 2014.
TIME: 8:30 a.m. to 5:00 p.m.
ROOM: 4002.
This meeting will discuss applications for Challenge Grants from colleges, universities and research institutions, submitted to Office of Challenge Grants.

4. DATE: July 16, 2014.
TIME: 8:30 a.m. to 5:00 p.m.
ROOM: P002.
This meeting will discuss applications on the subjects of American History, Literature, and Studies for the Awards for Faculty grant program, submitted to the Division of Research Programs.

5. DATE: July 17, 2014.
TIME: 8:30 a.m. to 5:00 p.m.
ROOM: P002.
This meeting will discuss applications on the subject of British Literature for the Fellowships for University Teachers grant program, submitted to the Division of Research Programs.

6. DATE: July 17, 2014.
TIME: 8:30 a.m. to 5:00 p.m.
ROOM: P003.
This meeting will discuss applications on the subject of British Literature for the Fellowships for University Teachers grant program, submitted to the Division of Research Programs.

7. DATE: July 17, 2014.
TIME: 8:30 a.m. to 5:00 p.m.
ROOM: 4002.
This meeting will discuss applications for Challenge Grants on the subject of History, submitted to the Office of Challenge Grants.

8. DATE: July 18, 2014.
TIME: 8:30 a.m. to 5:00 p.m.
ROOM: P002.
This meeting will discuss applications on the subjects of Ancient and Classical Studies for the Fellowships for University Teachers grant program, submitted to the Division of Research Programs.

9. DATE: July 21, 2014.
TIME: 8:30 a.m. to 5:00 p.m.
ROOM: P002.
This meeting will discuss applications on the subject of Modern European History for the Fellowships for University Teachers grant program, submitted to the Division of Research Programs.

10. DATE: July 22, 2014.
TIME: 8:30 a.m. to 5:00 p.m.
ROOM: P002.
This meeting will discuss applications on the subject of Music for the Fellowships for University Teachers grant program, submitted to the Division of Research Programs.

11. DATE: July 22, 2014.
TIME: 8:30 a.m. to 5:00 p.m.
ROOM: P003.
This meeting will discuss applications on the subject of Art History for the Fellowships for University Teachers grant program, submitted to the Division of Research Programs.

12. DATE: July 23, 2014.
TIME: 8:30 a.m. to 5:00 p.m.
ROOM: P002.
This meeting will discuss applications on the subject of Philosophy for the Fellowships for University Teachers grant program, submitted to the Division of Research Programs.

13. DATE: July 23, 2014.
TIME: 8:30 a.m. to 5:00 p.m.
ROOM: P003.
This meeting will discuss applications on the subject of Philosophy for the Fellowships for University Teachers grant program, submitted to the Division of Research Programs.

14. DATE: July 24, 2014.
TIME: 8:30 a.m. to 5:00 p.m.
ROOM: P002.
This meeting will discuss applications on the subjects of Comparative Literature and Literary Theory for the Fellowships for University Teachers grant program, submitted to the Division of Research Programs.

15. DATE: July 24, 2014.
TIME: 8:30 a.m. to 5:00 p.m.
ROOM: P003.
This meeting will discuss applications on the subject of Cinema Studies for the Fellowships for University Teachers grant program, submitted to the Division of Research Programs.

16. DATE: July 24, 2014.
TIME: 8:30 a.m. to 5:00 p.m.
ROOM: 4002.
This meeting will discuss applications for Challenge Grants on the subjects of Art and Anthropology, submitted to the Office of Challenge Grants.

17. DATE: July 25, 2014.
TIME: 8:30 a.m. to 5:00 p.m.
ROOM: P002.
This meeting will discuss applications on the subjects of Social Sciences and the History of Science for the Fellowships for University Teachers grant program, submitted to the Division of Research Programs.

18. DATE: July 28, 2014.
TIME: 8:30 a.m. to 5:00 p.m.
ROOM: P002.
This meeting will discuss applications on the subject of Art History for the Fellowships for University Teachers grant program, submitted to the Division of Research Programs.

19. DATE: July 28, 2014.
TIME: 8:30 a.m. to 5:00 p.m.
ROOM: P003.
This meeting will discuss applications for the Fellowships for Advanced Research on Japan grant program, submitted to the Division of Research Programs.

20. DATE: July 29, 2014.
TIME: 8:30 a.m. to 5:00 p.m.
ROOM: P002.
This meeting will discuss applications on the subject of Early Modern European History for the Fellowships for University Teachers grant program, submitted to the Division of Research Programs.

21. DATE: July 29, 2014.
TIME: 8:30 a.m. to 5:00 p.m.
ROOM: P003.
This meeting will discuss applications on the subject of Modern European History for the Fellowships for University Teachers grant program, submitted to the Division of Research Programs.

22. DATE: July 29, 2014.
TIME: 8:30 a.m. to 5:00 p.m.
ROOM: 4002.
This meeting will discuss applications for Challenge Grants by

colleges, universities and research institutions, submitted to the Office of Challenge Grants.

23. DATE: July 30, 2014.
TIME: 8:30 a.m. to 5:00 p.m.
ROOM: P002.
This meeting will discuss applications on the subjects of Political Science and Jurisprudence for the Fellowships for University Teachers grant program, submitted to the Division of Research Programs.

24. DATE: July 30, 2014.
TIME: 8:30 a.m. to 5:00 p.m.
ROOM: P003.
This meeting will discuss applications on the subject of American Literature for the Fellowships for University Teachers grant program, submitted to the Division of Research Programs.

25. DATE: July 31, 2014.
TIME: 8:30 a.m. to 5:00 p.m.
ROOM: P002.
This meeting will discuss applications on the subject of American History for the Fellowships for University Teachers grant program, submitted to the Division of Research Programs.

26. DATE: July 31, 2014.
TIME: 8:30 a.m. to 5:00 p.m.
ROOM: P003.
This meeting will discuss applications on the subject of American History for the Fellowships for University Teachers grant program, submitted to the Division of Research Programs.

Because these meetings will include review of personal and/or proprietary financial and commercial information given in confidence to the agency by grant applicants, the meetings will be closed to the public pursuant to sections 552b(c)(4) and 552b(c)(6) of Title 5, U.S.C., as amended. I have made this determination pursuant to the authority granted me by the Chairman's Delegation of Authority to Close Advisory Committee Meetings dated July 19, 1993.

Dated: June 26, 2014.

Lisette Voyatzis,

Committee Management Officer.

[FR Doc. 2014–15583 Filed 7–1–14; 8:45 am]

BILLING CODE 7536–01–P

NATIONAL SCIENCE FOUNDATION

Notice of Permit Applications Received Under the Antarctic Conservation Act of 1978 (Pub. L. 95–541)

AGENCY: National Science Foundation.

ACTION: Notice of Permit Applications Received under the Antarctic Conservation Act of 1978, Public Law 95–541.

SUMMARY: The National Science Foundation (NSF) is required to publish a notice of permit applications received to conduct activities regulated under the Antarctic Conservation Act of 1978. NSF has published regulations under the Antarctic Conservation Act at Title 45 part 671 of the Code of Federal Regulations. This is the required notice of permit applications received.

DATES: Interested parties are invited to submit written data, comments, or views with respect to this permit application by August 1, 2014. This application may be inspected by interested parties at the Permit Office, address below.

ADDRESSES: Comments should be addressed to Permit Office, Room 755, Division of Polar Programs, National Science Foundation, 4201 Wilson Boulevard, Arlington, Virginia 22230.

FOR FURTHER INFORMATION CONTACT: Li Ling Hamady, ACA Permit Officer, at the above address or *ACApermits@nsf.gov* or (703) 292–7149.

SUPPLEMENTARY INFORMATION: The National Science Foundation, as directed by the Antarctic Conservation Act of 1978 (Pub. L. 95–541), as amended by the Antarctic Science, Tourism and Conservation Act of 1996, has developed regulations for the establishment of a permit system for various activities in Antarctica and designation of certain animals and certain geographic areas as requiring special protection. The regulations establish such a permit system to designate Antarctic Specially Protected Areas.

Application Details

Permit Application: 2015–003

1. Applicant

Dr. Terrie M. Williams, COH-Long Lab, 100 Shaffer Road, UCSC, Santa Cruz, CA 95060.

Activity for Which Permit is Requested

Take; Import into the USA. The applicant plans to capture up to 36 adult Weddell seals each season over the course of 4 years. The seals will be measured and weighed; blood samples will be taken and removable, small cameras will be attached to the fur; seals will be transported to nearby sites, released, recaptured, and ultimately released sans cameras. The samples and data will be used to test sub-ice navigation and orientation to understand the key sensory modalities for locating breathing holes in the sea ice.

Location

McMurdo Sound

Dates

September 1, 2014 to December 31, 2017.

Nadene G. Kennedy,

Polar Coordination Specialist, Division of Polar Programs.

[FR Doc. 2014–15500 Filed 7–1–14; 8:45 am]

BILLING CODE 7555–01–P

NUCLEAR REGULATORY COMMISSION

[Docket No. NRC–2014–0157]

Agency Information Collection Activities: Proposed Collection; Comment Request

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice of pending NRC action to submit an information collection request to the Office of Management and Budget (OMB) and solicitation of public comment.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) invites public comment about our intention to request the OMB's approval for renewal of an existing information collection that is summarized below. We are required to publish this notice in the **Federal Register** under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35).

Information pertaining to the requirement to be submitted:

1. *The title of the information collection:* Voluntary Reporting of Performance Indicators.
2. *Current OMB approval number:* 3150–0195.
3. *How often the collection is required:* Quarterly.
4. *Who is required or asked to report:* Power reactor licensees.
5. *The number of annual respondents:* 100.
6. *The number of hours needed annually to complete the requirement or request:* 81,250 hours (80,000 hours of reporting and 1,250 hours of recordkeeping).
7. *Abstract:* As part of a joint industry-NRC initiative, the NRC receives information submitted voluntarily by power reactor licensees regarding selected performance attributes known as performance indicators (PIs). Performance indicators are objective measures of the performance of licensee systems or programs. The NRC uses PIs information and inspection results in its Reactor Oversight Process to make

decisions about plant performance and regulatory response. Licensees transmit PIs electronically to reduce burden on themselves and the NRC.

Submit, by September 2, 2014, comments that address the following questions:

1. Is the proposed collection of information necessary for the NRC to properly perform its functions? Does the information have practical utility?

2. Is the burden estimate accurate?

3. Is there a way to enhance the quality, utility, and clarity of the information to be collected?

4. How can the burden of the information collection be minimized, including the use of automated collection techniques or other forms of information technology?

The public may examine and have copied for a fee publicly-available documents, including the draft supporting statement, at the NRC's Public Document Room, Room O–1F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852. The OMB clearance requests are available at the NRC's Web site: *http://www.nrc.gov/public-involve/doc-comment/omb/*. The document will be available on the NRC's home page site for 60 days after the signature date of this notice.

Comments submitted in writing or in electronic form will be made available for public inspection. Because your comments will not be edited to remove any identifying or contact information, the NRC cautions you against including any information in your submission that you do not want to be publicly disclosed. Comments submitted should reference Docket No. NRC–2014–0157. You may submit your comments by any of the following methods: Electronic comments go to *http://www.regulations.gov* and search for Docket No. NRC–2014–0157. Mail comments to the Acting NRC Clearance Officer, Brenda Miles (T–5 F53), U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

Questions about the information collection requirements may be directed to the Acting NRC Clearance Officer, Brenda Miles (T–5 F53), U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, by telephone: 301–415–7884, or by email to: *INFOCOLLECTS.Resource@NRC.GOV*.

Dated at Rockville, Maryland, this 26th day of June 2014.

For the Nuclear Regulatory Commission.

Brenda Miles,

Acting NRC Clearance Officer, Office of Information Services.

[FR Doc. 2014–15446 Filed 7–1–14; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket No. NRC–2014–0134]

Agency Information Collection Activities: Proposed Collection; Comment Request

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice of pending NRC action to submit an information collection request to the Office of Management and Budget (OMB) and solicitation of public comment.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) invites public comment about our intention to request the OMB's approval for renewal of an existing information collection that is summarized below. We are required to publish this notice in the **Federal Register** under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35).

Information pertaining to the requirement to be submitted:

1. *The title of the information collection:* 10 CFR Part 36, ''Licenses and Radiation Safety Requirements for Irradiators.''

2. *Current OMB approval number:* 3150–0158.

3. *How often the collection is required:* Annually.

4. *Who is required or asked to report:* Irradiator licensees licensed by NRC or an Agreement State.

5. *The number of annual respondents:* 56 (8 NRC licensees and 48 Agreement State licensees).

6. *The number of hours needed annually to complete the requirement or request:* 34,048 hours (4,864 NRC licensee hours + 29,184 Agreement State licensee hours).

7. *Abstract:* Part 36 of Title 10 of the *Code of Federal Regulations* (10 CFR) contains requirements for the issuance of a license authorizing the use of sealed sources containing radioactive materials in irradiators used to irradiate objects or materials for a variety of purposes in research, industry, and other fields. The subparts cover specific requirements for obtaining a license or license exemption, design and performance criteria for irradiators; and radiation safety requirements for operating irradiators, including requirements for operating irradiators, including requirements for operator training, written operating and emergency procedures, personnel monitoring, radiation surveys, inspection, and maintenance. Part 36 also contains the recordkeeping and reporting requirements that are necessary to ensure that the irradiator is being safely operated so that it does not pose any danger to the health and safety of the general public and the irradiator employees.

Submit, by September 2, 2014, comments that address the following questions:

1. Is the proposed collection of information necessary for the NRC to properly perform its functions? Does the information have practical utility?

2. Is the burden estimate accurate?

3. Is there a way to enhance the quality, utility, and clarity of the information to be collected?

4. How can the burden of the information collection be minimized, including the use of automated collection techniques or other forms of information technology?

The public may examine and have copied for a fee publicly-available documents, including the draft supporting statement, at the NRC's Public Document Room, Room O–1F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852. The OMB clearance requests are available at the NRC's Web site: *http://www.nrc.gov/public-involve/doc-comment/omb/*. The document will be available on the NRC home page site for 60 days after the signature date of this notice.

Comments submitted in writing or in electronic form will be made available for public inspection. Because your comments will not be edited to remove any identifying or contact information, the NRC cautions you against including any information in your submission that you do not want to be publicly disclosed. Comments submitted should reference Docket No. NRC–2014–0134. You may submit your comments by any of the following methods: Electronic comments go to *http://www.regulations.gov* and search for Docket No. NRC–2014–0134. Mail comments to the Acting NRC Clearance Officer, Brenda Miles (T–5 F50), U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

Questions about the information collection requirements may be directed to the Acting NRC Clearance Officer, Brenda Miles (T–5 F50), U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, by telephone: 301–415–7884, or by email to: *INFOCOLLECTS.Resource@NRC.GOV*.

Dated at Rockville, Maryland, this 26th day of June, 2014.

For the Nuclear Regulatory Commission.

Brenda Miles,

Acting NRC Clearance Officer, Office of Information Services.

[FR Doc. 2014–15447 Filed 7–1–14; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket No. NRC–2014–0148]

Agency Information Collection Activities: Proposed Collection; Comment Request

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice of pending NRC action to submit an information collection request to the Office of Management and Budget (OMB) and solicitation of public comment.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) invites public comment about our intention to request the OMB's approval for renewal of an existing information collection that is summarized below. We are required to publish this notice in the **Federal Register** under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35).

Information pertaining to the requirement to be submitted:

1. *The title of the information collection:* 10 CFR Part 100 ''Reactor Site Criteria.''

2. *Current OMB approval number:* 3150–0093.

3. *How often the collection is required:* As necessary in order for the NRC to assess the adequacy of proposed seismic design bases and the design bases for other site hazards for nuclear power and test reactors constructed and licensed in accordance with Parts 50 and 52 of Title 10 of the *Code of Federal Regulations* (10 CFR) and the Atomic Energy Act of 1954, as amended.

4. *Who is required or asked to report:* Applicants and licensees for nuclear power and test reactors.

5. *The number of annual respondents:* 2.3 (7 respondents over a 3-year period).

6. *The number of hours needed annually to complete the requirement or request:* 167,900 hours (73,000 per application × 2.3 applications).

7. *Abstract:* Part 100, Reactor Site Criteria, establishes approval requirements for proposed sites for the purpose of constructing and operating stationary power and testing reactors pursuant to the provisions of 10 CFR parts 50 or 52. These reactors are required to be sited, designed, constructed, and maintained to withstand geologic hazards, such as faulting, seismic hazards, and the maximum credible earthquake, to protect the health and safety of the public and the environment. Non-seismic siting criteria must also be evaluated. Seismic siting criteria include such factors as population density, the proximity of man-related hazards, and site atmospheric dispersion characteristics. The NRC uses the information required by 10 CFR part 100 to evaluate whether natural phenomena and potential man-made hazards will be appropriately accounted for in the design of nuclear power and test reactors.

Submit, by September 2, 2014, comments that address the following questions:

1. Is the proposed collection of information necessary for the NRC to properly perform its functions? Does the information have practical utility?

2. Is the burden estimate accurate?

3. Is there a way to enhance the quality, utility, and clarity of the information to be collected?

4. How can the burden of the information collection be minimized, including the use of automated collection techniques or other forms of information technology?

The public may examine and have copied for a fee publicly-available documents, including the draft supporting statement, at the NRC's Public Document Room, Room O–1F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852. The OMB clearance requests are available at the NRC's Web site: *http://www.nrc.gov/public-involve/doc-comment/omb/*. The document will be available on the NRC's home page site for 60 days after the signature date of this notice.

Comments submitted in writing or in electronic form will be made available for public inspection. Because your comments will not be edited to remove any identifying or contact information, the NRC cautions you against including any information in your submission that you do not want to be publicly disclosed. Comments submitted should reference Docket No. NRC–2014–0148. You may submit your comments by any of the following methods: Electronic comments go to *http://www.regulations.gov* and search for Docket No. NRC–2014–0148. Mail comments to the Acting NRC Clearance Officer, Brenda Miles (T–5 F53), U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

Questions about the information collection requirements may be directed to the Acting NRC Clearance Officer, Brenda Miles (T–5 F53), U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001; telephone: 301–415–7884, or by email to *INFOCOLLECTS.Resource@NRC.GOV.*

Dated at Rockville, Maryland, this 26th day of June, 2014.

For the Nuclear Regulatory Commission.

Brenda Miles,

Acting NRC Clearance Officer, Office of Information Services.

[FR Doc. 2014–15448 Filed 7–1–14; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket No. NRC–2014–0105]

Agency Information Collection Activities: Proposed Collection; Comment Request

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice of pending NRC action to submit an information collection request to the Office of Management and Budget (OMB) and solicitation of public comment.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) invites public comment about our intention to request the OMB's approval for renewal of an existing information collection that is summarized below. We are required to publish this notice in the **Federal Register** under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35).

Information pertaining to the requirement to be submitted:

1. *The title of the information collection:* NRC Form 445, ''Request for Approval of Official Foreign Travel.''

2. *Current OMB approval number:* 3150–0193.

3. *How often the collection is required:* On occasion.

4. *Who is required or asked to report:* Non-Federal consultants, contractors and NRC's invited travelers (i.e., non-NRC employees).

5. *The number of annual respondents:* 20.

6. *The number of hours needed annually to complete the requirement or request:* 40 hours (2 hours per response).

7. *Abstract:* NRC Form 445, ''Request for Approval of Foreign Travel,'' is supplied by consultants, contractors, and NRC's invited travelers who must travel to foreign countries in the course of conducting business for the NRC. In accordance with 48 CFR part 20, ''NRC Acquisition Regulation,'' contractors traveling to foreign countries are required to complete this form. The

information requested includes the name of the Office Director/Regional Administrator or Chairman, as appropriate, the traveler's identifying information, purpose of travel, listing of the trip coordinators, other NRC's travelers and contractors attending the same meeting, and a proposed itinerary. Revisions to NRC's Management Directives 14.1 and 5.13 require each traveler to obtain a briefing on the most recent status of the threat environment prior to travel, and to requisition government issued communication devices such as cell phones and laptops for use while travelling. These and other procedural changes necessitated a redesign of NRC Form 445.

Submit, by September 2, 2014, comments that address the following questions:

1. Is the proposed collection of information necessary for the NRC to properly perform its functions? Does the information have practical utility?
2. Is the burden estimate accurate?
3. Is there a way to enhance the quality, utility, and clarity of the information to be collected?
4. How can the burden of the information collection be minimized, including the use of automated collection techniques or other forms of information technology?

The public may examine and have copied for a fee, publicly-available documents, including the draft supporting statement, at the NRC's Public Document Room, Room O–1F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852. The OMB clearance requests are available at the NRC's Web site: *http://www.nrc.gov/public-involve/doc-comment/omb/*. The document will be available on the NRC's home page site for 60 days after the signature date of this notice.

Comments submitted in writing or in electronic form will be made available for public inspection. Because your comments will not be edited to remove any identifying or contact information, the NRC cautions you against including any information in your submission that you do not want to be publicly disclosed. Comments submitted should reference Docket No. NRC–2014–0105. You may submit your comments by any of the following methods. Electronic comments go to *http://www.regulations.gov* and search for Docket No. NRC–2014–0105. Mail comments to the Acting NRC Clearance Officer, Brenda Miles (T–5 F53), U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

Questions about the information collection requirements may be directed to the Acting NRC Clearance Officer, Brenda Miles (T–5 F53), U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001; telephone: 301–415–7884, or by email to *INFOCOLLECTS.Resource@NRC.GOV*.

Dated at Rockville, Maryland, this 26th day of June, 2014.

For the Nuclear Regulatory Commission.

Brenda Miles,

Acting NRC Clearance Officer, Office of Information Services.

[FR Doc. 2014–15445 Filed 7–1–14; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

Advisory Committee on the Medical Uses of Isotopes: Meeting Notice

AGENCY: U.S. Nuclear Regulatory Commission.

ACTION: Notice of Meeting.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) will convene a teleconference meeting of the Advisory Committee on the Medical Uses of Isotopes (ACMUI) on August 20, 2014, to discuss the revisions to the ACMUI bylaws. Meeting information, including a copy of the agenda and handouts, will be available at *http://www.nrc.gov/reading-rm/doc-collections/acmui/meetings/2014.html.* The agenda and handouts may also be obtained by contacting Ms. Sophie Holiday using the information below.

DATES: The teleconference meeting will be held on Wednesday, August 20, 2014, 1:30 p.m. to 3:00 p.m. Eastern Daylight Time (EDT).

Public Participation: Any member of the public who wishes to participate in the teleconference should contact Ms. Holiday using the contact information below.

Contact Information: Sophie Holiday, email: *sophie.holiday@nrc.gov*, telephone: (301) 415–7865.

Conduct of the Meeting

Dr. Bruce Thomadsen, ACMUI Chairman, will preside over the meeting. Dr. Thomadsen will conduct the meeting in a manner that will facilitate the orderly conduct of business. The following procedures apply to public participation in the meeting:

1. Persons who wish to provide a written statement should submit an electronic copy to Ms. Holiday at the contact information listed above. All submittals must be received by August 15, 2014, three business days prior to the meeting, and must pertain to the topic on the agenda for the meeting.
2. Questions and comments from members of the public will be permitted during the meetings, at the discretion of the Chairman.
3. The draft transcript and meeting summary will be available on ACMUI's Web site *http://www.nrc.gov/reading-rm/doc-collections/acmui/meetings/2014.html* on or about October 1, 2014.

This meeting will be held in accordance with the Atomic Energy Act of 1954, as amended (primarily Section 161a); the Federal Advisory Committee Act (5 U.S.C. App); and the Commission's regulations in Title 10 of the *Code of Federal Regulations,* Part 7.

Dated: June 26, 2014.

Andrew L. Bates,

Advisory Committee Management Officer.

[FR Doc. 2014–15575 Filed 7–1–14; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[NRC–2012–0237]

Regulatory Treatment of Non-Safety Systems for Passive Advanced Light Water Reactors

AGENCY: Nuclear Regulatory Commission.

ACTION: Standard review plan; issuance.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) is issuing a final revision to the following section of NUREG–0800, ''Standard Review Plan for the Review of Safety Analysis Reports for Nuclear Power Plants: LWR Edition'' Section 19.3, ''Regulatory Treatment of Non-Safety Systems (RTNSS) for Passive Advanced Light Water Reactors.''

DATES: The effective date of this Standard Review Plan (SRP) update is August 1, 2014.

ADDRESSES: Please refer to Docket ID NRC–2012–0237 when contacting the NRC about the availability of information regarding this document. You may obtain 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–2012–0237. Address questions about NRC dockets to Carol Gallagher; telephone: 301–287–3422; email: *Carol.Gallagher@nrc.gov*. For technical questions, contact the individual listed in the **FOR FURTHER INFORMATION CONTACT** section of this document.
- *NRC's Agencywide Documents Access and Management System (ADAMS):* You may access publicly-

available documents online in the ADAMS Public Documents collection 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 final revision for Section 19.3, ''Regulatory Treatment of Non-Safety Systems (RTNSS) for Passive Advanced Light Water Reactors.'' is available under ADAMS Accession No ML14035A149.

- *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.
- The NRC posts its issued staff guidance on the NRC's external Web page at *http://www.nrc.gov/reading-rm/doc-collections/nuregs/staff/sr0800/*.

FOR FURTHER INFORMATION CONTACT: Jonathan DeGange, Office of New Reactors, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001; telephone: 301–415–6992 or email: *Jonathan.Degange@nrc.gov*.

SUPPLEMENTARY INFORMATION:

I. Background

On October 12, 2012 (77 FR 62270) the NRC staff published for public comment the initial issuance of Section 19.3, ''Regulatory Treatment of Non-Safety Systems (RTNSS) for Passive Advanced Light Water Reactors,'' (ADAMS Accession No. ML12128A405).

The NRC staff received comment submissions on the proposed revision. The NRC staff made several changes to the proposed revision after consideration of the comments. Additionally, in July 2013 (78 FR 41436) the staff re-noticed the draft SRP section to include a revised position on treatment of the high winds external hazard for certain RTNSS structures, systems and components. Comments from both the original request for comment and subsequent re-issuance are documented alongside the NRC staff's respective response in ADAMS under Accession No. ML14035A148. A redline strikeout comparing the proposed draft and final revisions can be found in ADAMS under Accession No. ML14035A146.

II. Backfitting and Issue Finality

This SRP provides guidance to the staff for reviewing applications for a construction permit and an operating license under part 50 of Title 10 of the *Code of Federal Regulations* (10 CFR) with respect to the regulatory treatment of non-safety systems. The draft SRP would also provide guidance for reviewing an application for a standard design approval, a standard design certification, a combined license, and a manufacturing license under 10 CFR part 52 with respect to these same subject matters.

Issuance of this final SRP section does not constitute backfitting as defined in 10 CFR 50.109 (the Backfit Rule) and is not otherwise inconsistent with the issue finality provisions in 10 CFR part 52. The NRC staff's position is based upon the following considerations:

1. *The SRP positions do not constitute backfitting, inasmuch as the SRP is internal guidance directed at the NRC staff with respect to their regulatory responsibilities.*

The SRP provides guidance to the staff on how to review an application for NRC regulatory approval in the form of licensing. Changes in internal staff guidance are not matters for which either nuclear power plant applicants or licensees are protected under either the Backfit Rule or the issue finality provisions of 10 CFR part 52.

2. *Backfitting and issue finality—with certain exceptions discussed below—do not protect current or future applicants.*

Applicants and potential applicants are not, with certain exceptions, protected by either the Backfit Rule or any issue finality provisions under 10 CFR part 52. This is because neither the Backfit Rule nor the issue finality provisions were intended to apply to every NRC action which substantially changes the expectations of current and future applicants.

The exceptions to the general principle are applicable whenever an applicant references a 10 CFR part 52 license (e.g., an early site permit) and/or NRC regulatory approval (e.g., a design certification rule) with specified issue finality provisions. The staff does not currently intend to impose the positions represented in this SRP section in a manner that is inconsistent with any issue finality provisions of 10 CFR part 52. If in the future the NRC staff does indeed intend to impose positions inconsistent with these issue finality provisions, the NRC staff must address the regulatory criteria for avoiding issue finality.

The staff notes that with respect to economic simplified boiling water reactor (ESBWR) design certification application currently under consideration by the NRC, the NRC staff does not intend to reevaluate the adequacy of RTNSS SSCs, because for the ESBWR design already meets the guidance discussed in this SRP Section.

3. *The NRC staff has no intention to impose the SRP positions on existing nuclear power plant licenses or regulatory approvals either now or in the future (absent a voluntary request for change from the licensee, holder of a regulatory approval, or a design certification applicant).*

The staff does not intend to impose or apply the positions described in the SRP section to existing (already issued) licenses (*e.g.,* operating licenses and combined licenses) and regulatory approvals—in this case, design certifications and combined licenses. Hence, the issuance of this SRP guidance even if considered guidance which is within the purview of the issue finality provisions in 10 CFR part 52—need not be evaluated as if it were a backfit or as being inconsistent with issue finality provisions. If, in the future, the staff seeks to impose a position in the SRP on holders of already issued licenses in a manner which does not provide issue finality as described in the applicable issue finality provision, then the staff must make the showing as set forth in the Backfit Rule, or address the criteria for avoiding issue finality as described in the applicable issue finality provision.

III. Congressional Review Act

This action is a rule as defined in the Congressional Review Act (5 U.S.C. 801–808). However, the Office of Management and Budget has not found it to be a major rule as defined in the Congressional Review Act.

Dated at Rockville, Maryland, this 23rd day of June, 2014.

For the Nuclear Regulatory Commission.

Joseph Colaccino, Chief,

Policy Branch, Division of Advanced Reactors and Rulemaking, Office of New Reactors.

[FR Doc. 2014–15572 Filed 7–1–14; 8:45 am]

BILLING CODE 7590–01–P

POSTAL SERVICE

Transfer of Inbound Surface Parcel Post (at UPU Rates) to Competitive Product List

AGENCY: Postal Service™.

ACTION: Notice.

SUMMARY: The Postal Service hereby provides notice that it has filed a request with the Postal Regulatory Commission to transfer Inbound Surface Parcel Post (at UPU rates) from the market-dominant product list to the competitive product list.

DATES: *Effective date:* July 2, 2014.

FOR FURTHER INFORMATION CONTACT: Caroline Brownlie, 202–268–3010.

SUPPLEMENTARY INFORMATION: On June 25, 2014, the United States Postal Service® filed with the Postal Regulatory Commission a *Request of the United States Postal Service* to transfer Inbound Surface Parcel Post (at UPU rates) from the Mail Classification Schedule's Market-Dominant Product List to its Competitive Product List, pursuant to 39 U.S.C. 3642. Documents pertinent to this request are available at *http://www.prc.gov*, Docket No. MC2014–28.

Stanley F. Mires,

Attorney, Legal Policy & Legislative Advice.

[FR Doc. 2014–15540 Filed 7–1–14; 8:45 am]

BILLING CODE 7710–12–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–72478; File No. SR–CME–2014–25]

Self-Regulatory Organizations; Chicago Mercantile Exchange Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Regarding Collateral Acceptance Practices for Products in the Base Guaranty Fund

June 26, 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 June 23, 2014, Chicago Mercantile Exchange Inc. (''CME'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change described in Items I and II below, which Items have been prepared primarily by CME. CME filed the proposal pursuant to Section 19(b)(3)(A) 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 change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

CME is proposing to announce via advisory notice a certain change to its collateral acceptance practices. More specifically, CME is proposing to issue an advisory to clearing member firms announcing a change to the acceptable collateral types for base guaranty fund products. The text of the proposed rule change is below. Italicized text indicates additions; bracketed text indicates deletions.

CME Group Advisory Notice #14–194

TO: Clearing Member Firms
FROM: CME Clearing

SUBJECT: Exchange Traded Fund (ETF) and Stock Programs

CME Clearing is expanding its existing collateral program to include additional Exchange Traded Funds (ETFs) that may be used as performance bond collateral for Base Guaranty Fund products effective June 23rd, 2014. Currently, CME Clearing accepts a select number of ETFs through its Stock Program. The existing haircut of 30% will be applied to ETFs. Please see CME's Financial and Collateral Management page for the updated acceptance criteria for ETFs and stocks. On the 5th business day of every month, a new list of acceptable ETFs and stocks will be posted to CME's Financial and Collateral Management page.

Both ETFs and stocks are part of category 3 assets. Therefore, ETFs and stocks in combination with other category 3 assets will be capped at the lesser of 40% of core requirement per currency or $5 billion per clearing member firm. Please see the list of category 3 assets below. ETFs and stocks combined are capped at $1 billion per clearing member firm.

In accordance with CME Rule 930.C, a clearing member cannot accept an accountholder security that has been ''issued, sponsored or otherwise guaranteed by the accountholder.'' In addition, any ETF that is sponsored by the clearing member or its parent or affiliate company may not be pledged for the clearing member's house performance bond requirement. For any questions related to the ETF and Stock Programs, please contact the Risk Management department at 312–648–3888 or the Financial Management group at 312–207–2594.

Category 3 Assets

- *IEF 2 (Money Market Funds)*
- *IEF 4 (Corporate Bonds)*
- *Gold*
- *ETFs and Stocks*
- *Foreign Sovereign Debt*

The list of proposed ETFs that may be used as performance bond collateral for Base Guaranty Fund products effective June 23rd, 2014 is as follows:

TICKER NAME
SPY US SPDR S&P 500 ETF TRUST
IWM US ISHARES RUSSELL 2000 ETF
QQQ US POWERSHARES QQQ TRUST SERIES
XLU US UTILITIES SELECT SECTOR SPDR
IYR US ISHARES US REAL ESTATE ETF
XLI US INDUSTRIAL SELECT SECT SPDR
XLE US ENERGY SELECT SECTOR SPDR
XLV US HEALTH CARE SELECT SECTOR
XLK US TECHNOLOGY SELECT SECT SPDR
XLP US CONSUMER STAPLES SPDR
XLY US CONSUMER DISCRETIONARY SELT
DIA US SPDR DJIA TRUST
XLB US MATERIALS SELECT SECTOR SPDR
XOP US SPDR S&P OIL & GAS EXP & PR
IVV US ISHARES CORE S&P 500 ETF
VNQ US VANGUARD REIT ETF
VTI US VANGUARD US TOTAL STOCK MKT
IBB US ISHARES NASDAQ BIOTECHNOLOGY
LQD US ISHARES IBOXX INVESTMENT GRA
BND US VANGUARD TOTAL BOND MARKET
AGG US ISHARES CORE U.S. AGGREGATE
VOO US VANGUARD S&P 500 ETF
REM US ISHARES MORTGAGE REAL ESTATE
BSV US VANGUARD SHORT–TERM BOND ETF

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, CME included statements concerning the purpose and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. CME has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

CME is registered as a derivatives clearing organization with the Commodity Futures Trading Commission (''CFTC'') and operates a substantial business clearing futures and swaps contracts subject to the jurisdiction of the CFTC. CME is proposing to make a certain change to its collateral acceptance practices through the issuance of an advisory notice to its clearing members. More specifically, CME is expanding its existing collateral program to include

[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)(4)(ii).

additional Exchange Traded Funds (''ETFs'') that may be used as performance bond collateral for CME's Base Guaranty Fund products. The proposed change would not impact CME's collateral acceptance practices relating to products in its CDS Guaranty Fund. CME also notes that although the proposed change would expand the eligible performance bond collateral for products in the Base Guaranty Fund, the proposed change would have no impact on the level of margin collected but rather would simply impact the makeup of the collateral used by a clearing member to meet its margin requirements.

Currently, CME accepts a select number of ETFs as collateral in connection with the products associated with certain non-CDS guaranty funds. ETFs accepted by CME as collateral are chosen through historical analysis of the ETF market and stock market. ETFs accepted as collateral conform to CME's credit risk criteria and are monitored by CME daily for price changes and are subject to periodic eligibility review. The existing haircut of 30% for currently accepted ETFs would be applied to the newly-added ETFs under the proposed change. Both ETFs and stocks are part of CME's ''Category 3'' assets. Therefore, ETFs and stocks in combination with other category 3 assets would be capped at the lesser of 40% of core requirement per currency or $5 billion per clearing member firm. ETFs and stocks combined are capped at $1 billion per clearing member firm. An updated table showing CME Base Guaranty Fund performance bond limits is included below.

UPDATED PERFORMANCE BOND ACCEPTABLE COLLATERAL CATEGORIES AND LIMITS

Category 1	Category 2 *	Category 3 **
Category 2 & 3 Capped at $7bn Per Firm		
Cash: U.S. Treasuries IEF5 (Interest Bearing Cash) Letters of Credit * **Capped at 40% of core requirement per currency requirement per firm*	U.S. Government Agencies Strips TIPS (capped at $1bn per firm) Select MBS ** Capped at 40% of core requirement per currency requirement per firm*	IEF2 † (Money Market Mutual Funds) Gold (capped at $500mm per firm) ETFs and Stocks (capped at $1bn per firm) IEF4 (corporate bonds) Foreign Sovereign Debt (capped at $1bn per firm) ***Capped at 40% of core requirement per currency requirement per firm or $5 billion per firm, the lesser of the two* *† Not included in the 40% requirement*

The advisory also clarifies that, in accordance with CME Rule 930.C, a CME clearing member cannot accept an accountholder security that has been ''issued, sponsored or otherwise guaranteed by the accountholder.'' In addition, the advisory would clarify that any ETF that is sponsored by the clearing member or its parent or affiliate company may not be pledged for the clearing member's house performance bond requirement.

The proposed change in this filing is limited to products associated with CME's Base Guaranty Fund and therefore does not impact products associated with CME's CDS guaranty fund. CME accepts a narrower range of collateral for CDS clearing and does not currently accept letters of credit, stocks or corporate bonds as acceptable collateral for CDS; the proposed rule change in this filing would not impact these current practices. The proposed rule change would become effective immediately.

CME believes the proposed rule change is consistent with the requirements of the Exchange Act including Section 17A of the Exchange Act.[5] The proposed change would amend CME's collateral acceptance practices to permit the use of additional ETFs that may be used as performance bond collateral for CME's Base Guaranty Fund products. Although the proposed change would expand the eligible performance bond collateral for Base Guaranty Fund products, the proposed change would have no impact on the level of margin collected but rather would simply impact the makeup of the collateral used by a clearing member to meet its margin requirements. Expanded collateral choices for market participants will 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 change is limited to products associated with CME's Base Guaranty Fund, which means the proposed change is limited in its effect to products that are under the exclusive jurisdiction of the CFTC. As such, the proposed change is 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 change is limited in its effect to products associated with CME's Base Guaranty Fund and therefore offered under CME's authority to act as a DCO, the proposed change is properly classified as effecting a change in an existing service of CME that:

(a) Primarily affects the clearing operations of CME with respect to products that are not securities, including futures that are not security futures, swaps that are not security-based swaps or mixed swaps; and forwards that are not security forwards; and

(b) does not significantly affect any securities clearing operations of CME or any rights or obligations of CME with respect to securities clearing or persons using such securities-clearing service.

As such, the change is therefore consistent with the requirements of

[5] 15 U.S.C. 78q–1.

[6] 15 U.S.C. 78q–1(b)(3)(F).

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 change will have any impact, or impose any burden, on competition. The proposed change would simply expand the eligible performance bond collateral for CME's Base Guaranty Fund. These expanded collateral choices will benefit market participants by offering greater flexibility.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

CME has not solicited, and does not intend to solicit, comments regarding this proposed rule change. CME has not received any unsolicited written comments from interested parties.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective upon filing pursuant to Section 19(b)(3)(A) [10] of the Act and Rule 19b–4(f)(4)(ii) [11] thereunder. At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

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 No. SR–CME–2014–25 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–2014–25. 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 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–2014–25 and should be submitted on or before July 23, 2014.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[12]

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2014–15473 Filed 7–1–14; 8:45 am]

BILLING CODE 8011–01–P

[7] 15 U.S.C. 78q–1.

[8] 15 U.S.C. 78s(b)(3)(A).

[9] 17 CFR 240.19b–4(f)(4)(ii).

[10] 15 U.S.C. 78s(b)(3)(A).

[11] 17 CFR 240.19b–4(f)(4)(ii).

[12] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–72479; File No. SR–FINRA–2014–026]

Self-Regulatory Organizations; Financial Industry Regulatory Authority, Inc.; Notice of Filing of a Proposed Rule Change To Amend the Code of Arbitration Procedure for Customer Disputes and the Code of Arbitration Procedure for Industry Disputes To Increase Arbitrator Honoraria and Increase Certain Arbitration Fees

June 26, 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 June 13, 2014, the 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 the Code of Arbitration Procedure for Customer Disputes (''Customer Code'') and the Code of Arbitration Procedure for Industry Disputes (''Industry Code'') (together, ''Codes'') to increase arbitration filing fees, member surcharges and process fees, and hearing session fees for the primary purpose of increasing arbitrator honoraria.

Specifically, the proposed rule change would amend Rules 12214 (Payment of Arbitrators), 12800 (Simplified Arbitration), 12900 (Fees Due When a Claim is Filed), 12901 (Member Surcharge), 12902 (Hearing Session Fees, and Other Costs and Expenses), and 12903 (Process Fees Paid by Members) of the Customer Code. The proposed rule change would also amend Rules 13214 (Payment of Arbitrators), 13800 (Simplified Arbitration), 13900 (Fees Due When a Claim is Filed), 13901 (Member Surcharge), 13902 (Hearing Session Fees, and Other Costs and Expenses), and 13903 (Process Fees Paid by Members) of the Industry Code.

The text of the proposed rule change is available on FINRA's Web site at *http://www.finra.org,* at the principal

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

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

FINRA is proposing to increase arbitrator honoraria for the first time since 1999.[3] FINRA believes that these increases are needed to recruit and retain a roster of high-quality arbitrators. FINRA is proposing to increase certain fees assessed in the arbitration forum to fund these increases. For example, the proposed rule change would increase the member surcharges and process fees for claims larger than $250,000[4] as well as filing fees for investors, associated persons, or firms bringing claims of more than $500,000 and hearing session fees for claims of more than $500,000.[5]

Section I below provides background for the proposed rule change, which includes an assessment of the economic impact of the honoraria and fee increases, a general description of the honoraria being increased, as well as the filing fees, member surcharges, member process fees, and hearing session fees that would be increased by the proposed rule change. Section II discusses the development of the proposed rule change. Section III describes the proposed rule change, and uses an example to show the effects of the increases on a typical arbitration.

Section I—Background

A. Economic Impact Assessment

FINRA's dispute resolution forum has received numerous complaints in recent years from its arbitrators regarding the honoraria paid to them for their service. FINRA is aware that arbitrators in private arbitration forums set their own rates[6] and charge significantly more than FINRA pays. Surveys of organizations and individuals recruited to be FINRA arbitrators, reports from arbitrators at focus groups, and other arbitrator comments indicate a heightened sensitivity to the comparatively low honoraria paid by FINRA. There are non-monetary benefits to serving as a FINRA arbitrator, such as learning the skills necessary to be an effective commercial arbitrator, serving the public, or giving back to one's community by applying professional knowledge gained as an arbitrator.[7] However, the current honoraria level is a barrier to recruiting.

In addition, arbitrators have regularly cited the honoraria level when leaving the roster, particularly when they are asked to take a new training course or complete a survey or disclosure statement. These extra requests are viewed as the ''last straw'' that prevents good arbitrators from remaining on the roster at the current honoraria rate. The increased honoraria would help the forum recruit qualified arbitrators because there is a continuing need for new arbitrators. Moreover, FINRA staff has learned that its arbitrators may occasionally postpone FINRA commitments when they conflict with higher paying assignments.

FINRA believes that these honoraria increases are needed to help the forum retain a roster of high-quality arbitrators and attract qualified individuals who possess the skills necessary to manage arbitration cases and consider thoroughly all arbitration issues presented, which are essential elements for FINRA to meet its regulatory objective of protecting the investing public.

FINRA acknowledges that the proposed honoraria increases (discussed in Section III(F) below) would not rise to market rates. To increase the honoraria to market rates would impose a significant financial burden on firms by increasing the fees they pay if they file or are named as a party to an arbitration, and could increase consequently the cost of securities transactions for customers, if firms seek to pass their increased expenses to customers. In addition, increasing honoraria to market rates could require a greater increase in arbitration filing fees,[8] which would increase the costs of customers, associated persons, and firms. Thus, FINRA believes the proposed rule change is the best option to narrow the gap without unduly increasing costs to forum users.

Currently, the arbitration fee structure assigns much of the cost of the forum to those members that are parties to arbitration proceedings. The proposed rule change would retain this approach. FINRA's current and proposed fee structures are designed to keep its arbitration program accessible and affordable to the parties, especially investors.

B. General Description of Honoraria

Arbitrator honoraria are the payments that FINRA makes to its arbitrators for the services they provide to FINRA's dispute resolution forum. Rules 12214 and 12800 of the Customer Code[9] address the honoraria arbitrators receive for the services provided. Currently, under Rule 12214(a), arbitrators receive $200 for each hearing session[10] in which the arbitrator participates. A typical day has two hearing sessions.

Chairpersons are often the arbitrators on FINRA's rosters with the most experience who have completed chairperson training. In addition, to qualify as a chairperson, an arbitrator must have served on at least three arbitrations through award in which hearings were held, or be a lawyer who served on at least two arbitrations through award in which hearings were held.[11] In recognition of their increased experience and extra responsibilities during a hearing,[12] FINRA currently pays chairpersons an additional $75 per

[3] *See* Securities Exchange Act Rel. No. 41056 (Feb. 16, 1999), 64 FR 10041 (Mar. 1, 1999) (File No. SR–NASD–97–79).

[4] The proposed rule change would also increase the member surcharge for the $10,000.01 to $25,000 tier. *See infra* note 49.

[5] As discussed below, the proposed rule change would also increase member surcharges as well as certain member and investor fees as to non-monetary or unspecified claims.

[6] *See, e.g.,* American Arbitration Association, Commercial Arbitration Rules and Mediation Procedures (Including Procedures for Large, Complex Commercial Disputes), R–55 (Neutral Arbitrator's Compensation), available at *https://www.adr.org/aaa/faces/aoe/commercial/c_search/c_rule/c_rule_detail?doc=ADRSTG_004130* (last visited June 10, 2014).

[7] *See* FINRA, Arbitration and Mediation, ''Benefits of Becoming a FINRA Arbitrator,'' available at *http://www.finra.org/ArbitrationAndMediation/Arbitrators/BecomeanArbitrator/Benefits/index.htm* (last visited June 10, 2014).

[8] *See infra* Section I(C), ''General Description of Fees.''

[9] For purposes of this discussion, FINRA refers to rules in the Customer Code. However, the changes and discussion would also apply to the same rules of the Industry Code.

[10] The term ''hearing session'' means any meeting between the parties and arbitrator(s) of four hours or less, including a hearing or a prehearing conference.

[11] Rules 12400(c) and 13400(c).

[12] For example, during a typical arbitration, the chairperson decides discovery motions and conducts the initial prehearing conference(s). Rules 12503(d)(3) and 13503(d)(3) (Discovery Motions) and Rules 12500(c) and 13500(c) (Initial Prehearing Conference).

hearing day.[13] The chairperson receives the additional honoraria for each day the person serves as chair at a hearing, regardless of the number of hearing sessions held per day.

Arbitrators receive honoraria when they decide contested motions requesting the issuance of a subpoena without a hearing (''contested subpoena requests'').[14] A contested subpoena request includes a motion requesting the issuance of a subpoena, the draft subpoena, a written objection from the party opposing the issuance of the subpoena, and any other documents supporting a party's position.[15] FINRA assesses a $200 fee to the parties for each arbitrator who participates in deciding the contested subpoena request to cover the cost of the honoraria. Under most circumstances, the chairperson will be the only arbitrator to decide the contested subpoena request based on the documents supplied by the parties. However, a party may request that the entire panel decide the contested subpoena request. The honoraria will be paid on a per case basis, regardless of the number of contested subpoena requests decided by an arbitrator or panel during the case. Thus, the maximum amount that the parties could pay for any one case will be $600. If an arbitrator or the panel decides a contested subpoena request, the arbitrator or panel allocates the cost of the honoraria to the parties in the award.[16]

Finally, when a claimant [17] files an arbitration claim in which the amount in dispute, excluding interest and expenses (''claim amount'') is $50,000 or less, one arbitrator decides the case based solely on the documents provided by the parties—no hearings are held.[18] In the forum, these cases are referred to as simplified arbitration cases because they are decided ''on the papers.'' The arbitrator who decides this type of case currently receives $125 per case.

C. General Description of Fees

FINRA is proposing to amend some of the fees for arbitration proceedings in the following categories: (1) The filing fee; (2) the member surcharge; (3) the member process fee; and (4) the hearing session fee. A general description of each fee follows.

(i) Filing Fee

Under the Codes, a customer, associated person, other non-member, or member who files a claim, counterclaim, cross claim or third party claim must pay a filing fee to initiate an arbitration.[19] The filing fee consists of two parts—a non-refundable fee, which FINRA keeps when a claim is filed, and a deposit, which FINRA may return in whole or in part to the party that filed the claim in certain circumstances. For example, if a case goes to hearing, and the panel orders a respondent to pay all hearing session fees, the refundable portion of the filing fee will be refunded to the claimants, less any fees, costs, and expenses that may have been assessed against this party under the Code.[20] Additionally, if a claim is settled or withdrawn in excess of 10 days before the merits hearing is scheduled to begin, a party paying a filing fee will receive a refund in the amount of the refundable portion of the filing fee less any other fees or costs assessed against the party under the Code.[21] A claimant may also request, as part of the award, that the panel order reimbursement of any non-refundable filing fee paid.[22] For customers and associated persons, the refundable portion of the filing fee is larger than the non-refundable fee to minimize these parties' committed costs. The filing fees for claims filed by members are higher than those for customers, associated persons or other non-members.[23] The non-refundable portion of the member filing fee is larger than the refundable portion in most cases to provide the forum with a stream of revenue at the outset of a case to offset the forum's expenses.

(ii) Member Surcharge

Currently, the Codes provide that a surcharge will be assessed against each member that: (1) Files a claim, counterclaim, cross claim, or third party claim under the Code; (2) is named as a respondent in a claim, counterclaim, cross claim, or third party claim filed and served under the Code; or (3) employed, at the time the dispute arose, an associated person who is named as a respondent in a claim, counterclaim, cross claim, or third party claim filed and served under the Code.[24] Member surcharges are intended to allocate the costs of administering the arbitration case to the brokerage firms that are involved in those cases. Thus, each member is assessed a member surcharge, based on the aggregate claim amount, when it is brought into the case, whether through a claim, counterclaim, cross claim or third party claim. The member surcharge is the responsibility of the member party and cannot be allocated to any other party (''non-allocable'').[25]

(iii) Process Fee

Currently, each member that is a party to an arbitration in which the claim amount is more than $25,000 must pay process fees, which are assessed at specific milestones in each case.[26] Specifically, FINRA assesses a non-refundable prehearing process fee of $750 at the time the parties are sent arbitrator lists and a non-refundable hearing process fee, based on the claim amount, when the parties are notified of the date and location of the hearing on the merits.[27] Therefore, when the parties receive the arbitrator lists or notification of the hearing, FINRA assesses each member party the applicable process fee, whether the member is a claimant or respondent in the case. Further, like the member surcharges, the process fee is also non-allocable to other parties to the arbitration.[28]

(iv) Hearing Session Fee

FINRA assesses a hearing session fee for each hearing session held. Hearing session fees are fees assessed for each hearing, pre-hearing, and injunctive hearing conducted.[29] A hearing session is a meeting of the parties and arbitrators.[30] The hearing session fee is allocable to the parties and based on the highest claim amount within the case.[31] In FINRA arbitrations, hearing sessions are classified as either a prehearing session or hearing session. One type of prehearing session is called an initial prehearing conference (''IPHC''), which FINRA schedules after the panel is appointed.[32] The panel and the parties use the IPHC, among other things, to set discovery, briefing, and motions

[13] A ''hearing'' means the hearing on the merits of an arbitration. Rules 12100(m) and 13100(m).

[14] Rules 12214(d) and 13214(d).

[15] Rules 12214(d)(2) and 13214(d)(2).

[16] Rules 12214(d)(3) and 13214(d)(3).

[17] A ''claimant'' is a party that files the statement of claim that initiates an arbitration. Rules 12100(e) and 13100(e).

[18] Rules 12800 and 13800.

[19] Rules 12900(a) and 13900(a).

[20] Rules 12902(b) and 13902(b).

[21] Rules 12900(c) and 13900(c).

[22] Rules 12900(d) and 13900(d).

[23] Rules 12900(b) and 13900(b).

[24] Rules 12901 and 13901.

[25] Rules 12901(a)(4) and 13901(d). *See also* Rules 12701(b) and 13701(b).

[26] If a claim amount is less than $25,000, the member would not be assessed any process fees. If a claim amount is between $25,000 and $50,000, FINRA would assess a non-refundable prehearing process fee, but not the non-refundable hearing process fee.

[27] Rule 12903(a) and 13903(a).

[28] Rules 12903(c) and 13903(c). *See also* Rules 12701(b) and 13701(b).

[29] Rules 12902(a) and 13902(a).

[30] *See supra* note 10.

[31] *Id.*

[32] Rules 12500(a) and 13500(a).

deadlines, and to schedule subsequent hearing sessions.[33]

The hearing session fee is intended to offset FINRA's cost to conduct hearing sessions. The cost of conducting a hearing session includes arbitrator compensation and travel expenses, hearing conference rooms, and staff work and expenses. Arbitrators may assess the hearing session fees in the award, or by arbitrator order if the parties held hearing sessions before agreeing to settle.[34] The arbitrators may apportion the fees in any manner, including assessing the entire amount against one party.[35] FINRA applies the refundable portion of the filing fee against any hearing session fees assessed against the party that paid the filing fee.

(v) Unspecified Claim Fee

If a party files a claim that does not request or specify money damages, that claim is considered an unspecified claim. When a party files an unspecified claim, the party must pay the filing fee for unspecified claims.[36] Further, a member would be assessed a surcharge and process fee, and the parties could be assessed hearing session fees, as discussed above. Each of these fee schedules contains a fee amount for non-monetary or unspecified claims.[37] Moreover, the Code provides that if a claim is unspecified or does not request monetary damages, the panel would consist of three arbitrators, unless the parties agree in writing to one arbitrator.[38]

Section II—Development of the Proposed Rule Change

In developing the proposed rule change, FINRA's primary goal was to ensure that the proposed fee increases would match as closely as possible the proposed honoraria (or expense) increases. FINRA staff (''staff'') ran statistical models of the forum's fees and expenses over a four year period, from 2009 to 2012. For the years studied, FINRA notes that its arbitration case volume was the highest in 2009 and decreased progressively in subsequent years. To analyze the model years, staff began by using the actual honoraria payments made to the arbitrators for each year. Then, for each payment made, staff calculated the proposed honoraria amount and totaled the difference. Once staff determined how much the honoraria payments would have increased in the aggregate for the model years, staff adjusted the following fees until the revenue matched the expense increases in the corresponding years.

Under the proposed rule change, FINRA would increase the member surcharge and process fees. These fees provide FINRA with revenue to cover some of the costs of administering its arbitration forum; these costs include arbitrator honoraria. Staff determined to increase the member surcharge and process fees for claim amounts of more than $250,000 because, in FINRA's experience, larger claims are more labor-intensive for arbitrators and, thus, require more resources. FINRA notes that under the proposed rule change, the member surcharge and process fees would remain non-allocable to other parties.

FINRA would also increase some of the filing fees that parties must pay to initiate an arbitration.[39] Specifically, filing fees would increase for claim amounts of more than $500,000 for all parties. Staff determined to increase the filing fee amounts for larger claims, because, as noted, they are more labor-intensive, and to minimize the impact on customers with smaller claims. To further mitigate the impact of the filing fee increases on all parties, staff added most of the increases to the refundable portion of the filing fee.

As for the hearing session fees, staff determined that the proposed fee increases should begin only at the $500,000.01 to $1,000,000 tier for hearing sessions with three arbitrators. This proposed increase would also allow staff to retain the current fee structure for hearing sessions with one arbitrator.[40] FINRA recognizes that the proposed increases to hearing session fees could result in additional costs for customers with larger claims. However, the increases would provide the forum with enough revenue to cover the honoraria payments for these cases, and allow the forum to offset the deficits created at the lower tier amounts.

FINRA notes that the effects of the hearing session fee increases can be minimized under the Codes. For example, the parties may settle[41] the arbitration before any hearings are conducted to avoid being assessed fees for a hearing.[42] Further, during settlement negotiations, if hearings were held, parties have the opportunity to determine how the hearing session fees could be shared.[43] Moreover, arbitrators have discretion to allocate hearing session fees as part of their award,[44] which allows them to consider numerous factors to determine each party's appropriate share and assign the costs accordingly. The proposed rule change would not change the parties' ability to settle or the arbitrators' discretion to allocate these fees.

Under the proposal, FINRA would also increase the unspecified claim fees provided in each of the fee types described above (*i.e.,* filing fee, member surcharge, process fee and hearing session fee). Staff's analysis of actual case experience during the model years found that a large percentage of arbitration cases requested a claim amount of more than $100,000. Currently, the unspecified claim fee amount for each fee type is lower than the fee amounts for the $100,000.01 to $500,000 tier. For example, the current unspecified filing fee is $1,250; however, the filing fee for the $100,000.01 to $500,000 tier is $1,425. Staff believes that a practical starting point for the unspecified claim fees should fall in the middle of the claim amount tiers, where a majority of the specified claims are clustered. To accomplish this, the proposed rule change would increase the unspecified claim fees in each category.[45] FINRA believes that increasing the unspecified claim fees in each fee type will more accurately reflect the appropriate fee for the damages sought and the potential range of recovery.

FINRA reiterates that staff designed the proposed rule change to generate enough revenue to pay for the increases in arbitrator honoraria. FINRA cannot guarantee, however, that the proposed fee increases would cover the expense increases exactly. For example, while the years staff modeled resulted in a positive net result, fluctuations in case filings could result in a negative result. By linking the fee increases to larger claim amounts, FINRA believes the proposed rule change is an appropriate and fair way to distribute the arbitrator honoraria increases among users of the forum. Moreover, the proposed rule change should provide FINRA with a

[33] Rules 12500(c) and 13500(c). The parties may agree to forego an IPHC under certain circumstances.

[34] The parties may agree to a different allocation in the settlement agreement.

[35] Rules 12902(a)(1) and 13902(a)(1).

[36] Rule 12900(a)(2). *See also* Rule 13900(a)(2).

[37] Rules 12900(b)(2), 12901(a)(2), 12902(a)(2), and 12903(a). See also Rules 13900(b)(2), 13901(a), 13902(a)(2) and 13903(a).

[38] Rule 12401(c). *See also* Rule 13401(c).

[39] *See supra* Section I(C)(i), ''Filing Fee.''

[40] *See infra* Section III(D), ''Hearing Session Fee Increases.''

[41] Rules 12701(a) and 13701(a).

[42] *See supra* note 10. FINRA would assess a hearing session fee against the parties for an IPHC, if one was held. Rules 12500(c) and 13500(c).

[43] Rules 12701(b) and 13701(b).

[44] Rules 12902(a)(1) and 13902(a)(1).

[45] *See infra* Section III, ''Proposed Rule Change'' (providing a description of unspecified claim fee increases in each fee category).

progressive fee structure that should generate enough revenue to cover the proposed increases in the honoraria. Thus, based on staff's analysis of the actual case data in the modeled years, the proposed honoraria increases would add between $3.5 and $4.2 million to the forum's expenses. The revenue generated by the proposed fee increases to users of the forum would be $4.0 to $5.6 million, which would cover the proposed increases in honoraria.

Finally, FINRA notes that in developing the proposed rule change, staff considered smaller honoraria increases, to avoid increasing fees on customers. However, FINRA opted for a larger honoraria increase and related fee increases on all parties to help the forum retain a roster of high-quality arbitrators and attract qualified individuals who possess the skills necessary to manage arbitration cases and who would consider thoroughly all arbitration issues presented. In support of this approach, FINRA notes that it has not sought an increase to customer fees since February 1999 [46] or to member fees since October 2001.[47] Then, as now, staff adhered to the philosophy that the cost of arbitration should be borne by the users of the forum, without imposing a significant barrier to public customers who bring arbitration claims to the forum. Thus, under the proposed rule change, a large portion of the fee increases are covered by member surcharges and process fees imposed only on members. Conversely, a smaller portion of the fee increases are covered by filing fees and hearing session fees, which are shared by members, associated persons, and public customers. FINRA believes that claimants and respondents would benefit from the forum attracting and retaining qualified, dedicated arbitrators to decide their cases, and that they should share in the effort to sustain and improve the forum.

Section III—Proposed Rule Change

To fund increases in the arbitrator honoraria, FINRA is proposing to increase the member surcharges and process fees, filing fees, and the hearing session fees assessed under the Codes.[48] FINRA believes the proposed fee increases would generate sufficient revenue to offset the proposed increases in the arbitrator honoraria as described in Section III(F) below without placing an undue burden on the public customer.

A. Member Surcharge Increases

FINRA is proposing to amend Rule 12901 to increase the member surcharges primarily for claim amounts larger than $250,000. Table 1 illustrates the dollar and percentage changes for each tier.

MEMBER SURCHARGE SCHEDULE—TABLE 1

Amount [in dispute] of claimL (exclusive of interest and expenses)	Current surcharge	Proposed fees	Change	Percentage change
$.01–$2,500	$150	$150	$0	0
$2,500.01–$5,000	200	150	(50)	(25)
$5,000.01–$10,000	325	325	0	0
$10,000.01–$25,000	425	450	25	6
$25,000.01–$30,000	600	750	150	25
$30,000.01–$50,000	875	750	(125)	(14)
$50,000.01–$100,000	1,100	1,100	0	0
$100,000.01–$250,000	1,700	1,700	0	0
$250,000.01–$500,000	1,700	1,900	200	12
$500,000.01–$1,000,000	2,250	2,475	225	10
$1,000,000.01–$5,000,000	2,800	3,025	225	8
$5,000,000.01–$10,000,000	3,350	3,600	250	8
Over $10,000,000	3,750	4,025	275	7
Non-Monetary/Not Specified	1,500	1,900	400	27

Under the proposed rule change, the member surcharge would be amended in a manner that would reduce the surcharge for some smaller claims. For example, the proposed rule change would combine the first two tiers of claim amounts, so that a claim amount up to $5,000 would be assessed a $150 surcharge. By combining the first two tiers, the proposed rule change would reduce the member surcharge for claims between $2,500.01 and $5,000.00 by $50 or 25 percent. Similarly, the proposed rule change would combine the current $25,000.01 to $30,000 and $30,000.01 to $50,000 tiers. This change makes the proposed tiers in the surcharge schedule more consistent with other fee schedules in the Codes. For the proposed $25,000.01 to $50,000 tier, the surcharge would be $750, or a reduction of 14 percent, when compared to the current surcharge of $875. FINRA believes this change is a more practical approach for case administration purposes, and would make the surcharge schedule easier to understand for parties.

The proposed rule change would, however, increase the surcharge for larger claims.[49] FINRA is proposing to divide the current $100,000.01 to $500,000 tier with its surcharge of $1,700 into two new tiers, because a large percentage of claims fall within the current tier and staff decided that there should be a greater distinction between the claims. For claim amounts between $100,000.01 and $250,000, the surcharge for the first new tier would remain unchanged. For claim amounts between $250,000.01 and $500,000, the surcharge for the second new tier would increase by $200 or about 12 percent. The surcharges for the higher tiers would also increase. For example, the surcharge for a claim amount between $1,000,000.01 and $5,000,000 would increase by $225 (an 8 percent increase).

The member surcharges assessed for unspecified claims would increase by $400 or 27 percent, the largest increase under the proposed rule change. This change is consistent with comparable increases in the unspecified filing fees for customer and industry claimants, as

[46] *See supra* note 3.

[47] *See* Securities Exchange Act Rel. No. 44897 (Oct. 2, 2001), 66 FR 51711 (Oct. 10, 2001) (File No. SR–NASD–2001–62).

[48] For purposes of Section III, ''Proposed Rule Change,'' FINRA refers to rules in the Customer Code. However, the changes and discussion would also apply to the same rules of the Industry Code.

[49] FINRA notes that the surcharge for the $10,000.01 to $25,000 tier would increase by $25 or 6 percent.

discussed in the ''Filing Fees'' section below.

FINRA notes that member surcharges would remain non-allocable under the proposal, and, thus, would not result in any additional costs to customers.

B. Member Process Fee Increases

The proposed rule change would amend Rule 12903 to increase the member process fees for claim amounts larger than $250,000. Table 2 shows the current process fees, proposed combined fees and the changes between the two.

MEMBER PROCESS FEE SCHEDULE—TABLE 2

Amount of claim (exclusive of interest and expenses)	Pre-hearing process fee	Hearing process fee	Current combined process fees	Proposed fees	Change	Percentage change
$.01–$5,000	N/A	N/A	N/A	N/A	N/A	N/A
$2,500.01–$5,000	N/A	N/A	N/A	N/A	N/A	N/A
$5,000.01–$10,000	N/A	N/A	N/A	N/A	N/A	N/A
$10,000.01–$25,000	N/A	N/A	N/A	N/A	N/A	N/A
$25,000.01–$30,000	$750	$1,000	$1,750	N/A	N/A	N/A
$30,000.01–$50,000	750	1,000	1,750	N/A	N/A	N/A
$50,000.01–$100,000	750	1,700	2,450	$2,250	$(200)	(8)
$100,000.01–$250,000	750	2,750	3,500	3,250	(250)	(7)
$250,000.01–$500,000	750	2,750	3,500	3,750	250	7
$500,000.01–$1,000,000	750	4,000	4,750	5,075	325	7
$1,000,000.01–$5,000,000	750	5,000	5,750	6,175	425	7
$5,000,000.01–$10,000,000	750	5,500	6,250	6,800	550	9
Over $10,000,000	750	5,500	6,250	7,000	750	12
Non-Monetary/Not Specified	750	2,200	2,950	3,750	800	27

The proposed rule change would combine the two process fees, the prehearing process fee and hearing process fee, into one fee, which would be due at the time the parties are sent the arbitrator lists. FINRA recognizes that this change would result in an increase to the member process fee in many cases. However, FINRA believes this change is necessary to ensure that the forum has the resources available at the initial stages of a case to cover the proposed honoraria increases. Further, this change would make the collection process more efficient for FINRA and the members, as it would reduce the number of invoices sent and collection activities performed by FINRA's Finance Department.

Like the member surcharge increase, FINRA is proposing to spread the process fee increases among larger claim amounts, while retaining or decreasing the fees associated with the lower claim amounts. For example, for a claim amount between $25,000.01 and $50,000, the process fee would remain unchanged at $1,750.[50] Further, for claim amounts between $50,000.01 and $100,000, the process fee would decrease by $200 or 8 percent.

The proposed rule change would increase the fees for claim amounts, beginning with the new $250,000.01 to $500,000 tier. Thus, for claims that fall in this range, the proposed process fee would increase by $250 or by 7 percent. For claim amounts that fall in the over $10,000,000 tier, the fee would increase by 12 percent or $750.

Under the proposed rule change, the process fees assessed for unspecified claims would increase by $800 or 27 percent, the largest increase in the proposed process fee schedule. This change is consistent with comparable increases in the unspecified filing fees for customer and industry claimants, as discussed in the ''Filing Fees'' section below.

FINRA notes that the member process fee would remain non-allocable under the proposal, and, thus, would not result in any additional costs to customers.

C. Filing Fee Increases

FINRA is proposing to amend Rule 12900 to increase the filing fees for investors, associated persons, other non-members, or members bringing claims of more than $500,000. Tables 3 and 4 show the current filing fee, proposed filing fee, dollar and percentage changes, and the non-refundable and partial refund breakdown of each fee.

(i) Filing Fees Paid by Customers, Associated Persons or Other Non-Members

Under the proposed rule change, FINRA would increase the filing fees for claim amounts beginning at the $500,000.01 to $1,000,000 tier, so that the fee increases impact only those claimants with larger claims.

FILING FEES FOR CUSTOMERS, ASSOCIATED PERSONS OR OTHER NON-MEMBER CLAIMANTS—TABLE 3

Amount of claim (exclusive of interest and expenses)	Current claim filing fee	Proposed claim filing fee	Change in filing fee	Percent change	Non-refundable filing fee with proposed changes	Partial refund with proposed changes
$.01–$1000	$50	$50	$0	0	$25	$25
$1,000.01–$2,500	75	75	0	0	25	50
$2,500.01–$5,000	175	175	0	0	50	125
$5,000.01–$10,000	325	325	0	0	75	250
$10,000.01–$25,000	425	425	0	0	125	300

[50] If the claim amount of a case is less than $25,000, FINRA does not assess the process fee. This feature of the rule would remain unchanged.

FILING FEES FOR CUSTOMERS, ASSOCIATED PERSONS OR OTHER NON-MEMBER CLAIMANTS—TABLE 3—Continued

Amount of claim (exclusive of interest and expenses)	Current claim filing fee	Proposed claim filing fee	Change in filing fee	Percent change	Non-refundable filing fee with proposed changes	Partial refund with proposed changes
$25,000.01–$50,000	600	600	0	0	150	450
$50,000.01–$100,000	975	975	0	0	225	750
$100,000.01–$500,000	1,425	1,425	0	0	300	1,125
$500,000.01–$1,000,000	1,575	1,725	150	10	[375] *425*	[1,200] *1,300*
$1,000,000.01–$5,000,000	1,800	2,000	200	11	600	[1,200] *1,400*
Over $5,000,000	1,800	2,250	450	25	[600] *750*	[1,200] *1,500*
Non-Monetary/Not Specified	1,250	1,575	325	26	[250] *375*	[1,000] *1,200*

The proposed rule change would also create two new tiers, at the upper level, to spread the cost increases among larger claims. The first new tier of $1,000,000.01 to $5,000,000 would have a filing fee of $2,000. The second new tier would begin at over $5,000,000, with a filing fee of $2,250.

To further mitigate the impact of the filing fee increases, FINRA is proposing to add most of the increases to the refundable portion of the filing fee.[51] For example, for a claim amount that falls within the $500,000.01 to $1,000,000 tier, the filing fee would increase by $150 or 10 percent. The non-refundable portion of the filing fee, however, would increase by only $50. The refundable portion would increase by $100. Moreover, in the award, arbitrators have the authority to order a respondent to reimburse all or part of any filing fee paid,[52] which should also help minimize the impact of these increases on claimants.

The proposed rule change also would increase the unspecified filing fee by $325 or 26 percent. The non-refundable portion would increase by $125 and the refundable portion by $200. FINRA believes the unspecified claim fees should fall in the middle of the claim amount tiers for each fee type, where a majority of the specified claims are clustered. These increases would help fund the increases in arbitrator honoraria.

(ii) Filing Fees Paid by Members

The proposed rule change would also increase the filing fee for members at the higher claim amount tiers.

FILING FEES FOR MEMBER CLAIMANT—TABLE 4

Amount of claim (exclusive of interest and expenses)	Current claim filing fee	Proposed claim filing fee	Change in filing fee	Percent change	Non-refundable filing fee	Partial refund with proposed changes
$.01–$1000	$225	$225	$0	0	$200	$25
$1,000.01–$2,500	350	350	0	0	300	50
$2,500.01–$5,000	525	525	0	0	400	125
$5,000.01–$10,000	750	750	0	0	500	250
$10,000.01–$25,000	1,050	1,050	0	0	750	300
$25,000.01–$50,000	1,450	1,450	0	0	1,000	450
$50,000.01–$100,000	1,750	1,750	0	0	1,000	750
$100,000.01–$500,000	2,125	2,125	0	0	1,000	1,125
$500,000.01–$1,000,000	2,450	2,550	100	4	1,250	[1,200] *1,300*
$1,000,000.01–$5,000,000	3,200	3,400	200	6	2,000	[1,200] *1,400*
Over $5,000,000	3,700	4,000	300	8	2,500	[1,200] *1,500*
Non-Monetary/Not Specified	1,500	1,700	200	13	500	[1,000] *1,200*

Specifically, for the $500,000.01 to $1,000,000 tier, the filing fee would increase by $100 or 4 percent. For the $1,000,000.01 to $5,000,000 tier, the filing fee would increase by $200 or 6 percent. For the over $5,000,000 tier, the filing fee would increase by $300 or 8 percent. For each of these increases, FINRA is proposing to add the increased amount to the refundable portion of the filing fee,[53] as this part of the filing fee, which is linked closely to FINRA's costs to administer arbitration cases, particularly hearing sessions, could be avoided if the parties agree to settle.[54]

The unspecified filing fee for members would also increase under the proposed rule change. Specifically, the filing fee would increase by $200 or 13 percent, and the increase would be added to the refundable portion of the fee.

D. Hearing Session Fee Increases

FINRA is proposing to amend Rule 12902 to increase the hearing session fees for claims of more than $500,000. Tables 5 and 6 illustrate the current fee for hearing sessions with either one or three arbitrators, the proposed fee, dollar and percentage changes and the arbitrator payment at each tier.

(i) Hearings With One Arbitrator

Under the proposed rule change, the fees for a hearing session with one arbitrator would not change.

[51] A claimant may be entitled to a partial refund of a filing fee under the circumstances described in Rules 12900(c) and 13900(c). *Exhibit 5* to the proposed filing shows the proposed amended refund amounts in these rules that correspond to the proposed filing fee increases.

[52] Rules 12900(d) and 13900(d).

[53] *See supra* note 51.

[54] Rules 12701(a) and 13701(a).

HEARING SESSION FEES FOR SESSION WITH ONE ARBITRATOR—TABLE 5

Amount of claim (exclusive of interest and expenses)	Current fee for session/decision w/one arbitrator	Proposed fee for session/decision w/one arbitrator	Change	Percent change
$.01–$2,500	$50	$50	$0	0
$2,500.01–$5,000	125	125	0	0
$5,000.01–$10,000	250	250	0	0
$10,000.01–$25,000	450	450	0	0
$25,000.01–$50,000	450	450	0	0
$50,000.01–$100,000	450	450	0	0
$100,000.01–$500,000	450	450	0	0
$500,000.01–$1,000,000	450	450	0	0
$1,000,000.01–$5,000,000	450	450	0	0
Over $5,000,000	450	450	0	0
[Unspecified Damages] *Non-Monetary/Not Specified*	450	450	0	0

The proposed rule change would, however, make a technical change to the claim amount tiers. Specifically, FINRA is proposing to create two new tiers, beginning at $500,000.01, so that the tiers for the fees for a hearing session with one arbitrator match the claim amount tiers for filing fees.[55] FINRA would retain the $450 hearing session fee for each new tier.

In assessing the hearing session fees for cases heard by one arbitrator, FINRA determined to retain the current fee structure for a hearing session with one arbitrator, even though the current fees would not cover the proposed increased honoraria payments for claims in the $.01—$10,000 tiers. Nevertheless, FINRA would retain the current fees for these lower claim amounts, so that the forum remains accessible and affordable to claimants with smaller claims.

Further, under the current fee structure, as the claim amount increases for claims heard by one arbitrator, the hearing session fee increases to $450 and is capped at this figure. The proposed rule change will not change this fee structure.

(ii) Hearings With Three Arbitrators

FINRA is proposing to increase the fees only for hearing sessions with three arbitrators, and only for claim amounts starting at $500,000.01.

HEARING SESSION FEES FOR SESSION WITH THREE ARBITRATORS—TABLE 6

Amount of claim (exclusive of interest and expenses)	Current fee for session w/three arbitrators	Proposed fee for session w/three arbitrators	Change	Percent change
Up–$2,500	N/A	N/A	N/A	N/A
$2,500.01–$5,000	N/A	N/A	N/A	N/A
$5,000.01–$10,000	N/A	N/A	N/A	N/A
$10,000.01–$25,000	N/A	N/A	N/A	N/A
$25,000.01–$50,000	$600	$600	$0	0
$50,000.01–$100,000	750	750	0	0
$100,000.01–$500,000	1,125	1,125	0	0
$500,000.01–$1,000,000	1,200	1,300	100	8
$1,000,000.01–$5,000,000	1,200	1,400	200	17
Over $5,000,000	1,200	1,500	300	25
[Unspecified Damages] *Non-Monetary/Not Specified*	1,000	1,125	125	13

The proposed rule change would create new tier amounts starting at $500,000.01 and would increase the fees over the current top rate of $1,200. For example, for claim amounts between the new $500,000.01 to $1,000,000 tier heard by three arbitrators, the hearing session fee would increase by $100 or 8 percent. For a claim amount between the new $1,000,000.01 to $5,000,000 tier heard by three arbitrators, the hearing session fee would increase by $200 or 17 percent. For a claim amount over $5,000,000 heard by three arbitrators, the hearing session fee would increase by $300 or 25 percent. The proposed rule change would also increase the hearing session fee for unspecified claims by $125 or 13 percent.

For claims heard by three arbitrators, the hearing session fees do not cover the forum's actual costs for smaller claims. Nevertheless, FINRA is proposing to retain the current fees for lower claim amounts, so that the forum remains accessible and affordable for claimants with smaller claims. The proposed rule change would instead distribute the increases to hearing session fees among the higher claim amounts. The increases would provide the forum with enough revenue to cover its honoraria payments for these cases as well as offset the deficits created at the lower tier amounts.

Finally, FINRA is proposing three technical changes to the Hearing Session Fee chart in the Codes. The first would change the title of the tiers in the Member Surcharge charts from ''Amount in Dispute'' to ''Amount of Claim,'' so that the title describing the claim amounts in all of the fee charts would be consistent. The second technical change would add ''exclusive of interest and expenses'' to the title of the claim amount tiers in the Hearing Session fee charts for consistency and to clarify that hearing session fees are based on the claim amount and do not include interest or expenses. FINRA notes that the modifications would codify current practice. Finally, FINRA

[55] *See supra* Section III(C), ''Filing Fee Increases.''

would change the title of ''Unspecified'' to ''Non-Monetary/Not Specified'' so that the title is the same as those in the other fee schedules in the Codes.

E. Example

FINRA believes the following example should help illustrate how the proposed increases would effect a typical arbitration. FINRA notes that the fees associated with an arbitration claim depend on multiple factors including, but not limited to: the claim amount, the number of arbitrators, the number of hearing sessions conducted, how the arbitrators decide to assess the fees between the parties, and whether the case is settled or withdrawn. In the following example, a customer files a claim for $600,000. The parties select three arbitrators who conduct an IPHC and four hearing sessions, after which the arbitrators issue an award.

For a claim between $500,000.01 and $1 million, the customer would pay $1,725, an increase of $150 or 10 percent. The $1,725 fee consists of a $425 non-refundable filing fee and a $1,300 potential refund amount. The member surcharge to the firm, assessed when FINRA serves the claim, would be $2,475, an increase of $225 or 10 percent. The combined process fees, assessed when FINRA sends the arbitrator lists to the parties, would be $5,075, for an increase of $325 or 7 percent. The $5,075 process fee would consist of a $750 prehearing process fee and a $4,325 hearing process fee. Member fees on these cases currently total $7,000 (member surcharge of $2,250 and a combined process fee of $4,750), so the increase to $7,550 (member surcharge of $2,475 and combined process fee of $5,075) would be an increase of approximately 8 percent.

For a claim between $500,000.01 and $1 million and heard by three arbitrators, the hearing session fee would increase from $1,200 to $1,300 or 8 percent. Thus, under the example, FINRA would assess hearing session fees of $6,500—the cost of five hearing sessions (one IPHC and four hearing sessions) at $1,300 each. The arbitrators have the discretion to allocate these fees evenly between the parties, or apportion them in any other manner, including assessing the entire amount against one party.

F. Proposed Arbitrator Honoraria Increases

Under the proposed rule change, FINRA would amend Rules 12214 and 12800 of the Customer Code to increase the arbitrator honoraria. Table 7 illustrates the proposed increases and the percentage changes from the current rates.

PROPOSED ARBITRATOR HONORARIA INCREASES—TABLE 7

Arbitrator honoraria	Current	Proposed	Percentage change
Per arbitrator, per hearing session	$200	$300	50
Chairpersons (per day of hearing)	75	125	67
Contested Subpoena Requests	200	250	25
Simplified Arbitration Cases (flat rate)	125	350	180

FINRA is proposing to amend Rule 12214(a) to increase the payment to each arbitrator for each hearing session in which the arbitrator participates from $200 to $300 per hearing session. The rule would also be amended to increase the additional amount that chairpersons receive from $75 to $125 per day of hearings.

Rule 12214(d) would be amended to increase the honoraria that arbitrators receive when they decide contested subpoena requests. Currently, for each arbitrator who decides a contested subpoena request, FINRA assesses a $200 fee to the parties to cover the cost of the honoraria. The proposed rule change would increase the honoraria from $200 to $250. In most cases, the chairperson would decide the contested subpoena request; however, a party may request that the entire panel decide such motion. These honoraria are paid on a per case basis, regardless of the number of contested subpoena requests decided by an arbitrator or panel. Thus, under the proposed rule change, if a three-person panel decided a contested subpoena request, the maximum fee that the parties could be assessed, collectively, would increase from $600 to $750. If an arbitrator or the panel decides such a motion, the panel would allocate the cost of the honoraria to the parties in the award.[56]

Finally, the proposed rule change would increase the honoraria for simplified cases. FINRA recently raised the claim amount limit for simplified arbitration from $25,000 to $50,000.[57] Typically, as the claim amount increases, arbitrators encounter issues that are more complicated to resolve, and, thus, require more of their time. Although no hearings are conducted in simplified arbitrations, these cases can be time-consuming, and, in FINRA's view, the current honoraria level does not reflect fairly the arbitrator's time and effort to render a decision. Thus, Rule 12800(f) would be amended to increase the simplified arbitration honoraria, which is a flat per case payment, from $125 to $350. FINRA notes that the proposed simplified honoraria increase would be the first since 1999,[58] when FINRA (then NASD) increased the amount from $75 to $125, the current honoraria level for this service.

G. Conclusion

The proposed rule change would permit FINRA to cover the proposed increases to arbitrator honoraria by increasing selected arbitration fees. FINRA believes the proposed rule change would help the forum retain a roster of high-quality arbitrators and attract qualified individuals who possess the skills necessary to manage arbitration cases and would consider thoroughly all arbitration issues presented, which are essential elements for FINRA to meet its regulatory objective of protecting the investing public. To achieve this goal, FINRA believes it is incumbent on all users of the forum to contribute to the goal of enhancing the effectiveness of the arbitration forum.

As noted in Item 2 of this filing, 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 no later than 30 days following publication of the *Regulatory*

[56] Rules 12214(d)(3) and 13214(d)(3).

[57] *See* Securities Exchange Act Rel. No. 66913 (May 3, 2012), 77 FR 27262 (May 9, 2012) (File No. SR–FINRA–2012–012) (Approval Order). FINRA last raised the claim amount for simplified arbitration from $10,000 to $25,000 in 1998. *See* Securities Exchange Act Rel. No. 38635 (May 14, 1997), 62 FR 27819 (May 21, 1997) (File No. SR–NASD–97–22) (Approval Order).

[58] *See supra* note 3.

Notice announcing Commission approval.

2. Statutory Basis

FINRA believes that the proposed rule change is consistent with the provisions of Section 15A(b)(6) of the Act,[59] 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 also believes that the proposed rule change is consistent with the provisions of Section 15A(b)(5) of the Act,[60] which requires, among other things, that FINRA rules provide for the equitable allocation of reasonable dues, fees and other charges among members and issuers and other persons using any facility or system that FINRA operates or controls.

FINRA believes that the proposed rule change appropriately allocates the proposed fee increases among users of the forum by spreading them through the higher claim amounts. In particular, the filing fee and hearing session fee increases for customers begin at the $500,000 claim amount, which would minimize the impact of the increases on smaller claims and keep the arbitration forum accessible for the small investor. In general, FINRA believes that proposed rule change would protect investors and the public interest by improving FINRA's ability to retain and attract qualified arbitrators willing to devote the time and effort necessary to consider thoroughly all arbitration issues presented, which, FINRA believes, is an essential element for FINRA to achieve its mission of investor protection and market integrity.

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 permit FINRA to cover the proposed increases to arbitrator honoraria by increasing selected arbitration fees. Under the proposed rule change, all members would be subject to the same fee increases. In developing the proposed rule change, FINRA considered that fee increases could have a greater impact on smaller firms than on larger firms. To mitigate this impact, FINRA linked the fee increases to larger claim amounts, so that the largest increases would be linked to the larger claim amounts. As proposed, the member fee increases would primarily apply to claim amounts of $250,000 and above.

FINRA also focused on minimizing the exposure of public customers to the fee increases. As a result, the proposed fee increases would become effective at the top tiers of the claim amounts in the fee schedules. Thus, on the fees that customers pay, for example filing fees and hearing session fees, the proposed increases would apply only to claim amounts of more than $500,000. To further mitigate the impact of the filing fee increases, the proposed rule change would add most of the increases to the refundable portion of the filing fee. Moreover, in the award, arbitrators have the authority to order a respondent to reimburse all or part of any filing fee paid.

For the hearing session fees, FINRA acknowledges that the proposed increases could result in additional costs for customers. However, the effects of the hearing session fee increases could be minimized under the Codes. For example, the parties may settle[61] the arbitration before any hearings are conducted to avoid being assessed fees for a hearing.[62] Further, during settlement negotiations, if hearings were held, parties have the opportunity to determine how to share any hearing session fees.[63] Moreover, arbitrators have discretion to allocate hearing session fees as part of their award,[64] which allows them to consider numerous factors to determine each party's appropriate share and assign the costs accordingly. The proposed rule change would not change parties' ability to settle or arbitrators' discretion to allocate these fees.

Further, FINRA believes that modifying the unspecified claim fees in each fee type would more accurately reflect the appropriate fee for the damages sought and the potential range of recovery.

Finally, FINRA believes that the proposed rule change adheres to the philosophy that the cost of arbitration should be borne by the users of the forum, without imposing significant burdens on public customers who bring the arbitration claims to the forum. Thus, a large portion of the fee increases would be covered by member surcharges and process fees imposed only on members. Conversely, a smaller portion of the fee increases would be covered by filing fees and hearing session fees, which are shared by members, associated persons, and public customers.

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*);
- Send an email to *rule-comments@sec.gov*. Please include File Number SR–FINRA–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–FINRA–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

[59] 15 U.S.C. 78o-3 (b)(6).

[60] 15 U.S.C. 78o-3(b)(5).

[61] Rules 12701(a) and 13701(a).

[62] *See supra* note 10. FINRA would assess a hearing session fee against the parties for an IPHC, if one was held. Rules 12500(c) and 13500(c).

[63] Rules 12701(b) and 13701(b).

[64] Rules 12902(a)(1) and 13902(a)(1).

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 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–2014–026 and should be submitted on or before July 23, 2014.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[65]

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2014–15474 Filed 7–1–14; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 72480; File No. SR–FINRA–2014–012]

Self-Regulatory Organizations; Financial Industry Regulatory Authority, Inc.; Order Approving 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)

June 26, 2014.

I. Introduction

The Financial Industry Regulatory Authority, Inc. (''FINRA'') filed with the Securities and Exchange Commission (''SEC'' or ''Commission'') on March 25, 2014, pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'')[1] and Rule 19b–4 thereunder,[2] a proposed rule change to (i) 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]; (ii) 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; and (iii) correct a mistaken rule cross-reference in FINRA Rule 2214 (Requirements for the Use of Investment Analysis Tools). The proposed rule change was published for comment in the **Federal Register** on March 31, 2014.[4] The Commission received four comments in response to the proposed rule change.[5] This order approves the proposed rule change.

II. Description of the Proposed Rule Change

(a) Filing Exclusion for Research Reports on Exchange-Listed Securities

As further described in the Notice, FINRA proposed 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 stated its belief that 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 exclusion will not apply to research reports that must be filed under Section 24(b) of the 1940 Act.

(b) Clarification Regarding Free Writing Prospectuses Exempt from SEC Filing

FINRA proposed to amend FINRA Rule 2210(c)(7)(F) and FINRA Rule 2210(d)(8) to exclude from the filing and content standards free writing prospectuses that are exempt from filing with the SEC. FINRA also proposed 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).[6]

(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).[7] 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 proposed to correct this rule cross-reference.

FINRA stated that it would 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.

III. Comment Letters

The SEC received four comment letters.[8] Two commenters expressed support for the proposal[9] and two opposed it.[10] The Commission also received FINRA's response to comments, which is discussed below.[11]

(a) Overall Support for Proposal

One commenter agreed with FINRA's assessment that the proposed filing exclusion is appropriate based on the fact that research reports are already subject to regulation under NASD Rule 2711 (Research Analysts and Reports), that securities listed on a national securities exchange are less likely to be subject to price manipulation, that research reports may only be produced by persons who have passed the appropriate qualification examinations, and that the FINRA staff has not seen significant problems with research reports on exchange-listed securities that have been filed with FINRA.[12] The commenter also stated that the filing

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[65] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 15 U.S.C. 80a–24(b).

[4] *See* Securities Exchange Act Release No. 34–71792 (March 31, 2014), 79 FR 18094 (SR–FINRA–2014–012) (''Notice'').

[5] Letters from Jason Doss, President, Public Investors Arbitration Bar Association, dated April 15, 2014 (''PIABA''); Carrie Devorah, dated April 17, 2014 (''Devorah''); Dorothy Donohue, Acting General Counsel, Investment Company Institute, dated April 21, 2014 (''ICI''); and Stephanie Nicolas, Wilmer Cutler Pickering Hale and Dorr LLP, on behalf of Barclays Capital Inc., Citigroup Global Markets Inc., Credit Suisse Securities (USA) LLC, Deutsche Bank Securities Inc., Goldman, Sachs & Co., J.P. Morgan Securities LLC, Merrill Lynch, Pierce Fenner & Smith Incorporated, Morgan Stanley & Co. LLC, and RCS Capital Markets, LLC (''WilmerHale'').

[6] 17 CFR 230.433(d)(1)(ii).

[7] *See* Securities Exchange Act Release No. 66681 (March 29, 2012), 77 FR 20452 (April 4, 2012) (SR–FINRA–2011–035).

[8] *See supra* note 5.

[9] *See* ICI and WilmerHale Letters.

[10] *See* PIABA and Devorah Letters.

[11] Letter from Joseph P. Savage, FINRA, dated June 18, 2014 (''FINRA Letter'').

[12] *See* ICI Letter.

exclusion may facilitate more timely and efficient dissemination of information about closed-end funds to the market.[13]

Another commenter similarly supported the proposal based on its belief that equity research reports on exchange-listed securities do not implicate investor protection concerns.[14] However, the commenter recommended that the proposed exclusion be expanded to cover all other equity research materials concerning exchange-listed securities that do not meet the definition of ''research report'' under NASD Rule 2711(a)(9).[15] The commenter believed that this expanded exclusion would be consistent with the approach FINRA has taken for purposes of other parts of FINRA Rule 2210, such as the provisions that allow a supervisory analyst to approve research communications.[16]

The commenter also argued that this expansion is appropriate because exchange-listed securities are associated with increased liquidity and price transparency, and thus research communications concerning such securities do not raise the same investor protection concerns as communications concerning other more illiquid securities.[17] In addition, the commenter stated that research communications—which are not research reports—are still prepared in a controlled environment that is designed to reduce the potential for conflicts of interest, and research analysts that produce such communications are subject to comprehensive independence requirements of NASD Rule 2711.[18]

The commenter urged FINRA to consider amending FINRA Rule 2210 to provide a comparable filing exclusion for debt research reports if and when a FINRA rule regarding debt research is approved.[19] The commenter believed that the requirements and protections of such a rule would justify an exclusion from the filing requirements for research reports on debt securities.[20]

(b) Opposition to Rule Proposal

One commenter opposed the proposed filing exclusion for research reports on exchange-listed securities because its members believe that the amendment is misguided and runs counter to FINRA's stated objective of investor protection.[21] The commenter stated that the securities industry is not far removed from the research analyst scandals which were based in part on misinformation and lack of transparency.[22] The commenter also argued that the costs of filing such reports is a small price to pay for the additional protection it gives to investors and that the filing requirement is essential for restoring investor confidence.[23]

Another commenter submitted a letter that comments on a number of provisions of FINRA Rule 2210.[24] The letter contains a wide variety of observations and concerns regarding FINRA rules, including that FINRA's regulation of member firm communications should promote transparency.[25] However, the letter does not comment on the proposed filing exclusion for research reports concerning exchange-listed securities.[26]

(c) Response to Comments

FINRA responded to these comments by stating that it does not believe it is appropriate either to withdraw the proposal or to amend the proposal as suggested.[27] FINRA also noted that it does not believe it is appropriate to expand the filing exclusion to cover research communications that do not meet the definition of research report.[28] FINRA stated that unlike research reports, other research communications are not subject to the comprehensive disclosure, content and analyst independence provisions of NASD Rule 2711 and SEC Regulation Analyst Certification, nor is there any requirement that a registered research analyst prepare such communications.[29] Accordingly, FINRA asserted that it does not agree that the same investor protections apply to research communications that are not research reports.[30]

FINRA also stated that it is premature to commit to an exclusion from the filing requirements for research reports concerning debt securities in anticipation of FINRA adopting a debt research rule.[31] FINRA noted that it would be more appropriate to consider such a proposal if and when a proposed debt research rule is filed with the SEC and approved.[32]

In its letter, FINRA disagreed that the benefits to investors of requiring firms to file research reports concerning exchange-listed securities exceed the costs associated with such filing.[33] FINRA also noted that while it agrees that the research analyst scandals that occurred a decade ago raised a number of investor protection concerns, FINRA responded to such concerns by adopting NASD Rule 2711, and Congress also imposed requirements on firms that produce research reports as part of the Sarbanes-Oxley Act.[34] FINRA responded that its experience since Rule 2711 took effect is that it has significantly reduced the problems that occurred prior to the adoption of the rule, and that also requiring research reports concerning exchange-listed securities to be filed with FINRA does not appreciably increase investor protection relative to the costs associated with filing.[35]

Moreover, FINRA noted that by requiring firms to file research reports with FINRA, it is diverting FINRA staff resources that must be applied to review of these communications.[36] FINRA stated that it believes such resources would be better spent on higher risk communications, and that by re-allocating such resources, FINRA will be indirectly increasing the regulatory benefits to investors.[37]

IV. Discussion and Findings

After careful review of the proposed rule change, the comments, and FINRA's response to the comments, the Commission finds that the proposed rule change is consistent with the requirements of the Act, and the rules and regulations thereunder that are applicable to a national securities association.[38] In particular, the

[13] *Id.*

[14] *See* WilmerHale Letter.

[15] *Id.*

[16] *Id.* (citing FINRA Rule 2210(b)(1)(B)).

[17] *Id.*

[18] *Id.*

[19] *Id.*

[20] *Id.*

[21] *See* PIABA Letter.

[22] *Id.*

[23] *Id.*

[24] *See* Devorah Letter.

[25] *Id.*

[26] *Id.*

[27] *See* FINRA Letter.

[28] *Id.*

[29] *Id.*

[30] *Id.*

[31] *Id.*

[32] *Id.*

[33] *Id.*

[34] *Id.* (citing 15 U.S.C. 15D).

[35] *See* FINRA Letter (citing Joint Report by NASD and the NYSE On the Operations and Effectiveness of the Research Analyst Conflict of Interest Rules (December 2005), available at *www.finra.org*; U.S. Government Accountability Office, Securities Research: Additional Actions Could Improve Regulatory Oversight of Analyst Conflicts of Interest (January 2012), available at www.gao.gov).

[36] *Id.*

[37] *See* FINRA Letter (citing Joint Report by NASD and the NYSE On the Operations and Effectiveness of the Research Analyst Conflict of Interest Rules (December 2005), available at *www.finra.org*; U.S. Government Accountability Office, Securities Research: Additional Actions Could Improve Regulatory Oversight of Analyst Conflicts of Interest (January 2012), available at *www.gao.gov*).

[38] In approving this proposal, the Commission has considered the proposed rule's impact on

Continued

Commission finds 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,[39] 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. The proposed exclusion should 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.

The Commission also finds that the proposed clarification (consistent with FINRA's current interpretation of Rule 2210) 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.[40] The Commission further finds 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.[41] 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.

In general, the Commission believes that FINRA has responded to the comments adequately, and has explained how the proposed rule change is consistent with the requirements of the Act, and the rules and regulations thereunder that are applicable to a national securities association.

V. Conclusions

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,[42] that the proposed rule change (SR–FINRA–2014–012) be, and hereby is, approved.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[43]

Kevin M. O'Neill,

Deputy Secretary.

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efficiency, competition, and capital formation. *See* 15 U.S.C. 17c(f).

[39] 15 U.S.C. 78*o*–3(b)(6).

[40] 15 U.S.C. 78*o*–3(b)(6).

[41] 15 U.S.C. 78*o*–3(b)(6).

[42] 15 U.S.C. 78s(b)(2).

[43] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–72477; File No. SR–BOX–2014–16]

Self-Regulatory Organizations; BOX Options Exchange LLC; Notice of Filing of Proposed Rule Change To Adopt New Trade Allocation Algorithms for Matching Trades at the Conclusion of the PIP and COPIP

June 26, 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 June 16, 2014, BOX Options Exchange LLC (''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend BOX Rules 7150 (Price Improvement Period (''PIP'')) and 7245 (Complex Order Price Improvement Period (''COPIP'')) to adopt new trade allocation algorithms for matching trades at the conclusion of the PIP and COPIP. The text of the proposed rule change is available from the principal office of the Exchange, at the Commission's Public Reference Room and also on the Exchange's Internet Web site at *http://boxexchange.com.*

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend BOX Rules 7150 (Price Improvement Period (''PIP'')) and 7245 (Complex Order Price Improvement Period (''COPIP'')) to adopt new trade allocation algorithms for matching trades at the conclusion of the PIP and COPIP. This is a competitive filing based on the rules of NASDAQ OMX PHLX LLC (''Phlx'').[3]

PIP

The Exchange currently offers Participants the possibility of price improvement via its innovative electronic auction process known as the PIP. The PIP has saved investors more than $467 million versus the prevailing NBBO since 2004, a monthly average of more than $3.8 million. BOX believes that the proposed rule change will result in additional PIP transactions, and give customers a greater opportunity to benefit from price improvement.

Options Participants executing agency orders for single options series instruments may designate Customer Orders for price improvement and submission to the PIP. Customer Orders designated for the PIP (''PIP Orders'') may be submitted to BOX with a matching contra order (''Primary Improvement Order'') equal to the full size of the PIP Order. The Primary Improvement Order is on the opposite side of the market from the PIP Order and at a price equal to or better than that of the National Best Bid Offer (''NBBO'') at the time of the commencement of the PIP (the ''PIP Start Price''). BOX begins a PIP by broadcasting a message to market participants via the Exchange's High Speed Vendor Feed (''HSVF''). During the PIP, order flow providers (''OFPs'') and Market Makers (other than the Initiating Participant) may submit competing orders (''Improvement Orders'') for their own account and OFPs may also provide access to the PIP for the account of a Public Customer[4] or for any account except Market Maker. Options Participants may continually

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Phlx Rule 1080(n).

[4] The term ''Public Customer'' means a person that is not a broker or dealer in securities. *See* BOX Rule 100(a)(51).

submit competing Improvement Orders during the PIP and Improvement Orders are disseminated to market participants.

Unrelated Orders [5] and Legging Orders [6] on the same side as the PIP Order received during the PIP may cause the PIP to terminate early under certain circumstances.[7] During a PIP, when an Unrelated Order is submitted to BOX or a Legging Order is generated on the same side as the PIP Order that would cause an execution to occur prior to the end of the PIP, the PIP ends early and the PIP Order is matched as if the PIP terminated on its regular schedule. Following the execution of the PIP Order, any remaining Improvement Orders are cancelled and the Unrelated Order or Legging Order is filtered normally.[8]

Unrelated Orders and Legging Orders on the opposite side of the PIP Order received during the PIP may be immediately executed under certain circumstances.[9] During a PIP, when such an Unrelated Order is submitted to BOX or a Legging Order is generated on the opposite side of the PIP Order such that it would cause an execution to occur prior to the end of the PIP, the Unrelated Order or Legging Order is immediately executed against the PIP Order. Any remaining portion of the Unrelated Order or Legging Order is filtered normally.[10] Any remaining portion of the PIP Order is executed at the conclusion of the PIP normally.[11] Following the execution of the PIP Order, any remaining Improvement Orders are cancelled.

Current PIP Allocation

At the conclusion of a PIP, the PIP Order is currently matched against the best prevailing quote(s) or order(s) on BOX (except any pre-PIP Broadcast proprietary quote or order from the Initiating Participant), in accordance with price/time priority as set forth in Rule 7130, whether Improvement Order(s) or Unrelated Order(s) received by BOX, or Legging Orders generated, during the PIP (excluding Unrelated Orders that were immediately executed during the interval of the PIP). Such orders may include agency orders on behalf of Public Customers, Market Makers at away exchanges and non-BOX Options Participant broker-dealers, as well as non-PIP proprietary orders submitted by Options Participants.

The Exchange's Rules currently provide certain exceptions to the price/time priority set forth in Rule 7130. Specifically, Rule 7150(f)(4)(i) provides that no order for a non-market maker broker-dealer account of an Options Participant may be executed before all Public Customer orders, whether an Improvement Order, including a CPO, or an Unrelated Order, and all non- BOX Options Participant broker-dealer orders at the same price have been filled.

Rules 7150(g)(1) and (2) provide the Initiating Participant with certain priority and trade allocation privileges upon conclusion of the PIP, subject to certain exceptions.[12] In instances in which a Single-Priced Primary Improvement Order, as modified (if at all), is matched by or matches any competing Improvement Orders and/or non-Public Customers' Unrelated Orders at any price level, the Initiating Participant retains priority for only forty percent (40%) of the original size of the PIP Order. However, if only one competing order matches the Initiating Participant's Single-Priced Primary Improvement Order then the Initiating Participant may retain priority for up to fifty percent (50%) of the original size of the PIP Order.

In instances in which a Max Improvement Primary Improvement Order is submitted by the Initiating Participant, the Initiating Participant shall be allocated its full size at each price level, except where restricted by the designated limit price and subject to the limitations in 7150(g)(3), until a price level is reached where the balance of the PIP Order can be fully executed. Only at such a price level will the Initiating Participant retain priority for only forty percent (40%) of the remaining size of the PIP Order. However, if only one competing order matches the Initiating Participant at the final price level, then the Initiating Participant may retain priority for up to fifty percent (50%) of the remaining size of the PIP Order.

At its option, the Initiating Participant may designate a lower amount for which it retains certain priority and trade allocation privileges upon the conclusion of the PIP auction than it is entitled to pursuant to the provisions of 7150(h)(1) [sic] or 7150(h)(2) [sic], mentioned above.[13] When starting a PIP, the Initiating Participant may submit to the Exchange the Primary Improvement Order with a designation of the total amount of the PIP Order it is willing to ''surrender'' to the other PIP Participants (''PIP Surrender Quantity''). Under no circumstances will the Initiating Participant receive an allocation percentage of more than 50% with one competing order or 40% with multiple competing orders. Upon the conclusion of the PIP auction, when the Trading Host determines the priority and trade allocation amounts for the Initiating Participant pursuant to 7150(h)(1) [sic] or 7150(h)(2) [sic], the Trading Host will automatically adjust the trade allocations to the other PIP Participants, according to the priority set forth in 7150(g) [sic], up to the PIP Surrender Quantity. The Primary Improvement Order is allocated the remaining size of the PIP Order above the PIP Surrender Quantity, if any, pursuant to 7150(g). If the aggregate size of other PIP Participants' contra orders is not equal to or greater than the PIP Surrender Quantity, then the remaining PIP Surrender Quantity shall be left unfilled and the Primary Improvement Order shall be allocated the remaining size of the PIP Order pursuant to 7150(h)(1) [sic] or 7150(h)(2) [sic].

Proposed PIP Allocation

The Exchange is now proposing to amend the trade allocation algorithm for matching orders at the conclusion of the PIP. The PIP Order will continue to be matched with opposite side competing orders and quotes in price priority. While quotes and orders on the BOX Book will continue to execute in price/

[5] As defined in Rule 7150(a), the term ''Unrelated Order'' with respect to a PIP means a non-Improvement Order entered into the BOX market during a PIP.

[6] As defined in Rule 7240(c)(1), the term ''Legging Order'' means a Limit Order on the BOX Book that represents one side of a Complex Order that is to buy or sell an equal quantity of two options series resting on the Complex Order Book.

[7] *See* Rule 7150(i).

[8] *See* Rule 7130(b).

[9] *See* Rule 7150(j).

[10] *See* Rule 7130(b).

[11] *See* Rule 7150(f)(3).

[12] Rule 7150(g)(4) provides that the Primary Improvement Orders shall yield priority to certain competing orders in the following circumstances: (i) When a Single-Priced or Max Improvement Primary Improvement Order for the proprietary account of an OFP is matched by or matches any competing Public Customer order(s), whether an Improvement Order, including a CPO, or Unrelated Order, or any non-BOX Options Participant broker-dealer order(s) at any price level, it shall yield priority to them, including any priority provided pursuant to 7150(g)(1) or (2), (ii) when the unmodified Single-Priced Primary Improvement Order for the account of a Market Maker is matched by any competing Public Customer order(s), whether an Improvement Order, including a CPO, or Unrelated Order, or any non-BOX Options Participant broker-dealer order(s) at the initial PIP price level, it shall yield priority to all competing Public Customer order(s) or non-BOX Options Participant broker-dealer order(s), including any priority provided pursuant to 7150(g)(1) or (2), or (iii) when the Max Improvement or the modified Single-Priced Primary Improvement Order for the account of a Market Maker matches any competing Public Customer order(s), whether an Improvement Order, including a CPO, or Unrelated Order, or any non-BOX Options Participant broker-dealer order(s) at subsequent price levels, it shall yield priority to all competing Public Customer order(s) or non-BOX Options Participant broker-dealer order(s), including any priority provided pursuant to 7150(g)(1) or (2).

[13] *See* Rule 7150(g)(6)(i).

time priority, in the event an execution opportunity occurs for a quote or order on the BOX Book against a PIP Order at the end of a PIP, the PIP execution will occur according to the priority algorithm described below. Specifically, if the total quantity of orders, quotes, Improvement Orders, Legging Orders and the Primary Improvement Order is equal to or less than the quantity of the PIP Order at a given price level, all orders at the price will be filled and the balance of the PIP Order will be executed at the next best price. If the total quantity of orders, quotes, Improvement Orders, Legging Orders and the Primary Improvement Order is greater than the quantity of the PIP Order at a given price level, the allocation will be as follows:

Public Customer Allocation

Whereas, currently, Public Customers do not have absolute execution priority when certain orders have time priority at the same price, the Exchange now proposes that all orders, other than Legging Orders and the Primary Improvement Order, for the account of Public Customers,[14] whether Improvement Orders or Unrelated Orders, including quotes and orders on the BOX Book prior to the PIP Broadcast, will be allocated for execution against the PIP Order first.[15] Where there are multiple such orders for the account of Public Customers at the same price, the trade allocation will be by time priority. The Exchange notes that this is the same as Phlx.[16]

If, at the end of the Public Customer allocation, there remains any unallocated quantity of the PIP Order, the balance will be allocated as described below.

Example 1: Primary Improvement Order for the Account of a Public Customer

Suppose at the end of a PIP to sell 100 contracts, where the Primary Improvement Order is for the account of a Public Customer that has elected a PIP Surrender Quantity of 80, the BOX Book is as follows in order of time priority:

NBBO Buy at 2.00	Sell at 2.08
Public Customer 1 order to buy 20 at 2.04	PIP Order to sell 100.
Public Customer 2 Primary Improvement Order to buy 100 at 2.04	
Market Maker Improvement Order to buy 30 at 2.04	
Public Customer 3 Improvement Order to buy 30 at 2.04	
Trade allocation is as follows:	
Public Customer 1: 20 at 2.04	
Public Customer 3: 30 at 2.04	
Public Customer 2 Primary Improvement Order: 20 at 2.04 (the PIP Surrender Quantity of 80 contracts results in Public Customer 2 receiving an allocation of 20 contracts, which is less than 50% of the remaining 50 contracts (50%*50=25) to which the Primary Improvement Order would otherwise be entitled since there is only one responder)	
Market Maker: 30 at 2.04	

Allocation among all Public Customers, other than the Initiating Participant, at the same price is by time priority.

Example 2: PIP Trade Allocation When Primary Improvement Order is for the Account of a Public Customer

Suppose the Primary Improvement Order, in a PIP to sell 100 contracts of options instrument A, is for the account of a Public Customer. At the end of the PIP, the BOX Book for instrument A is as follows in order of time priority:

NBBO Buy at 2.00	Sell at 2.08
Public Customer 1 order to buy 10 at 2.03	PIP Order to sell 100.
Public Customer 2 Primary Improvement order to buy 100 at 2.03	
Market Maker order to buy 100 at 2.03	
At the end of the PIP, the trade allocation is as follows:	
Public Customer 1: 10 at 2.03	
Public Customer 2 Primary Improvement Order: 45 at 2.03 (50% of the remaining 90 contracts since there is only one responder)	
Market Maker: 45 at 2.03	

Primary Improvement Order Allocation

After the Public Customer allocation, the applicable trade allocation described below will be allocated to the Primary Improvement Order.[17] If the Primary Improvement Order has designated a PIP Surrender Quantity, the Primary Improvement Order allocation will be reduced, if necessary, in accordance with the PIP Surrender Quantity.

When a Single-Priced Primary Improvement Order is matched by or matches any competing Improvement Orders and/or non-Public Customers' Unrelated Orders at the final price level, the Initiating Participant retains priority for up to forty percent (40%) of the remaining size of the PIP Order after Public Customer orders are satisfied. However, if only one competing order matches the Initiating Participant's Single-Priced Primary Improvement Order at the final price level, then the Initiating Participant may retain priority for up to fifty percent (50%) of the remaining size of the PIP Order after Public Customer orders are satisfied.[18] When a Max Improvement Primary Improvement Order is submitted by the Initiating Participant, the Initiating Participant shall be allocated its full size at each price level, except where restricted by the designated limit price, until a price level is reached where the balance of the PIP Order can be fully executed. At such price level, the

[14] As discussed below under the heading ''Professional Customers,'' upon approval of the proposed Rule change, Professionals would be treated in the same manner as broker-dealers for purposes of the PIP and COPIP, and not in the same manner as non-Professional Public Customers. *See* proposed Rules 100(a)(50), 7150(a)(2) and 7245(a)(4).

[15] *See* proposed Rule 7150(g)(1).

[16] *See* Phlx Rule 1080(n)(ii)(E).

[17] *See* proposed Rule 7150(g)(2).

[18] *See* proposed Rule 7150(h)(1).

Initiating Participant will be entitled to receive up to forty percent (40%) of the remaining size of the PIP Order after Public Customer orders are satisfied. However, if only one competing order matches the Initiating Participant's Max Improvement Primary Improvement Order at the final price level, then the Initiating Participant may retain priority for up to fifty percent (50%) of the remaining size of the PIP Order after Public Customer orders are satisfied.[19] Neither Public Customer orders nor Legging Orders will be considered when determining whether the Initiating Participant retains 40% or 50% in proposed Rule 7150(h) because neither Public Customer order allocation (which are executed in priority over the Initiating Participant) nor Legging Order allocation (which receive allocations at the final price level only when the Initiating Participant declines its full allocation by electing a PIP Surrender Quantity) will be affected by the Initiating Participant retaining the difference between 40% and 50%. The Exchange notes that this is similar to Phlx in treatment of Public Customer orders.[20]

The balance will be allocated as described below.

Example 3: PIP with Auto-Matching

Suppose a PIP Order to sell 150 contracts of options instrument A. Suppose, further, at the end of the PIP auction, the BOX Book is as follows in order of price/time priority:

NBBO Buy at 2.00	Sell at 2.09
Broker-dealer 1 order to buy 10 at 2.06	PIP Order to sell 150.
Market Maker 1 Improvement Order to buy 8 at 2.05	Order to sell 10 at 2.09.
Market Maker 2 Improvement Order to buy 2 at 2.05	
Broker-dealer 2 Improvement Order to buy 5 at 2.05	
Primary Improvement Order to buy 150 at 2.04	
Broker-dealer 3 Improvement Order to buy 8 at 2.04	
Market Maker 3 Improvement Order to buy 25 at 2.04	
Public Customer order to buy 10 at 2.04	
Suppose the Primary Improvement Order specified an auto-match limit price of 2.05. The trade allocation at the best available price (at 2.06) is as follows:	
Broker-dealer 1 order: 10 contracts at 2.06	140 remaining to allocate.
The Primary Improvement Order is not willing to auto-match the 2.06 price level, so it goes to the next price available. The trade allocation at the 2.05 price level is as follows:	
Market Maker 1 Improvement Order: 8 contracts at 2.05	
Market Maker 2 Improvement Order: 2 contracts at 2.05	
Broker-dealer 2 Improvement Order: 5 contracts at 2.05	
Primary Improvement Order: auto-match 15 contracts at 2.05	110 remaining to allocate
As there is a remaining PIP Order quantity to be filled, it goes to the next price available. The trade allocation at the 2.04 price level is as follows (this is the price level where the PIP Order will be completely filled):	
Public Customer Order: 10 contracts at 2.04	
Primary Improvement Order: 40 contracts at 2.04 (40% of 100 = 40, use 40% because there are 2 responders at this price level)	
Market Maker 3 Improvement Order: 25 contracts at 2.04	
Broker-dealer 3 Improvement Order: 8 contracts at 2.04	
Primary Improvement Order will take the remaining 27 contracts at 2.04 (for a total of 67 contracts at 2.04)	

Example 4: Allocating 50%, Rather than 40%, to Primary Improvement Order

Suppose a PIP Order to sell 100 contracts of options instrument A. Suppose, further, at the end of the PIP auction, the BOX Book is as follows in order of time priority:

NBBO Buy at 2.00	Sell at 2.07
Public Customer 1 order to buy 10 at 2.02	PIP Order to sell 100.
Public Customer 2 order to buy 15 at 2.02	
Primary Improvement Order to buy 100 at 2.02	
Market Maker order to buy 100 at 2.02	
At the end of the PIP, the trade allocation is as follows:	
10 contracts at 2.02 to Public Customer 1	
15 contracts at 2.02 to Public Customer 2	
37 contracts at 2.02 to Primary Improvement Order (50% allocation)	
38 contracts at 2.02 to Market Maker	

Note that the Primary Improvement Order received an allocation priority of 50% of the remaining PIP Order size (50%*(100 − 25) = 37, rounded down)[21] in this case because Public Customer orders are not included in the determination of the 50%/40% allocation rule.

Market Maker Allocation

After the Primary Improvement Order allocation, any remaining unallocated quantity of the PIP Order will be allocated to orders and quotes, including Improvement Orders and quotes and orders on the BOX Book prior to the PIP Broadcast for the account of Market Makers.[22] Where

[19] *See* proposed Rule 7150(h)(2).

[20] *See* Phlx Rule 1080(n)(ii)(E). Note that, in its Rule 1080(n)(ii)(E)(2)(b), the Phlx auto-match feature limits the Initiating Participant to 40% allocation and that Phlx does not address Legging Orders.

[21] Contracts are allocated in whole numbers and, to ensure the allocation priority to Primary Improvement Orders does not exceed the applicable 40% or 50% specified in proposed Rule 7150(h), allocations of fractional contracts to the Primary Improvement Order in the Primary Improvement Order allocation step are rounded down.

[22] *See* proposed Rule 7150(g)(3).

there are orders/quotes for the accounts of more than one Market Maker at the same price, the trade allocation formula for Market Makers will provide for the allocation of contracts among Market Makers based on size pro rata for the remaining contracts. The proposed Market Maker allocation would follow the formula: B * C where component B is derived by dividing the quantity of contracts for the Market Maker at the price level by the total quantity of contracts of all Market Makers at the price level, and component C is the remaining quantity of the PIP Order to be allocated after the Primary Improvement Order allocation. If the quantity of contracts for the Market Maker order in B is greater than the original quantity of the PIP Order, the Market Maker's quantity will be capped at the size of the original PIP Order for purposes of calculating B. If the trade allocation for a Market Maker would be greater than the quantity of the Market Maker order/quote at the price level, the Market Maker's trade allocation will not exceed the size of the Market Maker order/quote at the price level. If the trade allocation for a Market Maker would result in a fraction of a contract, it will be rounded down.

Example 5: Market Maker Allocation Formula

In certain circumstances, due to rounding down, it is possible that some Market Maker orders will not be filled even though there is sufficient quantity of the PIP Order to be allocated. Suppose at the end of a PIP Order to sell 200 contracts of options instrument A, the BOX Book is as follows in order of time priority:

NBBO Buy at 2.00	Sell at 2.06
Primary Improvement Order to buy 200 at 2.02	PIP Order to sell 200.
Market Maker 1 order to buy 2 at 2.02	
Market Maker 2 order to buy 20 at 2.02	
Market Maker 3 order to buy 80 at 2.02	
Market Maker 4 order to buy 120 at 2.02	
Professional Customer to buy 20 at 2.02	
At the end of the PIP, the trade allocation will be as follows:	
First, to the Primary Improvement Order for 80 contracts and then to the Market Makers, pursuant to the formula provided in Rule 7150(g)(3), as follows:	
Market Maker 1–1 contract[23]	
Market Maker 2–10 contracts	
Market Maker 3–43 contracts	
Market Maker 4–64 contracts	

As a result, a total of 118 contracts are allocated to all Market Makers even though there were, in total, 120 contracts available to be allocated to Market Makers from the remaining PIP Order. The remaining PIP Order quantity of 2 contracts will be allocated to the Professional Customer order.

Remaining Orders Allocation

After the Market Maker allocation, any remaining unallocated quantity of the PIP Order will be allocated to any remaining orders, other than Legging Orders and Market Maker orders, including orders for the account of Professionals and orders on the BOX Book prior to the PIP Broadcast, not receiving allocation in the above rounds.[24]

Example 6: Comparison of Professional Customer PIP Trade Allocation (Before and After Proposed Rule Change)

Suppose at the end of a PIP to sell 100 contracts of Instrument A, where the Primary Improvement Order is for the account of a Market Maker, the BOX Book for Instrument A is as follows in order of time priority:

NBBO Buy at 2.00	Sell at 2.07
Public Customer 1 order to buy 10 at 2.04	PIP Order to sell 100.
Professional Customer 1 order to buy 10 at 2.04	
Primary Improvement Order to buy 100 at 2.04	
Market Maker 1 Improvement Order to buy 30 at 2.04	
Broker-dealer 1 Improvement Order to buy 20 at 2.04	
Market Maker 2 Improvement Order to buy 30 at 2.04	
Trade allocation at the end of the PIP under current BOX rules is as follows:	
Current Rules	
Public Customer 1: 10 contracts at 2.04	
Professional Customer 1: 10 contracts at 2.04	
Primary Improvement Order: 40 contracts at 2.04	
Market Maker 1 Improvement Order: 30 contracts at 2.04	
Broker-dealer 1 Improvement Order: 10 contracts at 2.04	
Trade allocation at the end of the PIP under the proposed rules is as follows:	
Proposed Rules	
Public Customer 1: 10 contracts at 2.04	
Primary Improvement Order: 36 contracts at 2.04	

[23] The Market Maker allocation formula is: 2 contracts for Market Maker 1 divided by 222 contracts for all Market Makers, multiplied by 120 remaining contracts to be allocated from the PIP Order and rounded down = 1.

[24] *See* proposed Rule 7150(g)(4). Currently, Professionals are treated like Public Customers in circumstances where the Exchange yields priority to Public Customers under SEC Rule 11a1–1(T). Under the proposed rule change, pursuant to which Improvement Orders will not be broadcast, transactions executed on the Exchange will qualify under SEC Rule 11a2–2(T) as described below. As a result, Professionals will no longer be treated like Public Customers for purposes of priority.

NBBO Buy at 2.00	Sell at 2.07
Market Maker 1 Improvement Order: 27 contracts at 2.04[25] Market Maker 2 Improvement Order: 27 contracts at 2.04	

Where there are more than one remaining unallocated orders, including Improvement Orders, at the same price, the trade allocation to each such order will follow the formula: B * C where component B is derived by dividing the quantity of contracts for the order at the price level by the total quantity of contracts for all remaining orders at the price level, and component C is the remaining quantity of the PIP Order to be allocated after the Market Maker allocation. If the quantity of contracts for the order in B is greater than the original quantity of the PIP Order, the quantity of contracts for the order will be capped at the size of the original PIP Order for purposes of calculating B. If the trade allocation for an order/quote would be greater than the quantity of the order/quote at the price level, the trade allocation will not exceed the size of the order/quote at the price level. If the trade allocation would result in a fraction of a contract, it will be rounded down.

If, at the end of the remaining orders allocation, there remains any unallocated quantity of the PIP Order, the balance will be allocated as described below.

Additional Allocation

The balance of the PIP Order will be allocated to all remaining quotes and orders, if any, other than Legging Orders and the Primary Improvement Order. The allocation method will be to allocate one contract of the PIP Order per quote/order in sequence until each remaining quote/order has received one contract or until the PIP Order is fully allocated. Allocation sequence among quotes/orders in this step will be in order of size with the largest remaining quote/order allocated first. Where two or more such quotes/orders are the same size, trade allocation sequence will be by time priority. If, at the end of the additional allocation, there remains any unallocated quantity of the PIP Order, the balance will be allocated as described in the Legging Order allocation below.[26]

Example 7: Additional Allocation When Limited by PIP Surrender Quantity With Multiple Market Maker Orders

Suppose at the end of a PIP to sell 177 contracts, where the PIP Surrender Quantity for the Primary Improvement Order is 177, the BOX Book is as follows in order of time priority:

NBBO Buy at 2.00	Sell at 2.06
Public Customer 1 order to buy 10 at 2.04	PIP Order to sell 177.
Primary Improvement Order to buy 177 at 2.04	Order to sell 10 at 2.06.
Market Maker 1 Improvement Order to buy 114 at 2.04	
Market Maker 2 Improvement Order to buy 115 at 2.04	
Market Maker 3 Improvement Order to buy 117 at 2.04	
At the end of the PIP, the trade allocation is as follows:	
Public Customer 1: 10 contracts at 2.04	167 remaining to allocate.
Primary Improvement Order: 0 contracts (all are surrendered)	
Market Maker 1 Improvement Order: 55 contracts at 2.04	
Market Maker 2 Improvement Order: 55 contracts at 2.04	
Market Maker 3 Improvement Order: 56 contracts at 2.04	
The PIP Order has 1 remaining contract to allocate at 2.04.	
The Market Maker orders have the following contracts remaining to be filled at 2.04:	
Market Maker 1 Improvement Order: 59 contracts remaining at 2.04	
Market Maker 2 Improvement Order: 60 contracts remaining at 2.04	
Market Maker 3 Improvement Order: 61 contracts remaining at 2.04	
The Market Maker orders are ranked in order of size, with Market Maker 3 being the largest, and allocated on a rotating basis one by one until either the Market Maker order or the PIP Order is exhausted. In this case, the remaining 1 contract is allocated as follows:	
Market Maker 3 Improvement Order: 1 contract at 2.04	

Legging Order Allocation

If, after the allocation of all orders, quotes and Improvement Orders in proposed Rules 7150(g)(1) through (5), there remains any unallocated quantity of the PIP Order, to the extent of any Surrender Quantity, allocation will be made to any Legging Orders at the same price in time priority.[27]

Example 8: Primary Improvement Order's PIP Surrender Quantity Is Greater Than the Sum of Legging Orders at the Price Level

Suppose at the end of a PIP to sell 100 contracts, where the PIP Surrender Quantity for the Primary Improvement Order is 70 contracts, the BOX Book is as follows in order of time priority:

NBBO Buy at 2.00	Sell at 2.06
Public Customer order to buy 10 at 2.04	PIP Order to sell 100.
Legging Order to buy 50 at 2.04	Order to sell 10 at 2.06.
Primary Improvement Order to buy 100 at 2.04	

[25] The Market Maker allocation formula is: 30 contracts for Market Maker 1 divided by 60 contracts for all Market Makers, multiplied by 54 remaining contracts to be allocated from the PIP Order = 27.

[26] *See* proposed Rule 7150(g)(5).

[27] *See* proposed Rule 7150(g)(6). Legging Orders may receive allocations of a PIP Order when the Legging Order is at a price better than the final price level or at the final price level in the event the Initiating Participant has specified a surrender quantity.

NBBO Buy at 2.00	Sell at 2.06
At the end of the PIP, the trade allocation is as follows:	
Public Customer: 10 contracts at 2.04	90 remaining to allocate
Primary Improvement Order: 30 contracts at 2.04	60 remaining to allocate.
Legging Order: 50 contracts at 2.04	10 remaining to allocate.
The remaining 10 contracts are allocated to the Primary Improvement Order at 2.04 (40 contracts total) because all other orders have been filled.	

Example 9: Primary Improvement Order's PIP Surrender Quantity is Less Than the Sum of Legging Orders at the Price Level

Suppose at the end of a PIP to sell 100 contracts, where the PIP Surrender Quantity for the Primary Improvement Order is 70 contracts, the BOX Book is as follows in order of time priority:

NBBO Buy at 2.00	Sell at 2.06
Public Customer order to buy 10 at 2.04	PIP Order to sell 100.
Legging Order to buy 100 at 2.04	Order to sell 10 at 2.06.
Primary Improvement Order to buy 100 at 2.04	
At the end of the PIP, the trade allocation is as follows:	
Public Customer: 10 contracts at 2.04	90 remaining to allocate.
Primary Improvement Order: 30 contracts at 2.04	60 remaining to allocate.
Legging Order: 60 contracts at 2.04	

If, at the end of the Legging Order allocation, there remains any unallocated quantity of the PIP Order, the balance will be allocated to the Initiating Participant regardless of any applicable PIP Surrender Quantity.

Example 10: Orders on the BOX Book Prior to the PIP Broadcast, Which are Eligible for Execution at the Conclusion of the PIP

Suppose the following orders (listed in time priority) are on the BOX Book prior to the broadcast of a PIP Order to sell 100 contracts of options instrument A.

NBBO Buy at 2.02	Sell at 2.09
Broker-dealer order to buy 100 at 2.02	Market Maker quote to sell 10 at 2.09.
Public Customer order to buy 5 at 2.02	
Market Maker quote to buy 15 at 2.02	
Public Customer order to buy 12 at 2.02	
Market Maker quote to buy 30 at 2.02	
Primary Improvement Order to buy 100 at 2.02	

Suppose at the end of the PIP, only one Improvement Order has been received from a Market Maker to buy 10 at 2.03 and one Unrelated Order from a Professional Customer to buy 15 at 2.03. The BOX Book, including the PIP Order, is as follows at the end of the PIP:

NBBO Buy at 2.02	Sell at 2.09
Market Maker Improvement Order to buy 10 at 2.03	PIP Order to sell 100.
Professional order to buy 15 at 2.03	Market Maker quote to sell 10 at 2.09.
Broker-dealer order to buy 100 at 2.02	
Public Customer order to buy 5 at 2.02	
Market Maker quote to buy 15 at 2.02	
Public Customer order to buy 12 at 2.02	
Market Maker quote to buy 30 at 2.02	
Primary Improvement Order to buy 100 at 2.02	
The trade allocation will be as follows:	
First, because the orders at the first/best price level are, in total, less than the size of the PIP Order, such orders are filled for their entire 25 contracts at 2.03.	
Second, at the next best price level (2.02), the remaining 75 contracts of the PIP Order will be allocated as follows:	
Public Customer Order to buy 5 at 2.02	
Public Customer Order to buy 12 at 2.02	
As the total of the orders for the account of Public Customers (17) is less than the remaining PIP Order quantity (75), the two Public Customer orders are filled, leaving 58 contracts remaining.	
Third, the remaining 58 contracts of the PIP Order are allocated as follows:	
Primary Improvement Order to buy 23 at 2.02.	
23 contracts (40% of the remaining quantity of 58) are allocated to the Primary Improvement Order at 2.02, leaving 35 contracts remaining.	

NBBO Buy at 2.02	Sell at 2.09
Fourth, the remaining 35 contracts of the PIP Order are allocated as follows: Market Maker quote to buy 15 at 2.02 Market Maker quote to buy 30 at 2.02 As there are remaining unallocated quotes and orders for the accounts of more than one Market Maker at the same price, the trade allocation to each Market Maker will follow the formula provided in proposed Rule 7150(g)(3). The first Market Maker quote will be allocated 33.3% (15/45) of the 35 contracts, which is 11 contracts (allocation of partial quantities are rounded down in this step). The second Market Maker quote will be allocated 66.67% (30/45) of the 35 contracts or 23. Fifth, the one remaining contract will be allocated to the broker-dealer Order to buy 100 at 2.02.	

Note: if the PIP Order had instead been a simple limit order to sell 100 contracts of A at 2.02, the broker-dealer order would have been filled first on the BOX Book due to its time priority.

Example 11: Valid Starting Prices for PIP Auctions

A Participant wishes to enter a PIP Order to sell 50 contracts of options instrument A:

(a) Suppose the NBBO and the BOX Book for instrument A are as follows:

NBBO Buy at 2.02	Sell at 2.09
Quote to buy 10 at 2.02 ...	Order to sell 5 at 2.09.

The PIP auction start price can be any price between 2.02 and 2.08 inclusive.[28]

(b) Suppose, instead, the NBBO and the BOX Book for instrument A are as follows:

NBBO Buy at 2.02	Sell at 2.09
Quote to buy 10 at 2.02 ...	Order to sell 5 at 2.10.

The PIP auction start price can be any price between 2.02 and 2.09 inclusive.[29]

Quotes and Orders on the BOX Book

Currently, all quotes and orders on the BOX Book prior to the PIP Broadcast, excluding any proprietary quotes or orders from the Initiating Participant, are filled at the end of the PIP in time priority before any other order at the same price.[30] Further, Rule 7150(g)(3) states that the Primary Improvement Order follows in time priority all quotes and orders on the BOX Book prior to the PIP Broadcast that are equal to the (A) Single-Priced Primary Improvement Order price; or (B) execution price of a Max Improvement Primary Improvement Order that results in the balance of the PIP Order being fully executed, except any proprietary quote or order from the Initiating Participant.

The Exchange is now proposing that quotes and orders on the BOX Book prior to the PIP Broadcast will no longer be allocated against the PIP Order at the end of the PIP in time priority before any other order at the same price. Specifically, quotes and orders on the BOX Book prior to the PIP Broadcast will now be considered alongside all other quotes and orders, whether Improvement Order(s), Legging Order(s), or Unrelated Order(s) received by BOX during the PIP (excluding all Legging Orders and Unrelated Orders that were immediately executed during the interval of the PIP), for matching at the conclusion of the PIP. Therefore, the Exchange is proposing to remove the exceptions for quotes and orders on the BOX Book prior to the PIP Broadcast in Rules 7150(f)(4)(i) and (g)(3). The Exchange notes that this is consistent with Phlx.[31] Proprietary quotes or orders from the Initiating Participant at the Primary Improvement Order price shall not be executed against the PIP Order during or at the conclusion of the PIP.

Market Maker Prime

Current Rule 7160 provides that at the commencement of each PIP, a single Market Maker Prime may be designated for that PIP only. The Market Maker Prime is a Market Maker participating in the PIP who has partial time priority over all other Market Maker Improvement Orders, CPOs, PPOs and Unrelated Orders at the same limit price in a single PIP. The Market Maker Prime must satisfy the following criteria: (i) The Market Maker must have a quote that is equal to or better than the NBBO on the same side of the market as the Primary Improvement Order at the instant the PIP is initiated, (ii) the Market Maker's quote must represent an order in the BOX Book with the best price/time priority, and (iii) the Market Maker Prime must not have submitted the Primary Improvement Order to commence the relevant PIP. If more than one Market Maker meets the criteria, the Market Maker whose quote has time priority would be the Market Maker Prime for that PIP.

When the PIP was first adopted the Exchange introduced the Market Maker Prime designation to encourage Market Makers to quote aggressively on the BOX Book and not wait for a PIP to begin.[32] The Exchange is now proposing to remove the Market Maker Prime designation from the Exchange's Rulebook as this designation is obsolete. Market Makers rarely use the Market Maker Prime functionality and the Exchange believes the continued presence of the designation will only complicate the Exchange's Rules, and provides little or no benefit.

Customer PIP Order

Current Rule 7150(h) provides for a Customer PIP Order (''CPO''). A CPO allows a Public Customer to submit an order on a single options series, through an OFP, specifying one price for entry on the BOX Book (in the applicable minimum increment for that series) and a different price for interaction with a PIP (in one cent increments).

The CPO was intended to provide access to the PIP on behalf of a Public Customer, however, CPOs are rarely submitted to the Exchange. The Exchange has determined that CPOs have not provided the desired benefit that they were intended to, therefore the Exchange is proposing to remove CPOs from its Rules. Public Customers may continue to submit orders to the Exchange and Improvement Orders to interact with a PIP.

Additional PIP Changes

The Exchange is proposing to remove various provisions of Rule 7150 to accommodate the proposed change in the PIP allocation. Currently, Rule 7150(f)(4) provides certain exceptions to the price/time priority currently applicable to the PIP allocation. Since

[28] The PIP Start Price shall, on the opposite side of the PIP Order, be equal to or better than the NBBO and, on the same side of the PIP Order, be equal to or better than NBBO, provided that, if BBO is equal to NBBO, then the PIP Start Price must also be better than BBO on the same side at the time of commencement of the PIP (Proposed Rule 7150(f)).

[29] *Id.*

[30] *See* Rule 7150(f)(4)(i).

[31] *See* Phlx Rule 1080(n)(ii)(E)(2).

[32] *See* Securities Exchange Act Release No. 47186 (January 14, 2003), 78 FR 3062 (January 22, 2003) (Notice of Filing SR–BSE–2002–15).

the Exchange is now proposing to change the allocation at the end of the PIP so it is no longer based on price/time priority, these exceptions are no longer applicable because transactions on the Exchange will comply with Rule 11a2–2(T) as described below; therefore the Exchange is proposing to remove these sections of Rule 7150.

As part of the proposed changes to the PIP allocation, the Exchange is also making various non-substantive changes to its rules to accommodate these proposed changes. Most of these are the renumbering of sections to account for a new subsection (g) being proposed to Rule 7150 and the removal of certain sections. The Exchange proposes to include language to provide clarity regarding the execution price in Rule 7130(b)(5) and the PIP Start Price in Rule 7150(f) to ensure that the PIP does not trade ahead of resting same-side orders. Additionally, the Exchange also proposes to amend various cross-references in Rules 7000, 7130 and 7150 to take into account the renumbering.

The Exchange must also correct references in two additional rules that reference provisions in the current Rule 7150 that are being renumbered. Specifically, Rule 7000(c)(6) references Rule 7150(g), which is being corrected to reference IM–7150–2, and Rule 7130(b)(5) references Rule 7150(i) which is being renumbered to Rule 7150(j). Additional detail is also being added to Rule 7130(b)(5) to provide clarity.

COPIP

The Exchange recently amended its Rules to permit Complex Orders to be submitted to a price improvement period auction mechanism similar to the existing PIP mechanism for single options series on BOX.[33]

Exchange Rule 7245 allows the submission of Complex Orders to a COPIP mechanism that is substantially similar to the PIP except as necessary to account for distinctions between regular orders on the BOX Book and Complex Orders or as otherwise noted below. References to Legging Orders do not appear in the COPIP rules because Legging Orders interact only with the PIP. However, the COPIP rules do include other provisions for interacting with interest on the BOX Book.

Current COPIP Allocation

At the conclusion of a COPIP, just as with a PIP,[34] the COPIP Order is executed against the best prevailing order(s) on BOX (except any pre-COPIP Broadcast proprietary order from the Initiating Participant), in accordance with price/time priority, whether Improvement Order(s) or Unrelated Order(s) received by BOX during the COPIP (excluding all Unrelated Orders that were immediately executed during the interval of the COPIP).[35] Such Unrelated Orders may include agency orders on behalf of Public Customers, Market Makers at away exchanges and non-BOX Options Participant broker-dealers, as well as non-COPIP proprietary orders submitted by Options Participants. Any portion of an Improvement Order left unfilled will be cancelled.

Notwithstanding the foregoing execution rules for a COPIP, BOX Book Interest is executed in priority over Complex Orders at the same price so as to preserve the already established execution priority of interest on the BOX Book over Complex Orders.[36]

Further, no Complex Order for a non-market maker broker-dealer account of an Options Participant is executed before any Public Customer Complex Order(s), whether Improvement Order(s) or non-Improvement Order(s), and all non-BOX Options Participant broker-dealer Complex Order(s) at the same price have been filled; provided however, that all Complex Orders on the Complex Order Book prior to the COPIP Broadcast, excluding any proprietary order(s) from the Initiating Participant, are filled in time priority before any other Complex Order at the same price.[37]

Subject to the execution priority of BOX Book Interest described above, the Initiating Participant retains certain priority and trade allocation privileges upon conclusion of a COPIP.[38]

In instances in which a Single-Priced Primary Improvement Order, as modified (if at all), is matched by or matches any Complex Order(s) or BOX Book Interest at any price level, the Initiating Participant would retain priority for up to forty percent (40%) of the original size of the COPIP Order, notwithstanding the time priority of the Primary Improvement Order or Complex Order(s). However, if only one Complex Order or BOX Book Interest matches or is better than the Initiating Participant's Single-Priced Primary Improvement Order, then the Initiating Participant may retain priority for up to fifty percent (50%) of the original size of the COPIP Order. The Initiating Participant will receive additional allocation only after all other Complex Orders have been filled at that price level. For purposes of calculating the Initiating Participant's priority allocation, BOX Book Interest is included as competing orders in a COPIP.

In instances in which a Max Improvement Primary Improvement Order is submitted by the Initiating Participant, the Initiating Participant is allocated its full size at each price level, except where restricted by the designated limit price and subject to the limitations discussed in the following paragraph, until a price level is reached where the balance of the COPIP Order can be fully executed. Only at such price level will the Initiating Participant retain priority for up to forty percent (40%) of the remaining size of the COPIP Order. However, if only one competing Complex Order or BOX Book Interest matches the Initiating Participant at the final price level, then the Initiating Participant may retain priority for up to fifty percent (50%) of the remaining size of the COPIP Order. As with Single-Priced Primary Improvement Orders discussed above, for purposes of calculating the Initiating Participant's priority allocation, BOX Book Interest is included as competing orders in a COPIP.

At its option, the Initiating Participant may designate a lower amount for which it retains certain priority and trade allocation privileges upon the conclusion of the COPIP auction than it is entitled to pursuant to the provisions of Rule 7245(h)(1) or (2) [sic] mentioned above. When starting a COPIP, the Initiating Participant may submit to the Exchange the Primary Improvement Order with a designation of the total amount of the COPIP Order it is willing to ''surrender'' to the other COPIP Participants (''COPIP Surrender Quantity''). Under no circumstances does the Initiating Participant receive an allocation percentage preference of more than 50% with one competing order, including counting BOX Book Interest as a competing order, or 40% with multiple competing orders, including counting BOX Book Interest as a competing order. The COPIP Surrender Quantity function will not result in more than the maximum allowable allocation percentage to the Initiating Participant than that which the Initiating Participant would have otherwise received in accordance with the allocation procedures set forth in Rule 7245.

Upon the conclusion of the COPIP auction, when the Trading Host determines the priority and trade allocation amounts for the Initiating

[33] *See* Securities Exchange Act Release No. 71148 (December 19, 2013), 78 FR 78437 (December 26, 2013) (Order Approving SR–BOX–2013–43).

[34] *See* Rule 7150(f)(3).

[35] *See* Rule 7245(f)(3).

[36] *See* Rule 7245(f)(3)(i).

[37] *See* Rule 7245(f)(3)(ii).

[38] *See* Rule 7245(g).

Participant pursuant to Rule 7245(h)(1) or (2) [sic], the Trading Host will automatically adjust the trade allocations to the other COPIP Participants, according to the priority set forth in Rule 7245(g) [sic], up to the COPIP Surrender Quantity. The Primary Improvement Order shall be allocated the remaining size of the COPIP Order above the COPIP Surrender Quantity, if any, pursuant to Rule 7245(g). If the aggregate size of other COPIP Participants' contra Complex Orders is not equal to or greater than the COPIP Surrender Quantity, then the remaining COPIP Surrender Quantity shall be left unfilled and the Primary Improvement Order shall be allocated the remaining size of the COPIP Order pursuant to Rule 7245(h)(1) or (2) [sic].

As in a PIP, the Primary Improvement Order follows, in time priority, all Complex Orders on the Complex Order Book prior to the COPIP Broadcast that are equal to the Single Priced Primary Improvement Order price; or the execution price of a Max Improvement Primary Improvement Order that results in the balance of the COPIP Order being fully executed, except any proprietary order(s) from the Initiating Participant. Such proprietary order(s) do no execute against the COPIP Order during or at the conclusion of the COPIP.

The Primary Improvement Order yields priority to certain competing Complex Orders, including the priority of the Initiating Participant described above, as follows.

When a Single-Priced or Max Improvement Primary Improvement Order for the proprietary account of an OFP is matched by or matches any competing Public Customer Complex Order(s), whether Improvement Order(s), Unrelated Order(s) or any non-BOX Options Participant broker-dealer Complex Order(s) at any price level, it yields priority to them.

When an unmodified Single-Priced Primary Improvement Order for the account of a Market Maker is matched by any competing Public Customer Complex Order(s), whether Improvement Order(s), Unrelated Order(s) or any non-BOX Options Participant broker-dealer Complex Order(s) at the initial COPIP price level, it will yield priority to them.

When a Max Improvement or a modified Single-Priced Primary Improvement Order for the account of a Market Maker matches any competing Public Customer Complex Order(s), whether Improvement Order(s), Unrelated Order(s) or any non-BOX Options Participant broker-dealer Complex Order(s) at subsequent price levels, it yields priority to them.

Proposed COPIP Allocation

Similar to the changes being proposed to the PIP allocation above, the Exchange is now proposing to amend the COPIP allocation. While Complex Orders on the Complex Order Book will continue to execute in price/time priority, in the event an execution opportunity occurs for a Complex Order on the Complex Order Book against a COPIP Order at the end of a COPIP, the COPIP execution will occur according to the priority algorithm described below. Specifically, the Exchange is proposing that, at the end of the COPIP, the COPIP Order will continue to be matched with opposite side competing orders in price priority. If the total quantity of orders, Improvement Orders, BOX Book Interest and the Primary Improvement Order is equal to or less than the quantity of the COPIP Order at a given price level, all orders at the price will be filled and the balance of the COPIP Order will be executed at the next best price. If the total quantity of orders, Improvement Orders, BOX Book Interest and the Primary Improvement Order is greater than the quantity of the COPIP Order at a given price level, the allocation will be as follows:

BOX Book Interest Allocation

BOX Book Interest is executed in priority over Complex Orders. Accordingly, BOX Book Interest [39] will continue to be allocated for execution against the COPIP Order in priority over Complex Orders and in time priority.[40] If, after the BOX Book Interest allocation, there remains any unallocated quantity of the COPIP Order, the balance will be allocated as described below.

Example 12: BOX Book Interest at Multiple Price Levels is Eligible for Execution at the End of a COPIP

Suppose at the end of a COPIP to sell 100 Strategies A+B, the orders on BOX for Strategy A+B are as follows:

cNNBO Buy at 2.00	Sell at 2.10
BOX Book Interest to buy 10 at 2.03 Public Customer 1 order to buy 20 at 2.03 Primary Improvement Order to buy 100 at 2.02 Market Maker 1 Improvement Order to buy 30 at 2.02 At the end of the COPIP, both the BOX Book Interest and the Public Customer order (each at 2.03) are executed against the COPIP Order, leaving 70 contracts to be executed at 2.02. Prior to the execution of any order at 2.02, the BOX trading engine determines that BOX Book Interest exists to buy 10 contracts at 2.02. Only after the execution of this BOX Book Interest will any other trades at the same price occur.	COPIP Order to sell 100.

Trade allocation is as follows:

BOX Book Interest: 10 Strategies at 2.03	90 remaining to allocate.
Public Customer 1: 20 Strategies at 2.03	70 remaining to allocate.
BOX Book Interest: 10 Strategies at 2.02	60 remaining to allocate.
Primary Improvement Order: 30 Strategies (50%) at 2.02	30 remaining to allocate.
Market Maker 1: 30 Strategies at 2.02	

[39] "BOX Book Interest" is defined as bids and offers on the BOX Book for the individual legs of a Strategy. *See* Rule 7245(a)(3).

[40] *See* proposed Rule 7245(g)(1).

Public Customer Allocation

After the BOX Book Interest allocation, Complex Orders, other than the Primary Improvement Order, for the account of Public Customers, including Improvement Orders and orders on the Complex Order Book prior to the COPIP Broadcast, will be allocated for execution against the COPIP Order in priority over other Complex Orders.[41] Where there are multiple such Complex Orders for the account of Public Customers at the same price, the trade allocation will be by time priority.

If, at the end of the Public Customer allocation, there remains any unallocated quantity of the COPIP Order, the balance will be allocated as described below.

Example 13: Primary Improvement Order for the Account of a Public Customer

Suppose at the end of a COPIP to sell 100 Strategies, where the Primary Improvement Order is for the account of a Public Customer that has elected a COPIP Surrender Quantity of 80, the Complex Order Book is as follows in order of time priority:

cNBBO Buy at 2.00	Sell at 2.08
Public Customer 1 order to buy 20 at 2.04 Public Customer 2 Primary Improvement Order to buy 100 at 2.04 Market Maker Improvement Order to buy 30 at 2.04 Public Customer 3 Improvement Order to buy 30 at 2.04 Trade allocation is as follows: Public Customer 1: 20 at 2.04 Public Customer 3: 30 at 2.04 Public Customer 2 Primary Improvement Order: 20 at 2.04 (the COPIP Surrender Quantity of 80 Strategies results in Public Customer 2 receiving an allocation of 20 Strategies, which is less than 50% of the remaining 50 Strategies (50%*50 = 25) to which the Primary Improvement Order would otherwise be entitled since there is only one responder) Market Maker: 30 at 2.04 Allocation among all Public Customers, other than the Initiating Participant, at the same price is by time priority.	COPIP Order to sell 100.

Example 14: COPIP Trade Allocation When Primary Improvement Order is for the Account of a Public Customer

Suppose the Primary Improvement Order, in a COPIP to sell 100 of Strategy A+B, is for the account of a Public Customer. At the end of the COPIP, the Complex Order Book for Strategy A+B is as follows in order of time priority:

cNNBO Buy at 2.00	Sell at 2.10
Public Customer 1 order to buy 10 at 2.03 Public Customer 2 Primary Improvement Order to buy 100 at 2.03 Market Maker order to buy 100 at 2.03 At the end of the COPIP, the trade allocation is as follows: Public Customer 1: 10 at 2.03 Public Customer 2 Primary Improvement Order: 45 at 2.03 (50% of the remaining 90 Strategies since there is only one responder) Market Maker: 45 at 2.03	COPIP Order to sell 100.

Primary Improvement Order Allocation

After the Public Customer allocation, the applicable trade allocation described below will be allocated to the Primary Improvement Order.[42] If the Primary Improvement Order has designated a COPIP Surrender Quantity, the Primary Improvement Order allocation will be reduced, if necessary, in accordance with the COPIP Surrender Quantity.

When a Single-Priced Primary Improvement Order is matched by or matches any Complex Order(s) at the final price level, the Initiating Participant retains priority for up to forty percent (40%) of the remaining size of the COPIP Order after BOX Book Interest and Public Customer orders are satisfied. However, if only one Complex Order matches the Initiating Participant's Single-Priced Primary Improvement Order at the final price level, then the Initiating Participant may retain priority for up to fifty percent (50%) of the remaining size of the COPIP Order after BOX Book Interest and Public Customer orders are satisfied.[43] When a Max Improvement Primary Improvement Order is submitted by the Initiating Participant, the Initiating Participant shall be allocated its full size at each price level, except where restricted by the designated limit price, until a price level is reached where the balance of the COPIP Order can be fully executed. At such price level, the Initiating Participant will be entitled to receive up to forty percent (40%) of the remaining size of the COPIP Order after BOX Book Interest and Public Customer orders are satisfied. However, if only one competing Complex Order matches the Initiating Participant's Max Improvement Primary Improvement Order at the final price level, then the Initiating Participant may retain priority for up to fifty percent (50%) of the remaining size of the COPIP Order after BOX Book Interest and Public Customer orders are satisfied.[44] Neither Public Customer orders nor BOX Book Interest will be considered when determining whether the Initiating Participant retains 40% or 50% in proposed Rule 7245(h) because neither Public Customer order allocation nor BOX Book Interest allocation (which are executed in priority over the Initiating Participant) will be affected by the Initiating Participant retaining the difference between 40% and 50%.[45] The Exchange notes that this is similar

[41] *See* proposed Rule 7245(g)(2).

[42] *See* proposed Rule 7150(h).

[43] *See* proposed Rule 7245(h)(1).

[44] *See* proposed Rule 7245(h)(2).

[45] The first sentence of proposed Rule 7245(h)(1) deletes from the current rule the words ''or BOX Book Interest'' in order to be consistent with the proposal not to consider BOX Book Interest for purposes of determining the Primary Improvement Order's preference percentage.

to Phlx in treatment of Public Customer orders.[46] The balance will be allocated as described below.

Example 15: COPIP with Auto-Matching

Suppose a COPIP Order to sell 150 Strategies on A+B. Suppose, further, at the end of the COPIP auction, the Complex Order Book is as follows in order of price/time priority:

cNBBO Buy at 2.00	Sell at 2.09
Broker-dealer 1 order to buy 10 at 2.06	COPIP Order to sell 150
Market Maker 1 Improvement Order to buy 8 at 2.05	Order to sell 10 at 2.09.
Market Maker 2 Improvement Order to buy 2 at 2.05	
Broker-dealer 2 Improvement Order to buy 5 at 2.05	
Primary Improvement Order to buy 150 at 2.04	
Broker Dealer 3 Improvement Order to buy 8 at 2.04	
Market Maker 3 Improvement Order to buy 25 at 2.04	
Public Customer Order to buy 10 at 2.04	
Suppose the Primary Improvement Order specified an auto-match limit price of 2.05. The trade allocation at the best available price (at 2.06) is as follows:	
Broker-dealer 1 order: 10 Strategies at 2.06	140 remaining to allocate.
The Primary Improvement Order is not willing to auto-match the 2.06 price level, so it goes to the next price available. The trade allocation at the 2.05 price level is as follows:	
Market Maker 1 Improvement Order: 8 Strategies at 2.05	
Market Maker 2 Improvement Order: 2 Strategies at 2.05	
Broker-dealer 2 Improvement Order: 5 Strategies at 2.05	
Primary Improvement Order: auto-match 15 Strategies at 2.05 110 remaining to allocate	
As there is remaining COPIP Order quantity to be filled, it goes to the next price available. The trade allocation at the 2.04 price level is as follows (this is the price level where the COPIP Order will be completely filled):	
Public Customer order: 10 Strategies at 2.04	
Primary Improvement Order: 40 Strategies at 2.04 (40% of 100 = 40, use 40% because there are 2 responders at this price level)	
Market Maker 3 Improvement Order: 25 Strategies at 2.04	
Broker-dealer 3 Improvement Order: 8 Strategies at 2.04	
Primary Improvement Order will take the remaining 27 Strategies at 2.04 (for a total of 67 Strategies at 2.04)	

Example 16: Allocating 50%, Rather than 40%, to Primary Improvement Order

Suppose a COPIP Order to sell 100 of Strategy A+B. Suppose, further, at the end of the COPIP auction, the Complex Order Book is as follows in order of time priority:

cNNBO Buy at 2.00	Sell at 2.10
Public Customer 1 order to buy 10 at 2.02	COPIP Order to sell 100.
Public Customer 2 order to buy 15 at 2.02	
Primary Improvement Order to buy 100 at 2.02	
Market Maker order to buy 100 at 2.02	
At the end of the COPIP, the trade allocation is as follows:	
10 Strategies at 2.02 to Public Customer 1	
15 Strategies at 2.02 to Public Customer 2	
37 Strategies at 2.02 to Primary Improvement Order (50% allocation)	
38 Strategies at 2.02 to Market Maker	

Note that the Primary Improvement Order received an allocation priority of 50% of the remaining COPIP Order size (50%*(100 − 25) = 38, rounded down)[47] in this case because Public Customer orders are not included in the determination of the 50%/40% allocation rule.

Example 17: COPIP Allocation

Suppose a COPIP to sell 150 contracts of Strategy A+B. At the end of the COPIP, the Complex Order Book for Strategy A+B is as follows in order of time priority:

cNBBO Buy at 2.00	Sell at 2.06
Public Customer order to buy 10 at 2.04	COPIP Order to sell 150.
Primary Improvement Order to buy 150 at 2.04	Order to sell 10 at 2.06.
Market Maker 1 Improvement Order to buy 5 at 2.04	
Market Maker 2 Improvement Order to buy 25 at 2.04	
Market Maker 3 Improvement Order to buy 60 at 2.04	
Market Maker 4 Improvement Order to buy 5 at 2.04	
Market Maker 5 Improvement Order to buy 5 at 2.04	
Broker-dealer 1 Improvement Order to buy 8 at 2.04	
Trade allocation (all at 2.04) is as follows:	
Public Customer order: 10 Strategies	140 remaining to allocate.

[46] *See* Phlx Rule 1080(n)(ii)(E). Note that, in its Rule 1080(n)(ii)(E)(2)(b), the Phlx auto-match feature limits the Initiating Participant to 40% allocation.

[47] Strategies are allocated in whole numbers and, to ensure the allocation priority to Primary Improvement Orders does not exceed the applicable 40% or 50% specified in proposed Rule 7245(h), allocations of fractional Strategies to the Primary Improvement Order in the Primary Improvement Order allocation step are rounded down.

cNBBO Buy at 2.00	Sell at 2.06
Primary Improvement Order: 56 Strategies	84 remaining to allocate.
Market Maker 1 Improvement Order: 4 Strategies	
Market Maker 2 Improvement Order: 21 Strategies	
Market Maker 3 Improvement Order: 50 Strategies	
Market Maker 4 Improvement Order: 4 Strategies	
Market Maker 4 Improvement Order: 4 Strategies	1 remaining to allocate
Broker-dealer 1 Improvement Order: 1 Strategy	

Market Maker Allocation

After the Primary Improvement Order allocation, any remaining unallocated quantity of the COPIP Order will be allocated to Complex Orders, including Improvement Orders and orders on the Complex Order Book prior to the COPIP Broadcast, for the account of Market Makers.[48] Where there are Complex Orders for the accounts of more than one Market Maker at the same price, the trade allocation formula for Market Makers will provide for the allocation of contracts among Market Makers based on size pro rata for the remaining Strategies. The proposed Market Maker allocation would follow the formula: B * C where component B is derived by dividing the quantity of Strategies for the Market Maker at the price level by the total quantity of Strategies for all Market Makers at the price level, and component C is the remaining quantity of the COPIP Order to be allocated after the Primary Improvement Order allocation. If the quantity of Strategies for the Market Maker order in B is greater than the original quantity of the COPIP Order, the Market Maker's quantity will be capped at the size of the original COPIP Order for purposes of calculating B. If the trade allocation for a Market Maker would be greater than the quantity of the Market Maker order at the price level, the Market Maker's trade allocation will not exceed the size of the Market Maker order at the price level. If the trade allocation for a Market Maker would result in a fraction of a Strategy, it will be rounded down.

Example 18: Market Maker Allocation Formula

In certain circumstances, due to rounding down, it is possible that some Market Maker orders will not be filled even though there is sufficient quantity of the COPIP Order to be allocated. Suppose at the end of a COPIP Order to sell 200 Strategies of A+B, the Complex Order Book is as follows in order of time priority:

cNNBO Buy at 2.00	Sell at 2.10
Primary Improvement Order to buy 200 at 2.02	COPIP Order to sell 200.
Market Maker 1 order to buy 2 at 2.02	
Market Maker 2 order to buy 20 at 2.02	
Market Maker 3 order to buy 80 at 2.02	
Market Maker 4 order to buy 120 at 2.02	
Professional Customer order to buy 20 at 2.02	
At the end of the COPIP, the trade allocation will be as follows:	
First, to the Primary Improvement Order for 80 Strategies and then to the Market Makers, pursuant to the formula provided in Rule 7245(g)(4), as follows:	
Market Maker 1–1 Strategy[49]	
Market Maker 2–10 Strategies	
Market Maker 3–43 Strategies	
Market Maker 4–64 Strategies	
As a result, a total of 118 Strategies are allocated to all Market Makers even though there were, in total, 120 Strategies available to be allocated to Market Makers from the remaining COPIP Order. The remaining COPIP Order quantity of 2 Strategies will be allocated to the Professional Customer order.	

Remaining Complex Orders Allocation

After the Market Maker allocation, any remaining unallocated quantity of the COPIP Order will be allocated to any remaining Complex Orders, other than Market Maker orders, including orders for the account of Professionals and orders on the Complex Order Book prior to the COPIP Broadcast, not receiving allocation above.[50]

Example 19: Comparison of Professional Customer COPIP Trade Allocation (Before and After Proposed Rule Change)

Suppose at the end of a COPIP to sell 100 Strategies on A+B, where the Primary Improvement Order is for the account of a Market Maker, the Complex Order Book for Strategy A+B is as follows in order of time priority:

cNBBO Buy at 2.00	Sell at 2.07
Public Customer 1 order to buy 10 at 2.04	COPIP Order to sell 100.
Professional Customer 1 order to buy 10 at 2.04	
Primary Improvement Order to buy 100 at 2.04	
Market Maker 1 Improvement Order to buy 30 at 2.04	
Broker-dealer 1 Improvement Order to buy 20 at 2.04	
Market Maker 2 Improvement Order to buy 30 at 2.04	
Trade allocation at the end of the COPIP under current BOX rules is as follows:	

[48] *See* proposed Rule 7245(g)(4).

[49] The Market Maker allocation formula is: 2 Strategies for Market Maker 1 divided by 222 Strategies for all Market Makers, multiplied by 120 remaining Strategies to be allocated from the COPIP Order and rounded down = 1.

[50] *See* Proposed Rule 7245(g)(5).

cNBBO Buy at 2.00	Sell at 2.07
Current Rules	
Public Customer 1: 10 Strategies at 2.04	
Professional Customer 1: 10 Strategies at 2.04	
Primary Improvement Order: 40 Strategies at 2.04	
Market Maker 1 Improvement Order: 30 Strategies at 2.04	
Broker-dealer 1 Improvement Order: 10 Strategies at 2.04	
Trade allocation at the end of the COPIP under the proposed rules is as follows:	
Proposed Rules	
Public Customer 1: 10 Strategies at 2.04	
Primary Improvement Order: 36 Strategies at 2.04	
Market Maker 1 Improvement Order: 27 Strategies at 2.04 [51]	
Market Maker 2 Improvement Order: 27 Strategies at 2.04	

Where there are more than one remaining unallocated Complex Orders, including Improvement Orders, at the same price, the trade allocation to each such Complex Order will follow the formula: B * C where component B is derived by dividing the quantity of Strategies for the Complex Order at the price level by the total quantity of Strategies for all remaining Complex Orders at the price level, and component C is the remaining quantity of the COPIP Order to be allocated after the Market Maker allocation. If the quantity of Strategies for the Complex Order in B is greater than the original quantity of the COPIP Order, the quantity of Strategies for the Complex Order will be capped at the size of the original COPIP Order for purposes of calculating B. If the trade allocation for a Complex Order would be greater than the quantity of Strategies for the Complex Order at the price level, the trade allocation will not exceed the quantity of Strategies for the Complex Order at the price level. If the trade allocation would result in a fraction of a Strategy, it will be rounded down.

If, at the end of the remaining Complex Orders allocation, there remains any unallocated quantity of the COPIP Order, the balance will be allocated as described below.

Additional Allocation

The balance of the COPIP Order will be allocated to all remaining orders, if any, other than the Primary Improvement Order. The allocation method will be to allocate one Strategy of the COPIP Order per order in sequence until each remaining order has received one Strategy or until the COPIP Order is fully allocated. Allocation sequence among orders in this step will be in order of size with the largest remaining order allocated first. Where two or more such orders are the same size, trade allocation sequence will be by time priority.

If, at the end of the additional allocation, there remains any unallocated quantity of the COPIP Order, the balance will be allocated to the Initiating Participant regardless of any applicable COPIP Surrender Quantity.[52]

Example 20: Additional Allocation When Limited by COPIP Surrender Quantity with Multiple Market Maker Orders

Suppose at the end of a COPIP to sell 177 Strategies on A+B, where the COPIP Surrender Quantity for the Primary Improvement Order is 177, the Complex Order Book for Strategy A+B is as follows in order of time priority:

cNBBO Buy at 2.00	Sell at 2.06
Public Customer 1 order to buy 10 at 2.04	COPIP Order to sell 177.
Primary Improvement Order to buy 177 at 2.04	Order to sell 10 at 2.06.
Market Maker 1 Improvement Order to buy 114 at 2.04	
Market Maker 2 Improvement Order to buy 115 at 2.04	
Market Maker 3 Improvement Order to buy 117 at 2.04	
At the end of the COPIP, the trade allocation is as follows:	
Public Customer 1: 10 Strategies at 2.04	167 remaining to allocate.
Primary Improvement Order: 0 Strategies (all are surrendered)	
Market Maker 1 Improvement Order: 55 Strategies at 2.04	
Market Maker 2 Improvement Order: 55 Strategies at 2.04	
Market Maker 3 Improvement Order: 56 Strategies at 2.04	
The COPIP Order has 1 remaining Strategy to allocate at 2.04.	
The Market Maker orders have the following Strategies remaining to be filled at 2.04:	
Market Maker 1 Improvement Order: 59 Strategies remaining at 2.04	
Market Maker 2 Improvement Order: 60 Strategies remaining at 2.04	
Market Maker 3 Improvement Order: 61 Strategies remaining at 2.04	
The Market Maker orders are ranked in order of size, with Market Maker 3 being the largest, and allocated on a rotating basis one by one until either the Market Maker order or the COPIP Order is exhausted. In this case, the remaining 1 Strategy is allocated as follows:	
Market Maker 3 Improvement Order: 1 Strategy at 2.04	

Example 21: Orders on the Complex Order Book Prior to the COPIP Broadcast, Which are Eligible for Execution at the Conclusion of the COPIP

[51] The Market Maker allocation formula is: 30 Strategies for Market Maker 1 divided by 60 Strategies for all Market Makers, multiplied by 54 remaining Strategies to be allocated from the PIP Order = 27.

[52] *See* proposed Rule 7245(g)(6).

Suppose the following Complex Orders (listed in order of time priority) are on the Complex Order Book prior to the broadcast of a COPIP Order to sell 100 Strategies of A+B.

cNBBO Buy at 2.02	Sell at 2.09
Broker-dealer order to buy 100 at 2.02	Market Maker order to sell 10 at 2.09.
Public Customer order to buy 5 at 2.02 Market Maker order to buy 15 at 2.02 Public Customer order to buy 12 at 2.02 Market Maker order to buy 30 at 2.02 Primary Improvement Order to buy 100 at 2.02	

Suppose at the end of the COPIP, only one Improvement Order has been received from a Market Maker to buy 10 at 2.03 and one Unrelated Order from a Professional Customer to buy 15 at 2.03. The Complex Order Book, including the COPIP Order, is as follows at the end of the COPIP:

cNBBO Buy at 2.02	Sell at 2.09
Market Maker Improvement Order to buy 10 at 2.03	COPIP Order to sell 100.
Professional order to buy 15 at 2.03	Market Maker order to sell 10 at 2.09.
Broker-dealer order to buy 100 at 2.02 Public Customer order to buy 5 at 2.02 Market Maker order to buy 15 at 2.02 Public Customer order to buy 12 at 2.02 Market Maker order to buy 30 at 2.02 Primary Improvement Order to buy 100 at 2.02 The trade allocation will be as follows: First, because the orders at the first/best price level are, in total, less than the size of the COPIP Order, such orders are filled for their entire 25 Strategies at 2.03. Second, at the next best price level (2.02), the remaining 75 Strategies of the COPIP Order will be allocated as follows: Public Customer order to buy 5 at 2.02 Public Customer order to buy 12 at 2.02 As the total of the orders for the account of Public Customers (17) is less than the remaining COPIP Order quantity (75), the two Public Customer orders are filled, leaving 58 Strategies remaining. Third, the remaining 58 Strategies of the COPIP Order are allocated as follows: Primary Improvement Order to buy 23 at 2.02. 23 Strategies (40% of the remaining quantity of 58) are allocated to the Primary Improvement Order at 2.02, leaving 35 Strategies remaining. Fourth, the remaining 35 Strategies of the COPIP Order are allocated as follows: Market Maker order to buy 15 at 2.02 Market Maker order to buy 30 at 2.02	

As there are remaining unallocated orders for the accounts of more than one Market Maker at the same price, the trade allocation to each Market Maker will follow the formula provided in proposed Rule 7245(g)(4). The first Market Maker order will be allocated 33.3% (15/45) of the 35 Strategies, which is 11 Strategies (allocation of partial quantities are rounded down in this step). The second Market Maker order will be allocated 66.67% (30/45) of the 35 Strategies or 23.

Fifth, the one remaining contract will be allocated to the broker-dealer Order to buy 100 at 2.02. Note: if the COPIP Order had instead been a simple limit order to sell 100 Strategies of A+B at 2.02, the broker-dealer Order would have been filled first on the Complex Order Book due to its time priority.

Example 22: Valid Starting Prices for COPIP Auctions

A Participant wishes to enter a COPIP Order to sell 50 of Strategy A+B.

(a) Suppose the cNBBO and the Complex Order Book for Strategy A+B are as follows:

cNBBO Buy at 2.02	Sell at 2.09
Quote to buy 10 at 2.02	Order to sell 5 at 2.09

The COPIP auction start price can be any price between 2.02 and 2.08 inclusive.[53]

(b) Suppose, instead, that the cNBBO, cBBO and the Complex Order Book for Strategy A+B are as follows:

cNBBO Buy at 2.02	Sell at 2.09
cBBO Buy at 2.02	Sell at 2.09
Quote to buy 10 at 2.02	Order to sell 5 at 2.07.

The COPIP auction start price can be any price between 2.02 and 2.06 inclusive.[54]

(c) Suppose, instead, that there is no BOX Book Interest that could generate a sell price of 2.09 and the cNBBO and the Complex Order Book for Strategy A+B are as follows:

[53] The COPIP Start Price shall, on the opposite side of the COPIP Order, be equal to or better than the best of the BBO on the Complex Order Book for the Strategy, the cNBBO, and the cBBO and, on the same side of the COPIP Order, be equal to or better than the cNBBO. In addition to the foregoing requirements, if the better of the BBO on the Complex Order Book for the Strategy and the cBBO is equal to or better than cNBBO on the same side of the COPIP Order, the COPIP Start Price must also be better than the better of the BBO on the Complex Order Book for the Strategy and the cBBO on the same side on the Complex Order Book for the Strategy at the time of commencement of the COPIP (Proposed Rule 7245(f)).

[54] *Id.*

cNBBO Buy at 2.02	Sell at 2.09
Quote to buy 10 at 2.02 ...	Order to sell 5 at 2.10.

The COPIP auction start price can be any price between 2.02 and 2.09 inclusive.[55]

Complex Orders on the Complex Order Book

Currently, all Complex Orders on the Complex Order Book prior to the COPIP Broadcast, excluding any proprietary orders from the Initiating Participant, are filled at the end of the COPIP in time priority before any other Complex Orders at the same price.[56] Further, Rule 7245(g)(3) states that the Primary Improvement Order follows in time priority all Complex Orders on the Complex Order Book prior to the COPIP Broadcast that are equal to the (A) Single Priced Primary Improvement Order price; or (B) execution price of a Max Improvement Primary Improvement Order that results in the balance of the COPIP Order being fully executed, except any proprietary order(s) from the Initiating Participant.

The Exchange is now proposing that quotes and orders on the Complex Order Book prior to the COPIP Broadcast will no longer be allocated against the COPIP Order at the end of the COPIP in time priority before any other order at the same price. Specifically, quotes and orders on the Complex Order Book prior to the COPIP Broadcast will now be considered alongside all other orders, whether Improvement Order(s), including Unrelated Order(s) received by BOX during the COPIP (excluding all Unrelated Orders that were immediately executed during the interval of the COPIP), for matching at the conclusion of the COPIP. Therefore, the Exchange is proposing to remove the exceptions for quotes and orders on the BOX Book prior to the COPIP Broadcast in Rules 7245(f)(3)(ii) and (g)(3). The Exchange notes that this proposed change is consistent with Phlx.[57] Proprietary quotes or orders from the Initiating Participant at the Primary Improvement Order price shall not be executed against the COPIP Order during or at the conclusion of the COPIP.

Additional COPIP Changes

The Exchange is proposing to amend various provisions of Rule 7245 to accommodate the proposed change in the COPIP allocation and amend certain sections that are no longer relevant with the proposed changes. The Exchange is also making various non-substantive changes to its rules to accommodate the changes to the COPIP allocation. Most of these changes deal with renumbering of sections to account for the new subsection (g) being proposed to Rule 7245 and the removal of certain sections. The Exchange proposes to include language to provide clarity regarding the COPIP Start Price in Rule 7245(f) to ensure that the COPIP does not trade ahead of resting same-side orders. Additionally, the Exchange must amend various cross-references within Rule 7245 to take into account the renumbering of sections.

Professional Customers

The Exchange proposes to amend Rule 100(a)(50) to distinguish between Professionals and other Public Customers (''non-Professional, Public Customers'') for proposes of the Exchange's priority rules in the PIP and COPIP auctions. Pursuant to Rule 100(a)(50), a ''Professional'' is a person or entity that (i) is not a broker or dealer in securities, and (ii) places more than 390 orders in listed options per day on average during a calendar month for its own beneficial account(s).

Under existing Exchange rules, Public Customers benefit from certain order priority advantages in PIP and COPIP transactions on the Exchange (''Order Priority''). Rule 7150(f)(4) currently provides that, at the conclusion of a PIP, Public Customer orders have Order Priority. Rule 7245(f)(3)(ii) currently provides that, at the conclusion of a COPIP, Public Customer Complex Orders have Order Priority. Rules 7150(g)(4) and 7245(g)(4) currently provide that Public Customer orders have priority over Primary Improvement Orders.

Order Priority is a marketplace advantage provided to Public Customers on the Exchange. Order Priority means that Public Customer orders are given execution priority over non-Public Customer orders as provided in the Exchange rules. The purpose of providing Order Priority to Public Customers is to attract retail order flow to the Exchange by leveling the playing field for retail investors as compared with market professionals.

Professionals in today's marketplace are more akin to broker-dealers in some respects than to non-Professional, Public Customers.[58] As a result, the Exchange believes that providing Order Priority simply based upon whether the order is for the account of a Public Customer is no longer appropriate in today's marketplace. Professionals now have access to information and technology that enables them to trade listed options in the same manner as broker-dealers. Moreover, because Professionals are included in the definition of Public Customers under Exchange rules, Professionals currently have the same priority in PIP and COPIP transactions as non-Professional, Public Customers. Therefore, non-Professional, Public Customers are prevented from benefitting fully from the intended Order Priority advantage when Professionals are afforded the same Order Priority.

Accordingly, the Exchange proposes to amend Rule 100(a)(50), and related cross references in Rules 7150(a)(2) and 7145(a)(4), to more appropriately limit the availability of Order Priority advantages in PIP and COPIP transactions to non-Professional, Public Customers on the Exchange.[59] Under the proposal, a Professional will now be treated like non-Public Customers for Order Priority in PIP and COPIP transactions. The effect of the enactment of this proposal will be that Professionals will no longer receive the same Order Priority that is afforded to non-Professional, Public Customers in PIP and COPIP transactions and, instead, will be treated like broker-dealers in this regard.

The order-sending behavior and trading activity of Professionals tend to be more similar to broker-dealers trading on a proprietary basis. This is particularly true of orders placed in response to the Exchange's PIP and COPIP mechanisms. Accordingly, the Exchange believes it is not unfairly discriminatory to give Professional orders the same priority as broker-dealers for allocation purposes. The Exchange notes that it is not a novel proposal to treat Professional's as non-Public Customers for Order Priority in auction transactions and that other exchanges currently do this.[60]

[55] *Id.*

[56] *See* Rule 7245(f)(3)(ii).

[57] *See* Phlx Rule 1080(n)(ii)(E)(2)(d).

[58] Professionals have access to sophisticated trading systems that contain functionality not available to retail customers, including things such as continuously updated pricing models based upon real-time streaming data, access to multiple markets simultaneously and order and risk management tools.

[59] *See* proposed Rule 7150(g)(4). Currently, Professionals are treated like Public Customers in circumstances where the Exchange yields priority to Public Customers under SEC Rule 11a1–1(T). Under the proposed rule change, pursuant to which Improvement Orders will not be broadcast, transactions executed on the Exchange will qualify under SEC Rule 11a2–2(T) as described below. As a result, Professionals will no longer be treated like Public Customers for purposes of priority.

[60] *See* Phlx Rule 1000(b)(14).

Cancel Improvement Orders

The Exchange is proposing to allow Participants to cancel their Improvement Orders at any time up to the end of the PIP or COPIP. Currently, the Exchange does not allow Participants to cancel their Improvement Orders and only allows them to decrease the size of their Improvement Order by improving the price of that order.[61]

The Exchange believes that since the PIP Order is guaranteed to execute at a price that is at least equal to, if not better than, the NBBO, that allowing Participants to cancel their Improvement Orders will not affect the ability of an order to receive an execution at the NBBO. Additionally, the Exchange believes that not allowing Participants to cancel their Improvement Order during a PIP or COPIP exposes a Participant to the risk of the market moving against them after they submit their Improvement Order. The Exchange believes that by allowing a Participant to cancel their Improvement Order Participants will be more willing to enter aggressively priced responses. The Exchange notes that this proposed change is consistent with Phlx's Rules.[62]

Additionally, the Exchange is proposing that Participants will no longer be able to decrease the size of their Improvement Order by improving the price of that order. The Exchange believes that this is no longer needed now that Participants can cancel their Improvement Orders because under the proposal a Participant will be able to cancel their Improvement Order and submit a new Improvement Order with a better price and a smaller size, therefore achieving the same result as they can under the current rule.

Removal of Broadcast

Currently, during a PIP and COPIP, Improvement Orders are broadcast via the HSVF but are not disseminated through OPRA.[63] The Exchange is proposing that it will no longer broadcast Improvement Orders received during and PIP and COPIP via the HSVF.

The Exchange believes that this proposed change will encourage greater participation in the PIP and COPIP which should lead to greater price improvement. The Exchange believes that this should encourage Participants to submit Improvement Orders at the best possible price at which the Participant is willing to participate. This, in turn, should result in better execution prices, which is the ''price improvement'' that the PIP and COPIP functionalities offer. The Exchange notes that this is similar to the rules of other exchanges.[64]

Section 11(a)

As discussed above, the rule changes proposed herein would change the Exchange's PIP and COPIP auction processes to blind auctions by eliminating the broadcast of Improvement Orders. As a result, responses to the PIP and COPIP auctions would no longer be visible to Participants. Upon implementing this change, the Exchange believes that transactions executed through the PIP and COPIP processes will be consistent with the requirements in Section 11(a) of the Act by satisfying what is known as the ''effect versus execute'' exemption provided by Rule 11a2–2(T) (''the Effect Versus Execute Rule'').

Section 11(a)(1) of the Act[65] prohibits a member of a national securities exchange from effecting transactions on that exchange for its own account, the account of an associated person, or an account over which it or its associated person exercises discretion (collectively, ''covered accounts''), unless an exception applies. The purpose of Section 11(a) is to address trading advantages enjoyed by the exchange members and conflicts of interest in money management.[66] In particular, as the Commission has stated, Congress enacted Section 11(a) out of concern about members benefiting in their principal transactions from special ''time and place'' advantages associated with floor trading—such as the ability to ''execute decisions faster than public investors.''[67]

Section 11(a) includes several exceptions from the general prohibition for principal transactions that contribute to the fairness and orderliness of exchange transactions or do not reflect any time and place advantages. For example, Section 11(a)(1) provides that the prohibition on principal transactions does not apply to transactions by a dealer acting in the capacity of a market maker,[68] bona fide arbitrage, risk arbitrage or hedge transactions,[69] transactions by an odd lot dealer,[70] and transactions made to offset errors.[71]

The Commission has previously stated that it believes that transactions effected through the BOX PIP and COPIP are consistent with the requirements in Section 11(a) of the Act, relying in part upon Rule 11a1–1(T) and in part upon Rule 11a2–2(T) thereunder.[72]

For the reasons set forth below, under the proposed rule change, the Exchange believes that BOX Options Participants effecting transactions through the PIP and COPIP, including executions of PIP Orders and COPIP Orders against orders on the BOX Book and the Complex Order Book (whether prior to or after the respective PIP or COPIP Broadcast), are consistent with the requirements of Section 11(a) of the Act by satisfying the conditions of Rule 11a2–2(T) under the Act.

Effect Versus Execute—Rule 11a2–2(T)

The Commission previously has found that the priority and allocation rules for electronic trading on the Exchange are consistent with Section 11(a) of the Act because such rules satisfy the Effect Versus Execute Rule.[73] The Commission also found that executions of PIP Orders and COPIP Orders against orders on the BOX Book and the Complex Order Book, excluding certain executions of PIP Orders and COPIP Orders permitted pursuant to Rule 11a1–1(T), satisfy the conditions of the Effect Versus Execute Rule.[74] Under the proposed rule changes, as described above, the Exchange believes the procedures for the execution of orders submitted through the PIP and COPIP, including the execution of PIP Orders and COPIP Orders against orders on the BOX Book or on the Complex Order Book (whether prior to or after the respective PIP or COPIP Broadcast), would satisfy the conditions of the

[61] *See* Rules 7150(f)(2) and 7245(f)(2).

[62] *See* Phlx Rule 1080(n)(ii)(6).

[63] *See* Rules 7150(f)(1) and 7245(f)(1).

[64] *See* Phlx Rule 1080(n)(ii)(A)(6) and CBOE Rule 6.74A(b)(1)(F).

[65] 15 U.S.C. 78k(a)(1).

[66] *See* Securities Reform Act of 1975, Report of the House Comm. On Interstate and Foreign Commerce, H.R. Rep. No. 94–123, 94th Cong., 1st Sess. (1975); Securities Acts Amendments of 1975, Report of the Senate Comm. on Banking, Housing, and Urban Affairs, S. Rep. No. 94–75, 94th Cong., 1st Sess. (1975).

[67] *See* Securities Exchange Act Release Nos. 14563 (March 14, 1978), 43 FR 11542, 11543 (March 17, 1978); 14713 (April 27, 1978), 43 FR 18557 (''April 1978 Release''); 15533 (January 29, 1979), 44 FR 6084 (''1979 Release'').

[68] Section 11(a)(1)(A).

[69] Section 11(a)(1)(D).

[70] Section 11(a)(1)(B).

[71] Section 11(a)(1)(F).

[72] *See* Securities Exchange Act Release No. 68177 (November 7, 2012), 77 FR 67851, at 67851 (November 14, 2012) (the ''November 2012 Order''). *See* Securities Exchange Act Release No. 71148 (December 19, 2013), 78 FR 78437, at 78442 (December 26, 2013).

[73] *See* Securities Exchange Act Release No. 66871 (April 27, 2012), 77 FR 26323, at 26336 (May 3, 2012), In the Matter of the Application of BOX Options Exchange LLC for Registration as a National Securities Exchange Findings, Opinion, and Order of the Commission (the ''BOX Approval Order'').

[74] *See* November 2012 Order.

Effect Versus Execute Rule for the same reasons previously determined by the Commission for other categories of electronic trading on the Exchange.

The Effect Versus Execute Rule provides exchange members with an exemption from the Section 11(a)(1) prohibition on principal trading, in addition to the exceptions delineated in the statute. The Effect Versus Execute Rule permits an exchange member, subject to certain conditions, to effect transactions for covered accounts by arranging for an unaffiliated member to execute the transactions on the exchange. To comply with the Effect Versus Execute Rule's conditions, a member: (1) May not be affiliated with the executing member; (2) must transmit the order from off the exchange floor; (3) may not participate in the execution of the transaction once it has been transmitted to the member performing the execution; [75] and (4) with respect to an account over which the member has investment discretion, neither the member nor its associated person may retain any compensation in connection with effecting the transaction except as provided in the rule.

The Commission has stated that these four requirements of the Effect Versus Execute Rule are ''designed to put members and non-members on the same footing, to the extent practicable, in light of the purposes of Section 11(a).'' [76] If a transaction meets the four conditions of the Effect Versus Execute Rule, it will be deemed to be in compliance with Section 11(a)(1) consistent with the protection of investors and the maintenance of fair and orderly markets.[77] The Exchange believes the proposed structural and operational characteristics of the PIP and COPIP are consistent with the stated objectives of Section 11(a) of the Act, and that all users would be placed on the ''same footing,'' as intended by the Effect Versus Execute Rule, for the execution of orders submitted through the PIP and COPIP, including the execution of PIP Orders and COPIP Orders against orders on the BOX Book or on the Complex Order Book (whether prior to or after the respective PIP or COPIP Broadcast).

The Commission has recognized and accommodated the functioning of electronic exchange facilities under the Effect Versus Execute Rule.[78] In addition, the Commission and its staff have permitted exchanges to sponsor innovative trading systems in reliance on the Effect Versus Execute Rule, based on the exchanges' representations that such facilities, by design, do not provide any special time and place advantage to members.[79] In particular, the Commission has stated, in the context of certain automated execution systems, that where the execution is performed on an automated basis by the facility itself, ''the member would not retain any ability to control the timing of the execution or otherwise enjoy the kind of special order-handling advantages inherent in being on an exchange floor.[80] The Commission has applied the Effect Versus Execute Rule in a functional manner, taking into account the structural characteristics that distinguish the operation of an automated execution system from traditional exchange floor activities. This approach represents the sensible conclusion by the Commission and its Staff that implementation of Section 11(a) should reflect the ''continuing rapid pace of economic, technological and regulatory changes in the market.'' [81]

The Effect Versus Execute Rule's first condition is that the order be executed by an exchange member that is unaffiliated with the member initiating the order.[82] The Commission has stated that this requirement is satisfied when automated exchange facilities, such as BOX, are used, so long as the design of these systems ensures that members do not possess any special or unique trading advantages in handling their orders after transmitting them to the system.[83] In considering the operation of NOM and C2, the Commission noted, while there is no independent executing exchange member, the execution of an order is automatic once it has been transmitted to the system.[84] Because the design of these systems ensures members do not possess any special or unique trading advantages in handling their orders after transmitting them to the exchange, the Commission has stated executions obtained through these systems satisfy the independent execution requirement of Rule 11a2–2(T).[85]

This principle is directly applicable to BOX, including the execution of PIP Orders and COPIP Orders under the proposed rule change. The design of the PIP and COPIP, as proposed, ensures that broker-dealers do not have any special or unique trading advantages in handling their orders after transmission to BOX. Accordingly, the Exchange believes that a broker-dealer effecting the execution of PIP Orders and COPIP Orders under the proposed rule change, including against orders on the BOX Book or the Complex Order Book, satisfies the requirement for execution through an unaffiliated member.

The design of BOX ensures that no BOX Options Participant will enjoy any special control over the timing of execution or special order handling advantages after order transmission. All orders submitted to BOX, including orders on the Complex Order Book and on the BOX Book, are centrally processed and executed automatically by BOX. Orders sent to BOX are transmitted from remote terminals directly to the system by electronic means. Once an order is submitted to BOX, the order is executed against one or more other orders based on the

[75] The member may, however, participate in clearing and settling the transaction. *See* Securities Exchange Act Release No. 14563 (March 14, 1978), 43 FR 11542 (March 17, 1978) (regarding the NYSE's Designated Order Turnaround System (''1978 Release'')).

[76] April 1978 Release at 18560.

[77] 17 C.F.R. 240.11a2–2(T)(e).

[78] *See* Securities Exchange Act Release Nos. 61152 (December 10, 2009), 74 FR 66699 (December 16, 2009) (File No. 10–191) (Findings, Opinion, and Order of the Commission In the Matter of the Application of C2 Options Exchange, Incorporated for Registration as a National Securities Exchange) (''C2 Approval Order'') at note 170; 57478 (March 12, 2008), 73 FR 14521 (March 18, 2008) (File No. SR–NASDAQ–2007–004) (approval order concerning the establishment of the NASDAQ Options Market LLC (''NOM'')) (''NOM Approval Order''); Order approving the rules of the Boston Options Exchange, supra n.11; 54552 (September 29, 2006) (AMEX AEMI trading system), 71 FR 59546 (October 10, 2006); 54550 (September 29, 2006), 71 FR 59563 (October 10, 2006) (Chicago Stock Exchange trading system); 54528 (September 28, 2006), 71 FR 58650 (October 4, 2006) (International Securities Exchange trading system); and 49747 (May 20, 2004), 69 FR 30344 (May 27, 2004) (AMEX electronic options trading system)

[79] *See e.g.,* Securities Exchange Act Release No. 44983 (October 25, 2001) (Archipelago Exchange), citing Letter from Paula R. Jensen, Deputy Chief Counsel, Division of Market Regulation, SEC, to Kathryn L. Beck, Senior Vice President, Special Counsel and Antitrust Compliance Officer, Pacific Exchange, Inc. (October 25, 2001); Letter from Larry E. Bergmann, Senior Associate Director, Division of Market Regulation, SEC, to Edith Hallahan, Associate General Counsel, Philadelphia Stock Exchange, Inc. (March 24, 1999); Letter from Catherine McGuire, Chief Counsel, Division of Market Regulation, SEC, to David E. Rosedahl, PCX (November 30. 1998); Letter from Brandon Becker, Director, Division of Market Regulation, SEC, to George T. Simon, Partner, Foley & Lardner (November 30, 1994); Securities Exchange Act Release No. 29237 (May 24, 1991), 56 FR 24853 (May 31, 1991) (NYSE's Off-Hours Trading Facility (October 25, 2001).

[80] *See* 1979 Release at 6087.

[81] *See* 1979 Release at 6087.

[82] 17 C.F.R. 240.11a2–2(T)(a)(2)(i).

[83] *See, e.g.,* C2 Approval Order, NOM Approval Order and Securities Exchange Act Release No. 49068 (January 13, 2004), 69 FR 2775, at 2790 (January 20, 2004) (establishing, among other things, the Boston Options Exchange, LLC options trading facility of BSE).

[84] *See* NOM Approval Order and C2 Approval Order.

[85] *See* NOM Approval Order and C2 Approval Order.

established matching algorithms of the Exchange. Under the proposed rules, orders on the BOX Book or on the Complex Order Book may also trade with one or more other orders, including PIP Orders and COPIP Orders, based on the established matching algorithms of the Exchange. The execution in each combination does not depend on the Options Participant but rather upon what other orders are entered into BOX at or around the same time as the subject order, what orders are on the BOX Book and on the Complex Order Book, whether a PIP or COPIP is initiated and where the order is ranked based on the priority ranking algorithm. At no time following its submission of an order to BOX will an Options Participant be able to acquire control or influence over the result or timing of order execution. Accordingly, Participants do not control or influence the result or timing of execution of orders submitted to BOX, including PIP Orders and COPIP Orders. Orders will be ranked and maintained on the BOX Book, the Complex Order Book, the PIP and the COPIP according to established automatic priority rules. A Participant relinquishes any ability to influence or guide the execution of its order at the time the order is transmitted into the BOX system. Trades will execute when orders or quotations entered on BOX match one another, and the priority of orders at the same price will be determined, according to an established algorithm based on the order's characteristics determined at time it is entered.[86]

Upon adoption of the proposal, the execution of a PIP Order or a COPIP Order against orders on the BOX Book or on the Complex Order Book will be determined automatically, according to the proposed matching, priority and allocation rules described in detail above. The Exchange notes that existing BOX rules provide that a Participant initiating a PIP or a COPIP is prohibited from subsequently entering an Order on the BOX Book for the purpose of disrupting or manipulating the ongoing COPIP.[87]

Under the proposal, no Participant has any special or unique trading advantage in the execution of PIP Orders and COPIP Orders, including against orders on the BOX Book and the Complex Order Book. As a result, the Exchange believes the proposal satisfies this requirement.

Second, the Effect Versus Execute Rule requires that orders for a covered account transaction be transmitted from off the exchange floor.[88] Again, the Commission has considered this requirement in the context of various automated trading and electronic order-handling facilities operated by national securities exchanges.[89] In these contexts, the Commission determined that a covered account order sent through such an exchange facility would be deemed to be transmitted from off the floor. Like these other automated systems, orders sent to BOX, regardless of where it executes within the BOX system, including the Complex Order Book, the BOX Book, a PIP or a COPIP, will be transmitted from remote terminals directly to BOX by electronic means. OFPs and BOX Market Makers will only submit orders and quotes to BOX from electronic systems from remote locations, separate from BOX. There are no other Options Participants that are able to submit orders to BOX other than OFPs or Market Makers. Therefore, the Exchange believes that Participants' orders electronically received by BOX satisfy the off-floor transmission requirement for the purposes of the Effect Versus Execute Rule.[90]

Third, the Effect Versus Execute Rule provides that the exchange member and his associated person not participate in the execution of the order once it has been transmitted.[91] This requirement originally was intended to prevent members with their own floor brokers from using those persons to influence or guide their orders' executions.[92] A member is not precluded from canceling or modifying orders, or from modifying instructions for executing orders, after they have been transmitted; provided, however, such cancellations or modifications are transmitted from off the exchange floor.[93]

In analyzing the application of the non-participation requirement to automated execution facilities, the Commission has specifically noted, in regard to BOX, that the execution does not depend on the Participant but rather upon what other orders are entered into BOX at or around the same time as the subject order, what orders are on the BOX Book, and where the order is ranked based on the priority ranking and execution algorithm.[94] Orders submitted electronically to the BOX Book will similarly meet the non-participation requirement. Upon submission to BOX, an order is executed against one or more other orders on the BOX Book or the Complex Order Book or with orders submitted through the PIP or the COPIP based on an established matching algorithm. The execution does not depend on the Participant but rather upon what other orders are entered into BOX at or around the same time as the subject order, what orders are on the Complex Order Book and on the BOX Book, whether a PIP or COPIP is initiated and where the order is ranked based on the priority ranking algorithm. At no time following the submission of an order to BOX is an Options Participant able to acquire control or influence over the result or timing of order execution. Accordingly, Participants do not control or influence the result or timing of the execution of orders submitted to BOX through the PIP or the COPIP, including whether such Participant's order executes against an order on the BOX Book or the Complex Order Book. As such, the Exchange believes the non-participation requirement is met with respect to all orders submitted to BOX, including orders on the BOX Book, the Complex Order Book, a PIP or a COPIP.

Fourth, in the case of a transaction effected for an account with respect to which the initiating member or an associated person thereof exercises investment discretion, neither the initiating member nor any associated person thereof may retain any compensation in connection with effecting the transaction, unless the person authorized to transact business for the account has expressly provided otherwise by written contract referring to Section 11(a) of the Act and Rule 11a2–2(T).[95] Participants trading for

[86] *See* November 2012 Order.

[87] *See* IM–7150(b) and IM–7245–2(b).

[88] 17 C.F.R. 240.11a2–2(T)(a)(2)(ii).

[89] *See e.g.,* Release Nos. 29237 (May 24, 1991), 56 FR 24853 (May 31, 1991) (File Nos. SR–NYSE–90–52 and SR–NYSE–90–53) (regarding NYSE's Off-Hours Trading Facility); 61419 (January 26, 2010), 75 FR 5157 (February 1, 2010) (SR–BATS–2009–031) (approving BATS options trading); 59154 (December 28, 2008), 73 FR 80468 (December 31, 2008) (SR–BSE–2008–48) (approving equity securities listing and trading on BSE); NOM Approval Order; 53128 (January 13, 2006), 71 FR 3550 (January 23, 2006) (File No. 10–131) (approving The Nasdaq Stock Market LLC); 44983 (October 25, 2001), 66 FR 55225 (November 1, 2001) (SR–PCX–00–25) (approving Archipelago Exchange); 29237 (May 24, 1991), 56 FR 24853 (May 31, 1991) (SR–NYSE–90–52 and SR–NYSE–90–53) (approving NYSE's Off-Hours Trading Facility); and 1979 Release.

[90] The Commission has not considered the lack of a traditional physical floor to be an impediment to the satisfaction of the off-floor requirement. *See, e.g.,* 1979 Release. Also see November 2012 Order.

[91] 17 C.F.R. 240.11a2–2(T)(a)(2)(iii).

[92] *See* April 1978 Release.

[93] *See* April 1978 Release.

[94] *See* November 2012 Order.

[95] 17 C.F.R. 240.11a2–2(T)(a)(2)(iv). In addition, Rule 11a2–2(T)(d) requires a member or associated person authorized by written contract to retain compensation, in connection with effecting transactions for covered accounts over which such member or associated person thereof exercises investment discretion, to furnish at least annually to the person authorized to transact business for the

covered accounts over which they exercise investment discretion must comply with this condition in order to rely on the rule's exemption and the Exchange will enforce this requirement pursuant to its obligation under Section 6(b)(1) of the Act to enforce compliance with federal securities laws.

In light of the automated execution of orders submitted to BOX, no Options Participant will enjoy any special control over the timing and execution or special order handling advantages in effecting transactions in orders submitted to BOX. All orders are electronically executed, rather than being handled manually by an Options Participant. Because these processes prevent Options Participants from gaining any time and place advantage once an order is submitted to BOX, the Exchange believes that the execution of orders submitted through the PIP and COPIP, including the execution of PIP Orders and COPIP Orders against orders on the BOX Book or on the Complex Order Book, will satisfy three of the four conditions of the Effect Versus Execute Rule. The Exchange notes that BOX Options Participants also must comply with the fourth condition of the Effect Versus Execute Rule with respect to discretionary accounts and the Exchange will enforce this requirement pursuant to its obligation under Section 6(b)(1) of the Act to enforce compliance with federal securities laws.

The Exchange believes the proposal promotes just and equitable principles of trade and is consistent with the general policy objectives of Section 11(a) of the Act. The Exchange believes that the execution of orders submitted through the PIP and COPIP, including the execution of PIP Orders and COPIP Orders against orders on the BOX Book or on the Complex Order Book (whether prior to or after the respective PIP or COPIP Broadcast) satisfy the requirements of the Effect Versus Execute Rule. Further, the Exchange believes the policy concerns Congress sought to address in Section 11(a) of the Act, the time and place advantage members on exchange floors have over non-members off the floor and the general public, are not present for transactions entered into BOX whether the transaction is executed on the BOX Book, the Complex Order Book, through a PIP or through a COPIP.

2. Statutory Basis

The Exchange believes that the proposal is consistent with the requirements of Section 6(b) of the Securities Exchange Act of 1934 (the ''Act''),[96] in general, and Section 6(b)(5) of the Act,[97] in particular, in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in facilitating transactions in securities, 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.

In particular, the Exchange believes this proposed rule change is a reasonable modification designed to provide additional opportunities for Participants to obtain executions with price improvement for their customers while continuing to provide meaningful competition within the PIP and COPIP. The Exchange also believes that the proposed rule change will increase the number of PIP and COPIP transactions on the Exchange and participation in the PIP and COPIP, which will ultimately enhance competition and provide customers with additional opportunities for price improvement. The Exchange believes these changes are consistent with the goals to remove impediments to and to perfect the mechanism for a free and open market and a national market system.

Specifically, the Exchange believes that the proposal will result in increased liquidity available at improved prices, with competitive pricing outside the control of the Initiating Participant. The proposed rule change should promote and foster competition and provide more options contracts with the opportunity for price improvement. As a result of the increased opportunities for price improvement, the Exchange believes that Participants will increasingly use the PIP and COPIP so that more customer orders are provided the opportunity to receive price improvement.

PIP and COPIP Allocation

The Exchange believes the proposed changes to the PIP and COPIP allocations is an improvement over the current allocations, and will benefit all market participants submitting PIP and COPIP orders on the Exchange. As a result of the proposed changes, the Exchange believes that additional Participants will use the PIP and COPIP to increase the number of orders that are provided with the opportunity to receive price improvement. Additionally, the Exchange believes that the proposed allocation algorithm will encourage greater participation in the PIP and COPIP process by encouraging additional Participants to respond to the PIP and COPIP. The Exchange believes that the proposed pro rata allocation encourages additional Participants to respond at a particular price in size, even if that Participant did not set the price. These additional responses should encourage greater competition in the PIP and COPIP, which should, in turn, benefit and protect investors and the public interest through the potential for greater price improvement.

The proposed rule changes preserve the priority of Public Customer orders over non-Public Customer orders at the same price. The Exchange believes this priority remains consistent with the purposes of the Act. The Exchange believes that the new PIP and COPIP allocations are designed to promote just and equitable principles of trade and to protect investors and the public interest, because it continues to recognizes the unique status of customers in the marketplace by continuing to afford Public Customers certain priority advantages.

The Exchange believes that the proposed Primary Improvement Order allocation is reasonable, equitable and not unfairly discriminatory to customers and Participants. Giving Primary Improvement Orders allocation priority for 40% or 50% of the remaining quantity of the PIP or COPIP Order will continue to provide incentive for Participants to initiate PIP and COPIP auctions on BOX, which provides greater opportunity to receive price improvement by encouraging participation in the PIP and COPIP process. The Exchange believes that disregarding Public Customer orders and Legging Orders when determining whether the Initiating Participant retains 40% or 50% under proposed Rule 7150(h) is reasonable, equitable and not unfairly discriminatory to customers and Participants because neither Public Customer order allocation nor Legging Order allocation will be affected by the Initiating Participant retaining the difference between 40% or 50% as discussed above.

The Exchange believes that the Market Maker Allocation is designed to promote just and equitable principles of trade and to protect investors and the

account a statement setting forth the total amount of compensation retained by the member in connection with effecting transactions for the account during the period covered by the statement. See 17 C.F.R. 240.11a2–2(T)(d). See also 1978 Release (stating ''[t]he contractual and disclosure requirements are designed to assure that accounts electing to permit transaction-related compensation do so only after deciding that such arrangements are suitable to their interests'').

[96] 15 U.S.C. 78f(b).

[97] 15 U.S.C. 78f(b)(5).

public interest, because it strikes a reasonable balance between encouraging vigorous price competition and rewarding Market Makers for their unique obligations. Overall, the proposed PIP and COPIP allocations represent a careful balancing by the Exchange of the rewards and obligations of various types of market participants.

The Exchange believes that the proposal to give Legging Orders last priority is reasonable, equitable and not unfairly discriminatory to customers and Participants. Giving Legging Orders last priority preserves the established priority of Legging Orders since they currently have last priority during the current PIP allocation.

The Exchange believes that providing priority to BOX Book Interest in the proposed COPIP allocation is reasonable as it preserves the established priority of BOX Book Interest when executing with Complex Orders. Therefore the Exchange believes the proposal will reduce investor confusion when executing orders on the Exchange.

Orders and Quotes on the BOX Book

The Exchange believes its proposal to no longer give quotes and orders on the BOX Book prior to the PIP Broadcast priority for purposes of the PIP allocation is reasonable, equitable and not unfairly discriminatory. As stated above, with the current PIP allocation, orders and quotes on the BOX Book prior to the PIP Broadcast have time priority and therefore execute before PIP responses. Since, with this proposal, the Exchange is changing the allocation at the end of the PIP from a price/time allocation to a pro rata allocation, the Exchange believes that continuing to give orders and quotes on the BOX Book prior to the commencement of a PIP priority would contradict the new PIP allocation. Therefore the Exchange believes it is reasonable to remove the provisions of the rules that give interest on the BOX Book prior to the commencement of a PIP priority in order to avoid investor confusion.

Additionally, the Exchange believes its proposal to no longer give Complex Orders on the Complex Order Book prior to the COPIP Broadcast priority for purposes of the COPIP allocation is reasonable, equitable and not unfairly discriminatory. As mentioned above, with the proposed changes to the COPIP allocation from a price/time allocation to a pro rata allocation, the Exchange believes that continuing to give Complex Orders on the Complex Order Book prior to the COPIP Broadcast priority would contradict the new COPIP allocations. Therefore the Exchange believes it is reasonable to remove the provisions of the rules that give Complex Orders on the Complex Order Book prior to the COPIP Broadcast priority in order to avoid investor confusion.

Additionally, the Exchange believes these proposed changes will encourage additional Participants to response to the PIP and COPIP. The Exchange believes that under the current rules Participants are discouraged from responding to the PIP and COPIP since certain orders on the book were executed before a Participants response at the same price level. By no longer giving interest on the book priority, the Exchange believes that additional Participants will respond to the PIP and COPIP. These additional responses should encourage greater competition, which should, in turn, benefit and protect investors and the public interest through greater price improvement.

Broadcast of Improvement Orders

The Exchange believes the proposal to remove the broadcast of Improvement Orders via the HSVF is reasonable, equitable and not unfairly discriminatory to customers and Participants because under the proposal no market participants will be able to receive broadcast notification of Improvement Orders. As a result, no Participants will have an information advantage, therefore the proposal serves to promote just and equitable principles of trade and to remove impediments to and perfect the mechanism of a free and open market and a national market system. Additionally, the Exchange believes that this proposed change will encourage greater participation in the PIP and COPIP which should lead to greater price improvement. The Exchange believes that this should encourage Participants to submit Improvement Orders at the best possible price that the Participant is willing to participate. This, in turn, should result in better execution prices which should, in turn, benefit and protect investors and the public interest through greater price improvement. The Exchange notes that this is similar to the rules of other exchanges.[98]

Cancel Improvement Orders

The Exchange believes that the proposal to allow Participants to cancel Improvement Orders during the PIP and COPIP is reasonable, equitable and not unfairly discriminatory. The Exchange believes that since the PIP and COPIP Orders are guaranteed to execute at a price that is at least equal to, if not better, than the NBBO, that allowing Participants to cancel their Improvement Orders will not affect the ability of an order to receive an execution at the NBBO. Additionally, the Exchange believes that allowing Participants to cancel Improvement Orders will protect Participants from the risk of the market moving against them. The Exchange believes that this protection for Participants should lead to more aggressive responses, which, should lead to greater price improvement for investors. Therefore the Exchange believes that the proposed change will not affect investor protection and investors will continue to benefit from the potential for price improvement. The Exchange notes that this is consistent with the rules of Phlx.[99]

Removal of Market Maker Prime

As stated above, the Exchange is removing the Market Maker Prime designation because it has not achieved the intended results. Specifically, the Market Maker Prime designation has not incentivized Market Makers to quote aggressively on the BOX Book as it was intended. The Exchange believes that the continued presence of the Market Maker Prime designation will only serve to confuse and complicate the Exchange's Rules, while providing little or no benefit. Therefore the Exchange believes that removing the Market Maker Prime will promote just and equitable principles of trade and protect investors and the public interest.

Customer PIP Order

The Exchange is removing the CPO functionality because it has not achieved the intended results. The Exchange believes that the continued presence of the CPO will only serve to confuse and complicate the Exchange's Rules, while providing little or no benefit. The Exchange notes that Public Customers will continue to have opportunities to participate in PIP auctions without limits imposed by CPOs. Therefore, the Exchange believes that removing the CPO will avoid investor confusion when executing orders on the Exchange.

Professional Priority

The Exchange believes the proposal to treat Professionals as broker-dealers for the purposes of the PIP and COPIP will ensure that non-Professional, Public Customers continue to receive the appropriate order priority marketplace advantages on BOX, while furthering

[98] *See* Phlx Rule 1080(n)(ii)(A)(6) and CBOE Rule 6.74A(b)(1)(F).

[99] *See* Phlx Rule 1080(n)(ii)(A)(9).

fair competition among marketplace professionals.

The Exchange believes the proposed change to the priority rules for Professionals in the PIP and COPIP is reasonable, equitable and not unfairly discriminatory because it treats Professionals, whose activity on BOX is akin to the order flow activity and system usage of broker-dealers, the same priority for competing in the PIP and COPIP as the priority given to broker-dealers. As noted above, the order sending behavior, trading activity and available technology and information of Professionals tend to be more similar to broker-dealers trading on a proprietary basis than to non-Professional, Public Customers. This can be particularly true of orders placed in response to the PIP and COPIP. As such, the Exchange believes it is not unfairly discriminatory to treat Professionals like broker-dealers for order priority purposes when competing for customer order flow in auction transactions.

Further, the Exchange believes the proposed change to the priority rules is equitable and not unfairly discriminatory because it will assure that non-Professional, Public Customers continue to receive the appropriate order priority marketplace advantages on BOX, while furthering fair competition among marketplace professionals (both Professionals and Broker-Dealers) by treating them equally in order priority when they compete for these desirable customer orders. The Exchange believes it is reasonable and equitable to treat Professionals in the PIP and COPIP like broker-dealers because it applies an order priority structure that groups these sophisticated market participants together when they are competing in this manner.

The Exchange believes it is equitable and not unfairly discriminatory for non-Professional, Public Customers to have priority over Professionals and broker-dealers for the PIP and COPIP. The securities markets generally, and the Exchange in particular, have historically aimed to improve markets for retail investors and develop various features within the market structure for the benefit of non-Professional, Public Customers.

The Exchange proposes to make certain miscellaneous conforming and clarifying changes to Rules 7000, 7130, 7150, and 7245 to make them consistent with the adoption of the proposed PIP and COPIP allocations. These conforming and clarifying changes are required to make the rules consistent and are necessary to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in facilitating transactions in securities, and to remove impediments to and perfect the mechanism of a free and open market and a national market system.

For the foregoing reasons, the Exchange believes this proposal is a reasonable modification to its rules, designed to facilitate increased interaction of PIP and COPIP on the Exchange, and to do so in a manner that ensures a dynamic, real-time trading mechanism that maximizes opportunities for trade executions for orders. The Exchange believes it is appropriate and consistent with the Act to adopt the proposed rule changes.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe the proposed rule change represents any undue burden on competition or will impose any burden on competition among exchanges in the listed options marketplace not necessary or appropriate in furtherance of the purposes of the Act. To the contrary, the proposal is pro-competitive because it will enable the Exchange to better compete with another options exchange that provides a similar allocation algorithm within its auctions.[100]

With respect to intra-market competition, the PIP and COPIP will still be available to all Participants. The Exchange believes that the proposal should encourage Participants to compete amongst each other by responding with the best price in each auction. Submitting an order to the PIP or a Complex Order to the COPIP is entirely voluntary and Participants will determine whether they wish to submit these orders to the Exchange. The Exchange operates in a highly competitive marketplace with other competing exchanges and market participants can readily direct their order flow to other exchanges if they so choose.

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 comments on the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 45 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve or disapprove the proposed rule change, or

(B) institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov*. Please include File Number SR–BOX–2014–16 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–BOX–2014–16. 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

[100] *See supra,* note 3.

available publicly. All submissions should refer to File Number SR–BOX–2014–16 and should be submitted on or before July 23, 2014.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[101]

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2014–15472 Filed 7–1–14; 8:45 am]

BILLING CODE 8011–01–P

[101] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–72483; File No. SR–BOX–2014–18]

Self-Regulatory Organizations; BOX Options Exchange LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend Interpretive Material to Rule 5050 (Series of Options Contracts Open for Trading) and Rule 6090 (Terms of Index Options Contracts) To Introduce Finer Strike Price Intervals for Standard Expiration Contracts in Option Classes That Also Have Short Term Options Listed on Them

June 26, 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 June, 25, 2014, BOX Options Exchange LLC (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 self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend interpretive material to Rule 5050 (Series of Options Contracts Open for Trading) and Rule 6090 (Terms of Index Options Contracts) to introduce finer strike price intervals for standard expiration contracts in option classes that also have short term options listed on them (''related non-short term options''). The text of the proposed rule change is available from the principal office of the Exchange, at the Commission's Public Reference Room and also on the Exchange's Internet Web site at *http://boxexchange.com*.

[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 self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend interpretive material to Rule 5050 and Rule 6090 to introduce finer strike price intervals for related non-short term options. In particular, the Exchange proposes to amend its rules to permit the listing of related non-short term options during the month prior to expiration in the same strike price intervals as allowed for short term option series. This is a competitive filing that is based on a proposal recently submitted by the International Securities Exchange, LLC (''ISE'').[3]

Under the Exchange's current rules, the Exchange may list options in the Short Term Option (''STO'' or ''weekly'') Program in up to fifty option classes,[4] including up to thirty index option classes,[5] in addition to option classes that are selected by other securities exchanges that employ a similar program under their respective rules. For each of these option classes, the Exchange may list five short term option expiration dates at any given time, not counting monthly or quarterly expirations.[6] Specifically, on any Thursday or Friday that is a business day, the Exchange may list short term option series in designated option classes that expire at the close of business on each of the next five Fridays that are business days and are not Fridays in which monthly or quarterly options expire.[7] These short term option series, which can be several weeks or more from expiration, may be listed in strike price intervals of $0.50, $1, or $2.50, with the finer strike price intervals being offered for lower priced securities, and for options that trade in the Exchange's dollar strike program.[8] More specifically, the Exchange may list short term options in $0.50 intervals for strike prices less than $75, or for option classes that trade in one dollar increments in the related non-short term option, $1 intervals for strike prices that are between $75 and $150, and $2.50 intervals for strike prices above $150.[9]

The Exchange may also list standard expiration contracts, which are listed in accordance with the regular monthly expiration cycle. These standard expiration contracts must be listed in wider strike price intervals of $2.50, $5, or $10,[10] though the Exchange also operates strike price programs, such as the dollar strike program mentioned above,[11] that allow the Exchange to list a limited number of option classes in finer strike price intervals. In general, the Exchange must list standard expiration contracts in $2.50 intervals for strike prices of $25 or less, $5 intervals for strike prices greater than $25, and $10 intervals for strike prices greater than $200.[12] During the week prior to expiration only, the Exchange is permitted to list related non-short term option contracts in the narrower strike price intervals available for short term option series.[13] Since this exception to the standard strike price intervals is available only during the week prior to expiration, however, standard expiration contracts regularly trade at significantly wider intervals than their weekly counterparts, as illustrated below.

For example, assume ABC is trading at $56.54 and the monthly expiration contract is three weeks to expiration. Assume also that the Exchange has listed all available short term option expirations and thus has short term option series listed on ABC for weeks one, two, four, five, and six. Each of the

[3] *See* Securities Exchange Act Release No. 72098 (May 6, 2014), 79 FR 27006 (May 12, 2014) (Notice of Filing SR–ISE–2014–23).

[4] *See* IM–5050–6(b)(1) to Rule 5050.

[5] *See* IM–6090–2(b)(1) to Rule 6090.

[6] *See* IM–5050–6(a) to Rule 5050 and IM–6090–2(a) to Rule 6090.

[7] *Id.*

[8] *See* IM–5050–6(b)(5) to Rule 5050 and IM–6090–2(b)(5) to Rule 6090.

[9] *Id.* Strike price intervals of $2.50 are only available for non-index options. Short term index option contracts are subject to the same strike price intervals as non-short term options for strike prices above $150. *See* Securities Exchange Act Release No. 71188 (December 26, 2013), 79 FR 166 (January 2, 2014) (Notice of Filing SR–BOX–2013–59).

[10] *See* Rule 5050(d).

[11] *See* IM–5050–2 to Rule 5050, which allows the Exchange to designate up to 150 option classes on individual stocks to be traded in $1 strike price intervals where the strike price is between $50 and $1. *See* also IM–5050–3 to Rule 5050 ($2.50 Strike Price Program) and IM–5050–5 to Rule 5050 ($0.50 Strike Program).

[12] *See* Rule 5050(d).

[13] *See* IM–5050–6(b)(5) to Rule 5050 and IM–6090–2(b)(5) to Rule 6090.

five weekly ABC expiration dates can be listed with strike prices in $0.50 intervals, including, for example, the $56.50 at-the- money strike. Because the monthly expiration contract has three weeks to expiration, however, the near-the-money strikes must be listed in $5 intervals unless those options are eligible for one of the Exchange's other strike price programs. In this instance, that would mean that investors would be limited to choosing, for example, between the $55 and $60 strike prices instead of the $56.50 at-the-money strike available for short term options. This is the case even though contracts on the same option class that expire both several weeks before and several weeks after the monthly expiration are eligible for finer strike price intervals. Under the proposed rule change, the Exchange would be permitted to list the related non-short term option on ABC, which is less than a month to expiration, in the same strike price intervals as allowed for short term option series. Thus, the Exchange would be able to list, and investors would be able to trade, all expirations described above with the same uniform $0.50 strike price interval.

As proposed, the Exchange would be permitted to begin listing the monthly expiration contract in these narrower intervals at any time during the month prior to expiration, which begins on the first trading day after the prior month's expiration date, subject to the provisions of Rule 5050(c). For example, since the April 2014 monthly option expired on Saturday, April 19, the proposed rule change would allow the Exchange to list the May 2014 monthly option in short term option intervals starting Monday, April 21.

The Exchange believes that introducing consistent strike price intervals for short term options and related non-short term options during the month prior to expiration will benefit investors by giving them more flexibility to closely tailor their investment decisions. The Exchange also believes that the proposed rule change will provide the investing public and other market participants with additional opportunities to hedge their investments, thus allowing these investors to better manage their risk exposure.

2. Statutory Basis

The Exchange believes that the proposal is consistent with the requirements of Section 6(b) of the Securities Exchange Act of 1934 (the ''Act''),[14] in general, and Section 6(b)(5) of the Act,[15] in particular, in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in facilitating transactions in securities, 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) [16] requirement that the rules of an exchange not be designed to permit unfair discrimination between customers, issuers, brokers, or dealers. Allowing finer strike price intervals for related non-short term options will result in a continuing benefit to investors by giving them more flexibility to closely tailor their investment and hedging decisions.

As noted above, standard expiration options currently trade in wider intervals than their weekly counterparts, except during the week prior to expiration. This creates a situation where contracts on the same option class that expire both several weeks before and several weeks after the standard expiration are eligible to trade in strike price intervals that the standard expiration contract is not. When the Exchange originally filed to list related non-short term options in the same intervals as short term options in the same option class during the week prior to expiration,[17] the Exchange was limited to listing one short term option expiration date at a time. Thus, there was no inconsistency between standard expiration contracts, which traded in finer intervals in the week prior to expiration, and short term options, which were only listed on the week prior to expiration. The STO Program has since grown in response to customer demand, and the Exchange is now permitted to list up to five short term option expiration dates in addition to standard expiration options.[18] There is continuing strong customer demand to have the ability to execute hedging and trading strategies in the finer strike price intervals available in short term options, and the Exchange believes that the proposed rule change will increase market efficiency by harmonizing strike price intervals for contracts that are close to expiration, whether those contracts happen to be listed pursuant to weekly or monthly expiration cycles.

The Exchange notes that, in addition to listing standard expiration contracts in short term option intervals during the expiration week, it already operates several programs that allow for strike price intervals for standard expiration contracts that range from $0.50 to $2.50.[19] The Exchange believes that each of these programs has been successful but notes that limitations on the number of option classes that may be selected for each of these programs means that many standard expiration contracts must still be listed in wider intervals than their short term option counterparts. For example, the $0.50 strike price program, which offers the narrowest strike price interval, only permits the Exchange to designate up to 20 option classes to trade in $0.50 intervals in addition to option classes selected by other exchanges that employ a similar program.[20] Thus, the proposed rules are necessary to fill the gap between strike price intervals allowed for short term options and related non-short term options. The Exchange believes that the proposed rule change, like the other strike price programs currently offered by the Exchange, will benefit investors by giving them more flexibility to closely tailor their investment and hedging decisions.

With regard to the impact of this proposal on system capacity, the Exchange has analyzed its capacity and represents that it and the Options Price Reporting Authority (''OPRA'') have the necessary systems capacity to handle any potential additional traffic associated with this proposed rule change. The Exchange believes that its Participants will not have a capacity issue as a result of this proposal. The Exchange also represents that it does not believe this expansion will cause fragmentation of liquidity.

As explained above, this proposal will afford significant benefits to market participants, and the market in general, in terms of significantly greater flexibility and increases in efficient trading and hedging options. It will also allow the Exchange to compete on equal footing with STO Programs adopted by other options exchanges, and in particular ISE, which has recently adopted substantially similar rules to those proposed here.

[14] 15 U.S.C. 78f(b).

[15] 15 U.S.C. 78f(b)(5).

[16] *Id.*

[17] *See* Securities Exchange Act Release No. 67870 (September 17, 2012), 77 FR 58600 (September 21, 2012) (Notice of Filing SR–BOX–2012–012).

[18] *See* Securities Exchange Act Release Nos. 68361 (December 5, 2012), 77 FR 73729 (December 11, 2012) (Notice of Filing SR–BOX–2012–020); 71189 (December 26, 2013), 79 FR 163 (January 2, 2014) (Notice of Filing SR–BOX–2013–60).

[19] *See supra* note 11.

[20] *See* IM–5050–5 to Rule 5050.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act. In this regard and as indicated above, the Exchange notes that the rule change is being proposed as a competitive response to a filing submitted by ISE.[21] The Exchange believes that the proposed rule change is necessary to permit fair competition among the options exchanges with respect to STO Programs. The Exchange believes that the proposed rule change will result in additional investment options and opportunities to achieve the investment objectives of market participants seeking efficient trading and hedging vehicles, to the benefit of investors, market participants, and the marketplace in general. Specifically, the Exchange believes that investors will benefit from the availability of strike price intervals in standard expiration contracts that match the intervals currently permitted for short term options with a similar time to expiration.

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 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, the proposed rule change has become effective pursuant to Section 19(b)(3)(A) of the Act[22] and Rule 19b–4(f)(6) thereunder.[23]

The Exchange has asked the Commission to waive the 30-day operative delay so that the proposal may become operative immediately upon filing. The Exchange stated that waiver of this requirement will permit fair competition among the options exchanges with respect to STO Programs. For this reason, the Commission believes that the proposed rule change presents no novel issues and that waiver of the 30-day operative delay is consistent with the protection of investors and the public interest; and will allow the Exchange to remain competitive with other exchanges. Therefore, the Commission designates the proposed rule change to be operative upon filing.[24]

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is 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–BOX–2014–18 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–BOX–2014–18. 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–BOX–2014–18 and should be submitted on or before July 23, 2014.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[25]

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2014–15476 Filed 7–1–14; 8:45 am]

BILLING CODE 8011–01–P

[21] *See supra* note 3.

[22] 15 U.S.C. 78s(b)(3)(A).

[23] 17 CFR 240.19b–4(f)(6). In addition, Rule 19b–4(f)(6)(iii) requires the Exchange to give the Commission written notice of the Exchange's intent to file the proposed rule change, along with a brief description and text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Commission deems this requirement to have been met.

[24] For purposes only of waiving the 30-day operative delay, the Commission has also considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

[25] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–72484; File No. SR–FINRA–2014–027]

Self-Regulatory Organizations; Financial Industry Regulatory Authority, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change Relating to Options Exercise Procedures

June 26, 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 June 17, 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 prepared by FINRA. FINRA has designated the proposed rule change as constituting a ''non-controversial'' rule change under paragraph (f)(6) of Rule 19b–4 under the Act,[3] which renders the proposal effective upon receipt of

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 17 CFR 240.19b–4(f)(6).

this filing by the Commission. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

FINRA is proposing to amend FINRA Rule 2360(b)(23) regarding procedures for expiring standardized equity options to harmonize its rules with the rules of The Options Clearing Corporation (''OCC'') and the options exchanges regarding the change to the expiration date for most standardized option contracts to the third Friday of the expiration month instead of the Saturday following the third Friday.

Below is the text of the proposed rule change. Proposed new language is in italics; proposed deletions are in brackets.

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2000. DUTIES AND CONFLICTS

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2300. SPECIAL PRODUCTS

* * * * *

2360. Options

(a) No Change.

(b) Requirements

(1) through (22) No Change.

(23) Tendering Procedures for Exercise of Options

(A) Exercise of Options Contracts

(i) No Change.

(ii) Special procedures apply to the exercise of standardized equity options on the *business day of their expiration, or, in the case of standardized equity options expiring on a day that is not a business day, on the* last business day before their expiration (''expiring options''). Unless waived by The Options Clearing Corporation, expiring standardized equity options are subject to the Exercise-by-Exception (''Ex-by-Ex'') procedure under The Options Clearing Corporation Rule 805. This Rule provides that, unless contrary instructions are given, standardized equity option contracts that are in-the-money by specified amounts shall be automatically exercised. In addition to The Options Clearing Corporation rules, the following FINRA requirements apply with respect to expiring standardized equity options. Option holders desiring to exercise or not exercise expiring standardized equity options must either:

a. through b. No Change.

(iii) Exercise cut-off time. Option holders have until 5:30 p.m. Eastern Time (''ET'') on the *business day of expiration, or, in the case of a standardized equity option expiring on a day that is not a business day, on the* business day immediately prior to the expiration date to make a final exercise decision to exercise or not exercise an expiring option. Members may not accept exercise instructions for customer or non-customer accounts after 5:30 p.m. ET.

(iv) through (vii) No Change.

(viii) In the event a national options exchange or The Options Clearing Corporation provides advance notice on or before 5:30 p.m. ET on the business day immediately prior to the *business day of expiration, or, in the case of a standardized equity option expiring on a day that is not a business day, the business day immediately prior to the* last business day before the expiration date, indicating that a modified time for the close of trading in standardized equity options on such *business day of expiration, or, in the case of a standardized option expiring on a day that is not a business day, such* last business day before expiration will occur, then the deadline for an option holder to make a final decision to exercise or not exercise an expiring option shall be 1 hour 30 minutes following the time announced for the close of trading on that day instead of the 5:30 p.m. ET deadline found in subparagraph (iii) above. However, members have until 7:30 p.m. ET to deliver a Contrary Exercise Advice or Advice Cancel to the places specified in subparagraphs (iv)a. through d. above for customer accounts and non-customer accounts where such member firm employs an electronic submission procedure with time stamp for the submission of exercise instructions. For non-customer accounts, members that do not employ an electronic procedure with time stamp for the submission of exercise instructions are required to manually deliver a Contrary Exercise Advice or Advice Cancel within 1 hour and 30 minutes following the time announced for the close of trading on that day instead of the 5:30 p.m. ET deadline found in subparagraph (iv) above.

(ix) through (xi) No Change.

(B) through (D) No Change.

(24) No Change.

(c) No Change.

• • • Supplementary Material:

.01 through .03 No Change.

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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

Most option contracts (''Standard Expiration Contracts'') currently expire on the Saturday following the third Friday of the specified expiration month (''expiration date''). However, the OCC is streamlining its options expiration procedures to change the expiration date for most option contracts to the third Friday of the expiration month instead of the Saturday following the third Friday.[4] The OCC rule change applies only to Standard Expiration Contracts expiring after February 1, 2015. After February 1, 2015, virtually all Standard Expiration Contracts will expire on Friday.[5] In order to start the transition to Friday night expiration processing, the OCC began on June 21, 2013, to move the expiration exercise process to Friday for all Standard Expiration Contracts even though the contracts will continue to expire on Saturday.

The rules of the options exchanges[6] and FINRA Rule 2360(b)(23)[7] set forth

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[4] *See* Securities Exchange Act Release No. 69772 (June 17, 2013), 78 FR 37645 (June 21, 2013) (Order Approving File No. SR–OCC–2013–04).

[5] The only Standard Expiration Contracts that will expire on a Saturday after February 1, 2015 will be certain options that were listed prior to the effectiveness of the OCC rule change, and a limited number of options that may be listed prior to necessary systems' changes of the options exchanges. The exchanges agreed that once these systems' changes are made they will not open for trading any new series of options contracts with Saturday expiration dates falling after February 1, 2015.

[6] *See* ISE Rule 1100; BOX Rule 9000; PHLX Rule 1042; NYSE Arca Options Rule 6.24; NYSE MKT Rule 980; CBOE Rule 11.1; BX Chapter VIII Section 1; NASDAQ Chapter VIII Section 1; BATS Rule 23.1; and MIAX Rule 700 (each an ''options exchange'').

[7] The provisions of FINRA Rule 2360(b)(23) apply only to members that are not also members of the exchange on which the standardized option is traded (so called ''access'' members) in order to

Continued

special procedures that apply to the exercise of expiring options.[8] The options exchanges have amended their rules to remain consistent with the OCC amendments.[9] Accordingly, FINRA proposes to similarly amend Rule 2360(b)(23) to address the OCC amendments.

Specifically, FINRA proposes to amend Rule 2360(b)(23)(A)(ii) to provide that special procedures apply to the exercise of standardized equity options on the business day of their expiration (*i.e.* for Friday expirations), or, in the case of standardized equity options expiring on a day that is not a business day, on the last business day before their expiration (as is currently the case for Saturday expirations).

FINRA also proposes to amend Rule 2360(b)(23)(A)(iii) regarding the exercise cut-off time. Option holders have until 5:30 p.m. Eastern Time (''ET'') [10] on the business day of expiration (*i.e.,* for Friday expiration), or, in the case of a standardized equity option expiring on a day that is not a business day, on the business day immediately prior to the expiration date (as is currently the case for Saturday expirations) to make a final exercise decision to exercise or not exercise an expiring option.

Finally, FINRA proposes to amend Rule 2360(b)(23)(A)(viii) to specify in the event a national options exchange or the OCC provides advance notice on or before 5:30 p.m. ET on the business day immediately prior to the business day of expiration (*i.e.,* Thursday for Friday expirations), or in the case of a standardized equity option expiring on a day that is not a business day, the business day immediately prior to the last business day before the expiration date (i.e., Thursday for Saturday expirations as is the case today), indicating that a modified time for the close of trading in standardized equity options on such business day of expiration (*i.e.,* Friday for Friday expirations), or in the case of an standardized option expiring on a day that is not a business day, such last business day before expiration will occur (*i.e.,* Friday for Saturday expirations), then the deadline for an option holder to make a final decision to exercise or not exercise an expiring option shall be 1 hour 30 minutes following the time announced for the close of trading on that day. FINRA believes that keeping its rules consistent with those of the industry will protect all market participants in the market by eliminating confusion.

FINRA has filed the proposed rule change for immediate effectiveness. The implementation date will be 30 days after the date of filing, June 17, 2014.

2. Statutory Basis

FINRA believes that the proposed rule change is consistent with the provisions of Section 15A(b)(6) of the Act,[11] 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 rule change will promote consistent regulation by harmonizing FINRA's rules with those of the options exchanges as such rules have been amended to comply with recent amendments by OCC. FINRA believes that keeping its rules consistent with those of the industry will protect all participants in the market by eliminating confusion.

B. Self-Regulatory Organization's Statement on Burden on Competition

FINRA 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. FINRA believes that the proposed rule change will promote consistent regulation by harmonizing FINRA's rules with those of the options exchanges and OCC and will apply equally to all members with expiring standardized equity options. FINRA does not believe that the proposed rule change will impose a burden on competition because it will be applied to all members equally. In addition, FINRA does not believe the proposed rule change will impose a burden on competition because it will be applied industry-wide, apply to all market participants and is designed to allow the OCC to streamline the expiration process.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Written comments were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing proposed rule change does not: (i) significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A) of the Act [12] and Rule 19b–4(f)(6) thereunder.[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.

subject such firms and customers of such firms to the same requirements for options exercise procedures as customers that are members of an options exchange.

[8] The procedures provide that an option holder with an expiring standardized equity option may: (1) take no action and allow automatic exercise determinations to be made in accordance with the OCC exercise by exception (''Ex-by-Ex'') procedures (whereby an option will be automatically exercised if the option contract is in the money by a requisite amount) or (2) submit a Contrary Exercise Advice (''CEA'') (or Expiring Exercise Declaration (''EED'') as referenced in the OCC rules) to communicate an option holder's intent not to exercise an option that would be automatically exercised under the OCC's Ex-by-Ex procedures or to exercise an option that would not be automatically exercised under the OCC's Ex-by-Ex procedures.

[9] *See* the options exchanges' filings to conform to the OCC amendments in Securities Exchange Act Release No. 70372 (September 11, 2013), 78 FR 57186 (September 17, 2013) (Notice of Filing and Immediate Effectiveness of File No. SR–NYSEARCA–2013–88); Securities Exchange Act Release No. 70373 (September 11, 2013), 78 FR 57198 (September 17, 2013) (Notice of Filing and Immediate Effectiveness of File No. SR–NYSEMKT–2013–73); Securities Exchange Act Release No. 70745 (October 23, 2013), 78 FR 64559 (October 29, 2013) (Notice of Filing and Immediate Effectiveness of File No. SR–PHLX–2013–104); Securities Exchange Act Release No. 70747 (October 23, 2013), 78 FR 64556 (October 29, 2013) (Notice of Filing and Immediate Effectiveness of File No. SR–NASDAQ–2013–133); Securities Exchange Act Release No. 70746 (October 23, 2013), 78 FR 64563 (October 29, 2013) (Notice of Filing and Immediate Effectiveness of File No. SR–BX–2013–055); Securities Exchange Act Release No. 69996 (July 17, 2013), 78 FR 44183 (July 23, 2013) (Notice of Filing and Immediate Effectiveness of File No. SR–MIAX–2013–32); Securities Exchange Act Release No. 70488 (September 24, 2013), 78 FR 59998 (September 30, 2013) (Notice of Filing and Immediate Effectiveness of File No. SR–BOX–2013–45) and Securities Exchange Act Release No. 70900 (November 19, 2013), 78 FR 70382 (November 25, 2013) (Notice of Filing and Immediate Effectiveness of File No. SR–ISE–2013–58).

[10] The time of day for the exercise cut-off (*i.e.,* 5:30 p.m. ET) is unchanged from the current requirements.

[11] 15 U.S.C. 78*o*–3(b)(6).

[12] 15 U.S.C. 78s(b)(3)(A).

[13] 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, along with a brief description and text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. FINRA has satisfied this requirement.

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–2014–027 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–2014–027. 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 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–2014–027 and should be submitted on or before July 23, 2014.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[14]

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2014–15477 Filed 7–1–14; 8:45 am]

BILLING CODE 8011–01–P

[14] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–72482; File No. SR–CBOE–2014–051]

Self-Regulatory Organizations; Chicago Board Options Exchange, Incorporated; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change Relating to Strike Settings for Mini-S&P 500 Index Options

June 26, 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 June 25, 2014, Chicago Board Options Exchange, Incorporated (the ''Exchange'' or ''CBOE'') 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 self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend Interpretation and Policy .11 to Rule 24.9 (Terms of Index Options Contracts) by modifying the strike setting regime for Mini-S&P 500 Index (''XSP'') options.

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 Interpretation and Policy .11 to Rule 24.9 (''Interpretation and Policy .11'') by modifying the strike setting regime for Mini-S&P 500 Index (''XSP'') options. Specifically, the Exchange is proposing to more closely align: (1) The permitted strike prices in XSP options with scaled corresponding strikes in full value S&P 500 Index (''SPX'') options; and (2) the exercise price range limitations for XSP options with the exercise price range limitations for equity and exchange traded fund (''ETF'') options. Through this filing, the Exchange hopes to make XSP options easier for investors to use and more tailored to their investment needs.

Over two decades ago, CBOE introduced XSP options in order to allow smaller-scale investors to gain broad exposure to the SPX options market and hedge S&P 500 Index cash positions.[3] XSP options are reduced value options that are equal to 1/10th of the value of the S&P 500 Index and have a multiplier of $100. For example, if the S&P 500 Index is at 1932.56, the XSP Index would have a value of 193.26 and the notional value of an XSP option would be $19,326. As the Commission noted in the XSP option Approval Order,

> reduced-value SPX options may benefit investors by providing them with a relatively low-cost means to hedge their portfolios. The Commission also believes that the lower cost of the reduced-value SPX options should allow investors to hedge their portfolios with a smaller outlay of capital and may facilitate participation in the market for SPX options, which should, in turn, help to maintain the depth and liquidity of the market for SPX options, thereby protecting investors and the public interest.[4]

As the Commission anticipated, XSP options provide retail investors with the benefit of trading the broad market in a manageably sized contract.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Securities Exchange Act Release No. 32893 (September 14, 1993), 58 FR 49070 (September 21, 1993) (Order approving listing of reduced-value options on the Standard & Poor's 500 Stock Index) (SR–CBOE–93–12).

[4] 58 FR at 49071.

Under current Interpretation and Policy .11 ''the interval between strike prices of series of Mini-SPX options will be $1 or greater where the strike price is $200 or less and $5.00 or greater where the strike price is greater than $200.'' [5] Currently, the XSP Index is hovering close to 200, reflecting levels near 2000 in the S&P 500 Index. As a result, the Exchange has received customer requests to add strike prices in XSP options that exceed $200. Specifically, customers have requested strike prices in the XSP options scaled to match strike prices in the SPX options. Under existing Interpretation and Policy .11, the Exchange is unable to list some of the requested strikes. For example, currently, SPX options have strike prices that include 2010, 2020 and 2030. In order to list corresponding scaled strikes in XSP options, CBOE would need the ability to list the following strikes: 201, 202 and 203. The listing of strikes in those increments, however, is not permitted under current Interpretation and Policy .11. Rather, the Exchange currently only has the ability to list a 200 strike price and a 205 strike price in XSP options.

In addition, exercise prices for XSP options must be within 30% of the current XSP value.[6] Exercise prices more than 30% away from the current XSP level are permitted provided there is demonstrated customer interest for such exercise prices. Through this filing, the Exchange is proposing to align the exercise price range limitations for XSP options with the exercise price range limitations for equity and ETF options.[7] The following example illustrates the different exercise price range limitations between XSP options and equity and ETF options. If the underlying price of an equity or ETF option is $200, the Exchange would be permitted to list strikes ranging from $100 through $300. If the underlying level of the XSP is 200, the Exchange would only be permitted to list strikes ranging from $140 to $260. To put XSP options on equal standing with equity and ETF options in terms of exercise price range limitations, the Exchange proposes to replace the 30% ± current index level strike setting band for XSP options with the strike setting band that currently exists for equity and ETF options. The Exchange believes that the existing strike setting regime for XSP options is unnecessarily restrictive and thus, proposes to establish a new strike setting regime for XSP options.

In order to more closely align strike prices between reduced value XSP options and full value SPX options and to align the exercise price range limitations for XSP options with the existing price range limitations for equity and ETF options, CBOE proposes to amend Interpretation and Policy .11 as follows:

- If the current value of the Mini-SPX is less than or equal to 20, the Exchange shall not list series with an exercise price of more than 100% above or below the current value of the Mini-SPX; [8]
- If the current value of the Mini-SPX is greater than 20, the Exchange shall not list series with an exercise price of more than 50% above or below the current value of the Mini-SPX; and
- The lowest strike price interval that may be listed for Mini-SPX options is $1, including for LEAPS.

The Exchange believes that the above strike price setting regime would permit strikes to be set to more closely reflect the current values in the underlying S&P 500 Index would provide flexibility and allow the Exchange to better respond to customer demand for XSP options strike prices that better relate to current S&P 500 Index values. In addition, the Exchange believes that because the number of strikes that may be listed would be contained by the percentages above and below the current XSP Index value, there is no need to artificially restrict the use of $1 strike price intervals based on the exercise price. Rather, the Exchange may determine to list strikes in $1 intervals or higher based on the level of the XSP Index, customer demand and the need to list scaled strikes in reduced value XSP options that correspond to strikes in full value SPX options. Also, the Exchange believes that there is no reason to have a more limited range of strikes for XSP options than is currently permitted for equity or ETF options.

The Exchange recognizes that the proposed approach does not achieve full harmonization between strikes in XSP options and SPX options. For example, if there is a 2015 strike in SPX options, CBOE is not seeking the ability to list a 201.50 strike in XSP options. CBOE believes that having the ability to list the 201 and 202 strikes in XSP options would provide the marketplace with a sufficient number of strike prices over a range of XSP Index values.[9] The Exchange believes that these changes would allow retail investors to better use XSP options to gain exposure to the SPX options market and hedge S&P 500 cash positions in the event that the S&P 500 Index surpasses 2000.

The S&P 500 Index is widely regarded as the best single gauge of large cap U.S. equities. As a result, individual investors often use S&P 500 Index-related products to diversify their portfolios and benefit from market trends. Full size SPX options offer these benefits to investors, but may be expensive with a notional value that exceeds $190,000 per contract and are primarily used by institutional market participants. By contrast, reduced value XSP options offer individual investors the ability to benefit from S&P 500 Index options at much lower cost.

The Exchange has analyzed its capacity and represents that it believes the Exchange and the Options Price Reporting Authority have the necessary systems capacity to handle the additional traffic associated with proposed revised strike setting regime for XSP options. Because the rule change proposes to continue to only list strikes within a certain band relative to current S&P 500 Index levels, the number of listed strikes would remain contained. In addition, the proposal is limited to a single option class (XSP).

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.[10] Specifically, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5) [11] 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

[5] Rule 24.9.11.

[6] Rule 24.9.04 generally provides that exercise prices for index options must be within 30% of the current index value. Exercise prices more than 30% away from the current index level are permitted provided there is demonstrated customer interest for such exercise prices.

[7] Rule 5.5A (Select Provisions of Options Listing Procedures Plan) sets forth the exercise price range limitations for equity and ETF options, which are identical to those being proposed for XSP options in the current filing.

[8] The Exchange is proposing to exclude XSP options from the provisions of Rules 24.9.01(a), 24.01(d) and 24.9.04. Rule 24.9.01(a) identifies those indexes for which the minimum strike price interval is $2.50. Rules 24.9.01(d) and 24.9.04 set forth 30% ranges for setting strike prices based on the current index level, which are in conflict with the percentages proposed in this filing.

[9] In the future, the Exchange may request via a rule filing to have even finer strike price increments for XSP options and nothing herein is meant to imply or preclude the Exchange from doing so in the future if the need arises.

[10] 15 U.S.C. 78f(b).

[11] 15 U.S.C. 78f(b)(5).

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) [12] requirement that the rules of an exchange not be designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

In particular, the proposed rule change would add consistency to the S&P 500 Index options markets and allow investors to more easily use XSP options. Moreover, the proposed rule change would allow small investors to better hedge positions in the S&P 500 Index cash market with XSP options and ensure that XSP options investors are not at a disadvantage with respect to larger institutional investors in the SPX options.

The Exchange also believes the proposed rule change is consistent with Section 6(b)(1) of the Act,[13] which provides that the Exchange be organized and have the capacity to be able to carry out the purposes of the Act and to enforce compliance by the Exchange's Trading Permit Holders and persons associated with its Trading Permit Holders with the Act, the rules and regulations thereunder, and the rules of the Exchange. The Exchange does not believe that the proposed rule would create additional capacity issues or affect market functionality. The rule change proposes to allow the Exchange to respond to customer demand by listing strike prices in the XSP options scaled to match strike prices in the SPX options. The number of XSP strikes that may be listed, however, would not be unbounded. This would be accomplished by limiting the interval between strike prices of series of XSP options to $1 or greater when the strike price is greater than 20 and by prohibiting the Exchange from listing series with an exercise price of more than 50% above or below the current value of the XSP (which is identical to what is currently permitted for equity and ETF options).

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. Rather, the Exchange believes that the proposed rule change would relieve any burden on, or otherwise promote, competition in the S&P 500 Index-related markets. The Exchange believes that the proposed rule change would bolster intramarket competition by affording individual investors in XSP options investment opportunities that are similar to those that are available to investors in SPX options. In addition, the proposed rule change would allow investors in XSP options to better hedge positions in the S&P 500 Index cash market in a manner similar to larger investors in the SPX options market. The Exchange also believes that the proposed rule change would make XSP options easier for investors to use because the options would more accurately reflect positions in the underlying cash market. Accordingly, the Exchange believes that the proposed rule change would contribute to intramarket competition and a more robust marketplace. Notably, all market participants would have the same access to XSP options and would be able to use XSP options products to appropriately suit their investment needs.

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, the proposed rule change has become effective pursuant to Section 19(b)(3)(A) of the Act [14] and Rule 19b–4(f)(6) thereunder.[15]

The Exchange has asked the Commission to waive the 30-day operative delay so that the proposal may become operative immediately upon filing. The Exchange stated that waiver of this requirement will allow the Exchange to respond to current customer demand for strike prices in XSP options that are scaled to match existing strikes prices in SPX options. For this reason, the Commission believes that the proposed rule change presents no novel issues and that waiver of the 30-day operative delay is consistent with the protection of investors and the public interest. Therefore, the Commission designates the proposed rule change to be operative upon filing.[16]

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–CBOE–2014–051 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–2014–051. 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

[12] *Id.*

[13] 15 U.S.C. 78f(b)(1).

[14] 15 U.S.C. 78s(b)(3)(A).

[15] 17 CFR 240.19b–4(f)(6). In addition, Rule 19b–4(f)(6)(iii) requires the Exchange to give the Commission written notice of the Exchange's intent to file the proposed rule change, along with a brief description and text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this requirement.

[16] 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).

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–2014–051 and should be submitted on or before July 23, 2014.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[17]

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2014–15475 Filed 7–1–14; 8:45 am]

BILLING CODE 8011–01–P

SMALL BUSINESS ADMINISTRATION

[License No. 01/01–0424]

Brookside Mezzanine Fund III, L.P.; Notice Seeking Exemption Under Section 312 of the Small Business Investment Act, Conflicts of Interest

Notice is hereby given that Brookside Mezzanine Fund III, L.P., 201 Tresser Boulevard, Suite 330, Stamford, CT 06901, a Federal Licensee under the Small Business Investment Act of 1958, as amended (''the Act''), in connection with the financing of a small concern, has sought an exemption under Section 312 of the Act and Section 107.730, Financings which Constitute Conflicts of Interest of the Small Business Administration (''SBA'') Rules and Regulations (13 CFR 107.730). Brookside Mezzanine Fund III, L.P. proposes to provide debt and equity financing to Media Source, Inc., 7858 Industrial Pkwy, Plain City, OH 43064. The proceeds will be used to finance the acquisition of Media Source, Inc.

The financing is brought within the scope of § 107.730(a)(4) of the Regulations because Brookside Mezzanine Fund II, L.P., an Associate of Brookside Mezzanine Fund III, L.P., will receive part of the proceeds from the Media Source, Inc. financing in satisfaction of the Media Source, Inc. obligation to Brookside Mezzanine Fund II, L.P. and therefore this transaction is considered a financing to an Associate requiring SBA prior written exemption.

Notice is hereby given that any interested person may submit written comments on the transaction, within fifteen days of the date of this publication, to the Associate Administrator for Investment, U.S. Small Business Administration, 409 Third Street SW., Washington, DC 20416.

Javier E. Saade,

Associate Administrator, Office of Investment and Innovation.

[FR Doc. 2014–15495 Filed 7–1–14; 8:45 am]

BILLING CODE 8025–01–P

SOCIAL SECURITY ADMINISTRATION

Agency Information Collection Activities: Proposed Request and Comment Request

The Social Security Administration (SSA) publishes a list of information collection packages requiring clearance by the Office of Management and Budget (OMB) in compliance with Public Law 104–13, the Paperwork Reduction Act of 1995, effective October 1, 1995. This notice includes a new information collection, and revisions of OMB-approved information collections.

SSA is soliciting comments on the accuracy of the agency's burden estimate; the need for the information; its practical utility; ways to enhance its quality, utility, and clarity; and ways to minimize burden on respondents, including the use of automated collection techniques or other forms of information technology. Mail, email, or fax your comments and recommendations on the information collection(s) to the OMB Desk Officer and SSA Reports Clearance Officer at the following addresses or fax numbers.

(OMB) Office of Management and Budget, Attn: Desk Officer for SSA, Fax: 202–395–6974, Email address: *OIRA_Submission@omb.eop.gov.*

(SSA) Social Security Administration, OLCA, Attn: Reports Clearance Director, 3100 West High Rise, 6401 Security Blvd., Baltimore, MD 21235, Fax: 410–966–2830, Email address: *OR.Reports.Clearance@ssa.gov*.

I. The information collections below are pending at SSA. SSA will submit them to OMB within 60 days from the date of this notice. To be sure we consider your comments, we must receive them no later than September 2, 2014. Individuals can obtain copies of the collection instruments by writing to the above email address.

1. Statement of Funds You Provided to Another and Statement of Funds You Received—20 CFR 404.1520(b), 404.1571–404.1576, 404.1584–404.1593 and 416.971–416.976—0960–0059. SSA uses Form SSA–821–BK to collect employment information to determine whether applicants or recipients worked after becoming disabled and, if so, whether the work is substantial gainful activity. SSA's field offices use Form SSA–821–BK to obtain work information during the initial claims process, the continuing disability review process, and for Supplemental Security Income (SSI) claims involving work issues. SSA's processing centers and the Office of Disability and International Operations use the form to obtain post-adjudicative work issue from recipients. SSA reviews and evaluates the data to determine if the applicant or recipient meets the disability requirements of the law. The respondents are Title II and Title XVI disability applicants or recipients.

Type of Request: Revision of an OMB-approved information collection.

Modality of completion	Number of respondents	Frequency of response	Average burden per response (minutes)	Estimated total annual burden (hours)
SSA–821–BK	300,000	1	30	150,000

2. Coverage of Employees of State and Local Governments—20 CFR 404, Subpart M—0960–0425. The Code of Federal Regulations at 20 CFR 404, Subpart M, prescribes the rules for States submitting reports of deposits

[17] 17 CFR 200.30–3(a)(12).

and recordkeeping to SSA. These regulations require States (and interstate instrumentalities) to provide wage and deposit contribution information for pre-1987 periods. Since some States still need to satisfy their pending wage report and contribution liability with SSA for pre-1987 tax years completely, SSA needs these regulations until we can close out all pending items with all States. We also need these regulations to provide for collection of this information in the future, if necessary. The respondents are State and local governments or interstate instrumentalities.

Type of Request: Revision of an OMB-approved information collection.

Regulation section	Number of respondents	Frequency of response	Average burden per response (minutes)	Estimated total annual burden (hours)
404. 1204(a) & (b)	52	1	30	26
404.1215	52	1	60	52
404. 1216(a) & (b)	52	1	60	52
Total	156			130

3. Marital Relationship Questionnaire—20 CFR 416.1826—0960–0460. SSA uses Form SSA–4178, Marital Relationship Questionnaire, to determine if unrelated individuals of the opposite sex who live together are misrepresenting themselves as husband and wife. SSA needs this information to determine whether we are making correct payments to couples and individuals applying for, or currently receiving, SSI payments. The respondents are applicants for and recipients of SSI payments.

Type of Request: Revision of an OMB-approved information collection.

Modality of completion	Number of responses	Frequency of response	Average burden per response (minutes)	Estimated total annual burden (hours)
SSA–4178	5,100	1	5	425

II. SSA submitted the information collections below to OMB for clearance. Your comments regarding the information collections would be most useful if OMB and SSA receive them 30 days from the date of this publication. To be sure we consider your comments, we must receive them no later than August 1, 2014. Individuals can obtain copies of the OMB clearance packages by writing to *OR.Reports.Clearance@ssa.gov*.

1. National Beneficiary Survey—0960–NEW. SSA is proposing to undertake the National Beneficiary Survey (NBS), a survey intended to gather data from SSI recipients and Social Security Disability Insurance (SSDI) beneficiaries about their characteristics, their well-being, and other factors that promote or hinder employment. In particular, the survey seeks to uncover important information about the factors that promote beneficiary self-sufficiency and, conversely, factors that impede beneficiary efforts to maintain employment. We will use this data to improve the administration and effectiveness of the SSDI and SSI programs. These results will be valuable as SSA and other policymakers continue efforts to improve programs and services that help SSDI beneficiaries and SSI recipients become more self-sufficient.

Background

SSDI and SSI programs provide a crucial and necessary safety net for working-age people with disabilities. By improving employment outcomes for SSDI beneficiaries and SSI recipients, SSA supports the effort to reduce the reliance of people with disabilities on these programs. SSA conducted the prior NBS in 2004, 2005, 2006, and 2010, and was an important first step in understanding the work interest and experiences of SSI recipients and SSDI beneficiaries, and in gaining information about their impairments, health, living arrangements, family structure, pre-disability occupation, and use of non-SSA programs (e.g., the Supplemental Nutrition Assistance Program). The prior NBS data is available to researchers and the public.

The National Beneficiary Survey (NBS)

The primary purpose of the new NBS-General Waves is to assess beneficiary well-being and interest in work, learn about beneficiary work experiences (successful and unsuccessful), and identify factors that promote or restrict long-term work success. Information collected in the survey includes factors such as health, living arrangements, family structure, current occupation, use of non-SSA programs, knowledge of SSDI and SSI work incentive programs, obstacles to work, and beneficiary interest and motivation to return to work. We propose to conduct the first wave of the NBS-General Waves in 2015. We will further conduct subsequent rounds in 2017 (round 2) and 2019 (round 3). The information we will collect is not available from SSA administrative data or other sources. In the NBS-General Waves, the sample design is similar to what we used for the prior NBS. Enhancement of the prior questionnaire includes additional questions on the factors that promote or hinder employment success. We also propose to conduct semi-structured qualitative interviews (in 2015 only) to provide SSA an in-depth understanding of factors that aid or inhibit individuals in their efforts to obtain and retain employment and advance in the workplace. We will use the qualitative data to add context and understanding when interpreting survey results, and to inform the sample and survey design of rounds 2 and 3. Respondents are current SSDI beneficiaries and SSI recipients. Respondent participation in the NBS is voluntary and the decision to participate or not has no impact on current or future receipt of payments or benefits.

Type of Request: This is a new information collection request.

Administration year	Number of respondents	Frequency of response	Average burden per response (hours)	Estimated total annual burden (hours)
2015 Cross-Sectional Samples:				
Representative Beneficiary Sample	4,000	1	.75	3,000
Successful Worker Qualitative Interviews	90	1	1.00	90
Subtotal				3,090
2017 Cross-Sectional Samples:				
Representative Beneficiary Sample:	4,000	1	.75	3,000
Successful Workers	4,500	1	.92	4,140
Subtotal				7,140
2019 Cross-Sectional Samples:				
Representative Beneficiary Sample	4,000	1	.75	3,000
Successful Workers	3,000	1	.92	2,760
Longitudinal Samples:				
Successful Workers	2,250	1	.75	1,688
Subtotal				7,448
Total Burden	26,550			17,678

2. Marriage Certification—20 CFR 404.725—0960–0009. Sections 202(b) and 202(c) of the Social Security Act (Act) stipulate that every spouse of an individual entitled to Old Age, Survivors, and Disability Insurance (OASDI) benefits is entitled to a spouse benefit if the wife or husband, in addition to meeting the entitlement requirements, meets the relationship criteria in Section 216(h)(1)(A) and (B). SSA uses Form SSA–3 to determine if a spouse claimant has the necessary relationship to the Social Security number (SSN) holder (i.e., the worker) to qualify for the worker's OASDI benefits. The respondents are applicants for spouse's OASDI benefits.

Type of Request: Revision of an OMB-approved information collection.

Modality of completion	Number of respondents	Frequency of response	Average burden per response (minutes)	Estimated total annual burden (hours)
SSA–3	180,000	1	5	15,000

3. Statement Regarding Contributions—20 CFR 404.360—404.366 and 404.736—0960–0020. SSA uses Form SSA–783 to collect information regarding a child's current sources of support when determining the child's entitlement to Social Security benefits. We request this information from adults acting on behalf of the child claimants who can provide SSA with any sources of support or substantial contributions for the child. These adults inform the claims representative of these sources and contributions as part of the initial claims process. If the individual capable of providing the information does not accompany the child claimant, we mail the SSA–783 to the individual for completion, or if the person has access to a computer, we will refer them to SSA's Web site where they can download a copy of the form for completion and submission. The respondents are individuals providing information about a child's sources of support.

Type of Request: Revision of an OMB-approved information collection.

Modality of completion	Number of respondents	Frequency of response	Average burden per response (minutes)	Estimated total annual burden (hours)
SSA–783	30,000	1	17	8,500

4. Farm Arrangement Questionnaire—20 CFR 404.1082(c)—0960–0064. When self-employed workers submit earnings data to SSA, they cannot count rental income from a farm unless they demonstrate ''material participation'' in the farm's operation. A material participation arrangement means the farm owners must perform a combination of physical duties, management decisions, and capital investment in the farm they are renting out. SSA uses Form SSA–7157, the Farm Arrangement Questionnaire, to document material participation. The respondents are workers who are renting farmland to others; are involved in the operation of the farm; and want to claim countable income from work they perform relating to the farm.

Type of Request: Revision of an OMB-approved information collection.

Modality of completion	Number of respondents	Frequency of response	Average burden per response (minutes)	Estimated total annual burden (hours)
SSA–7157	38,000	1	30	19,000

5. Railroad Employment Questionnaire—20 CFR 404.1401, 404.1406–404.1408—0960–0078. Railroad workers, their dependents, or survivors can concurrently apply for railroad retirement and Social Security benefits at SSA if the number holder, or claimant on the number holder's SSN, worked in the railroad industry. SSA uses Form SSA–671 to coordinate Social Security claims processing with the Railroad Retirement Board and to determine benefit entitlement and amount. The respondents are Social Security benefit applicants previously employed by a railroad or dependents of railroad workers.

Type of Request: Revision of an OMB-approved information collection.

Modality of completion	Number of respondents	Frequency of response	Average burden per response (minutes)	Estimated total annual burden (hours)
SSA–671	125,000	1	5	10,417

6. Supplemental Security Income (SSI)—Quality Review Case Analysis—0960–0133. To assess the SSI program and ensure the accuracy of its payments, SSA conducts legally mandated periodic SSI case analysis quality reviews. SSA uses Form SSA–8508 to conduct these reviews, collecting information on operating efficiency, the quality of underlying policies, and the effect of incorrect payments. SSA also uses the data to determine SSI program payment accuracy rate, which is a performance measure for the agency's service delivery goals. Respondents are recipients of SSI payments selected for quality reviews.

Type of Request: Revision of an OMB approved information collection.

Modality of completion	Number of respondents	Frequency of response	Average burden per response (minutes)	Estimated total annual burden (hours)
SSA–8508–BK (paper interview)	225	1	60	225
SSA–8508–BK (electronic version)	4,275	1	60	4,275
Totals	4,500			4,500

7. Claimant's Work Background—20 CFR 404.1512(a); 404.1520(a)(4); 404.1565(b); 416.912(a); 416.920(a)(4); 416.965(b)—0960–0300. Sections 205(a) and 1631(e) of the Act provide the Commissioner of Social Security with the authority to establish procedures for determining if a claimant is entitled to disability benefits. The administrative law judge (ALJ) may ask individuals to provide background information on Form HA–4633 about work they performed in the past 15 years. When a claimant requests a hearing before an ALJ to establish an entitlement to disability benefits, the ALJ may request that the claimant provide a work history to assist the ALJ in fully inquiring into statutory issues related to the disability. The ALJ uses the information collected from the claimants on Form HA–4633 to: (1) Identify the claimant's relevant work history; (2) decide if SSA requires expert vocational testimony and, if so, have a vocational expert available to testify during the hearing; and (3) provide a reference for the ALJ to discuss the claimant's work history. The ALJ makes the completed HA–4633 part of the documentary evidence of record. The respondents are claimants for disability benefits under Title II or Title XVI who requested a hearing before an ALJ after SSA denied their application for disability payments.

Type of Request: Revision of an OMB-approved information collection.

Modality of completion	Number of respondents	Frequency of response	Average burden per response (minutes)	Estimated total annual burden (hours)
HA–4633—PDF/paper version	20,000	1	15	5,000
Electronic Records Express	180,000	1	15	45,000
Totals	200,000			50,000

8. Letter to Landlord Requesting Rental Information—20 CFR 416.1130(b)—0960–0454. SSA uses Form SSA–L5061 to obtain rental subsidy information, which enables SSA to determine and verify an income value for such subsidies. SSA uses this income value as part of determining eligibility for SSI and the correct

amount of SSI payable to the claimant. SSA bases an individual's eligibility for SSI payments, in part, on the amount of countable income the individual receives. Income includes in-kind support and maintenance in the form of room or rent, such as a subsidized rental arrangement. SSA requires claimants to assist in obtaining this information to prevent a delay or overpayment with their SSI payments. We collect this information only if the SSI applicant or recipient is the parent or child of the landlord (respondent). For most respondents, we collect this information once per year or less, via telephone or face-to-face personal interview. The claims representative records the information in our Modernized SSI Claims System (MSSICS), and we require verbal attestation in lieu of a wet signature. However, if the claims representative is unable to contact the respondent via the telephone or face-to-face, we print and mail a paper form to the respondent for completion. The respondent completes, signs, and returns the form to the claims representative. Upon receipt, the claims representative documents the information in MSSICS or, for non-MSSICS cases, faxes the form into the appropriate electronic folder and shreds the paper form. The respondents are landlords who are related to the SSI beneficiaries as a parent or child.

Type of Request: Revision of an OMB-approved information collection.

Modality of completion	Number of respondents	Frequency of response	Average burden per response (minutes)	Estimated total annual burden (hours)
SSA–L5061	72,000	1	10	12,000

9. Plan for Achieving Self-Support (PASS)—20 CFR 416.110(e), 416.1180–1182, 416.1225–1227—0960–0559. The SSI program encourages recipients to return to work. One of the program objectives is to provide incentives and opportunities that help recipients toward employment. The PASS provision allows individuals to use available income or resources (such as business equipment, education, or specialized training) to enter or re-enter the workforce and become self-supporting.

In turn, SSA does not count the income or resources recipients use to fund a PASS when determining an individual's SSI eligibility or payment amount. An SSI recipient who wants to use available income and resources to obtain education or training to become self-supporting completes the SSA–545. SSA uses the information from the SSA–545 to evaluate the recipient's PASS, and to determine eligibility under the provisions of the SSI program. The respondents are SSI recipients who are blind or disabled and want to develop a return-to-work plan.

Type of Request: Revision of an OMB-approved information collection.

Modality of completion	Number of respondents	Frequency of response	Average burden per response (minutes)	Estimated total annual burden (hours)
SSA–545	7,000	1	120	14,000

10. State Death Match Collections—20 CFR 404.301, 404.310–404.311, 404.316, 404.330–404.341, 404.350–404.352, 404.371; 416.912—0960–0700. SSA uses the State Death Match Collections to ensure the accuracy of payment files by detecting unreported or inaccurate deaths of beneficiaries. Under the Act, entitlement to retirement, disability, wife's, husband's, or parent's benefits terminate when the beneficiary dies. The States furnish death certificate information to SSA via the manual registration process or the Electronic Death Registration Process (EDR). Both death match processes are automated electronic transfers between the States and SSA. The respondents are the States' bureaus of vital statistics.

Note: This is a correction notice: SSA published the incorrect burden information for this collection at 79 FR 17632 on March 28, 2014. We are correcting this error here.

Type of Request: Revision of an OMB-approved information collection.

Modality of completion	Number of respondents	Frequency of response	Number of responses	Average cost per record request	Estimated total annual burden (hours)
State Death Match–Manual Process	9	50,000	450,000	$.84	$378,000
States Expected to Become—State Death Match-EDR Within the Next 3 Years	7	50,000	350,000	3.01	1,053,500
State Death Match-EDR	37	50,000	1,850,000	3.01	5,568,500
Totals	53	.....	2,650,000	.....	*7,000,000

*Please note that both of these data matching processes are electronic and there is no hourly burden for the respondent to provide this information.

11. Help America Vote Act—0960–0706. House Rule 3295, the Help America Vote Act of 2002, mandates that States verify the identities of newly registered voters. When newly registered voters do not have driver's licenses or State-issued ID cards, they must supply the last four digits of their SSN to their local State election agencies for verification. The election agencies forward this information to their State Motor Vehicle Administration (MVA), who inputs the data into the American Association of MVAs, a central consolidation system that routes the voter data to SSA's Help America Vote Verification (HAVV) system. Once SSA's HAVV system confirms the identity of the voter, the information returns along the same route in reverse until it reaches the State election agency. The official respondents for this collection are the State MVAs.

Note: This is a correction notice: SSA published the incorrect burden information for this collection at 78 FR 22752 on 04/23/14. We are correcting this error here.

Type of Request: Revision of an OMB-approved information collection.

Modality of completion	Number of respondents	Frequency of response	Average burden per response (minutes)	Estimated total annual burden (hours)
HAVV	2,352,204	1	2	78,407

12. Social Security's Public Credentialing and Authentication Process—20 CFR 401.45 and 402—0960–0789.

Background

Authentication is the foundation for secure, online transactions. Identity authentication is the process of determining, with confidence, that someone is who he or she claims to be during a remote, automated session. It comprises three distinct factors: something you know, something you have, and something you are. Single-factor authentication uses one of the factors, and multi-factor authentication uses two or more of the factors.

SSA's Public Credentialing and Authentication Process

SSA offers consistent authentication across SSA's secured online services. We allow our users to request and maintain only one User ID, consisting of a self-selected username and password, to access multiple Social Security electronic services. Designed in accordance with the OMB Memorandum M–04–04 and the National Institute of Standards and Technology (NIST) Special Publication 800–63, this process provides the means of authenticating users of our secured electronic services and streamlines access to those services. SSA's public credentialing and authentication process:

- Issues a single User ID to anyone who wants to do business with the agency;
- Offers authentication options that meet the changing needs of the public;
- Partners with an external data service provider to help us verify the identity of our online customers;
- Complies with relevant standards;
- Offers access to some of SSA's heaviest, but more sensitive, workloads online while providing a high level of confidence in the identity of the person requesting access to these services;
- Offers an in-person process for those who are uncomfortable with or unable to use the Internet process;
- Balances security with ease of use; and
- Provides a user-friendly way for the public to conduct extended business with us online instead of visiting local servicing offices or requesting information over the phone. Individuals have real-time access to their Social Security information in a safe and secure web environment.

Public Credentialing and Authentication Process Features

We collect and maintain the users' personally identifiable information (PII) in our Central Repository of Electronic Authentication Data Master File Privacy Act system of records that we published in the **Federal Register** (75 FR 79065). The PII may include the users' name, address, date of birth, SSN, phone number, and other types of identity information [e.g., address information of persons from the W–2 and Schedule Self Employed forms we receive electronically for our programmatic purposes as permitted by 26 U.S.C. 6103(l)(1)(A)]. We may also collect knowledge-based authentication data, which is information users establish with us or that we already maintain in our existing Privacy Act systems of records.

We retain the data necessary to administer and maintain our e-Authentication infrastructure. This includes management and profile information, such as blocked accounts, failed access data, effective date of passwords, and other data that allows us to evaluate the system's effectiveness. The data we maintain also may include archived transaction data and historical data.

We use the information from this collection to identity proof and authenticate our users online and to allow them access to their personal information from our records. We also use this information to provide second factor authentication. We are committed to expanding and improving this process so we can grant access to additional online services in the future.

Offering online services is not only an important part of meeting SSA's goals, but is vital to good public service. In increasing numbers, the public expects to conduct complex business over the Internet. Ensuring that SSA's online services are both secure and user friendly is our priority.

With the limited data we have, it is difficult for SSA to meet the OMB and NIST authentication guidelines for identity proofing the public. Therefore, we awarded a competitively bid contract to an external data service provider, Experian, to help us verify the identity of our online customers. We use this External Data Service (EDS), in addition to our other authentication methods, to help us prove, or verify, the identity of our customers when they are completing online or electronic transactions with us.

Social Security's Authentication Strategy

We remain committed to enhancing our online services using authentication processes that balance usability and security. We will continue to research and develop new authentication tools while monitoring the emerging threats.

The following are key components of our authentication strategy:

• Enrollment and Identity Verification—We collect identifying data and use SSA and EDS records to verify an individual's identity. Individuals have the option of obtaining an enhanced, stronger, User ID by providing certain financial information (e.g., Medicare wages, self-employed earnings, direct deposit amount, or the last eight digits of a credit card number) for verification. We also ask individuals to answer out-of-wallet questions so we can further verify their identities. Individuals who are unable to complete the process online can present identification at a field office to obtain a User ID.

• Establishing the User Profile—The individual self-selects a username and password, both of which can be of variable length and alphanumeric. We provide a password strength indicator to help the individual select a strong password. We also ask the individual to choose challenge questions for use in restoring a lost or forgotten username or password.

• Enhancing the User ID—If an individual opts to enhance or upgrade the User IDs, we mail a one-time-use upgrade code to the individual's verified residential address. When the individual receives the upgrade code in the mail, he or she can enter this code online to enhance the security of the account. At this time, we also ask the individual to enter a cell phone number. We send an initial text message to that number and require the individual to confirm its receipt. We send a text message to that number each time the individual signs in, subsequently.

• Login and Use—Standard authentication provides an individual with a User ID for access to most online applications. Enhanced authentication uses the standard User ID along with a one-time code sent to the individual's cell phone, via text message, to create a more secure session, and to grant access to certain sensitive Social Security services. An individual who forgets the password can reset it automatically without contacting SSA. The enrollment process is a one-time only activity for the respondents. After the respondents enroll and choose their User ID (Username & Password), they have to sign in with their User ID every time they want to access Social Security's secured online services.

SSA requires the individuals to agree to the ''Terms of Service'' detailed on our Web site before we allow them to begin the enrollment process. The ''Terms of Service'' inform the individuals what we will and will not do with their personal information and the privacy and security protections we provide on all data we collect. These terms also detail the consequences of misusing this service.

To verify the individual's identity, we ask the individual to give us minimal personal information, which may include:

○ Name;
○ SSN;
○ Date of Birth;
○ Address—mailing and residential;
○ Telephone number;
○ Email address;
○ Financial information;
○ Cell phone number; and
○ Selecting and answering password reset questions.

We send a subset of this information to the EDS, who then generates a series of out-of-wallet questions back to the individual. The individual must answer all or most of the questions correctly before continuing in the process. The exact questions generated are unique to each individual.

This collection of information, or a subset of it, is mandatory for respondents who want to do business with SSA via the Internet. We collect this information via the Internet, on SSA's public-facing Web site. We also offer an in-person identification verification process for individuals who cannot, or are not willing, to register online. For this process, the individual must go to a local SSA field office and provide identifying information. We do not ask for financial information with the in-person process.

We only collect the identity verification information one time, when the individual registers for a credential. We ask for the User ID (username and password) every time an individual signs in to our automated services. If individuals opt for the enhanced or upgraded account, they also receive a text message on their cell phones (this serves as the second factor for authentication) each time they sign in.

The respondents are individuals who choose to use the Internet or Automated Telephone Response System to conduct business with SSA.

Type of Request: Revision of an OMB-approved information collection.

Modality of completion	Number of respondents	Frequency of response	Average burden per response (minutes)	Estimated total annual burden (hours)
Internet Requestors	38,251,877	1	8	5,100,250
In-Person (Intranet) Requestors	1,370,633	1	8	182,751
Totals	39,622,510			5,283,001

Dated: June 27, 2014.

Faye Lipsky,

Reports Clearance Director, Social Security Administration.

[FR Doc. 2014–15504 Filed 7–1–14; 8:45 am]

BILLING CODE 4191–02–P

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

Request for Comments Concerning an Environmental Review of the Proposed Transatlantic Trade and Investment Partnership Agreement

AGENCY: Office of the United States Trade Representative.

ACTION: Notice of intent to conduct an environmental review of the proposed Transatlantic Trade and Investment Partnership agreement and request for comments.

SUMMARY: The Office of the United States Trade Representative (USTR), through the Trade Policy Staff Committee (TPSC), is initiating an environmental review of the Transatlantic Trade and Investment Partnership agreement (T–TIP), a free trade agreement under negotiation between the United States and the European Union. The TPSC invites written comments from the public on the topics that should be included in the scope of the environmental review, including potential positive or negative environmental effects that might result

from the trade agreement and potential implications for U.S. environmental laws and regulations. The TPSC also welcomes public views on appropriate methodologies and sources of data for conducting the review. The review will be conducted consistent with the relevant procedures of Executive Order 13141: Environmental Review of Trade Agreement and its implementing guidelines. Persons submitting written comments should provide as much detail as possible on the manner and degree to which the subject matter they propose for inclusion in the review may raise significant environmental issues that should be considered in the context of the negotiations. Public comments on environmental issues submitted in response to a notice published in the **Federal Register** on April 1, 2013, requesting comments from the public regarding the T–TIP will be taken into account in preparing the environmental review and do not need to be resubmitted.

DATES: Comments should be submitted on or before September 2, 2014, to be assured of timely consideration by the TPSC.

ADDRESSES: Public comments should be submitted electronically to *www.regulations.gov*, docket number USTR 2014–0012. If you are unable to provide submissions at *www.regulations.gov*, please contact Ms. Yvonne Jamison (202–395–3475) to arrange for an alternative method of transmission.

FOR FURTHER INFORMATION CONTACT: Questions regarding the submission of comments in response to this notice should be directed to Ms. Yvonne Jamison at (202) 395–3475. Questions concerning the environmental review should be addressed to Mr. David Oliver at (202) 395–7320.

SUPPLEMENTARY INFORMATION:

1. Background Information

On March 20, 2013, USTR notified Congress of the President's intent to enter into negotiations for a Transatlantic Trade and Investment Partnership agreement with the European Union aimed at achieving a substantial increase in transatlantic trade and investment. Through a notice in the **Federal Register** and a public hearing (held May 29–30, 2013, in Washington, DC), the TPSC invited the public to provide written comments and/or oral testimony to assist USTR in assessing U.S. objectives for the proposed agreement (see 78 FR 19566, April 1, 2013). A description of U.S. negotiating objectives for the T–TIP is available at *http://www.ustr.gov/about-us/press-office/press-releases/2014/March/US-Objectives-US-Benefits-In-the-TTIP-a-Detailed-View*. Additional information about the proposed T–TIP can be found at *http://www.ustr.gov/ttip*.

2. Environmental Review

USTR, through the TPSC, will conduct an environmental review of the agreement consistent with Executive Order 13141 (64 FR 63169, Nov. 18, 1999) and its implementing guidelines (65 FR 79442, Dec. 19, 2000). The purpose of environmental reviews is to ensure that policymakers and the public are informed about reasonably foreseeable environmental impacts of trade agreements (both positive and negative), to identify complementarities between trade and environmental objectives, and to help shape appropriate responses if environmental impacts are identified. Reviews are intended to be one tool, among others, for integrating environmental information and analysis into the fluid, dynamic process of trade negotiations. USTR and the Council on Environmental Quality jointly oversee implementation of the Executive Order and its implementing guidelines. USTR, through the TPSC, is responsible for conducting the individual reviews. Additional background information and examples of prior environmental reviews are available at: *http://www.ustr.gov/trade-topics/environment/environmental-reviews*.

3. Requirements for Submissions

Persons submitting comments must do so in English and must identify (on the first page of the submission) ''Comments Regarding the T–TIP Environmental Review.'' In order to be assured of consideration, comments should be submitted by September 2, 2014. In order to ensure the timely receipt and consideration of comments, USTR strongly encourages commenters to make on-line submissions, using the *www.regulations.gov* Web site. To submit comments via *www.regulations.gov*, enter docket number USTR 2014–0012 on the home page and click ''search.'' The site will provide a search-results page listing all documents associated with this docket. Find a reference to this notice and click on the link entitled ''Comment Now!'' (For further information on using the *www.regulations.gov* Web site, please consult the resources provided on the Web site by clicking on ''How to Use This Site'' on the left side of the home page).

The *www.regulations.gov* Web site allows users to provide comments by filling in a ''Type Comment'' field, or by attaching a document using an ''Upload File'' field. USTR prefers that comments be provided in an attached document. USTR prefers submissions in Microsoft Word (.doc) or Adobe Acrobat (.pdf). If the submission is in an application other than those two, please indicate the name of the application in the ''Type Comment'' field. For any comments submitted electronically containing business confidential information, the file name of the business confidential version should begin with the characters ''BC''. Any page containing business confidential information must be clearly marked ''BUSINESS CONFIDENTIAL'' on the top of that page. Filers of submissions containing business confidential information must also submit a public version of their comments. The file name of the public version should begin with the character ''P''. The ''BC'' and ''P'' should be followed by the name of the person or entity submitting the comments. Filers submitting comments containing no business confidential information should name their file using the name of the person or entity submitting the comments.

Please do not attach separate cover letters to electronic submissions; rather, include any information that might appear in a cover letter in the submission itself. Similarly, to the extent possible, please include any exhibits, annexes, or other attachments in the same file as the submission itself, not as separate files.

As noted, USTR strongly urges submitters to file comments through the *www.regulations.gov* Web site if at all possible. Any alternative arrangements must be made with Ms. Jamison in advance of transmitting a comment. Ms. Jamison may be contacted at (202) 395–3475. General information concerning USTR is available at *www.ustr.gov*.

Comments will be placed in the docket and open to public inspection, except business confidential information. Comments may be viewed on the *www.regulations.gov* Web site by entering the relevant docket number in the search field on the home page.

Douglas Bell,

Chair, Trade Policy Staff Committee.

[FR Doc. 2014–15537 Filed 7–1–14; 8:45 am]

BILLING CODE 3290–F4–P

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

Request for Comments Concerning an Environmental Review of the Proposed Trade in Services Agreement

AGENCY: Office of the United States Trade Representative

ACTION: Notice of intent to conduct an environmental review of the proposed Trade in Services Agreement and request for comments.

SUMMARY: The Office of the United States Trade Representative (USTR), through the Trade Policy Staff Committee (TPSC), is initiating an environmental review of the Trade in Services Agreement (TiSA) currently being negotiated among 23 economies, including the United States. The TPSC invites written comments from the public on the topics that should be included in the scope of the environmental review, including potential positive or negative environmental effects that might result from the trade agreement and potential implications for U.S. environmental laws and regulations. The TPSC also welcomes public views on appropriate methodologies and sources of data for conducting the review. The review will be conducted consistent with the relevant procedures of Executive Order 13141: Environmental Review of Trade Agreement (64 FR 63169, November 18, 1999) and its implementing guidelines (65 FR 79442, December 19, 2000). Persons submitting written comments should provide as much detail as possible on the manner and degree to which the subject matter they propose for inclusion in the review may raise significant environmental issues that should be considered in the context of the negotiations. Public comments on environmental issues submitted in response to prior notices (78 FR 5238, January 24, 2013) and (78 FR 55135, September 9, 2013) requesting comments from the public regarding the TiSA will be taken into account in preparing the environmental review and do not need to be resubmitted.

DATES: Comments should be submitted on or before September 2, 2014, to be assured of timely consideration by the TPSC.

ADDRESSES: Public comments should be submitted electronically to *www.regulations.gov*, docket number USTR 2014–0011. If you are unable to provide submissions by *www.regulations.gov*, please contact Ms. Yvonne Jamison (202–395–3475) to arrange for an alternative method of transmission.

FOR FURTHER INFORMATION CONTACT: Questions regarding the submission of comments in response to this notice should be directed to Ms. Yvonne Jamison at (202) 395–3475. Questions concerning the environmental review should be addressed to Ms. Leslie Yang at (202) 395–7320.

SUPPLEMENTARY INFORMATION:

1. Background Information

On January 15, 2013, USTR notified Congress of the President's intent to enter into negotiations for an international services agreement with an initial group of 20 trading partners. Twenty-three economies are presently participating in TiSA negotiations: Australia, Canada, Chile, Colombia, Costa Rica, the European Union, Hong Kong, Iceland, Israel, Japan, Liechtenstein, Mexico, New Zealand, Norway, Pakistan, Panama, Paraguay, Peru, the Republic of Korea, Switzerland, Taiwan, Turkey, and the United States. Through a notice in the **Federal Register** and a public hearing (held March 12, 2013, in Washington, DC), the TPSC invited the public to provide written comments and/or oral testimony to assist USTR in assessing U.S. objectives for the proposed agreement (see 78 FR 5238, January 24, 2013). Through a subsequent notice in the **Federal Register**, the TPSC invited the public to provide written comments to assist USTR in assessing U.S. objectives regarding the participation of Paraguay and Liechtenstein (additions to the initial group of TiSA participants) (78 FR 55135, September 9, 2013). Additional information about the proposed TiSA can be found at *http://www.ustr.gov/trade-topics/services-investment/services.*

2. Environmental Review

USTR, through the TPSC, will conduct an environmental review of the agreement consistent with Executive Order 13141 (64 FR 63169, November 18, 1999) and its implementing guidelines (65 FR 79442, December 19, 2000). The purpose of environmental reviews is to ensure that policymakers and the public are informed about reasonably foreseeable environmental impacts of trade agreements (both positive and negative), to identify complementarities between trade and environmental objectives, and to help shape appropriate responses if environmental impacts are identified. Reviews are intended to be one tool, among others, for integrating environmental information and analysis into the fluid, dynamic process of trade negotiations. USTR and the Council on Environmental Quality jointly oversee implementation of the Executive Order and its implementing guidelines. USTR, through the TPSC, is responsible for conducting the individual reviews. Additional background information and examples of prior environmental reviews are available at: *http://www.ustr.gov/trade-topics/environment/environmental-reviews.*

3. Requirements for Submissions

Persons submitting comments must do so in English and must identify (on the first page of the submission) ''Comments Regarding the Trade in Services Agreement (TiSA) Environmental Review.'' In order to be assured of consideration, comments should be submitted by September 2, 2014. In order to ensure the timely receipt and consideration of comments, USTR strongly encourages commenters to make on-line submissions, using the www.regulations.gov Web site. To submit comments via www.regulations.gov, enter docket number USTR 2014–0011 on the home page and click ''search.'' The site will provide a search-results page listing all documents associated with this docket. Find a reference to this notice and click on the link entitled ''Comment Now!'' (For further information on using the www.regulations.gov Web site, please consult the resources provided on the Web site by clicking on ''How to Use This Site'' on the left side of the home page).

The *www.regulations.gov* Web site allows users to provide comments by filling in a ''Type Comment'' field, or by attaching a document using an ''Upload File'' field. USTR prefers that comments be provided in an attached document. USTR prefers submissions in Microsoft Word (.doc) or Adobe Acrobat (.pdf). If the submission is in an application other than those two, please indicate the name of the application in the ''Type Comment'' field.

For any comments submitted electronically containing business confidential information, the file name of the business confidential version should begin with the characters ''BC''. Any page containing business confidential information must be clearly marked ''BUSINESS CONFIDENTIAL'' on the top of that page. Filers of submissions containing business confidential information must also submit a public version of their comments. The file name of the public version should begin with the character ''P''. The ''BC'' and ''P'' should be followed by the name of the person or entity submitting the comments. Filers submitting comments containing no business confidential information

should name their file using the name of the person or entity submitting the comments.

Please do not attach separate cover letters to electronic submissions; rather, include any information that might appear in a cover letter in the submission itself. Similarly, to the extent possible, please include any exhibits, annexes, or other attachments in the same file as the submission itself, not as separate files.

As noted, USTR strongly urges submitters to file comments through the *www.regulations.gov* Web site if at all possible. Any alternative arrangements must be made with Ms. Jamison in advance of transmitting a comment. Ms. Jamison may be contacted at (202) 395–3475. General information concerning USTR is available at *www.ustr.gov.*

Comments will be placed in the docket and open to public inspection, except business confidential information. Comments may be viewed on the *www.regulations.gov* Web site by entering the relevant docket number in the search field on the home page.

Douglas Bell,

Chair, Trade Policy Staff Committee.

[FR Doc. 2014–15489 Filed 7–1–14; 8:45 am]

BILLING CODE 3290–F4–P

DEPARTMENT OF TRANSPORTATION

[Docket Number DOT–OST–2014–0112]

Agency Information Collection Activity; Notice of Request for Approval To Collect New Information: Voluntary Near Miss Reporting in Oil and Gas Operations on the Outer Continental Shelf

AGENCY: Bureau of Transportation Statistics (BTS), Office of the Assistant Secretary for Research and Technology (OST–R), U.S. Department of Transportation.

ACTION: Notice and request for comments.

SUMMARY: In accordance with the requirements of section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, this notice announces the intention of the Bureau of Transportation Statistics to request the Office of Management and Budget (OMB) to approve the following information collection: Voluntary Near Miss Reporting in Oil and Gas Operations on the Outer Continental Shelf (OCS). This data collection effort supports a multi-year program focused on improving safety in the OCS by collecting and analyzing data and information on near misses and other unsafe occurrences in all oil and gas operations on the OCS. In August 2013, the Bureau of Safety and Environmental Enforcement (BSEE) and BTS signed an Interagency Agreement (IAA) to develop and implement a voluntary program for confidential reporting of 'near misses' occurring on the OCS. BTS will analyze and aggregate information provided under this program and publish reports that will provide BSEE, the industry and all OCS stakeholders with essential information about accident precursors and other hazards associated with OCS oil and gas operations so that all stakeholders can use that information to reduce safety and environmental hazards and continue building a more robust OCS safety culture. This information collection is necessary to aid BSEE, the oil and gas industry and other stakeholders in identifying root causes of potentially unsafe events.

DATES: Written comments should be submitted by September 2, 2014.

ADDRESSES: To ensure that your comments are not entered more than once into the docket, submit comments by only one of the following methods:

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov* and follow the instructions for sending your comments electronically. Docket Number: DOT–OST–2014–0112.
- *Mail:* Docket Services, U.S. Department of Transportation, 1200 New Jersey Avenue SE., West Building, Ground Floor, Room W12–140, Washington, DC 20590–0001.
- *Hand Delivery:* Deliver to mail address above between 9 a.m. and 5 p.m. EST, Monday through Friday, except Federal holidays.
- *Fax:* (202) 493–2251.

Identify all transmission with ''Docket Number DOT–OST–2014–0112'' at the beginning of each page of the document.

Instructions: All comments must include the agency name and docket number for this notice. Paper comments should be submitted in duplicate. The DMF is open for examination and copying, at the above address from 9 a.m. to 5 p.m. EST, 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 Docket Number DOT–OST–2014–0112.'' The Docket Clerk will date stamp the postcard prior to returning it to you via the U.S. mail. Please note that all comments received, including any personal information, will be posted and will be publicly viewable, without change, at *www.regulations.gov.* You may review DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (Volume 65, Number 70; pages 19477–78) or you may review the Privacy Act Statement at *www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: Demetra V. Collia, Bureau of Transportation Statistics, Office of the Assistant Secretary for Research and Technology, U.S. Department of Transportation, Office of Advanced Studies, RTS–31, E324–302, 1200 New Jersey Avenue SE., Washington, DC 20590–0001; Phone No. (202) 366–1610; Fax No. (202) 366–3383; email: *demetra.collia@dot.gov.* Office hours are from 8:30 a.m. to 5 p.m., EST, Monday through Friday, except Federal holidays.

Data Confidentiality Provisions: The confidentiality of near miss data submitted to BTS is protected under the BTS confidentiality statute (49 U.S.C. Sec. 6307) and the Confidential Information Protection and Statistical Efficiency Act (CIPSEA) of 2002 (Pub. L. 107–347, Title V). In accordance with these confidentiality statutes, only statistical and non-identifying data will be made publicly available by BTS through its reports. BTS will not release to BSEE or any other public or private entity any information that might reveal the identity of individuals or organizations mentioned in near miss reports without explicit consent of the respondent and any other affected entities.

SUPPLEMENTARY INFORMATION:

I. The Data Collection

The Paperwork Reduction Act of 1995 (44 U.S.C. chapter 35; as amended) and 5 CFR part 1320 require each Federal agency to obtain OMB approval to initiate an information collection activity. BTS is seeking OMB approval for the following BTS information collection activity:

Title: Voluntary Near Miss Reporting in Oil and Gas Operations on the Outer Continental Shelf

OMB Control Number: TBD.

Type of Review: Approval of data collection.

Respondents: Employees working in the oil and gas industry on the OCS.

Number of Potential Responses: Based on near miss reporting trends in other industries, BTS expects to receive no more than two responses per calendar day during the first three years of the program (approximately 730 responses per year).

Estimated Time per Response: not to exceed 60 minutes (this includes estimated time for a follow up interview, if needed.)

Frequency: Intermittent for three years. (Reports are submitted when there is a qualifying event, i.e., when a near miss occurs in oil and gas operations on the OCS.)

Total Annual Burden: 730 hours.

Abstract: Collecting transportation safety data, including data on precursors to adverse events, is an important component of BTS's responsibility to the transportation community and is authorized in BTS' authorizing statute (49 U.S.C. 6302). To that end, BTS has entered into an IAA with BSEE to establish and operate a voluntary, confidential near miss data collection program. In 2013, the National Commission on the BP Deepwater Horizon Oil Spill recommended, among other things, that BSEE develop a system for reporting near miss events in oil and gas operations on the OCS. BSEE evaluated various near miss reporting systems that have proven successful in improving safety in major industries (such as commercial airlines, railroads, and firefighting programs) and identified BTS as an agency with experience in developing and operating such systems to improve safety.

It is estimated that the time for an individual respondent to complete a near miss report and, if needed, participate in a brief confidential interview will be no more than 60 minutes for a maximum total burden of 730 hours (730 reports*60 minutes/60 = 720 hours). Reports may be voluntarily submitted to BTS when there is a qualifying event, i.e., when a near miss occurs in oil and gas operations on the OCS. Potential respondents include employees of OCS oil and gas lessees and operators and their contractors. It should be noted that not all of the potential respondents will submit information at any given time and some may submit multiple times.

II. Background

Under the Outer Continental Shelf Lands Act (OCSLA), 43 U.S.C. 1331–1356a, the Secretary of the Interior (the Secretary) is authorized to regulate oil and natural gas exploration, development, and production operations on the OCS. The Secretary has assigned BSEE the responsibility for offshore safety and environmental enforcement under OCSLA (*see* 76 FR 64432, Oct. 18, 2011). The BSEE promotes safety, protects the environment, and conserves offshore oil and gas resources through regulatory oversight and enforcement, research activities, public outreach, information sharing, and appropriate cooperation with industry and other OCS stakeholders. BSEE's goals include building and maintaining a culture of safety and risk reduction on the OCS.

In 2013, the National Commission on the BP Deepwater Horizon Oil Spill recommended, among other things, that BSEE develop a system for near miss reporting for oil and gas operations on the OCS. BSEE has decided to implement that recommendation through a system of voluntary reporting of near miss information. BSEE has also decided to encourage participation in that system by ensuring the confidentiality of such reports, including the reporter's identities (if provided) and other identifying information.

BSEE evaluated various near miss reporting systems that have proven successful in improving safety in major industries (such as commercial airlines, railroads, and firefighting programs) and identified BTS as an agency with experience in developing and operating such systems, on a confidential basis, to improve safety. In August 2013, BSEE and BTS signed an IAA to develop and implement a voluntary program for confidential reporting of 'near misses' occurring on the Outer Continental Shelf (OCS).

The goal of the voluntary near miss reporting system is to provide BTS with essential information about accident precursors and other hazards associated with OCS oil and gas operations. BTS will develop and publish aggregate reports that BSEE, the industry and all OCS stakeholders can use—in conjunction with incident reports and other sources of information—to reduce safety and environmental risks and continue building a more robust OCS safety culture.

A near miss is an event and/or condition that could have resulted in loss, or had the potential for additional safety, environmental or other consequences, but did not result in an adverse event. This adverse event was prevented only by a fortuitous break in the chain of events and/or conditions. The potential loss could be human injury, environmental damage, or negative business impact. Knowledge about a near miss presents an opportunity to address unsafe work conditions, prevent accidents, and improve safety and environmental protection in the workplace. Near miss systems in other industry sectors have shown that voluntary reporting of near misses to a confidential system can become a tool to identify safety issues and help prevent accidents by providing a cooperative, non-punitive environment to communicate safety concerns.

BTS will: Collect near miss reports voluntarily submitted by employees and other respondents working on the OCS; conduct follow-up interviews as needed, develop an analytical database using the reported data and other pertinent information; conduct statistical analyses and develop public reports; and protect the confidentiality of the near miss reports in accordance with BTS' own statute and CIPSEA. Accordingly, only statistical and non-sensitive information will be made available through BTS' publications and reports. Those publications and reports will potentially provide the industry, BSEE, other OCS stakeholders, and the public with valuable information regarding precursors to safety risks and contribute to research and development of intervention programs aimed at preventing accidents and fatalities in the OCS.

Respondents who report a near miss event will be asked to fill out a report and participate in a brief, confidential interview for further clarification, as needed. Respondents will have the option to mail or submit the report electronically to BTS. Respondents will be asked to provide information such as: (1) Name and contact information (optional); (2) time and location of the event; (3) a short description of the event; (4) contributing factors to the reported near miss; and (5) any other information that might be useful in determining a root cause of such event.

Some of the information collected through this voluntary initiative will also help inform the continuing effort to work with oil and gas companies and other entities that already collect offshore near miss data.

III. Request for Public Comment

BTS requests comments on any aspects of this information collection request, including: (1) The accuracy of the estimated burden of 730 hours detailed in Section I; (2) ways to enhance the quality, usefulness, and clarity of the collected information; and (3) ways to minimize the collection burden without reducing the quality of the information collected, including additional use of automated collection techniques or other forms of information technology.

Patricia Hu,

Director, Bureau of Transportation Statistics, Office of the Assistant Secretary for Research and Technology.

[FR Doc. 2014–15455 Filed 7–1–14; 8:45 am]

BILLING CODE 4910–9X–P

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

[Docket No. DOT–OST—2014–0011]

National Freight Advisory Committee: Notice of Public Meeting

ACTION: Notice of public meeting.

SUMMARY: The U.S. Department of Transportation (DOT) announces a public meeting of its National Freight Advisory Committee (NFAC) to discuss the freight provisions in the various surface transportation reauthorization proposals, including the GROW AMERICA Act and the MAP–21 Reauthorization Act. Meetings are open to the public and there will be an opportunity for public comment on each day.

DATES: *Dates and Times:* The meeting will be held on Tuesday, July 15, 2014, from 9:15 a.m. to 4:30 p.m., Eastern Standard Time and Wednesday, July 16, 2014 from 9:30 a.m. to 12:00 p.m., Eastern Standard Time.

Location: On Tuesday, July 15, 2014, the meeting will be held in the Dirksen Senate Office Building, Room G–11 from 9:15 a.m. to 12:00 p.m. and the Rayburn House Office Building, Room 2167 from 1:30 p.m. to 4:30 p.m. On Wednesday, July 16, 2014, the meeting will be held at the U.S. Department of Transportation, 1200 New Jersey Avenue SE., Washington, DC 20590.

FOR FURTHER INFORMATION CONTACT: John Drake, Designated Federal Officer at (202) 366–1999 or *freight@dot.gov* or visit the NFAC Web site at *www.dot.gov/nfac.*

Additional Information

Background: The NFAC was established to provides advice and recommendations to the Secretary on matters related to freight transportation in the United States, including (1) implementation of the freight transportation requirements of the Moving Ahead for Progress in the 21st Century Act (MAP–21; Pub. L. 112–141); (2) establishment of the National Freight Network; (3) development of the Plan; (4) development of strategies to help States implement State Freight Advisory Committees and State Freight Plans; (5) development of measures of conditions and performance in freight transportation; (6) development of freight transportation investment, data, and planning tools; and (7) legislative recommendations. The NFAC operates as a discretionary committee under the authority of the DOT, established in accordance with the provisions of the Federal Advisory Committee Act (FACA), as amended, 5 U.S.C. App. 2. See DOT's NFAC Web site for additional information about the committee's activities at *www.dot.gov/nfac.*

Agenda: The two day agenda will include:

(1) Welcome and opening remarks;

(2) Congressional remarks;

(3) Overview of freight provisions in surface transportation reauthorization proposals;

(4) Discussion on freight reauthorization proposals;

(5) Public comment will occur at the end of each day.

The meeting agenda will be posted on the NFAC Web site at *www.dot.gov/nfac* in advance of the meeting.

Public Participation: This meeting will be open to the public. Members of the public who wish to attend in person are asked to RSVP to *freight@dot.gov* with your name and affiliation no later than July 7, 2014, in order to facilitate entry and guarantee seating.

Services for Individuals with Disabilities: The public meeting is physically accessible to people with disabilities. Individuals requiring accommodations, such as sign language interpretation or other ancillary aids, are asked to notify John Drake, at (202) 366–1999 or *freight@dot.gov* five (5) business days before the meeting.

Written comments: Persons who wish to submit written comments for consideration by the Committee must email *freight@dot.gov* or send them to John Drake, Designated Federal Officer, National Freight Advisory Committee, 1200 New Jersey Avenue SE., W82–320, Washington, DC 20590 by July 7, 2014 to provide sufficient time for review. All other comments may be received at any time before or after the meeting.

Dated: June 26, 2014.

John Drake,

Designated Federal Officer.

[FR Doc. 2014–15461 Filed 7–1–14; 8:45 am]

BILLING CODE 4910–9X–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[Docket No. is FAA–2014–0422]

Notice of Decision; Gallatin County, MT, Request for Waiver

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of Decision.

SUMMARY: This document notifies the public that the Federal Aviation Administration has granted a waiver to Gallatin County, MT pursuant to 49 U.S.C. 40125(d). The waiver enables Gallatin County to contract for a public aircraft operation to conduct search and rescue operations without complying with the 90-day lease minimum required under 49 U.S.C. 40102(a)(41)(D).

ADDRESSES: You may review public docket for the waiver request and the grant (Docket No. FAA–2014–0422) at the Docket Management Facility in Room W12–140 of the West Building Ground Floor at 1200 New Jersey Avenue SE., Washington, DC 20590–0001 between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. You may also review the public docket on the Internet at *http://www.regulations.gov.*

This document is being published to inform interested parties of the agency's decision to grant the request for waiver authority from the 90-day exclusive use provision of 49 U.S.C 40102(a)(41)(D) when operating or contracting for search and rescue as public aircraft operations.

Questions regarding this grant may be directed to the General Aviation and Commercial Division (AFS–800) of the Flight Standards Service at (202) 385–9600.

Issued in Washington, DC, on June 25, 2014.

Brenda D. Courtney,

Acting Director, Office of Rulemaking.

[FR Doc. 2014–15555 Filed 7–1–14; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[Docket No. FMCSA–2012–0032]

Commercial Driver's License Standards: Application for Exemption; Daimler Trucks North America (Daimler)

AGENCY: Federal Motor Carrier Safety Administration (FMCSA), DOT.

ACTION: Notice of application for exemption; request for comments.

SUMMARY: FMCSA announces that Daimler Trucks North America (Daimler) has requested an exemption for one commercial motor vehicle (CMV) driver from the Federal requirement to hold a commercial driver's license (CDL). Daimler requests the exemption for Dr. Wolfgang Bernhard, head of the Daimler Trucks and Bus Division, who will test drive CMVs for Daimler within the United States. Dr. Bernhard holds a valid German CDL and wants to test drive

Daimler vehicles on U.S. roads to better understand product requirements in ''real world'' environments, and verify results. Daimler believes the requirements for a German CDL ensure that operation under the exemption will likely achieve a level of safety equivalent to or greater than the level that would be obtained in the absence of the exemption.

DATES: Comments must be received on or before August 1, 2014.

ADDRESSES: You may submit comments identified by Federal Docket Management System Number FMCSA–2012–0032 by any of the following methods:

- *Federal eRulemaking Portal: www.regulations.gov.* Follow the online instructions for submitting comments.
- *Fax:* 1–202–493–2251.
- *Mail:* Docket Management Facility, U.S. Department of Transportation, 1200 New Jersey Avenue SE., West Building, Ground Floor, Room W12–140, Washington, DC 20590–0001.
- *Hand Delivery or Courier:* West Building, Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., between 9 a.m. and 5 p.m. E.T., Monday through Friday, except Federal holidays.

Instructions: All submissions must include the Agency name and docket number. For detailed instructions on submitting comments and additional information on the exemption process, see the *Public Participation* heading below. Note that all comments received will be posted without change to *www.regulations.gov,* including any personal information provided. Please see the *Privacy Act* heading below.

Docket: For access to the docket to read background documents or comments received, go to *www.regulations.gov* at any time and in the box labeled ''SEARCH for'' enter FMCSA–2012–0032 and click on the tab labeled ''SEARCH.''

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

Public Participation: The Federal eRulemaking Portal is available 24 hours each day, 365 days each year. You can obtain electronic submission and retrieval help and guidelines under the ''help'' section of the Federal eRulemaking Portal Web site. If you want us to notify you that we received your comments, please include a self-addressed, stamped envelope or postcard, or print the acknowledgement page that appears after submitting comments online.

FOR FURTHER INFORMATION CONTACT: Mr. Richard Clemente, FMCSA Driver and Carrier Operations Division; Office of Carrier, Driver and Vehicle Safety Standards; Telephone: 202–366–4325. Email: *MCPSD@dot.gov.*

SUPPLEMENTARY INFORMATION:

Background

FMCSA has authority under 49 U.S.C. 31136(e) and 31315 to grant exemptions from the Federal Motor Carrier Safety Regulations. FMCSA must publish a notice of each exemption request in the **Federal Register** (49 CFR 381.315(a)). The Agency must provide the public an opportunity to inspect the information relevant to the application, including any safety analyses that have been conducted. The Agency must also provide an opportunity for public comment on the request.

The Agency reviews the safety analyses and the public comments, and determines whether granting the exemption would likely achieve a level of safety equivalent to, or greater than, the level that would be achieved by the current regulation (49 CFR 381.305). The decision of the Agency must be published in the **Federal Register** (49 CFR 381.315(b)) with the reason for the grant or denial, and, if granted, the specific person or class of persons receiving the exemption, and the regulatory provision or provisions from which exemption is granted. The notice must also specify the effective period of the exemption (up to 2 years), and explain the terms and conditions of the exemption. The exemption may be renewed (49 CFR 381.300(b)).

Request for Exemption

Daimler has applied for an exemption for the head of its Truck and Bus Division from 49 CFR 383.23, which prescribes licensing requirements for drivers operating CMVs in interstate or intrastate commerce. Dr. Wolfgang Bernhard is unable to obtain a CDL in any of the U.S. States due to his lack of residency in the United States. A copy of the application is in Docket No. FMCSA–2012–0032.

The exemption would allow Dr. Bernhard to operate CMVs in interstate or intrastate commerce to support Daimler field tests designed to meet future vehicle safety and environmental requirements and to promote technological advancements in vehicle safety systems and emissions reductions. Dr. Bernhard needs to drive Daimler vehicles on public roads to better understand ''real world'' environments in the U.S. market. According to Daimler, Dr. Bernhard will typically drive for no more than 6 hours per day for 2 consecutive days, and that 10 percent of the test driving will be on two-lane state highways, while 90 percent will be on interstate highways. The driving will consist of no more than 200 miles per day, for a total of 400 miles during a two-day period on a quarterly basis. He will in all cases be accompanied by a holder of a U.S. CDL who is familiar with the routes to be traveled.

In the May 12, 2012, **Federal Register** (77 FR 31422), FMCSA granted Daimler a similar exemption for two of its test drivers. Each individual held a valid German CDL but lacked the U.S. residency necessary to obtain a CDL. FMCSA has concluded that the process for obtaining a German CDL is comparable to or as effective as the U.S. CDL requirements and ensures that these drivers will likely achieve a level of safety equivalent to or greater than the level that would be obtained in the absence of the exemption.

Daimler requests that the exemption cover a two-year period. Dr. Bernhard holds a valid German CDL, and as explained by Daimler in its exemption request, the requirements for that license ensure that the same level of safety is met or exceeded as if this driver had a U.S. CDL. Furthermore, according to Daimler, Dr. Bernhard is familiar with the operation of CMVs worldwide.

FMCSA has determined that the process for obtaining a German-issued CDL is comparable to, or as effective as the Federal requirements of 49 CFR Part 383, and adequately assesses a driver's ability to operate CMVs in the United States.

Request for Comments

In accordance with 49 U.S.C. 31315(b)(4) and 31136(e), FMCSA requests public comment on Daimler's application for an exemption from the CDL requirements of 49 CFR 383.23. The Agency will consider all comments received by close of business on August 1, 2014. Comments will be available for examination in the docket at the location listed under the **ADDRESSES** section of this notice.

Dated: June 25, 2014.

Larry W. Minor,

Associate Administrator for Policy.

[FR Doc. 2014–15563 Filed 7–1–14; 8:45 am]

BILLING CODE 4910–EX–P

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[Docket No. FMCSA–2013–0386]

Parts and Accessories Necessary for Safe Operation; Application for an Exemption From Mobileye, Inc.

AGENCY: Federal Motor Carrier Safety Administration (FMCSA), DOT.

ACTION: Notice of application for exemption; request for comments.

SUMMARY: The Federal Motor Carrier Safety Administration (FMCSA) requests public comment on an application for exemption from Mobileye, Inc. (Mobileye) to allow interstate motor carrier to install Mobileye's camera-based collision avoidance system (CAS) system at either the bottom or top of the windshield, within the swept area of the windshield wipers. FMCSA's current regulations require that antennae, transponders, and similar devices to be located not more than 6 inches below the upper edge of the windshield, outside the area swept by the windshield wipers, and outside the driver's sight lines to the road and highway signs and signals. Mobileye intends to install these devices as part of a CAS development program in up to several hundred thousand commercial motor vehicles. Mobileye believes this mounting position will maintain a level of safety that is equivalent to or greater than the level of safety achieved without the exemption.

DATES: Comments must be received on or before August 1, 2014.

ADDRESSES: You may submit comments identified by Federal Docket Management System Number FMCSA–2014–0037 by any of the following methods:

- *Web site: http://www.regulations.gov*. Follow the instructions for submitting comments on the Federal electronic docket site. Fax: 1–202–493–2251.
- *Mail:* Docket Management Facility, U.S. Department of Transportation, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590–0001.
- *Hand Delivery:* Ground Floor, Room W12–140, DOT Building, 1200 New Jersey Avenue SE., Washington, DC, between 9 a.m. and 5 p.m. e.t., Monday through Friday, except Federal holidays.

Instructions: All submissions must include the Agency name and docket number for this notice. For detailed instructions on submitting comments and additional information on the exemption process, see the ''Public Participation'' heading below. Note that all comments received will be posted without change to *http://www.regulations.gov*, including any personal information provided. Please see the ''Privacy Act'' heading for further information.

Docket: For access to the docket to read background documents or comments received, go to *http://www.regulations.gov* or to Room W12–140, DOT Building, 1200 New Jersey Avenue SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

Privacy Act: Anyone is able to search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (65 FR 19476) or you may visit *http://www.regulations.gov*.

Public participation: The *http://www.regulations.gov* Web site is generally available 24 hours each day, 365 days each year. You can get electronic submission and retrieval help and guidelines under the ''help'' section of the *http://www.regulations.gov* Web site and also at the DOT's *http://docketsinfo.dot.gov* Web site. If you want to be notified you that we received your comments, please include a self-addressed, stamped envelope or postcard or print the acknowledgement page that appears after submitting comments online.

FOR FURTHER INFORMATION CONTACT: Mr. Brian J. Routhier, Vehicle and Roadside Operations Division, Office of Carrier, Driver, and Vehicle Safety, MC–PSV, (202) 366–1225, Federal Motor Carrier Safety Administration, 1200 New Jersey Avenue SE., Washington, DC 20590–0001.

SUPPLEMENTARY INFORMATION:

Background

Section 4007 of the Transportation Equity Act for the 21st Century (TEA–21) [Pub. L. 105–178, June 9, 1998, 112 Stat. 107, 401] amended 49 U.S.C. 31315 and 31136(e) to provide authority to grant exemptions from the FMCSRs. On August 20, 2004, FMCSA published a final rule implementing section 4007 (69 FR 51589). Under this rule, FMCSA must publish a notice of each exemption request in the **Federal Register** (49 CFR 381.315(a)). The Agency must provide the public with an opportunity to inspect the information relevant to the application, including any safety analyses that have been conducted. The Agency must also provide an opportunity for public comment on the request.

The Agency reviews the safety analyses and the public comments and determines whether granting the exemption would likely achieve a level of safety equivalent to or greater than the level that would be achieved by compliance with the current regulation (49 CFR 381.305). The decision of the Agency must be published in the **Federal Register** (49 CFR 381.315(b)). If the Agency denies the request, it must state the reason for doing so. If the decision is to grant the exemption, the notice must specify the person or class of persons receiving the exemption and the regulatory provision or provisions from which an exemption is granted. The notice must also specify the effective period of the exemption (up to 2 years) and explain the terms and conditions of the exemption. The exemption may be renewed [49 CFR 381.315(c) and 49 CFR 381.300(b)].

Mobileye's Application for Exemption

Mobileye applied for an exemption from 49 CFR 393.60(e)(1) to allow the installation of a CAS system on several thousand commercial motor vehicles. A copy of the application is included in the docket referenced at the beginning of this notice.

Section 393.60(e)(1) of the FMCSRs prohibits the obstruction of the driver's field of view by devices mounted at the top of the windshield. Antennas, transponders and similar devices must not be mounted more than 152 mm (6 inches) below the upper edge of the windshield. These devices must be located outside the area swept by the windshield wipers and outside the driver's sight lines to the road and highway signs and signals. In its application, Mobileye stated:

> Mobileye is making this request because we are coordinating device development and installation of a camera based collision avoidance system in up to several hundred thousand commercial motor vehicles. The camera based sensor equipment to be installed is going to be located at either the bottom or top of the windshield, but will be in the swept area of the windshield wipers because the safety equipment must have a clear forward facing view of the road.
>
> This system is the same technology that Mobileye provides to carmakers such as Ford, GM, Honda and many others. These companies have deployed over two million vehicles with this technology. Collision avoidance systems, in particular those that have the main features of Mobileye, have been noted by NHTSA, NTSB and FMCSA as key safety equipment in both cars and trucks.

Recently, the NTSB cited this type of collision avoidance system as part of its top ten ''most wanted'' advocacy priorities. FMCSA itself has recommended Forward Collision Warning and Lane Departure Warning, just two of Mobileye features. Mobileye seeks exemption for the aftermarket (field retrofitable) version of this technology.

With the exemption, Mobileye will be able to install the camera based collision avoidance system in a location which will offer the best opportunity to optimize the data and evaluate the benefits of such a system as well as maximize safety benefits.

Request for Comments

In accordance with 49 U.S.C. 31315 and 31136(e), FMCSA requests public comment from all interested persons on Mobileye's application for an exemption from 49 CFR 393.60(e)(1). All comments received before the close of business on the comment closing date indicated at the beginning of this notice will be considered and will be available for examination in the docket at the location listed under the **ADDRESSES** section of this notice. Comments received after the comment closing date will be filed in the public docket and will be considered to the extent practicable. In addition to late comments, FMCSA will also continue to file, in the public docket, relevant information that becomes available after the comment closing date. Interested persons should continue to examine the public docket for new material.

Dated: June 25, 2014.

Larry W. Minor,

Associate Administrator for Policy.

[FR Doc. 2014–15577 Filed 7–1–14; 8:45 am]

BILLING CODE 4910–EX–P

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[Docket No. FMCSA–2002–11714; FMCSA–2003–14223; FMCSA–2006–24015; FMCSA–2006–24783]

Qualification of Drivers; Exemption Applications; Vision

AGENCY: Federal Motor Carrier Safety Administration (FMCSA), DOT.

ACTION: Notice of renewal of exemptions; request for comments.

SUMMARY: FMCSA announces its decision to renew the exemptions from the vision requirement in the Federal Motor Carrier Safety Regulations for 4 individuals. FMCSA has statutory authority to exempt individuals from the vision requirement if the exemptions granted will not compromise safety. The Agency has concluded that granting these exemption renewals will provide a level of safety that is equivalent to or greater than the level of safety maintained without the exemptions for these commercial motor vehicle (CMV) drivers.

DATES: This decision is effective August 1, 2014. Comments must be received on or before August 1, 2014.

ADDRESSES: You may submit comments bearing the Federal Docket Management System (FDMS) numbers: Docket No. [Docket No. FMCSA–2002–11714; FMCSA–2003–14223; FMCSA–2006–24015; FMCSA–2006–24783], using any of the following methods:

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov.* Follow the on-line instructions for submitting comments.
- *Mail:* Docket Management Facility; U.S. Department of Transportation, 1200 New Jersey Avenue SE., West Building Ground Floor, Room W12–140, Washington, DC 20590–0001.
- *Hand Delivery or Courier:* West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal Holidays.
- *Fax:* 1–202–493–2251.

Instructions: Each submission must include the Agency name and the docket number for this notice. Note that DOT posts all comments received without change to *http://www.regulations.gov*, including any personal information included in a comment. Please see the Privacy Act heading below.

Docket: For access to the docket to read background documents or comments, go to *http://www.regulations.gov* at any time or Room W12–140 on the ground level of the West Building, 1200 New Jersey Avenue SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The Federal Docket Management System (FDMS) is available 24 hours each day, 365 days each year. If you want acknowledgment that we received your comments, please include a self-addressed, stamped envelope or postcard or print the acknowledgement page that appears after submitting comments on-line.

Privacy Act: Anyone may search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or of the person signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review DOT's Privacy Act Statement for the Federal Docket Management System (FDMS) published in the **Federal Register** on January 17, 2008 (73 FR 3316).

FOR FURTHER INFORMATION CONTACT: Elaine M. Papp, Chief, Medical Programs Division, 202–366–4001, *fmcsamedical@dot.gov*, FMCSA, Department of Transportation, 1200 New Jersey Avenue SE., Room W64–224, Washington, DC 20590–0001. Office hours are from 8:30 a.m. to 5 p.m. Monday through Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION:

Background

Under 49 U.S.C. 31136(e) and 31315, FMCSA may renew an exemption from the vision requirements in 49 CFR 391.41(b)(10), which applies to drivers of CMVs in interstate commerce, for a two-year period if it finds ''such exemption would likely achieve a level of safety that is equivalent to or greater than the level that would be achieved absent such exemption.'' The procedures for requesting an exemption (including renewals) are set out in 49 CFR part 381.

Exemption Decision

This notice addresses 4 individuals who have requested renewal of their exemptions in accordance with FMCSA procedures. FMCSA has evaluated these 4 applications for renewal on their merits and decided to extend each exemption for a renewable two-year period. They are:

Ronald B. Brown (ME), Trixie L. Brown (IN), Brian G. Hagen (IL), Barney J. Wade (MS).

The exemptions are extended subject to the following conditions: (1) That each individual has a physical examination every year (a) by an ophthalmologist or optometrist who attests that the vision in the better eye continues to meet the requirements in 49 CFR 391.41(b)(10), and (b) by a medical examiner who attests that the individual is otherwise physically qualified under 49 CFR 391.41; (2) that each individual provides a copy of the ophthalmologist's or optometrist's report to the medical examiner at the time of the annual medical examination; and (3) that each individual provide a copy of the annual medical certification to the employer for retention in the driver's qualification file and retains a copy of the certification on his/her person while driving for presentation to a duly authorized Federal, State, or local enforcement official. Each exemption will be valid for two years unless rescinded earlier by FMCSA. The

exemption will be rescinded if: (1) The person fails to comply with the terms and conditions of the exemption; (2) the exemption has resulted in a lower level of safety than was maintained before it was granted; or (3) continuation of the exemption would not be consistent with the goals and objectives of 49 U.S.C. 31136(e) and 31315.

Basis for Renewing Exemptions

Under 49 U.S.C. 31315(b)(1), an exemption may be granted for no longer than two years from its approval date and may be renewed upon application for additional two year periods. In accordance with 49 U.S.C. 31136(e) and 31315, each of the 4 applicants has satisfied the entry conditions for obtaining an exemption from the vision requirements (67 FR 15662; 67 FR 37907; 68 FR 10302; 68 FR 19596; 69 FR 26921; 70 FR 44946; 70 FR 74103; 71 FR 14568; 71 FR 27033; 71 FR 30228; 71 FR 32184; 71 FR 41311; 73 FR 36955; 73 FR 42403; 75 FR 36778; 75 FR 38602; 77 FR 40946). Each of these 4 applicants has requested renewal of the exemption and has submitted evidence showing that the vision in the better eye continues to meet the requirement specified at 49 CFR 391.41(b)(10) and that the vision impairment is stable. In addition, a review of each record of safety while driving with the respective vision deficiencies over the past two years indicates each applicant continues to meet the vision exemption requirements. These factors provide an adequate basis for predicting each driver's ability to continue to drive safely in interstate commerce. Therefore, FMCSA concludes that extending the exemption for each renewal applicant for a period of two years is likely to achieve a level of safety equal to that existing without the exemption.

Request for Comments

FMCSA will review comments received at any time concerning a particular driver's safety record and determine if the continuation of the exemption is consistent with the requirements at 49 U.S.C. 31136(e) and 31315. However, FMCSA requests that interested parties with specific data concerning the safety records of these drivers submit comments by August 1, 2014.

FMCSA believes that the requirements for a renewal of an exemption under 49 U.S.C. 31136(e) and 31315 can be satisfied by initially granting the renewal and then requesting and evaluating, if needed, subsequent comments submitted by interested parties. As indicated above, the Agency previously published notices of final disposition announcing its decision to exempt these 4 individuals from the vision requirement in 49 CFR 391.41(b)(10). The final decision to grant an exemption to each of these individuals was made on the merits of each case and made only after careful consideration of the comments received to its notices of applications. The notices of applications stated in detail the qualifications, experience, and medical condition of each applicant for an exemption from the vision requirements. That information is available by consulting the above cited **Federal Register** publications.

Interested parties or organizations possessing information that would otherwise show that any, or all, of these drivers are not currently achieving the statutory level of safety should immediately notify FMCSA. The Agency will evaluate any adverse evidence submitted and, if safety is being compromised or if continuation of the exemption would not be consistent with the goals and objectives of 49 U.S.C. 31136(e) and 31315, FMCSA will take immediate steps to revoke the exemption of a driver.

Submitting Comments

You may submit your comments and material online or by fax, mail, or hand delivery, but please use only one of these means. FMCSA recommends that you include your name and a mailing address, an email address, or a phone number in the body of your document so that FMCSA can contact you if there are questions regarding your submission.

To submit your comment online, go to *http://www.regulations.gov* and in the search box insert the docket numbers FMCSA–2002–11714; FMCSA–2003–14223; FMCSA–2006–24015; FMCSA–2006–24783 and click the search button. When the new screen appears, click on the blue ''Comment Now!'' button on the right hand side of the page. On the new page, enter information required including the specific section of this document to which each comment applies, and provide a reason for each suggestion or recommendation. If you submit your comments by mail or hand delivery, submit them in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing. If you submit comments by mail and would like to know that they reached the facility, please enclose a stamped, self-addressed postcard or envelope.

We will consider all comments and material received during the comment period and may change this proposed rule based on your comments. FMCSA may issue a final rule at any time after the close of the comment period.

Viewing Comments and Documents

To view comments, as well as any documents mentioned in this preamble, To submit your comment online, go to *http://www.regulations.gov* and in the search box insert the docket number FMCSA–2002–11714; FMCSA–2003–14223; FMCSA–2006–24015; FMCSA–2006–24783 and click ''Search.'' Next, click ''Open Docket Folder'' and you will find all documents and comments related to the proposed rulemaking.

Dated: June 23, 2014.

Larry W. Minor,

Associate Administrator for Policy.

[FR Doc. 2014–15570 Filed 7–1–14; 8:45 am]

BILLING CODE 4910–EX–P

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[Docket No. FMCSA–2001–10578; FMCSA–2006–23773; FMCSA–2006–24783; FMCSA–2009–0206; FMCSA–2010–0082; FMCSA–2010–0385; FMCSA–2011–0325; FMCSA–2011–0379; FMCSA–2012–0104; FMCSA–2012–0105; FMCSA–2012–0106]

Qualification of Drivers; Exemption Applications; Vision

AGENCY: Federal Motor Carrier Safety Administration (FMCSA), DOT.

ACTION: Notice of renewal of exemptions; request for comments.

SUMMARY: FMCSA announces its decision to renew the exemptions from the vision requirement in the Federal Motor Carrier Safety Regulations for 17 individuals. FMCSA has statutory authority to exempt individuals from the vision requirement if the exemptions granted will not compromise safety. The Agency has concluded that granting these exemption renewals will provide a level of safety that is equivalent to or greater than the level of safety maintained without the exemptions for these commercial motor vehicle (CMV) drivers.

DATES: This decision is effective July 30, 2014. Comments must be received on or before August 1, 2014.

ADDRESSES: You may submit comments bearing the Federal Docket Management System (FDMS) numbers: Docket No. [Docket No. FMCSA–2001–10578; FMCSA–2006–23773; FMCSA–2006–24783; FMCSA–2009–0206; FMCSA–2010–0082; FMCSA–2010–0385;

FMCSA–2011–0325; FMCSA–2011–0379; FMCSA–2012–0104; FMCSA–2012–0105; FMCSA–2012–0106], using any of the following methods:

- Federal eRulemaking Portal: Go to *http://www.regulations.gov.* Follow the on-line instructions for submitting comments.
- Mail: Docket Management Facility; U.S. Department of Transportation, 1200 New Jersey Avenue SE., West Building Ground Floor, Room W12–140, Washington, DC 20590–0001.
- Hand Delivery or Courier: West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal Holidays.
- Fax: 1–202–493–2251.

Instructions: Each submission must include the Agency name and the docket number for this notice. Note that DOT posts all comments received without change to *http://www.regulations.gov,* including any personal information included in a comment. Please see the Privacy Act heading below.

Docket: For access to the docket to read background documents or comments, go to *http://www.regulations.gov* at any time or Room W12–140 on the ground level of the West Building, 1200 New Jersey Avenue SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The Federal Docket Management System (FDMS) is available 24 hours each day, 365 days each year. If you want acknowledgment that we received your comments, please include a self-addressed, stamped envelope or postcard or print the acknowledgement page that appears after submitting comments on-line.

Privacy Act: Anyone may search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or of the person signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review DOT's Privacy Act Statement for the Federal Docket Management System (FDMS) published in the **Federal Register** on January 17, 2008 (73 FR 3316).

FOR FURTHER INFORMATION CONTACT:

Elaine M. Papp, Chief, Medical Programs Division, 202–366–4001, *fmcsamedical@dot.gov,* FMCSA, Department of Transportation, 1200 New Jersey Avenue SE., Room W64–224, Washington, DC 20590–0001. Office hours are from 8:30 a.m. to 5 p.m. Monday through Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION:

Background

Under 49 U.S.C. 31136(e) and 31315, FMCSA may renew an exemption from the vision requirements in 49 CFR 391.41(b)(10), which applies to drivers of CMVs in interstate commerce, for a two-year period if it finds ''such exemption would likely achieve a level of safety that is equivalent to or greater than the level that would be achieved absent such exemption.'' The procedures for requesting an exemption (including renewals) are set out in 49 CFR part 381.

Exemption Decision

This notice addresses 17 individuals who have requested renewal of their exemptions in accordance with FMCSA procedures. FMCSA has evaluated these 17 applications for renewal on their merits and decided to extend each exemption for a renewable two-year period. They are:

Charles S. Amyx, Jr. (LA)
Michael L. Dean (MI)
Lester M. Ellingson, Jr. (ND)
Damon G. Gallardo (CA)
Marc D. Groszkrueger (IA)
Daniel L. Grover (KS)
Robert E. Judd (IN)
Matthew B. Lairamore (OK)
Shane N. Maul (IN)
James E. Modaffari (OR)
Larry A. Nienhuis (MI)
Gregory A. Reinert (MN)
Scott J. Schlenker (WA)
Joseph B. Shaw, Jr. (VA)
Mark A. Smith (IA)
Roberto E. Soto (TX)
Darwin J. Thomas (PA)

The exemptions are extended subject to the following conditions: (1) That each individual has a physical examination every year (a) by an ophthalmologist or optometrist who attests that the vision in the better eye continues to meet the requirements in 49 CFR 391.41(b)(10), and (b) by a medical examiner who attests that the individual is otherwise physically qualified under 49 CFR 391.41; (2) that each individual provides a copy of the ophthalmologist's or optometrist's report to the medical examiner at the time of the annual medical examination; and (3) that each individual provide a copy of the annual medical certification to the employer for retention in the driver's qualification file and retains a copy of the certification on his/her person while driving for presentation to a duly authorized Federal, State, or local enforcement official. Each exemption will be valid for two years unless rescinded earlier by FMCSA. The exemption will be rescinded if: (1) The person fails to comply with the terms and conditions of the exemption; (2) the exemption has resulted in a lower level of safety than was maintained before it was granted; or (3) continuation of the exemption would not be consistent with the goals and objectives of 49 U.S.C. 31136(e) and 31315.

Basis for Renewing Exemptions

Under 49 U.S.C. 31315(b)(1), an exemption may be granted for no longer than two years from its approval date and may be renewed upon application for additional two year periods. In accordance with 49 U.S.C. 31136(e) and 31315, each of the 17 applicants has satisfied the entry conditions for obtaining an exemption from the vision requirements (66 FR 53826; 66 FR 66966; 71 FR 6828; 71 FR 19603; 71 FR 32183; 71 FR 41310; 73 FR 27014; 73 FR 36955; 74 FR 43220; 74 FR 57553; 75 FR 25917; 75 FR 27623; 75 FR 36779; 75 FR 36729; 75 FR 77942; 76 FR 5425; 77 FR 539; 77 FR 10608; 77 FR 15184; 77 FR 27847; 77 FR 27850; 77 FR 27852; 77 FR 33017; 77 FR 36338; 77 FR 38384; 77 FR 38386; 77 FR 39379; 77 FR 44708). Each of these 17 applicants has requested renewal of the exemption and has submitted evidence showing that the vision in the better eye continues to meet the requirement specified at 49 CFR 391.41(b)(10) and that the vision impairment is stable. In addition, a review of each record of safety while driving with the respective vision deficiencies over the past two years indicates each applicant continues to meet the vision exemption requirements.

These factors provide an adequate basis for predicting each driver's ability to continue to drive safely in interstate commerce. Therefore, FMCSA concludes that extending the exemption for each renewal applicant for a period of two years is likely to achieve a level of safety equal to that existing without the exemption.

Request for Comments

FMCSA will review comments received at any time concerning a particular driver's safety record and determine if the continuation of the exemption is consistent with the requirements at 49 U.S.C. 31136(e) and 31315. However, FMCSA requests that interested parties with specific data concerning the safety records of these drivers submit comments by August 1, 2014.

FMCSA believes that the requirements for a renewal of an exemption under 49 U.S.C. 31136(e) and 31315 can be satisfied by initially

granting the renewal and then requesting and evaluating, if needed, subsequent comments submitted by interested parties. As indicated above, the Agency previously published notices of final disposition announcing its decision to exempt these 17 individuals from the vision requirement in 49 CFR 391.41(b)(10). The final decision to grant an exemption to each of these individuals was made on the merits of each case and made only after careful consideration of the comments received to its notices of applications. The notices of applications stated in detail the qualifications, experience, and medical condition of each applicant for an exemption from the vision requirements. That information is available by consulting the above cited **Federal Register** publications.

Interested parties or organizations possessing information that would otherwise show that any, or all, of these drivers are not currently achieving the statutory level of safety should immediately notify FMCSA. The Agency will evaluate any adverse evidence submitted and, if safety is being compromised or if continuation of the exemption would not be consistent with the goals and objectives of 49 U.S.C. 31136(e) and 31315, FMCSA will take immediate steps to revoke the exemption of a driver.

Submitting Comments

You may submit your comments and material online or by fax, mail, or hand delivery, but please use only one of these means. FMCSA recommends that you include your name and a mailing address, an email address, or a phone number in the body of your document so that FMCSA can contact you if there are questions regarding your submission.

To submit your comment online, go to http://www.regulations.gov and in the search box insert the docket numbers FMCSA–2001–10578; FMCSA–2006–23773; FMCSA–2006–24783; FMCSA–2009–0206; FMCSA–2010–0082; FMCSA–2010–0385; FMCSA–2011–0325; FMCSA–2011–0379; FMCSA–2012–0104; FMCSA–2012–0105; FMCSA–2012–0106 and click the search button. When the new screen appears, click on the blue ''Comment Now!'' button on the right hand side of the page. On the new page, enter information required including the specific section of this document to which each comment applies, and provide a reason for each suggestion or recommendation. If you submit your comments by mail or hand delivery, submit them in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing. If you submit comments by mail and would like to know that they reached the facility, please enclose a stamped, self-addressed postcard or envelope.

We will consider all comments and material received during the comment period and may change this proposed rule based on your comments. FMCSA may issue a final rule at any time after the close of the comment period.

Viewing Comments and Documents

To view comments, as well as any documents mentioned in this preamble, To submit your comment online, go to *http://www.regulations.gov* and in the search box insert the docket number FMCSA–2001–10578; FMCSA–2006–23773; FMCSA–2006–24783; FMCSA–2009–0206; FMCSA–2010–0082; FMCSA–2010–0385; FMCSA–2011–0325; FMCSA–2011–0379; FMCSA–2012–0104; FMCSA–2012–0105; FMCSA–2012–0106 and click ''Search.'' Next, click ''Open Docket Folder'' and you will find all documents and comments related to the proposed rulemaking.

Dated: June 23, 2014.

Larry W. Minor,

Associate Administrator for Policy.

[FR Doc. 2014–15581 Filed 7–1–14; 8:45 am]

BILLING CODE 4910–EX–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, U.S. Department of Transportation.

ACTION: Notice; correction.

SUMMARY: This document corrects a date and citation in a **Federal Register** notice published on Tuesday, May 27, 2014, that announced an information collection request (OMB Control No. 2127–0512) was forwarded to the Office of Management and Budget for review and comment.

FOR FURTHER INFORMATION CONTACT: Mrs. Lori Summers, U.S. Department of Transportation, NHTSA, Room W43–320, 1200 New Jersey Avenue SE., Washington, DC 20590. Mrs. Summer's telephone number is (202) 366–4917 and fax number is (202) 366–7002.

Correction

In the **Federal Register** of May 27, 2014, in FR Doc. 2014–12129, on page 30229, in the second column, the last sentence of the first paragraph of the ''Summary'' section is corrected to read:

''The **Federal Register** Notice with a 60-day comment period was published on March 21, 2014 (79 FR 15797).''

David M. Hines,

Acting Associate Administrator for Rulemaking.

[FR Doc. 2014–15467 Filed 7–1–14; 8:45 am]

BILLING CODE P

DEPARTMENT OF THE TREASURY

Office of Foreign Assets Control

Designation of 2 Individuals Pursuant to Executive Order 13224 of September 23, 2001, ''Blocking Property and Prohibiting Transactions With Persons Who Commit, Threaten To Commit, or Support Terrorism.''

AGENCY: Office of Foreign Assets Control, Treasury.

ACTION: Notice.

SUMMARY: The Treasury Department's Office of Foreign Assets Control (''OFAC'') is publishing the names of 2 individuals whose property and interests in property are blocked pursuant to Executive Order 13224 of September 23, 2001, ''Blocking Property and Prohibiting Transactions With Persons Who Commit, Threaten To Commit, or Support Terrorism.''

DATES: The designations by the Director of OFAC of the 2 individuals in this notice, pursuant to Executive Order 13224, are effective on June 25, 2014.

FOR FURTHER INFORMATION CONTACT: Assistant Director, Compliance Outreach & Implementation, Office of Foreign Assets Control, Department of the Treasury, Washington, DC 20220, tel.: 202/622–2490.

SUPPLEMENTARY INFORMATION:

Electronic and Facsimile Availability

This document and additional information concerning OFAC are available from OFAC's Web site (*www.treas.gov/ofac*) or via facsimile through a 24-hour fax-on-demand service, tel.: 202/622–0077.

Background

On September 23, 2001, the President issued Executive Order 13224 (the ''Order'') pursuant to the International Emergency Economic Powers Act, 50 U.S.C. 1701–1706, and the United Nations Participation Act of 1945, 22 U.S.C. 287c. In the Order, the President declared a national emergency to address grave acts of terrorism and

threats of terrorism committed by foreign terrorists, including the September 11, 2001 terrorist attacks in New York, Pennsylvania, and at the Pentagon. The Order imposes economic sanctions on persons who have committed, pose a significant risk of committing, or support acts of terrorism. The President identified in the Annex to the Order, as amended by Executive Order 13268 of July 2, 2002, 13 individuals and 16 entities as subject to the economic sanctions. The Order was further amended by Executive Order 13284 of January 23, 2003, to reflect the creation of the Department of Homeland Security.

Section 1 of the Order blocks, with certain exceptions, all property and interests in property that are in or hereafter come within the United States or the possession or control of United States persons, of: (1) Foreign persons listed in the Annex to the Order; (2) foreign persons determined by the Secretary of State, in consultation with the Secretary of the Treasury, the Secretary of the Department of Homeland Security and the Attorney General, to have committed, or to pose a significant risk of committing, acts of terrorism that threaten the security of U.S. nationals or the national security, foreign policy, or economy of the United States; (3) persons determined by the Director of OFAC, in consultation with the Departments of State, Homeland Security and Justice, to be owned or controlled by, or to act for or on behalf of those persons listed in the Annex to the Order or those persons determined to be subject to subsection 1(b), 1(c), or 1(d)(i) of the Order; and (4) except as provided in section 5 of the Order and after such consultation, if any, with foreign authorities as the Secretary of State, in consultation with the Secretary of the Treasury, the Secretary of the Department of Homeland Security and the Attorney General, deems appropriate in the exercise of his discretion, persons determined by the Director of OFAC, in consultation with the Departments of State, Homeland Security and Justice, to assist in, sponsor, or provide financial, material, or technological support for, or financial or other services to or in support of, such acts of terrorism or those persons listed in the Annex to the Order or determined to be subject to the Order or to be otherwise associated with those persons listed in the Annex to the Order or those persons determined to be subject to subsection 1(b), 1(c), or 1(d)(i) of the Order.

On June 25, 2014 the Director of OFAC, in consultation with the Departments of State, Homeland Security, Justice and other relevant agencies, designated, pursuant to one or more of the criteria set forth in subsections 1(b), 1(c) or 1(d) of the Order, two individuals whose property and interests in property are blocked pursuant to Executive Order 13224.

The listings for these individuals on OFAC's list of Specially Designated Nationals and Blocked Persons appear as follows:

Individuals

1. GILL, Muhammad Hussein (a.k.a. AL WAFA, Yahya Abu; a.k.a. GILL, Muhammad Hussain; a.k.a. UL–WAFA, Abu; a.k.a. WAFA, Abdul), 4-Lake Road, Lahore, Pakistan; DOB 07 Apr 1937; nationality Pakistan; National ID No. 35202–8457000–3 (Pakistan) (individual) [SDGT].
2. CHAUDHRY, Nazir Ahmad (a.k.a. AHMAD, Nazir; a.k.a. AHMED, Nazeer; a.k.a. AHMED, Nazir); DOB 12 Dec 1948; POB Sahiwal, Punjab Province, Pakistan; citizen Pakistan; Passport BE4196581 (Pakistan) issued 01 Dec 2007 expires 29 Nov 2012; National ID No. 3520162456585 (Pakistan); alt. National ID No. 22058321812 (Pakistan) (individual) [SDGT].

Dated: June 25, 2014.

Adam J. Szubin,

Director, Office of Foreign Assets Control.

[FR Doc. 2014–15552 Filed 7–1–14; 8:45 am]

BILLING CODE 4810–AL–P

DEPARTMENT OF THE TREASURY

Office of Foreign Assets Control

Additional Designations, Foreign Narcotics Kingpin Designation Act

AGENCY: Office of Foreign Assets Control, Treasury.

ACTION: Notice.

SUMMARY: The U.S. Department of the Treasury's Office of Foreign Assets Control (''OFAC'') is publishing the name of one entity whose property and interests in property have been blocked pursuant to the Foreign Narcotics Kingpin Designation Act (''Kingpin Act'') (21 U.S.C. 1901–1908, 8 U.S.C. 1182).

DATES: The designation by the Director of OFAC of the entity identified in this notice pursuant to section 805(b) of the Kingpin Act is effective on June 26, 2014.

FOR FURTHER INFORMATION CONTACT: Assistant Director, Sanctions Compliance & Evaluation, Office of Foreign Assets Control, U.S. Department of the Treasury, Washington, DC 20220, Tel: (202) 622–2490.

SUPPLEMENTARY INFORMATION:

Electronic and Facsimile Availability

This document and additional information concerning OFAC are available on OFAC's Web site at *http://www.treasury.gov/ofac* or via facsimile through a 24-hour fax-on-demand service at (202) 622–0077.

Background

The Kingpin Act became law on December 3, 1999. The Kingpin Act establishes a program targeting the activities of significant foreign narcotics traffickers and their organizations on a worldwide basis. It provides a statutory framework for the imposition of sanctions against significant foreign narcotics traffickers and their organizations on a worldwide basis, with the objective of denying their businesses and agents access to the U.S. financial system and the benefits of trade and transactions involving U.S. companies and individuals.

The Kingpin Act blocks all property and interests in property, subject to U.S. jurisdiction, owned or controlled by significant foreign narcotics traffickers as identified by the President. In addition, the Secretary of the Treasury, in consultation with the Attorney General, the Director of the Central Intelligence Agency, the Director of the Federal Bureau of Investigation, the Administrator of the Drug Enforcement Administration, the Secretary of Defense, the Secretary of State, and the Secretary of Homeland Security may designate and block the property and interests in property, subject to U.S. jurisdiction, of persons who are found to be: (1) materially assisting in, or providing financial or technological support for or to, or providing goods or services in support of, the international narcotics trafficking activities of a person designated pursuant to the Kingpin Act; (2) owned, controlled, or directed by, or acting for or on behalf of, a person designated pursuant to the Kingpin Act; or (3) playing a significant role in international narcotics trafficking.

On June 26, 2014, the Director of OFAC designated the following entity whose property and interests in property are blocked pursuant to section 805(b) of the Kingpin Act.

Entity

1. LA OFICINA DE ENVIGADO, Medellin, Colombia [SDNTK].

Dated: June 26, 2014.

Barbara C. Hammerle,

Acting Director, Office of Foreign Assets Control.

[FR Doc. 2014–15554 Filed 7–1–14; 8:45 am]

BILLING CODE 4810–AL–P

UNITED STATES INSTITUTE OF PEACE

Notice of Meeting

Agency: United States Institute of Peace

Date/Time: Friday, July 25, 2014 (9:30 a.m.–4:45 p.m.)

Location: 2301 Constitution Avenue, NW., Washington, DC 20037

Status: Open Session—Portions may be closed pursuant to Subsection (c) of Section 552(b) of Title 5, United States Code, as provided in subsection 1706(h)(3) of the United States Institute of Peace Act, Public Law 98–525.

Agenda: July 25, 2014 Board Meeting; Approval of Minutes of the One Hundred Fifty-first Meeting (April 25, 2014) of the Board of Directors; Chairman's Report; Vice Chairman's Report; Acting President's Report; Middle East & Africa Overview; Afghanistan Election briefing; PeaceTech; 30th Anniversary of USIP; Other Organizational Topics.

Contact: Denson Staples, Assistant to the Board Liaison, Email: *staples@usip.org*

Dated: June 23, 2014.

Michael B. Graham,

Senior Vice President for Management and Chief Financial Officer, United States Institute of Peace.

[FR Doc. 2014–15208 Filed 7–1–14; 8:45 am]

BILLING CODE 6820–AR–M

FEDERAL REGISTER

Vol. 79 Wednesday,

No. 127 July 2, 2014

Part II

Environmental Protection Agency

40 CFR Part 63

National Emission Standards for Hazardous Air Pollutants: Off-Site Waste and Recovery Operations; Proposed Rule

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 63

[EPA–HQ–OAR–2012–0360; FRL–9911–93–0A]

RIN 2060–AR47

National Emission Standards for Hazardous Air Pollutants: Off-Site Waste and Recovery Operations

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is proposing amendments to the national emission standards for hazardous air pollutants (NESHAP) for off-site waste and recovery operations (OSWRO) to address the results of the residual risk and technology review (RTR) conducted under the Clean Air Act (CAA). In light of our residual risk and technology review, we are proposing to amend the requirements for leak detection and repair and the requirements for certain tanks. In addition, the EPA is proposing amendments to revise regulatory provisions pertaining to emissions during periods of startup, shutdown and malfunction; add requirements for electronic reporting of performance test results; revise the routine maintenance provisions; clarify provisions pertaining to open-ended valves and lines; add monitoring requirements for pressure relief devices; clarify provisions for some performance test methods and procedures; and make several minor clarifications and corrections.

DATES:

Comments. Comments must be received on or before August 18, 2014. A copy of comments on the information collection provisions should be submitted to the Office of Management and Budget (OMB) on or before August 1, 2014.

Public Hearing. We do not plan to conduct a public hearing unless requested. If requested, we will hold a public hearing on July 17, 2014. To request a hearing, please contact the person listed in the following **FOR FURTHER INFORMATION CONTACT** section by July 14, 2014.

ADDRESSES:

Comments. Submit your comments, identified by Docket ID No. EPA–HQ–OAR–2012–0360, by one of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the online instructions for submitting comments.
- *Email: A-and-R-docket@epa.gov.* Include Docket ID No. EPA–HQ–OAR–2012–0360 in the subject line of the message.
- *Fax:* (202) 566–9744, Attention Docket ID No. EPA–HQ–OAR–2012–0360.
- *Mail:* Environmental Protection Agency, EPA Docket Center (EPA/DC), Mail Code 28221T, Attention Docket ID No. EPA–HQ–OAR–2012–0360, 1200 Pennsylvania Avenue NW., Washington, DC 20460. Please include a total of two copies. In addition, please mail a copy of your comments on the information collection provisions to the Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), Attn: Desk Officer for EPA, 725 17th Street NW., Washington, DC 20503.
- *Hand/Courier Delivery:* EPA Docket Center, Room 3334, EPA WJC West Building, 1301 Constitution Avenue NW., Washington, DC 20004, Attention Docket ID No. EPA–HQ–OAR–2012–0360. 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–2012–0360. 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 *http://www.regulations.gov*, including any personal information provided, unless the comment includes information claimed to be confidential business information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through *http://www.regulations.gov* or email. The *http://www.regulations.gov* Web site is an ''anonymous access'' system, which means 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 *http://www.regulations.gov*, your email address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, 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 EPA may not be able to consider your comment. Electronic files should not include special characters or 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/dockets.*

Docket. The EPA has established a docket for this proposed rule under Docket ID No. EPA–HQ–OAR–2012–0360. All documents in the docket are listed in the regulations.gov index. Although listed in the index, some information is not publicly available, e.g., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy. Publicly available docket materials are available either electronically in regulations.gov or in hard copy at the EPA Docket Center, WJC West Building, 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 EPA Docket Center is (202) 566–1742.

Public Hearing. If requested, we will hold a public hearing concerning this proposed rule on July 17, 2014 in the Research Triangle Park, North Carolina area. The EPA will provide further information about the hearing at the following Web site, *http://www.epa.gov/ttn/oarpg/t3main.html,* if a hearing is requested. Persons interested in presenting oral testimony at the hearing should contact Ms. Virginia Hunt, Sector Policies and Programs Division (E143–01), Office of Air Quality Planning and Standards, U.S. Environmental Protection Agency, Research Triangle Park, NC 27711, telephone number (919) 541–0832, by July 17, 2014. If no one requests to speak at the public hearing by July 14, 2014, then a public hearing will not be held, and a notification of such will be posted on *http://www.epa.gov/ttn/oarpg/t3main.html.*

FOR FURTHER INFORMATION CONTACT: For questions about this proposed action, contact Ms. Paula Hirtz, Sector Policies and Programs Division (E143–01), Office of Air Quality Planning and Standards, U.S. Environmental Protection Agency, Research Triangle Park, NC 27711; telephone number: (919) 541–2618; fax number: (919) 541–0246; and email address: *hirtz.paula@epa.gov.* For specific information regarding the risk modeling methodology, contact Ms. Darcie Smith, Health and Environmental Impacts Division (C504–06), Office of Air Quality Planning and

Standards, U.S. Environmental Protection Agency, Research Triangle Park, NC 27711; telephone number (919) 541–2076; fax number: (919) 541–0840; and email address: *smith.darcie@epa.gov.* For information about the applicability of the National Emission Standards for Hazardous Air Pollutants (NESHAP) to a particular entity, contact Ms. Marcia Mia, EPA Office of Enforcement and Compliance Assurance, telephone number (202) 564–7042; email address: *mia.marcia@epa.gov.*

SUPPLEMENTARY INFORMATION:

Preamble Acronyms and Abbreviations

We use multiple acronyms and terms in this preamble. While this list may not be exhaustive, to ease the reading of this preamble and for reference purposes, the EPA defines the following terms and acronyms here:

AEGL—acute exposure guideline levels
AERMOD—air dispersion model used by the HEM–3 model
CAA—Clean Air Act
CalEPA—California EPA
CBI—Confidential Business Information
CDX—Central Data Exchange
CEDRI—Compliance and Emissions Data Reporting Interface
CFR—Code of Federal Regulations
EPA—Environmental Protection Agency
ERPG—Emergency Response Planning Guidelines
ERT—Electronic Reporting Tool
FR—**Federal Register**
HAP—hazardous air pollutants
HCl—hydrochloric acid
HEM–3—Human Exposure Mdel, Version 1.1.0
HF—hydrogen fluoride
HI—hazard index
HON—Hazardous Organic NESHAP
HQ—hazard quotient
ICR—Information Collection Request
IRIS—Integrated Risk Information System
km—kilometer
kPa—kilopascal
LDAR—leak detection and repair
LOAEL—lowest-observed-adverse-effect level
MACT—maximum achievable control technology
m^3—cubic meter
mg/kg-day—milligrams per kilogram per day
mg/m^3—milligrams per cubic meter
MIR—maximum individual risk
NAAQS—National Ambient Air Quality Standards
NAICS—North American Industry Classification System
NAS—National Academy of Sciences
NATA—National Air Toxics Assessment
NESHAP—National Emissions Standards for Hazardous Air Pollutants
NOAA—National Oceanic and Atmospheric Organization
NOAEL—no-observed-adverse-effect level
NRC—National Research Council
NTTAA—National Technology Transfer and Advancement Act
OAQPS—Office of Air Quality Planning and Standards
OMB—Office of Management and Budget
OSWRO—off-site waste and recovery operations
PB–HAP—hazardous air pollutants known to be persistent and bio-accumulative in the environment
PEL—probable effect levels
POM—polycyclic organic matter
ppm—parts per million
PRD— pressure relief device
PTE—permanent total enclosure
RCO—recuperative thermal oxidizer
RCRA—Resource Conservation and Recovery Act
REL—reference exposure level
RFA—Regulatory Flexibility Act
RfC—reference concentration
RfD—reference dose
RIA—Regulatory Impact Analysis
RTR—residual risk and technology review
SAB—Science Advisory Board
SBA—Small Business Administration
SCC—source classification code
S/L/Ts—State, local and tribal air pollution control agencies
SOP—standard operating procedures
SSM—startup, shutdown and malfunction
TEQ—toxicity equivalence factor
TOC—total organic compound
TOSHI—target organ-specific hazard index
tpy—tons per year
TRIM.FaTE—Total Risk Integrated Methodology.Fate, Transport and Ecological Exposure model
TSDF—Solid Waste Treatment, Storage and Disposal Facility
TTN—Technology Transfer Network
UF—uncertainty factor
UMRA—Unfunded Mandates Reform Act
URE—unit risk estimate
VCS—voluntary consensus standards

Organization of this Document. The information in this preamble is organized as follows:

I. General Information
A. Does this action apply to me?
B. Where can I get a copy of this document and other related information?
C. What should I consider as I prepare my comments for the EPA?
II. Background
A. What is the statutory authority for this action?
B. What is this source category and how does the current NESHAP regulate its HAP emissions?
C. What data collection activities were conducted to support this action?
III. Analytical Procedures
A. How did we estimate post-MACT risks posed by the source category?
B. How did we consider the risk results in making decisions for this proposal?
C. How did we perform the technology review?
IV. Analytical Results and Proposed Decisions
A. What are the results of the risk assessment and analyses?
B. What are our proposed decisions regarding risk acceptability, ample margin of safety and adverse environmental effects?
C. What are the results of the technology review and our proposed decisions?
D. What other actions are we proposing?
E. What compliance dates are we proposing?
V. Summary of Cost, Environmental, and Economic Impacts
A. What are the affected sources?
B. What are the air quality impacts?
C. What are the cost impacts?
D. What are the economic impacts?
E. What are the benefits?
VI. Request for Comments
VII. Submitting Data Corrections
VIII. Statutory and Executive Order Reviews
A. Executive Order 12866: Regulatory Planning and Review and Executive Order 13563: Improving Regulation and Regulatory Review
B. Paperwork Reduction Act
C. Regulatory Flexibility Act
D. Unfunded Mandates Reform Act
E. Executive Order 13132: Federalism
F. Executive Order 13175: Consultation and Coordination With Indian Tribal Governments
G. Executive Order 13045: Protection of Children From Environmental Health Risks and Safety Risks
H. Executive Order 13211: Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use
I. National Technology Transfer and Advancement Act
J. Executive Order 12898: Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations

A red-line version of the regulatory language that incorporates the proposed changes in this action is available in the docket for this action (Docket ID No. EPA–HQ–OAR–2012–0360).

I. General Information

A. Does this action apply to me?

Table 1 of this preamble lists the NESHAP and associated regulated industrial source category that is the subject of this proposal. Table 1 is not intended to be exhaustive but rather to provide a guide for readers regarding the entities that this proposed action is likely to affect. The proposed standards, once promulgated, will be directly applicable to the affected sources. The Off-site Waste and Recovery Operations source category was initially titled the ''Solid Waste Treatment, Storage, and Disposal Facilities (TSDF)'' source category, which included commercial facilities that treat, store or dispose of any solid waste received from off-site, as well as commercial facilities that recycle, recover and re-refine wastes received from off-site.[1] On October 13,

[1] See Initial List of Categories of Sources Under Section 112(c)(1) of the Clean Air Act Amendments of 1990 (57 FR 31576, July 16, 1992); U.S. EPA.

Continued

1994 (59 FR 51913), the EPA explained that the source category was intended to represent those off-site waste and recovery operations that are not specifically listed as a separate distinct NESHAP source category such as hazardous waste incineration or municipal solid waste landfills and changed the title of the Solid Waste TSDF source category to ''Off-Site Waste and Recovery Operations'' to avoid confusion, to better distinguish this source category from other source categories, and to emphasize that this source category addresses only activities that manage wastes received from off-site.

TABLE 1—NESHAP AND INDUSTRIAL SOURCE CATEGORIES AFFECTED BY THIS PROPOSED ACTION

Source category	NESHAP	Examples of regulated entities
Off-Site Waste and Recovery Operations.	Off-Site Waste and Recovery Operations.	Businesses or government agencies that operate any of the following: Hazardous waste TSDF; Resource Conservation and Recovery Act (RCRA) exempt hazardous wastewater treatment facilities; nonhazardous wastewater treatment facilities other than publicly-owned treatment works; used solvent recovery plants; RCRA exempt hazardous waste recycling operations; used oil re-refineries.

This table is not intended to be exhaustive, but rather is meant to provide a guide for readers regarding entities likely to be affected by this action. If you have any questions regarding the applicability of this action to a particular entity, consult either the air permitting authority for the entity or your EPA regional representative, as listed in 40 CFR 63.13 (General Provisions).

B. Where can I get a copy of this document and other related information?

In addition to being available in the docket, an electronic copy of this action is available on the Internet through the EPA's Technology Transfer Network (TTN) Web site, a forum for information and technology exchange in various areas of air pollution control. Following signature by the EPA Administrator, the EPA will post a copy of this proposed action on the TTN's policy and guidance page for newly proposed or promulgated rules at: *http://www.epa.gov/ttn/oarpg/t3pfpr.html*. Following publication in the **Federal Register**, the EPA will post the **Federal Register** version of the proposal and key technical documents on the project Web site: *http://www.epa.gov/ttn/atw/offwaste/oswropg.html*. Information on the overall RTR program is available at the following Web site: *http://www.epa.gov/ttn/atw/rrisk/rtrpg.html*.

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

Submitting CBI. Do not submit information containing CBI to the EPA through *http://www.regulations.gov* or email. Clearly mark the part or all of the information that you claim to be CBI. For CBI information on 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 comments that includes information claimed as CBI, you must submit a copy of the comments that does not contain the information claimed as CBI for inclusion in the public docket. If you submit a CD–ROM or disk that does not contain CBI, mark the outside of the disk or CD–ROM clearly that it does not contain CBI. Information not marked as CBI will be included in the public docket and the EPA's electronic public docket without prior notice. Information marked as CBI will not be disclosed except in accordance with procedures set forth in 40 Code of Federal Regulations (CFR) part 2. Send or deliver information identified as CBI only to the following address: Roberto Morales, OAQPS Document Control Officer (C404–02), OAQPS, U.S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711, Attention Docket ID No. EPA–HQ–OAR–2012–0360.

II. Background

A. What is the statutory authority for this action?

Section 112 of the CAA establishes a two-stage regulatory process to address emissions of hazardous air pollutants (HAPs) from stationary sources. In the first stage, after the EPA has identified categories of sources emitting one or more of the HAP listed in CAA section 112(b), CAA section 112(d) requires us to promulgate technology-based NESHAP for those sources. ''Major sources'' are those that emit or have the potential to emit 10 tons per year (tpy) or more of a single HAP or 25 tpy or more of any combination of HAPs. For major sources, the technology-based NESHAP must reflect the maximum degree of emission reductions of HAPs achievable (after considering cost, energy requirements and non-air quality health and environmental impacts) and are commonly referred to as maximum achievable control technology (MACT) standards.

MACT standards must reflect the maximum degree of emissions reduction achievable through the application of measures, processes, methods, systems or techniques, including, but not limited to, measures that (1) reduce the volume of or eliminate pollutants through process changes, substitution of materials or other modifications; (2) enclose systems or processes to eliminate emissions; (3) capture or treat pollutants when released from a process, stack, storage or fugitive emissions point; (4) are design, equipment, work practice or operational standards (including requirements for operator training or certification); or (5) are a combination of the above. CAA section 112(d)(2)(A)–(E). The MACT standards may take the form of design, equipment, work practice or operational standards where the EPA first determines either that (1) a pollutant cannot be emitted through a conveyance designed and constructed to emit or capture the pollutant, or that any requirement for, or use of, such a conveyance would be inconsistent with law; or (2) the application of measurement methodology to a particular class of sources is not practicable due to technological and economic limitations. CAA section 112(h)(1)–(2).

The MACT ''floor'' is the minimum control level allowed for MACT standards promulgated under CAA section 112(d)(3) and may not be based on cost considerations. For new sources, the MACT floor cannot be less stringent than the emissions control that is achieved in practice by the best-

Documentation for Developing the Initial Source Category List (EPA–450/3–91–030; July 1992).

controlled similar source. The MACT floor for existing sources can be less stringent than floors for new sources but not less stringent than the average emissions limitation achieved by the best-performing 12 percent of existing sources in the category or subcategory (or the best-performing five sources for categories or subcategories with fewer than 30 sources). In developing MACT standards, the EPA must also consider control options that are more stringent than the floor. We may establish standards more stringent than the floor based on considerations of the cost of achieving the emission reductions, any non-air quality health and environmental impacts and energy requirements.

The EPA is required to review these technology-based standards and revise them ''as necessary (taking into account developments in practices, processes, and control technologies)'' no less frequently than every eight years. CAA section 112(d)(6). In conducting this review, the EPA is not required to recalculate the MACT floor. Natural Resources Defense Council (*NRDC*) v. *EPA,* 529 F.3d 1077, 1084 (D.C. Cir. 2008). *Association of Battery Recyclers, Inc.* v. *EPA,* 716 F.3d 667 (D.C. Cir. 2013).

The second stage in standard-setting focuses on reducing any remaining (i.e., ''residual'') risk according to CAA section 112(f). Section 112(f)(1) required EPA to prepare a report to Congress discussing (among other things) methods of calculating the risks posed (or potentially posed) by sources after implementation of the MACT standards, the public health significance of those risks and the EPA's recommendations as to legislation regarding such remaining risk. The EPA prepared and submitted the Residual Risk Report to Congress, EPA–453/R–99–001 (Risk Report) in March 1999. Section 112(f)(2) then provides that if Congress does not act on any recommendation in the Report, EPA must analyze and address residual risk for each category or subcategory of sources within 8 years after promulgation of such standards pursuant to section 112(d).

Section 112(f)(2) of the CAA requires the EPA to determine for source categories subject to MACT standards whether the emission standards provide an ample margin of safety to protect public health. Section 112(f)(2)(B) of the CAA expressly preserves the EPA's use of the two-step process for developing standards to address any residual risk and the agency's interpretation of ''ample margin of safety'' developed in the *National Emissions Standards for Hazardous Air Pollutants: Benzene Emissions from Maleic Anhydride Plants, Ethylbenzene/Styrene Plants, Benzene Storage Vessels, Benzene Equipment Leaks, and Coke By-Product Recovery Plants* (Benzene NESHAP) (54 FR 38044, September 14, 1989). The EPA notified Congress in the *Risk Report* that the agency intended to use the Benzene NESHAP approach in making CAA section 112(f) residual risk determinations (EPA–453/R–99–001, p. ES–11). The EPA subsequently adopted this approach in its residual risk determinations and in a challenge to the risk review for the Synthetic Organic Chemical Manufacturing source category, the United States Court of Appeals for the District of Columbia Circuit upheld as reasonable the EPA's interpretation that subsection 112(f)(2) incorporates the approach established in the Benzene NESHAP. *See NRDC* v. *EPA,* 529 F.3d 1077, 1083 (D.C. Cir. 2008)(''[S]ubsection 112(f)(2)(B) expressly incorporates the EPA's interpretation of the Clean Air Act from the Benzene standard, complete with a citation to the **Federal Register**.''); *see also A Legislative History of the Clean Air Act Amendments of 1990,* vol. 1, p. 877 (Senate debate on Conference Report).

The first step in the process of evaluating residual risk is the determination of acceptable risk. If risks are unacceptable, the EPA cannot consider cost in identifying the emissions standards necessary to bring risks to an acceptable level. The second step is the determination of whether standards must be further revised in order to provide an ample margin of safety to protect public health. The ample margin of safety is the level at which the standards must be set, unless an even more stringent standard is necessary to prevent, taking into consideration costs, energy, safety and other relevant factors, an adverse environmental effect.

1. Step 1—Determination of Acceptability

The agency in the Benzene NESHAP concluded that ''the acceptability of risk under section 112 is best judged on the basis of a broad set of health risk measures and information'' and that the ''judgment on acceptability cannot be reduced to any single factor.'' Benzene NESHAP at 38046. The determination of what represents an ''acceptable'' risk is based on a judgment of ''what risks are acceptable in the world in which we live'' (*Risk Report* at 178, quoting *NRDC* v. *EPA,* 824 F. 2d 1146, 1165 (D.C. Cir. 1987) (en banc) (''Vinyl Chloride''), recognizing that our world is not risk-free.

In the Benzene NESHAP, we stated that ''EPA will generally presume that if the risk to [the maximum exposed] individual is no higher than approximately one in 10 thousand, that risk level is considered acceptable.'' 54 FR at 38045, September 14, 1989. We discussed the maximum individual lifetime cancer risk (or maximum individual risk (MIR)) as being ''the estimated risk that a person living near a plant would have if he or she were exposed to the maximum pollutant concentrations for 70 years.'' *Id.* We explained that this measure of risk ''is an estimate of the upper bound of risk based on conservative assumptions, such as continuous exposure for 24 hours per day for 70 years.'' *Id.* We acknowledged that maximum individual lifetime cancer risk ''does not necessarily reflect the true risk, but displays a conservative risk level which is an upper-bound that is unlikely to be exceeded.'' *Id.*

Understanding that there are both benefits and limitations to using the MIR as a metric for determining acceptability, we acknowledged in the Benzene NESHAP that ''consideration of maximum individual risk * * * must take into account the strengths and weaknesses of this measure of risk.'' *Id.* Consequently, the presumptive risk level of 100-in-1 million (1-in-10 thousand) provides a benchmark for judging the acceptability of maximum individual lifetime cancer risk, but does not constitute a rigid line for making that determination. Further, in the Benzene NESHAP, we noted that:

> [p]articular attention will also be accorded to the weight of evidence presented in the risk assessment of potential carcinogenicity or other health effects of a pollutant. While the same numerical risk may be estimated for an exposure to a pollutant judged to be a known human carcinogen, and to a pollutant considered a possible human carcinogen based on limited animal test data, the same weight cannot be accorded to both estimates. In considering the potential public health effects of the two pollutants, the Agency's judgment on acceptability, including the MIR, will be influenced by the greater weight of evidence for the known human carcinogen.

Id. at 38046. The agency also explained in the Benzene NESHAP that:

> [i]n establishing a presumption for MIR, rather than a rigid line for acceptability, the Agency intends to weigh it with a series of other health measures and factors. These include the overall incidence of cancer or other serious health effects within the exposed population, the numbers of persons exposed within each individual lifetime risk range and associated incidence within, typically, a 50 km exposure radius around facilities, the science policy assumptions and

estimation uncertainties associated with the risk measures, weight of the scientific evidence for human health effects, other quantified or unquantified health effects, effects due to co-location of facilities, and co-emission of pollutants.

Id. At 38045. In some cases, these health measures and factors taken together may provide a more realistic description of the magnitude of risk in the exposed population than that provided by maximum individual lifetime cancer risk alone.

As noted earlier, in *NRDC* v. *EPA,* the court held that section 112(f)(2) ''incorporates the EPA's interpretation of the Clean Air Act from the Benzene Standard.'' The court further held that Congress' incorporation of the Benzene standard applies equally to carcinogens and non-carcinogens. 529 F.3d at 1081–82. Accordingly, we also consider non-cancer risk metrics in our determination of risk acceptability and ample margin of safety.

2. Step 2—Determination of Ample Margin of Safety

CAA section 112(f)(2) requires the EPA to determine, for source categories subject to MACT standards, whether those standards provide an ample margin of safety to protect public health. As explained in the Benzene NESHAP, ''the second step of the inquiry, determining an 'ample margin of safety,' again includes consideration of all of the health factors, and whether to reduce the risks even further . . . . Beyond that information, additional factors relating to the appropriate level of control will also be considered, including costs and economic impacts of controls, technological feasibility, uncertainties and any other relevant factors. Considering all of these factors, the agency will establish the standard at a level that provides an ample margin of safety to protect the public health, as required by section 112.'' 54 FR at 38046, September 14, 1989.

According to CAA section 112(f)(2)(A), if the MACT standards for HAP ''classified as a known, probable, or possible human carcinogen do not reduce lifetime excess cancer risks to the individual most exposed to emissions from a source in the category or subcategory to less than one in one million,'' the EPA must promulgate residual risk standards for the source category (or subcategory), as necessary to provide an ample margin of safety to protect public health. In doing so, the EPA may adopt standards equal to existing MACT standards if the EPA determines that the existing standards (i.e., the MACT standards) are sufficiently protective. *NRDC* v. *EPA,* 529 F.3d 1077, 1083 (D.C. Cir. 2008) (''If EPA determines that the existing technology-based standards provide an 'ample margin of safety,' then the Agency is free to readopt those standards during the residual risk rulemaking.'') The EPA must also adopt more stringent standards, if necessary, to prevent an adverse environmental effect,[2] but must consider cost, energy, safety and other relevant factors in doing so.

The CAA does not specifically define the terms ''individual most exposed,'' ''acceptable level'' and ''ample margin of safety.'' In the Benzene NESHAP, 54 FR at 38044–38045, September 14, 1989, we stated as an overall objective:

> In protecting public health with an ample margin of safety under section 112, EPA strives to provide maximum feasible protection against risks to health from hazardous air pollutants by (1) protecting the greatest number of persons possible to an individual lifetime risk level no higher than approximately 1-in-1 million and (2) limiting to no higher than approximately 1-in-10 thousand [i.e., 100-in-1 million] the estimated risk that a person living near a plant would have if he or she were exposed to the maximum pollutant concentrations for 70 years.

The agency further stated that ''[t]he EPA also considers incidence (the number of persons estimated to suffer cancer or other serious health effects as a result of exposure to a pollutant) to be an important measure of the health risk to the exposed population. Incidence measures the extent of health risks to the exposed population as a whole, by providing an estimate of the occurrence of cancer or other serious health effects in the exposed population.'' *Id.* at 38045.

In the ample margin of safety decision process, the agency again considers all of the health risks and other health information considered in the first step, including the incremental risk reduction associated with standards more stringent than the MACT standard or a more stringent standard that the EPA has determined is necessary to ensure risk is acceptable. In the ample margin of safety analysis, the agency considers additional factors, including costs and economic impacts of controls, technological feasibility, uncertainties and any other relevant factors. Considering all of these factors, the agency will establish the standard at a level that provides an ample margin of safety to protect the public health, as required by CAA section 112(f). 54 FR 38046, September 14, 1989.

B. What is this source category and how does the current NESHAP regulate its HAP emissions?

The NESHAP for OSWRO was proposed on October 13, 1994 (59 FR 51913), promulgated on July 1, 1996 (61 FR 34140), and codified at 40 CFR part 63, subpart DD. The final rule was amended on July 20, 1999 (64 FR 38950). In general, the rule applies to waste management units and recovery operations that are: (1) Located at major sources of HAP emissions; and (2) used to manage, convey or handle used oil, used solvent or waste received from other facilities and that contain at least one of 97 organic HAP specified in the rule.[3] The HAP emission sources at facilities subject to the OSWRO NESHAP are tanks, containers, surface impoundments, oil-water separators, organic-water separators, process vents and transfer systems used to manage off-site material and equipment leaks. The MACT standards regulate these emissions sources through emission limits, equipment standards and work practices.

C. What data collection activities were conducted to support this action?

Under the authority of CAA section 114, we sent questionnaires to nine companies that own and operate OSWRO facilities. In the CAA section 114 questionnaires, we asked for information about process equipment, control devices, work practices, associated emission reductions, point and fugitive emissions, and other aspects of facility operations. We visited three facilities, and reviewed permit data from 18 state and local agencies. In addition, we reviewed several EPA databases to identify facilities that may be part of the source category. We also reviewed data in the EPA's National Emissions Inventory (NEI) to identify emission sources and quantities of emissions and the Toxics Release Inventory (TRI) to verify emissions estimates.

The data gathered through these activities are described further in the memorandum *Development of the RTR Emissions Dataset for the Off-Site Waste and Recovery Operations Source Category,* which is available in the docket for this proposed rule.

[2] ''Adverse environmental effect'' is defined as any significant and widespread adverse effect, which may be reasonably anticipated to wildlife, aquatic life or natural resources, including adverse impacts on populations of endangered or threatened species or significant degradation of environmental qualities over broad areas. CAA section 112(a)(7).

[3] The OSWRO MACT rule defines ''waste,'' ''used oil'' and ''used solvent'' in 40 CFR 63.681 Definitions.

III. Analytical Procedures

In this section, we describe the analyses performed to support the proposed decisions for the RTR and other issues addressed in this proposal.

A. How did we estimate post-MACT risks posed by the source category?

The EPA conducted a risk assessment that provides estimates of the MIR posed by the HAP emissions from each source in the source category, the hazard index (HI) for chronic exposures to HAP with the potential to cause non-cancer health effects, and the hazard quotient (HQ) for acute exposures to HAP with the potential to cause non-cancer health effects. The assessment also provides estimates of the distribution of cancer risks within the exposed populations, cancer incidence and an evaluation of the potential for adverse environmental effects for the source category. The eight sections that follow this paragraph describe how we estimated emissions and conducted the risk assessment. The docket for this proposed rule contains the following document which provides more information on the risk assessment inputs and models: *Draft Residual Risk Assessment for the Off-Site Waste and Recovery Operations Source Category.* The methods used to assess risks (as described in the eight primary steps below) are consistent with those peer-reviewed by a panel of the EPA's Science Advisory Board (SAB) in 2009 and described in their peer review report issued in 2010 [4]; they are also consistent with the key recommendations contained in that report.

1. How did we estimate actual emissions and identify the emissions release characteristics?

Data for 38 OSWRO facilities were used to create an RTR emissions dataset (i.e., risk model input file). This RTR emissions dataset is based on a combination of data gathered through the CAA section 114 questionnaire and the 2005 NEI. The NEI is a database that contains information about sources that emit criteria air pollutants, their precursors and HAP. The database includes estimates of annual air pollutant emissions from point, nonpoint and mobile sources in the 50 states, the District of Columbia, Puerto Rico and the Virgin Islands. The EPA collects this information and releases an updated version of the NEI database every 3 years. The NEI includes information necessary for conducting risk modeling, including annual HAP emissions estimates from individual emission points at facilities and the related emissions release parameters. Other databases, including the TRI and Envirofacts, were consulted to verify emissions estimates and to identify facilities that are part of the OSWRO source category. As part of our quality assurance review, we reviewed the emissions data and release characteristics data in the RTR emissions dataset to ensure the data were accurate. We also checked the coordinates of each emission source in the dataset using tools such as Google Earth and ArcView to ensure the emission point locations were correct.

While data for 38 OSWRO facilities were included in the RTR emissions dataset, available data indicate there are 52 currently operating major source facilities that are subject to the OSWRO MACT standards. The remaining 14 facilities were not included in the modeling file because the information available to the EPA, including the NEI, did not attribute any amount of HAP emissions to off-site waste and recovery operations at these facilities. It was also not possible to discern from the emission point identifiers or characteristics in the inventory which emissions could be attributed to the OSWRO source category. We note that available permit information indicates that five of these 14 facilities are only subject to off-site waste HAP content determination requirements and are not subject to the emissions standards and other requirements of the OSWRO NESHAP due to the low amount of HAP in the off-site waste accepted by these facilities. Also, available permit data indicates that two additional facilities are not subject to the emissions standards and other requirements of the OSWRO NESHAP because they comply instead with 40 CFR part 61, subpart FF, as allowed by the OSWRO NESHAP. For these seven facilities, we would not expect any emission points to be labeled as OSWRO emission points in the NEI because those emission points are not subject to any OSWRO MACT emissions standards. We also did not collect data from these facilities through our CAA section 114 questionnaire. As noted in section VI of this preamble, we are requesting site-specific emissions data that would enable us to better characterize the maximum risks from the OSWRO source category. A list of the 52 facilities and additional information about the development of the RTR emissions dataset is provided in the technical document: *Development of the RTR Emissions Dataset for the Off-Site Waste and Recovery Operations Source Category,* which is available in the docket for this action.

2. How did we estimate MACT-allowable emissions?

The available emissions data in the RTR emissions dataset include estimates of the mass of HAP emitted during the specified annual time period. In some cases, these ''actual'' emission levels are lower than the emission levels required to comply with the MACT standards. The emissions level allowed to be emitted by the MACT standards is referred to as the ''MACT-allowable'' emissions level. We discussed the use of both MACT-allowable and actual emissions in the final Coke Oven Batteries residual risk rule (70 FR 19998–19999, April 15, 2005) and in the proposed and final Hazardous Organic NESHAP residual risk rules (71 FR 34428, June 14, 2006, and 71 FR 76609, December 21, 2006, respectively). In those previous actions, we noted that assessing the risks at the MACT-allowable level is inherently reasonable since these risks reflect the maximum level facilities could emit and still comply with national emission standards. We also explained that it is reasonable to consider actual emissions, where such data are available, in both steps of the risk analysis, in accordance with the Benzene NESHAP approach. (54 FR 38044, September 14, 1989.)

We used the emissions data gathered from the 2005 NEI and responses to the CAA section 114 questionnaire to estimate the MACT-allowable emissions levels. We estimate that the actual emissions level is representative of the MACT-allowable level for all emissions sources except tanks and process vents. Based on responses to the CAA section 114 questionnaire, we estimate that MACT-allowable emissions from tanks and process vents could be up to five times the actual emissions. For some facilities, we cannot assign HAP emissions to a specific type of emission source (e.g., a process vent) due to a lack of specificity in the emission point identifiers in the NEI. For facilities where we could identify specific emission source types, we applied a factor of 5 to the actual emissions attributable to tanks and process vents. A factor of 1 was applied to the actual emissions for other emissions sources (e.g., equipment leaks). For facilities where we could not identify specific emission source types, we developed and applied a factor of 2.5 to all the OSWRO emissions. The 2.5 factor is

[4] U.S. EPA SAB. *Risk and Technology Review (RTR) Risk Assessment Methodologies: For Review by the EPA's Science Advisory Board with Case Studies—MACT I Petroleum Refining Sources and Portland Cement Manufacturing,* May 2010.

based on the factor of 5 for tanks and process vents and information from the responses to the CAA section 114 questionnaire indicating that tank and process vent emissions comprise approximately half of the total OSWRO emissions.

For more detail about this estimate of the MACT-allowable emissions, see the memorandum, *MACT-Allowable Emissions for the Off-Site Waste and Recovery Operations Source Category,* which is available in the docket for this action.

3. How did we conduct dispersion modeling, determine inhalation exposures and estimate individual and population inhalation risks?

Both long-term and short-term inhalation exposure concentrations and health risks from the source category addressed in this proposal were estimated using the Human Exposure Model (Community and Sector HEM–3 version 1.1.0). The HEM–3 performs three primary risk assessment activities: (1) Conducting dispersion modeling to estimate the concentrations of HAP in ambient air, (2) estimating long-term and short-term inhalation exposures to individuals residing within 50 kilometers (km) of the modeled sources [5], and (3) estimating individual and population-level inhalation risks using the exposure estimates and quantitative dose-response information.

The air dispersion model used by the HEM–3 model (AERMOD) is one of the EPA's preferred models for assessing pollutant concentrations from industrial facilities.[6] To perform the dispersion modeling and to develop the preliminary risk estimates, HEM–3 draws on three data libraries. The first is a library of meteorological data, which is used for dispersion calculations. This library includes 1 year (2011) of hourly surface and upper air observations for more than 800 meteorological stations, selected to provide coverage of the United States and Puerto Rico. A second library of United States Census Bureau census block [7] internal point locations and populations provides the basis of human exposure calculations (U.S. Census, 2010). In addition, for each census block, the census library includes the elevation and controlling hill height, which are also used in dispersion calculations. A third library of pollutant unit risk factors and other health benchmarks is used to estimate health risks. These risk factors and health benchmarks are the latest values recommended by the EPA for HAP and other toxic air pollutants. These values are available at: *http://www.epa.gov/ttn/atw/toxsource/summary.html* and are discussed in more detail later in this section.

In developing the risk assessment for chronic exposures, we used the estimated annual average ambient air concentrations of each HAP emitted by each source for which we have emissions data in the source category. The air concentrations at each nearby census block centroid were used as a surrogate for the chronic inhalation exposure concentration for all the people who reside in that census block. We calculated the MIR for each facility as the cancer risk associated with a continuous lifetime (24 hours per day, 7 days per week, and 52 weeks per year for a 70-year period) exposure to the maximum concentration at the centroid of inhabited census blocks. Individual cancer risks were calculated by multiplying the estimated lifetime exposure to the ambient concentration of each of the HAP (in micrograms per cubic meter ($\mu g/m^3$)) by its unit risk estimate (URE). The URE is an upper bound estimate of an individual's probability of contracting cancer over a lifetime of exposure to a concentration of 1 microgram of the pollutant per cubic meter of air. For residual risk assessments, we generally use URE values from the EPA's Integrated Risk Information System (IRIS). For carcinogenic pollutants without EPA IRIS values, we look to other reputable sources of cancer dose-response values, often using California EPA (CalEPA) URE values, where available. In cases where new, scientifically credible dose response values have been developed in a manner consistent with the EPA guidelines and have undergone a peer review process similar to that used by the EPA, we may use such dose-response values in place of, or in addition to, other values, if appropriate.

The EPA estimated incremental individual lifetime cancer risks associated with emissions from the facilities in the source category as the sum of the risks for each of the carcinogenic HAP (including those classified as carcinogenic to humans, likely to be carcinogenic to humans, and suggestive evidence of carcinogenic potential [8]) emitted by the modeled sources. Cancer incidence and the distribution of individual cancer risks for the population within 50 km of the sources were also estimated for the source category as part of this assessment by summing individual risks. A distance of 50 km is consistent with both the analysis supporting the 1989 Benzene NESHAP (54 FR 38044, September 14, 1989) and the limitations of Gaussian dispersion models, including AERMOD.

To assess the risk of non-cancer health effects from chronic exposures, we summed the HQ for each of the HAP that affects a common target organ system to obtain the HI for that target organ system (or target organ-specific HI, TOSHI). The HQ is the estimated exposure divided by the chronic reference value, which is a value selected from one of several sources. First, the chronic reference level can be the EPA reference concentration (RfC), (*http://www.epa.gov/riskassessment/glossary.htm*), defined as ''an estimate (with uncertainty spanning perhaps an order of magnitude) of a continuous inhalation exposure to the human population (including sensitive subgroups) that is likely to be without an appreciable risk of deleterious effects during a lifetime.'' Alternatively, in cases where an RfC from the EPA's IRIS database is not available, or where the EPA determines that using a value other than the RfC is appropriate, the chronic reference level can be a value from the following prioritized sources: (1) The Agency for Toxic Substances and Disease Registry Minimum Risk Level (*http://www.atsdr.cdc.gov/mrls/index.asp*), which is defined as ''an estimate of daily human exposure to a hazardous substance that is likely to be without an appreciable risk of adverse non-cancer health effects (other than cancer) over a specified duration of exposure''; (2) the CalEPA Chronic Reference Exposure Level (REL) (*http://www.oehha.ca.gov/air/hot_spots/pdf/HRAguidefinal.pdf*), which is defined as ''the concentration level (that is expressed in units of micrograms per

[5] This metric comes from the Benzene NESHAP. See 54 FR 38046.

[6] U.S. EPA. Revision to the *Guideline on Air Quality Models: Adoption of a Preferred General Purpose (Flat and Complex Terrain) Dispersion Model and Other Revisions* (70 FR 68218, November 9, 2005).

[7] A census block is the smallest geographic area for which census statistics are tabulated.

[8] These classifications also coincide with the terms ''known carcinogen, probable carcinogen, and possible carcinogen,'' respectively, which are the terms advocated in the EPA's previous *Guidelines for Carcinogen Risk Assessment,* published in 1986 (51 FR 33992, September 24, 1986). Summing the risks of these individual compounds to obtain the cumulative cancer risks is an approach that was recommended by the EPA's Science Advisory Board (SAB) in their 2002 peer review of EPA's National Air Toxics Assessment (NATA) entitled, *NATA—Evaluating the National-scale Air Toxics Assessment 1996 Data—an SAB Advisory,* available at: *http://yosemite.epa.gov/sab/sabproduct.nsf/214C6E915BB04E14852570CA007A682C/$File/ecadv02001.pdf.*

cubic meter (µg/m3) for inhalation exposure and in a dose expressed in units of milligram per kilogram-day (mg/kg-day) for oral exposures), at or below which no adverse health effects are anticipated for a specified exposure duration''; or (3) as noted above, a scientifically credible dose-response value that has been developed in a manner consistent with the EPA guidelines and has undergone a peer review process similar to that used by the EPA, in place of or in concert with other values.

The EPA also evaluated screening estimates of acute exposures and risks for each of the HAP at the point of highest off-site exposure for each facility (i.e., not just the census block centroids), assuming that a person is located at this spot at a time when both the peak (hourly) emissions rate and worst-case dispersion conditions occur. The acute HQ is the estimated acute exposure divided by the acute dose-response value. In each case, the EPA calculated acute HQ values using best available, short-term dose-response values. These acute dose-response values, which are described below, include the acute REL, acute exposure guideline levels (AEGL) and emergency response planning guidelines (ERPG) for 1-hour exposure durations. As discussed below, we used conservative assumptions for emissions rates, meteorology and exposure location for our acute analysis.

As described in the *CalEPA's Air Toxics Hot Spots Program Risk Assessment Guidelines, Part I, The Determination of Acute Reference Exposure Levels for Airborne Toxicants,* an acute REL value (*http://www.oehha.ca.gov/air/pdf/acuterel.pdf*) is defined as, ''the concentration level at or below which no adverse health effects are anticipated for a specified exposure duration.'' *Id.* at page 2. Acute REL values are based on the most sensitive, relevant, adverse health effect reported in the peer-reviewed medical and toxicological literature. Acute REL values are designed to protect the most sensitive individuals in the population through the inclusion of margins of safety. Because margins of safety are incorporated to address data gaps and uncertainties, exceeding the REL does not automatically indicate an adverse health impact.

AEGL values were derived in response to recommendations from the National Research Council (NRC). As described in *Standing Operating Procedures (SOP) of the National Advisory Committee on Acute Exposure Guideline Levels for Hazardous Substances* (*http://www.epa.gov/oppt/aegl/pubs/sop.pdf*),[9] ''the NRC's previous name for acute exposure levels—community emergency exposure levels—was replaced by the term AEGL to reflect the broad application of these values to planning, response, and prevention in the community, the workplace, transportation, the military, and the remediation of Superfund sites.'' *Id.* at 2. This document also states that AEGL values ''represent threshold exposure limits for the general public and are applicable to emergency exposures ranging from 10 minutes to eight hours.'' *Id.* at 2.

The document lays out the purpose and objectives of AEGL by stating that ''the primary purpose of the AEGL program and the National Advisory Committee for Acute Exposure Guideline Levels for Hazardous Substances is to develop guideline levels for once-in-a-lifetime, short-term exposures to airborne concentrations of acutely toxic, high-priority chemicals.'' *Id.* at 21. In detailing the intended application of AEGL values, the document states that ''[i]t is anticipated that the AEGL values will be used for regulatory and non-regulatory purposes by U.S. Federal and state agencies and possibly the international community in conjunction with chemical emergency response, planning, and prevention programs. More specifically, the AEGL values will be used for conducting various risk assessments to aid in the development of emergency preparedness and prevention plans, as well as real-time emergency response actions, for accidental chemical releases at fixed facilities and from transport carriers.'' *Id.* at 31.

The AEGL–1 value is then specifically defined as ''the airborne concentration (expressed as ppm (parts per million) or mg/m3 (milligrams per cubic meter)) of a substance above which it is predicted that the general population, including susceptible individuals, could experience notable discomfort, irritation, or certain asymptomatic non-sensory effects. However, the effects are not disabling and are transient and reversible upon cessation of exposure.'' *Id.* at 3. The document also notes that, ''Airborne concentrations below AEGL–1 represent exposure levels that can produce mild and progressively increasing but transient and non-disabling odor, taste, and sensory irritation or certain asymptomatic, non-sensory effects.'' *Id.* Similarly, the document defines AEGL–2 values as ''the airborne concentration (expressed as parts per million or milligrams per cubic meter) of a substance above which it is predicted that the general population, including susceptible individuals, could experience irreversible or other serious, long-lasting adverse health effects or an impaired ability to escape.'' *Id.*

ERPG values are derived for use in emergency response, as described in the American Industrial Hygiene Association's ERP Committee document entitled, *ERPGS Procedures and Responsibilities* (*http://sp4m.aiha.org/insideaiha/GuidelineDevelopment/ERPG/Documents/ERP-SOPs2006.pdf*), which states that, ''Emergency Response Planning Guidelines were developed for emergency planning and are intended as health based guideline concentrations for single exposures to chemicals.''[10] *Id.* at 1. The ERPG–1 value is defined as ''the maximum airborne concentration below which it is believed that nearly all individuals could be exposed for up to 1 hour without experiencing other than mild transient adverse health effects or without perceiving a clearly defined, objectionable odor.'' *Id.* at 2. Similarly, the ERPG–2 value is defined as ''the maximum airborne concentration below which it is believed that nearly all individuals could be exposed for up to one hour without experiencing or developing irreversible or other serious health effects or symptoms which could impair an individual's ability to take protective action.'' *Id.* at 1.

As can be seen from the definitions above, the AEGL and ERPG values include the similarly-defined severity levels 1 and 2. For many chemicals, a severity level 1 value AEGL or ERPG has not been developed because the types of effects for these chemicals are not consistent with the AEGL–1/ERPG–1 definitions; in these instances, we compare higher severity level AEGL–2 or ERPG–2 values to our modeled exposure levels to screen for potential acute concerns. When AEGL–1/ERPG–1 values are available, they are used in our acute risk assessments.

Acute REL values for 1-hour exposure durations are typically lower than their corresponding AEGL–1 and ERPG–1 values. Even though their definitions are slightly different, AEGL–1 values are often the same as the corresponding ERPG–1 values, and AEGL–2 values are often equal to ERPG–2 values. Maximum HQ values from our acute screening risk assessments typically

[9] National Academy of Sciences (NAS), 2001. *Standing Operating Procedures for Developing Acute Exposure Levels for Hazardous Chemicals,* page 2.

[10] *ERP Committee Procedures and Responsibilities.* November 1, 2006. American Industrial Hygiene Association.

result when basing them on the acute REL value for a particular pollutant. In cases where our maximum acute HQ value exceeds 1, we also report the HQ value based on the next highest acute dose-response value (usually the AEGL–1 and/or the ERPG–1 value).

To develop screening estimates of acute exposures in the absence of hourly emissions data, generally we first develop estimates of maximum hourly emissions rates by multiplying the average actual annual hourly emissions rates by a default factor to cover routinely variable emissions. We choose the factor to use partially based on process knowledge and engineering judgment. The factor chosen also reflects a Texas study of short-term emissions variability, which showed that most peak emission events in a heavily-industrialized four-county area (Harris, Galveston, Chambers and Brazoria Counties, Texas) were less than twice the annual average hourly emissions rate. The highest peak emissions event was 74 times the annual average hourly emissions rate, and the 99th percentile ratio of peak hourly emissions rate to the annual average hourly emissions rate was 9.[11] Considering this analysis, to account for more than 99 percent of the peak hourly emissions, we apply a conservative screening multiplication factor of 10 to the average annual hourly emissions rate in our acute exposure screening assessments as our default approach. However, we use a factor other than 10 if we have information that indicates that a different factor is appropriate for a particular source category. For this source category, there was no such information available and the default factor of 10 was used in the acute screening process.

As part of our acute risk assessment process, for cases where acute HQ values from the screening step were less than or equal to 1 (even under the conservative assumptions of the screening analysis), acute impacts were deemed negligible and no further analysis was performed. In cases where an acute HQ from the screening step was greater than 1, additional site-specific data were considered to develop a more refined estimate of the potential for acute impacts of concern. For this source category, there were no offsite acute values greater than 1, and no refined estimates were developed. Ideally, we would prefer to have continuous measurements over time to see how the emissions vary by each hour over an entire year. Having a frequency distribution of hourly emissions rates over a year would allow us to perform a probabilistic analysis to estimate potential threshold exceedances and their frequency of occurrence. Such an evaluation could include a more complete statistical treatment of the key parameters and elements adopted in this screening analysis. Recognizing that this level of data is rarely available, we instead rely on the multiplier approach.

To better characterize the potential health risks associated with estimated acute exposures to HAP, and in response to a key recommendation from the SAB's peer review of the EPA's RTR risk assessment methodologies,[12] we generally examine a wider range of available acute health metrics (e.g., RELs, AEGLs) than we do for our chronic risk assessments. This is in response to the SAB's acknowledgement that there are generally more data gaps and inconsistencies in acute reference values than there are in chronic reference values. In some cases, when Reference Value Arrays [13] for HAP have been developed, we consider additional acute values (i.e., occupational and international values) to provide a more complete risk characterization.

4. How did we conduct the multipathway exposure and risk screening?

The EPA conducted a screening analysis examining the potential for significant human health risks due to exposures via routes other than inhalation (i.e., ingestion). Initially, we determined whether any sources in the source category emitted any hazardous air pollutants known to be persistent and bioaccumulative in the environment (PB–HAP). The PB–HAP compounds or compound classes are identified for the screening from the EPA's Air Toxics Risk Assessment Library (available at *http://www.epa.gov/ttn/fera/risk_atra_vol1.html*).

For the OSWRO source category, we identified emissions of polycyclic organic matter (POM) (analyzed as benzo(a)pyrene toxicity equivalence factor (TEQ)), polychlorinated biphenyls, hexachlorobenzene, chlordane, lindane (gamma hch), methoxyclor, toxaphene, heptachlor, and trifluralin. Because one or more of these PB–HAP are emitted by at least one facility in the OSWRO source category, we proceeded to the next step of the evaluation. In this step, we determined whether the facility-specific emissions rates of the emitted PB–HAP were large enough to create the potential for significant non-inhalation human health risks under reasonable worst-case conditions. To facilitate this step, we developed emissions rate thresholds for several PB–HAP using a hypothetical upper-end screening exposure scenario developed for use in conjunction with the EPA's Total Risk Integrated Methodology. Fate, Transport, and Ecological Exposure (TRIM.FaTE) model. The PB–HAP with emissions rate thresholds are: Lead, cadmium, chlorinated dibenzodioxins and furans, mercury compounds, and polycyclic organic matter (POM). We conducted a sensitivity analysis on the screening scenario to ensure that its key design parameters would represent the upper end of the range of possible values, such that it would represent a conservative but not impossible scenario. The facility-specific emissions rates of these PB–HAP were compared to the emission rate threshold values for these PB–HAP to assess the potential for significant human health risks via non-inhalation pathways. We call this application of the TRIM.FaTE model the Tier I TRIM-screen or Tier I screen.

For the purpose of developing emissions rates for our Tier I TRIM-screen, we derived emission levels for these PB–HAP (other than lead compounds) at which the maximum excess lifetime cancer risk would be 1-in-1 million (i.e., for polychlorinated dibenzodioxins and furans and POM) or, for HAP that cause non-cancer health effects (i.e., cadmium compounds and mercury compounds), the maximum hazard quotient would be 1. If the emissions rate of any PB–HAP included in the Tier I screen exceeds the Tier I screening emissions rate for any facility, we conduct a second screen, which we call the Tier II TRIM-screen or Tier II screen. In the Tier II screen, the location of each facility that exceeded the Tier I emission rate is used to refine the assumptions associated with the environmental scenario while maintaining the exposure scenario assumptions. We then adjust the risk-based Tier I screening level for each PB–HAP for each facility based on an understanding of how exposure concentrations estimated for the

[11] See *http://www.tceq.state.tx.us/compliance/field_ops/eer/index.html* or docket to access the source of these data.

[12] The SAB peer review of RTR Risk Assessment Methodologies is available at: *http://yosemite.epa.gov/sab/sabproduct.nsf/4AB3966E263D943A8525771F00668381/$File/EPA-SAB-10-007-unsigned.pdf.*

[13] U.S. EPA. (2009) Chapter 2.9 Chemical Specific Reference Values for Formaldehyde in Graphical Arrays of Chemical-Specific Health Effect Reference Values for Inhalation Exposures (Final Report). U.S. Environmental Protection Agency, Washington DC, EPA/600/R–09/061, and available online at *http://cfpub.epa.gov/ncea/cfm/recordisplay.cfm?deid=211003.*

screening scenario change with meteorology and environmental assumptions. PB–HAP emissions that do not exceed these new Tier II screening levels are considered to pose no unacceptable risks. When facilities exceed the Tier II screening levels, it does not mean that multipathway impacts are significant, only that we cannot rule out that possibility based on the results of the screen. These facilities may be further evaluated for multipathway risks using the TRIM.FaTE model.

For further information on the multipathway analysis approach, see the *Draft Residual Risk Assessment for the Off-Site Waste and Recovery Operations Source Category,* which is available in the docket for this action.

5. How did we assess risks considering emissions control options?

In addition to assessing baseline inhalation risks and screening for potential multipathway risks, we also estimated risks considering the potential emission reductions that would be achieved by the control options under consideration. In these cases, the expected emission reductions were applied to the specific HAP and emission points in the RTR emissions dataset to develop corresponding estimates of risk and incremental risk reductions.

6. How did we conduct the environmental risk screening assessment?

a. Adverse Environmental Effect

The EPA has developed a screening approach to examine the potential for adverse environmental effects as required under section 112(f)(2)(A) of the CAA. Section 112(a)(7) of the CAA defines ''adverse environmental effect'' as ''any significant and widespread adverse effect, which may reasonably be anticipated, to wildlife, aquatic life, or other natural resources, including adverse impacts on populations of endangered or threatened species or significant degradation of environmental quality over broad areas.''

b. Environmental HAP

The EPA focuses on seven HAP, which we refer to as ''environmental HAP,'' in its screening analysis: Five persistent bioaccumulative HAP (PB–HAP) and two acid gases. The five PB–HAP are cadmium, dioxins/furans, polycyclic organic matter (POM), mercury (both inorganic mercury and methyl mercury) and lead compounds. The two acid gases are hydrogen chloride (HCl) and hydrogen fluoride (HF). The rationale for including these seven HAP in the environmental risk screening analysis is presented below.

HAP that persist and bioaccumulate are of particular environmental concern because they accumulate in the soil, sediment and water. The PB–HAP are taken up, through sediment, soil, water, and/or ingestion of other organisms, by plants or animals (e.g., small fish) at the bottom of the food chain. As larger and larger predators consume these organisms, concentrations of the PB–HAP in the animal tissues increases as does the potential for adverse effects. The five PB–HAP we evaluate as part of our screening analysis account for 99.8 percent of all PB–HAP emissions nationally from stationary sources (on a mass basis from the 2005 NEI).

In addition to accounting for almost all of the mass of PB–HAP emitted, we note that the TRIM.Fate model that we use to evaluate multipathway risk allows us to estimate concentrations of cadmium compounds, dioxins/furans, POM and mercury in soil, sediment and water. For lead compounds, we currently do not have the ability to calculate these concentrations using the TRIM.Fate model. Therefore, to evaluate the potential for adverse environmental effects from lead compounds, we compare the estimated HEM-modeled exposures from the source category emissions of lead with the level of the secondary National Ambient Air Quality Standard (NAAQS) for lead.[14] We consider values below the level of the secondary lead NAAQS to be unlikely to cause adverse environmental effects.

Due to their well-documented potential to cause direct damage to terrestrial plants, we include two acid gases, HCl and HF, in the environmental screening analysis. According to the 2005 NEI, HCl and HF account for about 99 percent (on a mass basis) of the total acid gas HAP emitted by stationary sources in the U.S. In addition to the potential to cause direct damage to plants, high concentrations of HF in the air have been linked to fluorosis in livestock. Air concentrations of these HAP are already calculated as part of the human multipathway exposure and risk screening analysis using the HEM3–AERMOD air dispersion model, and we are able to use the air dispersion modeling results to estimate the potential for an adverse environmental effect.

The EPA acknowledges that other HAP beyond the seven HAP discussed above may have the potential to cause adverse environmental effects. Therefore, the EPA may include other relevant HAP in its environmental risk screening in the future, as modeling science and resources allow. The EPA invites comment on the extent to which other HAP emitted by the source category may cause adverse environmental effects. Such information should include references to peer-reviewed ecological effects benchmarks that are of sufficient quality for making regulatory decisions, as well as information on the presence of organisms located near facilities within the source category that such benchmarks indicate could be adversely affected.

c. Ecological Assessment Endpoints and Benchmarks for PB–HAP

An important consideration in the development of the EPA's screening methodology is the selection of ecological assessment endpoints and benchmarks. Ecological assessment endpoints are defined by the ecological entity (e.g., aquatic communities including fish and plankton) and its attributes (e.g., frequency of mortality). Ecological assessment endpoints can be established for organisms, populations, communities or assemblages, and ecosystems.

For PB–HAP (other than lead compounds), we evaluated the following community-level ecological assessment endpoints to screen for organisms directly exposed to HAP in soils, sediment and water:

- Local terrestrial communities (i.e., soil invertebrates, plants) and populations of small birds and mammals that consume soil invertebrates exposed to PB–HAP in the surface soil.
- Local benthic (i.e., bottom sediment dwelling insects, amphipods, isopods and crayfish) communities exposed to PB–HAP in sediment in nearby water bodies.
- Local aquatic (water-column) communities (including fish and plankton) exposed to PB–HAP in nearby surface waters.

For PB–HAP (other than lead compounds), we also evaluated the following population-level ecological assessment endpoint to screen for indirect HAP exposures of top consumers via the bioaccumulation of HAP in food chains:

- Piscivorous (i.e., fish-eating) wildlife consuming PB–HAP–

[14] The secondary lead NAAQS is a reasonable measure of determining whether there is an adverse environmental effect since it was established considering ''effects on soils, water, crops, vegetation, man-made materials, animals, wildlife, weather, visibility and climate, damage to and deterioration of property, and hazards to transportation, as well as effects on economic values and on personal comfort and well-being.'' 73 FR 66964, November 12, 2008.

contaminated fish from nearby water bodies.

For cadmium compounds, dioxins/furans, POM and mercury, we identified the available ecological benchmarks for each assessment endpoint. An ecological benchmark represents a concentration of HAP (e.g., 0.77 ug of HAP per liter of water) that has been linked to a particular environmental effect level (e.g., a no-observed-adverse-effect level (NOAEL)) through scientific study. For PB–HAP, we identified, where possible, ecological benchmarks at the following effect levels:

Probable effect levels (PEL): Level above which adverse effects are expected to occur frequently.

Lowest-observed-adverse-effect level (LOAEL): The lowest exposure level tested at which there are biologically significant increases in frequency or severity of adverse effects.

No-observed-adverse-effect levels (NOAEL): The highest exposure level tested at which there are no biologically significant increases in the frequency or severity of adverse effect.

We established a hierarchy of preferred benchmark sources to allow selection of benchmarks for each environmental HAP at each ecological assessment endpoint. In general, the EPA sources that are used at a programmatic level (e.g., Office of Water, Superfund Program) were used, if available. If not, the EPA benchmarks used in regional programs (e.g., Superfund) were used. If benchmarks were not available at a programmatic or regional level, we used benchmarks developed by other federal agencies (e.g., National Oceanic and Atmospheric Organization (NOAA)) or state agencies.

Benchmarks for all effect levels are not available for all PB–HAP and assessment endpoints. In cases where multiple effect levels were available for a particular PB–HAP and assessment endpoint, we use all of the available effect levels to help us to determine whether ecological risks exist and, if so, whether the risks could be considered significant and widespread.

d. Ecological Assessment Endpoints and Benchmarks for Acid Gases

The environmental screening analysis also evaluated potential damage and reduced productivity of plants due to direct exposure to acid gases in the air. For acid gases, we evaluated the following ecological assessment endpoint:

- Local terrestrial plant communities with foliage exposed to acidic gaseous HAP in the air.

The selection of ecological benchmarks for the effects of acid gases on plants followed the same approach as for PB–HAP (i.e., we examine all of the available chronic benchmarks). For HCl, the EPA identified chronic benchmark concentrations. We note that the benchmark for chronic HCl exposure to plants is greater than the reference concentration for chronic inhalation exposure for human health. This means that where the EPA includes regulatory requirements to prevent an exceedance of the reference concentration for human health, additional analyses for adverse environmental effects of HCL would not be necessary.

For HF, the EPA identified chronic benchmark concentrations for plants and evaluated chronic exposures to plants in the screening analysis. High concentrations of HF in the air have also been linked to fluorosis in livestock. However, the HF concentrations at which fluorosis in livestock occur are higher than those at which plant damage begins. Therefore, the benchmarks for plants are protective of both plants and livestock.

e. Screening Methodology

For the environmental risk screening analysis, the EPA first determined whether any facilities in the OSWRO source category emitted any of the seven environmental HAP. For the OSWRO source category, we identified emissions of POM, HCl and HF.

Because one or more of the seven environmental HAP evaluated are emitted by at least one facility in the source category, we proceeded to the second step of the evaluation.

f. PB–HAP Methodology

For cadmium, mercury, POM and dioxins/furans, the environmental screening analysis consists of two tiers, while lead compounds are analyzed differently as discussed earlier. In the first tier, we determined whether the maximum facility-specific emission rates of each of the emitted environmental HAP were large enough to create the potential for adverse environmental effects under reasonable worst-case environmental conditions. These are the same environmental conditions used in the human multipathway exposure and risk screening analysis.

To facilitate this step, TRIM.FaTE was run for each PB–HAP under hypothetical environmental conditions designed to provide conservatively high HAP concentrations. The model was set to maximize runoff from terrestrial parcels into the modeled lake, which in turn, maximized the chemical concentrations in the water, the sediments, and the fish. The resulting media concentrations were then used to back-calculate a screening threshold emission rate that corresponded to the relevant exposure benchmark concentration value for each assessment endpoint. To assess emissions from a facility, the reported emission rate for each PB–HAP was compared to the screening threshold emission rate for that PB–HAP for each assessment endpoint. If emissions from a facility do not exceed the Tier I threshold, the facility ''passes'' the screen, and therefore, is not evaluated further under the screening approach. If emissions from a facility exceed the Tier I threshold, we evaluate the facility further in Tier II.

In Tier II of the environmental screening analysis, the screening emission thresholds are adjusted to account for local meteorology and the actual location of lakes in the vicinity of facilities that did not pass the Tier I screen. The modeling domain for each facility in the Tier II analysis consists of eight octants. Each octant contains 5 modeled soil concentrations at various distances from the facility (5 soil concentrations × 8 octants = total of 40 soil concentrations per facility) and 1 lake with modeled concentrations for water, sediment and fish tissue. In the Tier II environmental risk screening analysis, the 40 soil concentration points are averaged to obtain an average soil concentration for each facility for each PB–HAP. For the water, sediment and fish tissue concentrations, the highest value for each facility for each pollutant is used. If emission concentrations from a facility do not exceed the Tier II threshold, the facility passes the screen, and typically is not evaluated further. If emissions from a facility exceed the Tier II threshold, the facility does not pass the screen and, therefore, may have the potential to cause adverse environmental effects. Such facilities are evaluated further to investigate factors such as the magnitude and characteristics of the area of exceedance.

g. Acid Gas Methodology

The environmental screening analysis evaluates the potential phytotoxicity and reduced productivity of plants due to chronic exposure to acid gases. The environmental risk screening methodology for acid gases is a single-tier screen that compares the average off-site ambient air concentration over the modeling domain to ecological benchmarks for each of the acid gases. Because air concentrations are compared directly to the ecological benchmarks, emission-based thresholds are not calculated for acid gases as they

are in the ecological risk screening methodology for PB–HAPs.

For purposes of ecological risk screening, the EPA identifies a potential for adverse environmental effects to plant communities from exposure to acid gases when the average concentration of the HAP around a facility exceeds the LOAEL ecological benchmark. In such cases, we further investigate factors such as the magnitude and characteristics of the area of exceedance (e.g., land use of exceedance area, size of exceedance area) to determine if there is an adverse environmental effect.

For further information on the environmental screening analysis approach, see the *Draft Residual Risk Assessment for the Off-Site Waste and Recovery Operations Source Category,* which is available in the docket for this action.

7. How did we conduct facility-wide assessments?

To put the source category risks in context, we typically examine the risks from the entire ''facility,'' where the facility includes all HAP-emitting operations within a contiguous area and under common control. In other words, we examine the HAP emissions not only from the source category emission points of interest, but also emissions of HAP from all other emission sources at the facility for which we have data. The emissions data for estimating these ''facility-wide'' risks were obtained from the 2005 NEI (available at *http://www.epa.gov/ttn/atw/nata2005*). We analyzed risks due to the inhalation of HAP that are emitted ''facility-wide'' for the populations residing within 50 km of each facility, consistent with the methods used for the source category analysis described above. For these facility-wide risk analyses, the modeled source category risks were compared to the facility-wide risks to determine the portion of facility-wide risks that could be attributed to the source category addressed in this proposal. We specifically examined the facility that was associated with the highest estimate of risk and determined the percentage of that risk attributable to the source category of interest. The *Draft Residual Risk Assessment for the Off-Site Waste and Recovery Operations Source Category* available through the docket for this action provides the methodology and results of the facility-wide analyses, including all facility-wide risks and the percentage of source category contribution to facility-wide risks.

8. How did we consider uncertainties in risk assessment?

In the Benzene NESHAP, we concluded that risk estimation uncertainty should be considered in our decision-making under the ample margin of safety framework. Uncertainty and the potential for bias are inherent in all risk assessments, including those performed for this proposal. Although uncertainty exists, we believe that our approach, which used conservative tools and assumptions, ensures that our decisions are health protective and environmentally protective. A brief discussion of the uncertainties in the RTR emissions dataset, dispersion modeling, inhalation exposure estimates and dose-response relationships follows below. A more thorough discussion of these uncertainties is included in the *Draft Residual Risk Assessment for the Off-Site Waste and Recovery Operations Source Category,* which is available in the docket for this action.

a. Uncertainties in the RTR Emissions Dataset

Although the development of the RTR emissions dataset involved quality assurance/quality control processes, the accuracy of emissions values will vary depending on the source of the data, the degree to which data are incomplete or missing, the degree to which assumptions made to complete the datasets are accurate, errors in emission estimates and other factors. The emission estimates considered in this analysis generally are annual totals for certain years and they do not reflect short-term fluctuations during the course of a year or variations from year to year. The estimates of peak hourly emission rates for the acute effects screening assessment were based on an emission adjustment factor applied to the average annual hourly emission rates, which are intended to account for emission fluctuations due to normal facility operations.

b. Uncertainties in Dispersion Modeling

We recognize there is uncertainty in ambient concentration estimates associated with any model, including the EPA's recommended regulatory dispersion model, AERMOD. In using a model to estimated ambient pollutant concentrations, the user chooses certain options to apply. For RTR assessments, we select some model options that have the potential to overestimate ambient air concentrations (e.g., not including plume depletion or pollutant transformation). We select other model options that have the potential to underestimate ambient impacts (e.g., not including building downwash). Other options that we select have the potential to either under- or overestimate ambient levels (e.g., meteorology and receptor locations). On balance, considering the directional nature of the uncertainties commonly present in ambient concentrations estimated by dispersion models, the approach we apply in the RTR assessments should yield unbiased estimates of ambient HAP concentrations.

c. Uncertainties in Inhalation Exposure

The EPA did not include the effects of human mobility on exposures in the assessment. Specifically, short-term mobility and long-term mobility between census blocks in the modeling domain were not considered.[15] The approach of not considering short or long-term population mobility does not bias the estimate of the theoretical MIR (by definition), nor does it affect the estimate of cancer incidence because the total population number remains the same. It does, however, affect the shape of the distribution of individual risks across the affected population, shifting it toward higher estimated individual risks at the upper end and reducing the number of people estimated to be at lower risks, thereby increasing the estimated number of people at specific high risk levels (e.g., 1-in-10 thousand or 1-in-1 million).

In addition, the assessment predicted the chronic exposures at the centroid of each populated census block as surrogates for the exposure concentrations for all people living in that block. Using the census block centroid to predict chronic exposures tends to over-predict exposures for people in the census block who live farther from the facility and under-predict exposures for people in the census block who live closer to the facility. Thus, using the census block centroid to predict chronic exposures may lead to a potential understatement or overstatement of the true maximum impact, but is an unbiased estimate of average risk and incidence. We reduce this uncertainty by analyzing large census blocks near facilities using aerial imagery and adjusting the location of the block centroid to better represent the population in the block, as well as adding additional receptor locations where the block population is not well represented by a single location.

The assessment evaluates the cancer inhalation risks associated with

[15] Short-term mobility is movement from one micro-environment to another over the course of hours or days. Long-term mobility is movement from one residence to another over the course of a lifetime.

pollutant exposures over a 70-year period, which is the assumed lifetime of an individual. In reality, both the length of time that modeled emission sources at facilities actually operate (i.e., more or less than 70 years) and the domestic growth or decline of the modeled industry (i.e., the increase or decrease in the number or size of domestic facilities) will influence the future risks posed by a given source or source category. Depending on the characteristics of the industry, these factors will, in most cases, result in an overestimate both in individual risk levels and in the total estimated number of cancer cases. However, in the unlikely scenario where a facility maintains, or even increases, its emissions levels over a period of more than 70 years, residents live beyond 70 years at the same location, and the residents spend most of their days at that location, then the cancer inhalation risks could potentially be underestimated. However, annual cancer incidence estimates from exposures to emissions from these sources would not be affected by the length of time an emissions source operates.

The exposure estimates used in these analyses assume chronic exposures to ambient (outdoor) levels of pollutants. Because most people spend the majority of their time indoors, actual exposures may not be as high, depending on the characteristics of the pollutants modeled. For many of the HAP, indoor levels are roughly equivalent to ambient levels, but for very reactive pollutants or larger particles, indoor levels are typically lower. This factor has the potential to result in an overestimate of 25 to 30 percent of exposures.[16]

In addition to the uncertainties highlighted above, there are several factors specific to the acute exposure assessment that should be highlighted. The accuracy of an acute inhalation exposure assessment depends on the simultaneous occurrence of independent factors that may vary greatly, such as hourly emissions rates, meteorology and human activity patterns. In this assessment, we assume that individuals remain for 1 hour at the point of maximum ambient concentration as determined by the co-occurrence of peak emissions and worst-case meteorological conditions. These assumptions would tend to be worst-case actual exposures as it is unlikely that a person would be located at the point of maximum exposure when peak emissions and worst-case meteorological conditions occur simultaneously.

d. Uncertainties in Dose-Response Relationships

There are uncertainties inherent in the development of the dose-response values used in our risk assessments for cancer effects from chronic exposures and non-cancer effects from both chronic and acute exposures. Some uncertainties may be considered quantitatively, and others generally are expressed in qualitative terms. We note as a preface to this discussion a point on dose-response uncertainty that is brought out in the EPA's *2005 Cancer Guidelines;* namely, that ''the primary goal of EPA actions is protection of human health; accordingly, as an Agency policy, risk assessment procedures, including default options that are used in the absence of scientific data to the contrary, should be health protective'' (*EPA 2005 Cancer Guidelines,* pages 1–7). This is the approach followed here as summarized in the next several paragraphs. A complete detailed discussion of uncertainties and variability in dose-response relationships is given in the *Draft Residual Risk Assessment for the Off-Site Waste and Recovery Operations Source Category,* which is available in the docket for this action.

Cancer URE values used in our risk assessments are those that have been developed to generally provide an upper bound estimate of risk. That is, they represent a ''plausible upper limit to the true value of a quantity'' (although this is usually not a true statistical confidence limit).[17] In some circumstances, the true risk could be as low as zero; however, in other circumstances the risk could be greater.[18] When developing an upper bound estimate of risk and to provide risk values that do not underestimate risk, health-protective default approaches are generally used. To err on the side of ensuring adequate health protection, the EPA typically uses the upper bound estimates rather than lower bound or central tendency estimates in our risk assessments, an approach that may have limitations for other uses (e.g., priority-setting or expected benefits analysis).

Chronic non-cancer RfC and reference dose (RfD) values represent chronic exposure levels that are intended to be health-protective levels. Specifically, these values provide an estimate (with uncertainty spanning perhaps an order of magnitude) of a continuous inhalation exposure (RfC) or a daily oral exposure (RfD) to the human population (including sensitive subgroups) that is likely to be without an appreciable risk of deleterious effects during a lifetime. To derive values that are intended to be ''without appreciable risk,'' the methodology relies upon an uncertainty factor (UF) approach (U.S. EPA, 1993, 1994) which considers uncertainty, variability and gaps in the available data. The UF are applied to derive reference values that are intended to protect against appreciable risk of deleterious effects. The UF are commonly default values,[19] e.g., factors of 10 or 3, used in the absence of compound-specific data; where data are available, UF may also be developed using compound-specific information. When data are limited, more assumptions are needed and more UF are used. Thus, there may be a greater tendency to overestimate risk in the sense that further study might support development of reference values that are higher (i.e., less potent) because fewer default assumptions are needed. However, for some pollutants, it is possible that risks may be underestimated.

While collectively termed ''UF,'' these factors account for a number of different quantitative considerations when using observed animal (usually rodent) or human toxicity data in the development of the RfC. The UF are intended to account for: (1) Variation in susceptibility among the members of the human population (i.e., inter-individual variability); (2) uncertainty in extrapolating from experimental animal data to humans (i.e., interspecies

[16] U.S. EPA. *National-Scale Air Toxics Assessment for 1996.* (EPA 453/R–01–003; January 2001; page 85.)

[17] IRIS glossary (*http://www.epa.gov/NCEA/iris/help_gloss.htm*).

[18] An exception to this is the URE for benzene, which is considered to cover a range of values, each end of which is considered to be equally plausible, and which is based on maximum likelihood estimates.

[19] According to the NRC report, *Science and Judgment in Risk Assessment* (NRC, 1994) ''[Default] options are generic approaches, based on general scientific knowledge and policy judgment, that are applied to various elements of the risk assessment process when the correct scientific model is unknown or uncertain.'' The 1983 NRC report, *Risk Assessment in the Federal Government: Managing the Process,* defined default option as ''the option chosen on the basis of risk assessment policy that appears to be the best choice in the absence of data to the contrary'' (NRC, 1983a, p. 63). Therefore, default options are not rules that bind the Agency; rather, the Agency may depart from them in evaluating the risks posed by a specific substance when it believes this to be appropriate. In keeping with EPA's goal of protecting public health and the environment, default assumptions are used to ensure that risk to chemicals is not underestimated (although defaults are not intended to overtly overestimate risk). See EPA, 2004, *An Examination of EPA Risk Assessment Principles and Practices,* EPA/100/B–04/001 available at: *http://www.epa.gov/osa/pdfs/ratf-final.pdf.*

differences); (3) uncertainty in extrapolating from data obtained in a study with less-than-lifetime exposure (i.e., extrapolating from sub-chronic to chronic exposure); (4) uncertainty in extrapolating the observed data to obtain an estimate of the exposure associated with no adverse effects; and (5) uncertainty when the database is incomplete or there are problems with the applicability of available studies.

Many of the UF used to account for variability and uncertainty in the development of acute reference values are quite similar to those developed for chronic durations, but they more often use individual UF values that may be less than 10. The UF are applied based on chemical-specific or health effect-specific information (e.g., simple irritation effects do not vary appreciably between human individuals, hence a value of 3 is typically used), or based on the purpose for the reference value (see the following paragraph). The UF applied in acute reference value derivation include: (1) Heterogeneity among humans; (2) uncertainty in extrapolating from animals to humans; (3) uncertainty in lowest observed adverse effect (exposure) level to no observed adverse effect (exposure) level adjustments; and (4) uncertainty in accounting for an incomplete database on toxic effects of potential concern. Additional adjustments are often applied to account for uncertainty in extrapolation from observations at one exposure duration (e.g., 4 hours) to derive an acute reference value at another exposure duration (e.g., 1 hour).

Not all acute reference values are developed for the same purpose and care must be taken when interpreting the results of an acute assessment of human health effects relative to the reference value or values being exceeded. Where relevant to the estimated exposures, the lack of short-term dose-response values at different levels of severity should be factored into the risk characterization as potential uncertainties.

Although every effort is made to identify appropriate human health effect dose-response assessment values for all pollutants emitted by the sources in this risk assessment, some HAP emitted by this source category are lacking dose-response assessments. Accordingly, these pollutants cannot be included in the quantitative risk assessment, which could result in quantitative estimates understating HAP risk. To help to alleviate this potential underestimate, where we conclude similarity with a HAP for which a dose-response assessment value is available, we use that value as a surrogate for the assessment of the HAP for which no value is available. To the extent use of surrogates indicates appreciable risk, we may identify a need to increase priority for new IRIS assessment of that substance. We additionally note that, generally speaking, HAP of greatest concern due to environmental exposures and hazard are those for which dose-response assessments have been performed, reducing the likelihood of understating risk. Further, HAP not included in the quantitative assessment are assessed qualitatively and considered in the risk characterization that informs the risk management decisions, including with regard to consideration of HAP reductions achieved by various control options.

For a group of compounds that are not speciated (e.g., glycol ethers), we conservatively use the most protective reference value of an individual compound in that group to estimate risk. Similarly, for an individual compound in a group (e.g., ethylene glycol diethyl ether) that does not have a specified reference value, we also apply the most protective reference value from the other compounds in the group to estimate risk.

e. Uncertainties in the Multipathway Assessment

For each source category, we generally rely on site-specific levels of PB–HAP emissions to determine whether a refined assessment of the impacts from multipathway exposures is necessary. This determination is based on the results of a two-tiered screening analysis that relies on the outputs from models that estimate environmental pollutant concentrations and human exposures for four PB–HAP. Two important types of uncertainty associated with the use of these models in RTR risk assessments and inherent to any assessment that relies on environmental modeling are model uncertainty and input uncertainty.[20]

Model uncertainty concerns whether the selected models are appropriate for the assessment being conducted and whether they adequately represent the actual processes that might occur for that situation. An example of model uncertainty is the question of whether the model adequately describes the movement of a pollutant through the soil. This type of uncertainty is difficult to quantify. However, based on feedback received from previous EPA Science Advisory Board reviews and other reviews, we are confident that the models used in the screen are appropriate and state-of-the-art for the multipathway risk assessments conducted in support of RTR.

Input uncertainty is concerned with how accurately the models have been configured and parameterized for the assessment at hand. For Tier I of the multipathway screen, we configured the models to avoid underestimating exposure and risk. This was accomplished by selecting upper-end values from nationally-representative data sets for the more influential parameters in the environmental model, including selection and spatial configuration of the area of interest, lake location and size, meteorology, surface water and soil characteristics and structure of the aquatic food web. We also assume an ingestion exposure scenario and values for human exposure factors that represent reasonable maximum exposures.

In Tier II of the multipathway assessment, we refine the model inputs to account for meteorological patterns in the vicinity of the facility versus using upper-end national values and we identify the actual location of lakes near the facility rather than the default lake location that we apply in Tier I. By refining the screening approach in Tier II to account for local geographical and meteorological data, we decrease the likelihood that concentrations in environmental media are overestimated, thereby increasing the usefulness of the screen. The assumptions and the associated uncertainties regarding the selected ingestion exposure scenario are the same for Tier I and Tier II.

For both Tiers I and II of the multipathway assessment, our approach to addressing model input uncertainty is generally cautious. We choose model inputs from the upper end of the range of possible values for the influential parameters used in the models, and we assume that the exposed individual exhibits ingestion behavior that would lead to a high total exposure. This approach reduces the likelihood of not identifying high risks for adverse impacts.

Despite the uncertainties, when individual pollutants or facilities do screen out, we are confident that the potential for adverse multipathway impacts on human health is very low. On the other hand, when individual pollutants or facilities do not screen out, it does not mean that multipathway impacts are significant, only that we cannot rule out that possibility and that a refined multipathway analysis for the

[20] In the context of this discussion, the term ''uncertainty'' as it pertains to exposure and risk encompasses both variability in the range of expected inputs and screening results due to existing spatial, temporal, and other factors, as well as uncertainty in being able to accurately estimate the true result.

site might be necessary to obtain a more accurate risk characterization for the source category.

For further information on uncertainties and the Tier I and II screening methods, refer to the risk document Appendix 4, ''Technical Support Document for TRIM-Based Multipathway Tiered Screening Methodology for RTR.''

f. Uncertainties in the Environmental Risk Screening Assessment

For each source category, we generally rely on site-specific levels of environmental HAP emissions to perform an environmental screening assessment. The environmental screening assessment is based on the outputs from models that estimate environmental HAP concentrations. The same models, specifically the TRIM.FaTE multipathway model and the AERMOD air dispersion model, are used to estimate environmental HAP concentrations for both the human multipathway screening analysis and for the environmental screening analysis. Therefore, both screening assessments have similar modeling uncertainties.

Two important types of uncertainty associated with the use of these models in RTR environmental screening assessments—and inherent to any assessment that relies on environmental modeling—are model uncertainty and input uncertainty.[21]

Model uncertainty concerns whether the selected models are appropriate for the assessment being conducted and whether they adequately represent the movement and accumulation of environmental HAP emissions in the environment. For example, does the model adequately describe the movement of a pollutant through the soil? This type of uncertainty is difficult to quantify. However, based on feedback received from previous EPA Science Advisory Board reviews and other reviews, we are confident that the models used in the screen are appropriate and state-of-the-art for the environmental risk assessments conducted in support of our RTR analyses.

Input uncertainty is concerned with how accurately the models have been configured and parameterized for the assessment at hand. For Tier I of the environmental screen for PB–HAP, we configured the models to avoid underestimating exposure and risk to reduce the likelihood that the results indicate the risks are lower than they actually are. This was accomplished by selecting upper-end values from nationally-representative data sets for the more influential parameters in the environmental model, including selection and spatial configuration of the area of interest, the location and size of any bodies of water, meteorology, surface water and soil characteristics and structure of the aquatic food web. In Tier I, we used the maximum facility-specific emissions for the PB–HAP (other than lead compounds, which were evaluated by comparison to the secondary lead NAAQS) that were included in the environmental screening assessment and each of the media when comparing to ecological benchmarks. This is consistent with the conservative design of Tier I of the screen. In Tier II of the environmental screening analysis for PB–HAP, we refine the model inputs to account for meteorological patterns in the vicinity of the facility versus using upper-end national values, and we identify the locations of water bodies near the facility location. By refining the screening approach in Tier II to account for local geographical and meteorological data, we decrease the likelihood that concentrations in environmental media are overestimated, thereby increasing the usefulness of the screen. To better represent widespread impacts, the modeled soil concentrations are averaged in Tier II to obtain one average soil concentration value for each facility and for each PB–HAP. For PB–HAP concentrations in water, sediment and fish tissue, the highest value for each facility for each pollutant is used.

For the environmental screening assessment for acid gases, we employ a single-tiered approach. We use the modeled air concentrations and compare those with ecological benchmarks.

For both Tiers I and II of the environmental screening assessment, our approach to addressing model input uncertainty is generally cautious. We choose model inputs from the upper end of the range of possible values for the influential parameters used in the models, and we assume that the exposed individual exhibits ingestion behavior that would lead to a high total exposure. This approach reduces the likelihood of not identifying potential risks for adverse environmental impacts.

Uncertainty also exists in the ecological benchmarks for the environmental risk screening analysis. We established a hierarchy of preferred benchmark sources to allow selection of benchmarks for each environmental HAP at each ecological assessment endpoint. In general, EPA benchmarks used at a programmatic level (e.g., Office of Water, Superfund Program) were used if available. If not, we used EPA benchmarks used in regional programs (e.g., Superfund Program). If benchmarks were not available at a programmatic or regional level, we used benchmarks developed by other agencies (e.g., NOAA) or by state agencies.

In all cases (except for lead compounds, which were evaluated through a comparison to the NAAQS), we searched for benchmarks at the following three effect levels, as described in section III.A.6 of this preamble:

1. A no-effect level (i.e., NOAEL).
2. Threshold-effect level (i.e., LOAEL).
3. Probable effect level (i.e., PEL).

For some ecological assessment endpoint/environmental HAP combinations, we could identify benchmarks for all three effect levels, but for most, we could not. In one case, where different agencies derived significantly different numbers to represent a threshold for effect, we included both. In several cases, only a single benchmark was available. In cases where multiple effect levels were available for a particular PB–HAP and assessment endpoint, we used all of the available effect levels to help us to determine whether risk exists and if the risks could be considered significant and widespread.

The EPA evaluated the following seven HAP in the environmental risk screening assessment: cadmium, dioxins/furans, POM, mercury (both inorganic mercury and methyl mercury), lead compounds, HCl and HF. These seven HAP represent pollutants that can cause adverse impacts for plants and animals either through direct exposure to HAP in the air or through exposure to HAP that is deposited from the air onto soils and surface waters. These seven HAP also represent those HAP for which we can conduct a meaningful environmental risk screening assessment. For other HAP not included in our screening assessment, the model has not been parameterized such that it can be used for that purpose. In some cases, depending on the HAP, we may not have appropriate multipathway models that allow us to predict the concentration of that pollutant. The EPA acknowledges that other HAP beyond the seven HAP that we are evaluating may have the potential to cause adverse environmental effects and, therefore, the

[21] In the context of this discussion, the term ''uncertainty,'' as it pertains to exposure and risk assessment, encompasses both *variability* in the range of expected inputs and screening results due to existing spatial, temporal, and other factors, as well as *uncertainty* in being able to accurately estimate the true result.

EPA may evaluate other relevant HAP in the future, as modeling science and resources allow.

Further information on uncertainties and the Tier I and II environmental screening methods is provided in Appendix 5 of the document ''Technical Support Document for TRIM-Based Multipathway Tiered Screening Methodology for RTR: Summary of Approach and Evaluation.'' Also, see the *Draft Residual Risk Assessment for the Off-Site Waste and Recovery Operations Source Category,* available in the docket for this action.

B. How did we consider the risk results in making decisions for this proposal?

As discussed in section II.A of this preamble, in evaluating and developing standards under section 112(f)(2), we apply a two-step process to address residual risk. In the first step, the EPA determines whether risks are acceptable. This determination ''considers all health information, including risk estimation uncertainty, and includes a presumptive limit on maximum individual lifetime [cancer] risk (MIR) [22] of approximately [1-in-10 thousand] [i.e., 100-in-1 million].'' 54 FR 38045, September 14, 1989. If risks are unacceptable, the EPA must determine the emissions standards necessary to bring risks to an acceptable level without considering costs. In the second step of the process, the EPA considers whether the emissions standards provide an ample margin of safety ''in consideration of all health information, including the number of persons at risk levels higher than approximately 1-in-1 million, as well as other relevant factors, including costs and economic impacts, technological feasibility, and other factors relevant to each particular decision.'' *Id.* The EPA must promulgate tighter emission standards if necessary to provide an ample margin of safety.

In past residual risk actions, the EPA considered a number of human health risk metrics associated with emissions from the categories under review, including the MIR, the number of persons in various risk ranges, cancer incidence, the maximum non-cancer HI and the maximum acute non-cancer hazard. *See, e.g.,* 72 FR 25138, May 3, 2007; 71 FR 42724, July 27, 2006. The EPA considered this health information for both actual and MACT-allowable emissions. *See, e.g.,* 75 FR 65068, October 21, 2010; 75 FR 80220, December 21, 2010; 76 FR 29032, May 19, 2011. The EPA also discussed risk estimation uncertainties and considered the uncertainties in the determination of acceptable risk and ample margin of safety in these past actions. The EPA considered this same type of information in support of this action.

The agency is considering these various measures of health information to inform our determinations of risk acceptability and ample margin of safety under CAA section 112(f). As explained in the Benzene NESHAP, ''the first step judgment on acceptability cannot be reduced to any single factor'' and thus ''[t]he Administrator believes that the acceptability of risk under [previous] section 112 is best judged on the basis of a broad set of health risk measures and information.'' 54 FR 38046, September 14, 1989. Similarly, with regard to the ample margin of safety determination, ''the Agency again considers all of the health risk and other health information considered in the first step. Beyond that information, additional factors relating to the appropriate level of control will also be considered, including cost and economic impacts of controls, technological feasibility, uncertainties, and any other relevant factors.'' *Id.*

The Benzene NESHAP approach provides flexibility regarding factors the EPA may consider in making determinations and how the EPA may weigh those factors for each source category. In responding to comment on our policy under the Benzene NESHAP, the EPA explained that:

> ''[t]he policy chosen by the Administrator permits consideration of multiple measures of health risk. Not only can the MIR figure be considered, but also incidence, the presence of non-cancer health effects, and the uncertainties of the risk estimates. In this way, the effect on the most exposed individuals can be reviewed as well as the impact on the general public. These factors can then be weighed in each individual case. This approach complies with the *Vinyl Chloride* mandate that the Administrator ascertain an acceptable level of risk to the public by employing [her] expertise to assess available data. It also complies with the Congressional intent behind the CAA, which did not exclude the use of any particular measure of public health risk from the EPA's consideration with respect to CAA section 112 regulations, and thereby implicitly permits consideration of any and all measures of health risk which the Administrator, in [her] judgment, believes are appropriate to determining what will 'protect the public health'.''

See 54 FR at 38057, September 14, 1989. Thus, the level of the MIR is only one factor to be weighed in determining acceptability of risks. The Benzene NESHAP explained that ''an MIR of approximately one in 10 thousand should ordinarily be the upper end of the range of acceptability. As risks increase above this benchmark, they become presumptively less acceptable under CAA section 112, and would be weighed with the other health risk measures and information in making an overall judgment on acceptability. Or, the Agency may find, in a particular case, that a risk that includes MIR less than the presumptively acceptable level is unacceptable in the light of other health risk factors.'' *Id.* at 38045. Similarly, with regard to the ample margin of safety analysis, the EPA stated in the Benzene NESHAP that: ''EPA believes the relative weight of the many factors that can be considered in selecting an ample margin of safety can only be determined for each specific source category. This occurs mainly because technological and economic factors (along with the health-related factors) vary from source category to source category.'' *Id.* at 38061. We also consider the uncertainties associated with the various risk analyses, as discussed earlier in this preamble, in our determinations of acceptability and ample margin of safety.

The EPA notes that it has not considered certain health information to date in making residual risk determinations. At this time, we do not attempt to quantify those HAP risks that may be associated with emissions from other facilities that do not include the source categories in question, mobile source emissions, natural source emissions, persistent environmental pollution or atmospheric transformation in the vicinity of the sources in these categories.

The agency understands the potential importance of considering an individual's total exposure to HAP in addition to considering exposure to HAP emissions from the source category and facility. We recognize that such consideration may be particularly important when assessing non-cancer risks, where pollutant-specific exposure health reference levels (e.g., RfCs) are based on the assumption that thresholds exist for adverse health effects. For example, the agency recognizes that, although exposures attributable to emissions from a source category or facility alone may not indicate the potential for increased risk of adverse non-cancer health effects in a population, the exposures resulting from emissions from the facility in combination with emissions from all of the other sources (e.g., other facilities) to which an individual is exposed may be sufficient to result in increased risk of adverse non-cancer health effects. In

[22] Although defined as ''maximum individual risk,'' MIR refers only to cancer risk. MIR, one metric for assessing cancer risk, is the estimated risk were an individual exposed to the maximum level of a pollutant for a lifetime.

May 2010, the SAB advised the EPA ''that RTR assessments will be most useful to decision makers and communities if results are presented in the broader context of aggregate and cumulative risks, including background concentrations and contributions from other sources in the area.'' [23]

In response to the SAB recommendations, the EPA is incorporating cumulative risk analyses into its RTR risk assessments, including those reflected in this proposal. The agency is: (1) Conducting facility-wide assessments, which include source category emission points as well as other emission points within the facilities; (2) considering sources in the same category whose emissions result in exposures to the same individuals; and (3) for some persistent and bioaccumlative pollutants, analyzing the ingestion route of exposure. In addition, the RTR risk assessments have always considered aggregate cancer risk from all carcinogens and aggregate non-cancer hazard indices from all non-carcinogens affecting the same target organ system.

Although we are interested in placing source category and facility-wide HAP risks in the context of total HAP risks from all sources combined in the vicinity of each source, we are concerned about the uncertainties of doing so. Because of the contribution to total HAP risk from emission sources other than those that we have studied in depth during this RTR review (i.e., those sources located at facilities within the source category), such estimates of total HAP risks would have significantly greater associated uncertainties than the source category or facility-wide estimates. Such aggregate or cumulative assessments would compound those uncertainties, making the assessments too unreliable.

C. How did we perform the technology review?

Our technology review focused on the identification and evaluation of developments in practices, processes and control technologies that have occurred since the MACT standards were promulgated. Where we identified such developments, in order to inform our decision of whether it is ''necessary'' to revise the emissions standards, we analyzed the technical feasibility of applying these developments, and the estimated costs, energy implications, non-air environmental impacts, as well as considering the emission reductions. We also considered the appropriateness of applying controls to new sources versus retrofitting existing sources.

Based on our analyses of the available data and information, we identified potential developments in practices, processes and control technologies. For this exercise, we considered any of the following to be a ''development'':

- Any add-on control technology or other equipment that was not identified and considered during development of the original MACT standards.
- Any improvements in add-on control technology or other equipment (that were identified and considered during development of the original MACT standards) that could result in additional emissions reduction.
- Any work practice or operational procedure that was not identified or considered during development of the original MACT standards.
- Any process change or pollution prevention alternative that could be broadly applied to the industry and that was not identified or considered during development of the original MACT standards.
- Any significant changes in the cost (including cost effectiveness) of applying controls (including controls the EPA considered during the development of the original MACT standards).

We reviewed a variety of data sources in our investigation of potential practices, processes or controls to consider. Among the sources we reviewed were the NESHAP for various industries that were promulgated since the MACT standards reviewed in this action. We reviewed the regulatory requirements and/or technical analyses associated with these regulatory actions to identify any practices, processes and control technologies considered in these efforts that could be applied to emission sources in the OSWRO source category, as well as the costs, non-air impacts and energy implications associated with the use of these technologies. Additionally, we requested information from facilities regarding developments in practices, processes or control technology. Finally, we reviewed information from other sources, such as state and/or local permitting agency databases and industry-supported databases.

IV. Analytical Results and Proposed Decisions

This section of the preamble provides the results of our RTR for the OSWRO source category and our proposed decisions concerning changes to the OSWRO NESHAP.

A. What are the results of the risk assessment and analyses?

1. Inhalation Risk Assessment Results

Table 2 of this preamble provides a summary of the results of the inhalation risk assessment for the source category.

TABLE 2—OFF-SITE WASTE AND RECOVERY OPERATIONS INHALATION RISK ASSESSMENT RESULTS

Maximum individual cancer risk (in 1 million) [a]		Estimated population at increased risk levels of cancer	Estimated annual cancer incidence (cases per year)	Maximum chronic non-cancer TOSHI [b]		Maximum screening acute non-cancer HQ [d]
Actual emissions level	MACT-allowable emissions level [c]			Actual emissions level	MACT-allowable emissions level	
9	20	≥ 1-in-1 million: 210,000 ≥ 10-in-1 million: 0	0.02	0.6	1	HQ_{REL} = 1 (glycol ethers)

[a] Estimated maximum individual excess lifetime cancer risk due to HAP emissions from the source category.
[b] Maximum TOSHI. The target organ with the highest TOSHI for the OSWRO source category for both actual and MACT-allowable emissions is the respiratory system.
[c] The development of allowable emission estimates can be found in the memo entitled MACT-Allowable Emissions for the Off-Site Waste and Recovery Operations Source Category, which is available in the docket for this action.
[d] The maximum off-site acute value of 1 for actuals is driven by emissions of glycol ethers. See Section III.A.E for an explanation of acute dose-response values. Acute assessments are not performed with MACT-allowable emissions.

[23] EPA's responses to this and all other key recommendations of the SAB's advisory on RTR risk assessment methodologies (which is available at: *http://yosemite.epa.gov/sab/sabproduct.nsf/4AB3966E263D943A8525771F00668381/$File/EPA-SAB-10-007-unsigned.pdf*) are outlined in a memo in this proposed rule docket from David Guinnup entitled, *EPA's Actions in Response to the Key Recommendations of the SAB Review of RTR Risk Assessment Methodologies.*

The inhalation risk modeling performed to estimate risks based on actual and MACT-allowable emissions relied primarily on data from the CAA section 114 questionnaire responses and the NEI. The results of the chronic inhalation cancer risk assessment indicate that, based on estimates of current actual emissions, the maximum lifetime individual cancer risk posed by the OSWRO source category is 9-in-1 million, with emissions of benzidine and 2,4-toluene diamine accounting for the majority of the risk. The total estimated cancer incidence from the OSWRO source category based on the actual emissions levels is 0.02 excess cancer cases per year, or one case every 50 years, with emissions of benzidine and 2,4-toluene diamine contributing to the majority of the incidence. In addition, we note that approximately 210,000 people are estimated to have cancer risks greater than or equal to 1-in-1 million as a result of actual emissions from this source category. When considering MACT-allowable emissions, the maximum individual lifetime cancer risk is estimated to be up to 20-in-1 million, driven by emissions of benzidine and 2,4-toluene diamine. Due to the way MACT-allowable risks were calculated, estimates of population exposure and cancer incidence are not available, but would be greater than those estimates presented based on actual emissions. However, since the MIR based on MACT-allowable emissions is 20-in-1 million, there are no people exposed to cancer risks greater than 100-in-1 million.

The maximum modeled chronic non-cancer TOSHI value for the OSWRO source category based on actual emissions was estimated to be 0.6, with emissions of chlorine contributing to the majority of the TOSHI. There are no people estimated to have exposure to TOSHI levels greater than 1 as a result of actual emissions from this source category. When considering MACT-allowable emissions, the maximum chronic non-cancer TOSHI value was estimated to be up to 1, driven by emissions of chlorine. There are no people estimated to have exposure to TOSHI levels greater than 1 as a result of emissions at the MACT-allowable levels from this source category.

Our screening analysis for worst-case acute impacts based on actual emissions indicates that an HQ value of 1 is not exceeded for any pollutants at any facility, indicating that the HAP emissions are believed to be without appreciable risk of acute health effects. In characterizing the potential for acute non-cancer risks of concern, it is important to remember the upward bias of these exposure estimates (e.g., worst-case meteorology coinciding with a person located at the point of maximum concentration during the hour) and to consider the results along with the conservative estimates used to develop peak hourly emissions as described earlier. Refer to Appendix 6 of the *Draft Residual Risk Assessment for the Off-Site Waste and Recovery Operations Source Category* in the docket for this action for the detailed acute risk results.

2. Multipathway Risk Screening Results

Multiple facilities reported emissions of PB–HAP, including 2-acetylaminofluorene (a POM compound), heptachlor, and trifluralin. Only one facility reported emissions of a PB–HAP that has an available RTR multipathway screening value: 2-acetylaminofluorene, a polycylic organic matter (POM) compound that was analyzed as benzo(a)pyrene TEQ. Reported emissions of the POM 2-acetylaminofluorene are below the multipathway screening level for this compound, indicating low potential for multipathway risks as a result of emissions of this PB–HAP. The remaining PB–HAP do not currently have RTR multipathway screening values, and they were not evaluated for potential non-inhalation risks. These HAP, however, are not emitted in appreciable quantities from OSWRO facilities. (For more information on PB–HAP emitted from this source category, please see the *Draft Residual Risk Assessment for the Off-Site Waste and Recovery Operations Source Category* document available in the docket for this action.)

3. Environmental Risk Screening Results

As described in section III.A.5, we conducted an environmental risk screening assessment for the OSWRO source category. Emissions of three environmental HAP were reported by OSWRO facilities: POM, hydrogen chloride and hydrogen fluoride. For POM, none of the individual modeled concentrations for any facility in the source category exceeded any of the ecological benchmarks (either the LOAEL or NOAEL). For the acid gases HCl and HF, the average modeled concentration of these chemicals around each facility (i.e., the average concentration of all off-facility-site data points in the modeling domain) did not exceed any ecological benchmarks. In addition, each individual modeled concentration of hydrogen chloride and hydrogen fluoride (i.e., each off-facility-site data point in the modeling domain) was below the ecological benchmarks for all facilities.

4. Facility-wide Inhalation Risk Assessment Results

Table 3 displays the results of the facility-wide risk assessment. This assessment is based on actual emission levels. For detailed facility-specific results, see Appendix 5 of the *Draft Residual Risk Assessment for the Off-Site Waste and Recovery Operations Source Category* in the docket for this proposed rule.

TABLE 3—OFF-SITE WASTE AND RECOVERY OPERATIONS FACILITY-WIDE RISK ASSESSMENT RESULTS

Number of facilities analyzed	38
Cancer Risk:	
Estimated maximum facility-wide individual cancer risk (in 1 million)	200
Number of facilities with estimated facility-wide individual cancer risk of 100-in-1 million or more	1
Number of facilities at which the OSWRO source category contributes 50 percent or more to the facility-wide individual cancer risks of 100-in-1 million or more	0
Number of facilities with estimated facility-wide individual cancer risk of 1-in-1 million or more	17
Number of facilities at which the OSWRO source category contributes 50 percent or more to the facility-wide individual cancer risk of 1-in-1 million or more	7
Chronic Non-cancer Risk:	
Maximum facility-wide chronic non-cancer TOSHI	4
Number of facilities with facility-wide maximum non-cancer TOSHI greater than 1	2
Number of facilities at which the OSWRO source category contributes 50 percent or more to the facility-wide maximum non-cancer TOSHI of 1 or more	0

The facility-wide MIR and TOSHI are based on actual emissions from all emissions sources at the identified OSWRO facilities. The results indicate that 17 facilities have a facility-wide cancer MIR greater than or equal to 1-in-1 million and one facility has a facility-wide cancer MIR greater than or equal to 100-in-1 million. The maximum facility-wide MIR is 200-in-1 million due to emissions of beryllium compounds from the cement manufacturing processes at the facility site, with emission points from the OSWRO production source category contributing less than 1 percent of the maximum facility-wide risk. The results indicate that two facilities have a facility-wide non-cancer TOSHI greater than or equal to 1. The maximum facility-wide TOSHI is 4, and this TOSHI occurs at two facilities. At one of these facilities, the TOSHI is driven mainly by emissions of beryllium compounds from the same cement manufacturing processes mentioned above. The TOSHI at the other facility is driven mainly by emissions of chlorine from industrial inorganic chemical manufacturing processes and synthetic organic chemical manufacturing processes at the facility site. In each instance, the OSWRO production source category contributes less than 1 percent to the facility-wide TOSHI. The focus of this analysis is the OSWRO source category and its low relative contribution to facility-wide risk. The maximum facility-wide MIR and TOSHI values presented here are the result of a screening analysis for the other source categories located at common facility sites. The screening analysis requires further refinement and takes place during the RTR review for those source categories. We anticipate reductions of HAP from the cement manufacturing processes due to the implementation of the recently promulgated MACT standard, with a compliance date of September 9, 2015, and the upcoming RTR review, with a consent decree deadline of June 15, 2017 for proposal and June 15, 2018 for promulgation. We may consider options for achieving further reduction of HAP from the inorganic chemical and synthetic organic chemical manufacturing processes in future reviews for those source categories.

5. What demographic groups might benefit from this regulation?

To determine whether or not to conduct a demographics analysis, which is an assessment of risks to individual demographic groups, we look at a combination of factors including the MIR, non-cancer TOSHI, population around the facilities in the source category, and other relevant factors. Actual emissions from the OSWRO source category result in no individuals being exposed to cancer risk greater than 9-in-1 million or a non-cancer TOSHI greater than 1. In addition, we estimate the cancer incidence for the source category to be 0.02 cases per year. Therefore, we did not conduct an assessment of risks to individual demographic groups for this proposed rule. However, we did conduct a proximity analysis, which identifies any overrepresentation of minority, low income or indigenous populations near facilities in the source category. The results of this analysis are presented in the section of this preamble entitled ''Executive Order 12898: Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations.''

B. What are our proposed decisions regarding risk acceptability, ample margin of safety and adverse environmental effects?

1. Risk Acceptability

As discussed in sections II.A and III.B of this preamble, we weigh all health risk factors in our risk acceptability determination, including the cancer MIR; the number of persons in various cancer and non-cancer risk ranges; cancer incidence; the maximum non-cancer TOSHI; the maximum acute non-cancer HQ; the extent of non-cancer risks; the potential for adverse environmental effects; the distribution of cancer and non-cancer risks in the exposed population; and risk estimation uncertainties (54 FR 38044, September 14, 1989).

For the OSWRO source category, the risk analysis we performed indicates that the cancer risks to the individual most exposed could be up to 9-in-1 million due to actual emissions and up to 20-in-1 million due to MACT-allowable emissions. These risks are considerably less than 100-in-1 million, which is the presumptive upper limit of acceptable risk. The risk analysis also shows relatively low cancer incidence (0.02 cases per year), as well as no appreciable risk of deleterious chronic or acute non-cancer health effects. In addition, the risk assessment indicates no significant potential multipathway health effects.

While our analysis of facility-wide risks shows one facility with a maximum facility-wide cancer risk of 100-in-1 million or greater and two facilities with a maximum chronic non-cancer TOSHI greater than 1, it also shows that OSWRO operations did not drive these risks. In fact, OSWRO operations contribute less than 1 percent to the cancer MIR and less than 1 percent to the non-cancer TOSHI).

Considering all of the health risk information and factors discussed above, including the uncertainties discussed in section III.A.8 of this preamble, we propose that the risks from the OSWRO source category are acceptable.

2. Ample Margin of Safety Analyses and Proposed Controls

Although we are proposing that the risks from the OSWRO source category are acceptable, risk estimates for 210,000 individuals in the exposed population are above 1-in-1 million based on actual emissions. We recognize that our risk analysis indicates that the cancer risks to the individual most exposed are well within EPA's acceptable range (i.e., up to 9-in-1 million due to actual emissions and up to 20-in-1 million due to MACT-allowable emissions). However, as stated in the Benzene NESHAP, in protecting public health with an ample margin of safety, ''EPA strives to provide maximum feasible protection against risks to health from HAP,'' considering available health information, the incremental risk reduction associated with more stringent standards, technological feasibility, and other factors, such as costs and economic impacts of controls. 54 FR at 38044–38045. Consequently, in this analysis, we investigated available emissions control options that might reduce the risk associated with emissions from the source category. We considered this information along with all of the health risks and other health information considered in determining risk acceptability. As explained below, we are proposing additional control requirements for equipment leaks and certain tanks because considering costs and other factors, we have determined that these additional controls are capable of further reducing risks to the individual most exposed, and thus, they provide an ample margin of safety.

For the OSWRO source category, we did not identify any options that would reduce HAP emissions from containers, surface impoundments, oil-water separators, organic-water separators or transfer systems beyond what is currently required in the rule. For process vents, tanks and equipment leaks, we identified additional control options, which are described below.

For 19 of the 38 facilities included in the OSWRO risk analysis, the available data (see discussion of emissions data in section III.A of this preamble) did not,

in general, attribute OSWRO emissions to specific emission sources. For example, the NEI data for many of these facilities grouped emissions under source classification codes (SCC) for non-specific processes, such as 39999999—Miscellaneous Industrial Processes. For these facilities, we lack information as to which processes and emission point types are contributing to the risk estimates developed in the risk assessment. In contrast, CAA section 114 response data for the other 19 facilities were available, and the emissions data for these facilities were attributed to specific emission point types. However, the maximum cancer MIR and noncancer TOSHI values for the OSWRO source category are attributed to a facility for which only NEI data are available and for which we lack information regarding the processes and emission point types that contribute to these maximum risk values. Because we were unable to precisely determine the magnitude of HAP emissions from specific process types and how those emissions relate to the risk estimates, we conservatively assumed that the type of equipment under investigation was responsible for the maximum risks. For example, in our assessment of process vents, we assumed the maximum risks for the OSWRO source category were due to process vents, and then we evaluated how further controls might reduce this risk. While these assumptions may introduce some uncertainty regarding the risk reductions that would be achieved for each equipment type, we are presenting our analysis using the best information available. As noted in section VI of this preamble, we are requesting commenters to provide any site-specific emissions or other data that would enable us to better characterize the maximum risks and the risk reductions from the proposed control options for the OSWRO source category.

In the ample margin of safety analysis, factors related to the appropriate level of control are considered, including the costs and economic impacts of the controls. For the OSWRO source category, the control options identified to reduce risks are the same as those identified in the technology review. As such, we relied on the control cost estimates and estimates of control cost effectiveness derived from the technology review analyses in our ample margin of safety determination. We believe that our ample margin of safety analysis is reasonable. However, we note that if we had data to more precisely assign HAP emissions to particular emission sources in the risk modeling file and if that data were to lead us to conclude that the MACT standards reflect an ample margin of safety, we are still proposing these same control options under the technology review because they are technologically applicable and cost effective for this source category based on our experience with similar emission sources emitting similar HAP at other chemical type facilities. We request comments on the proposed controls discussed below to provide an ample margin of safety for this source category.

For process vents, as discussed in section IV.C of this preamble, we identified an emissions control option of requiring compliance with a 98 percent reduction rather than a 95 percent reduction in HAP emissions. To assess the maximum potential for risk reduction that could result from this process vent control option, we assumed that the maximum risks for the OSWRO source category are due to emissions from a process vent with emissions controlled at 95 percent. In this scenario, we estimate the HAP reduction resulting from compliance with a 98 percent reduction would be 10 tpy from the current emissions level, with a cost effectiveness of $350,000/ton HAP reduction. We estimate this option would reduce the MIR at the MACT-allowable emissions level for the source category from 20-in-1 million to 8-in-1 million and reduce the maximum chronic non-cancer TOSHI from 1 to 0.4. Considering all of the health risks and other health information considered in our determination of risk acceptability, the potential for reductions in HAP emissions and risk, the uncertainty associated with the estimated potential risk reductions and the costs associated with this option, we are proposing that no additional HAP emissions controls for OSWRO process vents are necessary to provide an ample margin of safety to protect public health.

For tanks, as discussed in section IV.C of this preamble, we identified two emissions control options. Option 1 requires Level 2 control of emissions for additional tanks containing liquids with lower vapor pressures. Option 2 requires compliance with a 98 percent reduction rather than a 95 percent reduction in HAP emissions from tanks. As discussed above for process vents, to assess the maximum potential for risk reduction that could result from these two tank control options, we have assumed that the maximum risks for the OSWRO source category are due to emissions from tanks. For Option 1, we have assumed that the maximum risks are due to tanks that are not currently subject to Level 2 controls, which require a 95 percent reduction in emissions. In this scenario, we estimate the HAP reduction resulting from compliance with the control of additional tanks would be 73 tpy from the current emissions level, with a cost effectiveness of $300/ton HAP reduction. We estimate this option would reduce the MIR at the MACT-allowable emissions level for the source category from 20-in-1 million to 1-in-1 million and reduce the maximum chronic non-cancer TOSHI from 1 to 0.05. Under Option 2, we estimate the HAP reduction incremental to Option 1 would be approximately 22 tpy, with a cost effectiveness of $13,000/ton HAP reduction and a cost effectiveness incremental to Option 1 of $56,000/ton HAP reduction. We estimate this option would reduce the MIR at the MACT-allowable emissions level incremental to Option 1 for the source category from 1-in-1 million to 0.4-in-1 million and reduce the maximum chronic non-cancer TOSHI from 0.05 to 0.02. Considering all of the health risks and other health information considered in our determination of risk acceptability, the potential risk reductions and the costs associated with Option 1, we are proposing to require this additional level of control to provide an ample margin of safety. Considering all of the health risks and other health information considered in our determination of risk acceptability, the potential for reductions in risk, the uncertainty associated with the estimated potential risk reductions and the costs associated with Option 2, we are proposing that the additional HAP emissions controls for OSWRO tanks under Option 2 are not necessary to provide an ample margin of safety to protect public health. In addition, as discussed further in preamble section IV.C, we are also proposing the Option 1 additional control level as a result of the technology review.

For equipment leaks, as discussed in section IV.C of this preamble, we identified two emission control options: Option 1 requires compliance with 40 CFR part 63, subpart H, rather than 40 CFR part 61, subpart V, without the connector leak detection and repair (LDAR) requirements of subpart H; Option 2 requires the same as Option 1 but includes the connector LDAR requirement of subpart H. As discussed above for tanks, to assess the maximum potential for risk reduction that could result from these equipment leaks control options, we assumed that the maximum risks for the OSWRO source category are due to emissions from equipment leaks. We also assumed that

since emissions from equipment leaks are estimated to be the same at actual and MACT-allowable emission levels, the risks due to equipment leaks at the MACT-allowable level are the same as risks due to equipment leaks at actual emissions levels. We additionally assumed, based on our analysis of estimated baseline equipment leak emissions,[24] that half of the equipment leak emissions causing the maximum risks are from non-connector components (i.e. pumps and valves), and the other half are from connectors. Given these assumptions, under Option 1, we estimate the HAP reduction resulting from compliance with subpart H without the subpart H connector monitoring requirements would be 69 tpy from the baseline actual emissions level, with a cost effectiveness of $1,000/ton HAP reduction. We estimate this option would reduce the MIR at the MACT-allowable emissions level for the equipment leaks at the source category from 9-in-1 million to 7-in-1 million and reduce the maximum chronic non-cancer TOSHI from 0.6 to 0.5. Under Option 2, we estimate the incremental HAP reduction resulting from compliance with subpart H including the subpart H connector monitoring requirements would be 70 tpy more than Option 1, with an overall cost effectiveness of $4,000/ton HAP reduction and a cost effectiveness incremental to Option 1 of $7,000/ton HAP reduction. We estimate this option would reduce the MIR at the MACT-allowable emissions level incremental to Option 1 for the equipment leaks at the source category from 7-in-1 million to 5-in-1 million and reduce the maximum chronic non-cancer TOSHI from 0.5 to 0.3. We note, as discussed in preamble section IV.C, we are proposing the additional control level of Option 2 as a result of the technology review. Considering the health risks and other health information evaluated in our determination of risk acceptability, that some risk reduction occurs with Option 2, and the costs associated with Option 2 are reasonable, we are proposing to require this additional level of control to provide an ample margin of safety.

In accordance with the approach established in the Benzene NESHAP, the EPA weighed all health risk measures and information considered in the risk acceptability determination, along with the costs of emissions controls, technological feasibility, uncertainties and other relevant factors in making our ample margin of safety determination. Considering the health risk information, the potential risk reductions and the reasonable cost effectiveness of certain control options identified for tanks and equipment leaks, we propose that the standards for the OSWRO source category be revised to include the proposed control Option 1 for tanks and the proposed control Option 2 for equipment leaks to provide an ample margin of safety to protect public health.

3. Adverse Environmental Effects

We conducted an environmental risk screening assessment for the OSWRO source category for POM, HCl and HF. For POM, none of the individual modeled Tier I concentrations for any facility in the source category exceeded any of the ecological benchmarks (either the LOAEL or NOAEL). For HF and HCl, the average modeled concentration around each facility (i.e., the average concentration of all off-site data points in the modeling domain) did not exceed any ecological benchmark. Based on these results, we are proposing that it is not necessary to set a more stringent standard to prevent such an adverse environmental effect, taking into consideration costs, energy, safety, and other relevant factors.

C. What are the results of the technology review and our proposed decisions?

As described in section III.C of this preamble, our technology review focused on identifying developments in practices, processes and control technologies for the emission sources in the OSWRO production source category. To identify such developments since the MACT standards were developed, we consulted the EPA's RACT/BACT/LAER Clearinghouse, reviewed subsequent regulatory development efforts and reviewed data from the 2013 CAA Section 114 survey of OSWRO facilities. For the OSWRO source category, we did not identify any developments in practices, processes or control technologies for containers, surface impoundments, oil-water separators, organic-water separators or transfer systems beyond what is currently required in the rule. For process vents, tanks and equipment leaks, we identified additional control options, and the following sections summarize the results of our technology review for these emissions sources.

To perform the technology review, we needed information that was not included in the RTR emissions dataset used for modeling OSWRO risks. Therefore, to evaluate the costs and cost-effectiveness of various control options, we used a model plant approach. The model plant approach we used resulted in different baseline emission estimates than those included in the risk modeling dataset. More information concerning our technology review and model plant approach can be found in the memorandum titled, *Technology Review and Cost Impacts for the Proposed Amendments to the Off-Site Waste and Recovery Operations Source Category,* which is available in the docket for this action.

1. Tanks

For tanks at existing affected sources, we identified two potential developments in practices and control techniques. The current OSWRO MACT requirements at 40 CFR 63.685(b)(1) for tanks at an existing affected source depend on the capacity of the tank and the vapor pressure of the material being stored. ''Level 2'' control is required for: (1) Tanks with capacities greater than or equal to 75 cubic meters (m^3), but less than 151 m^3 and a vapor pressure of 27.6 kilopascals (kPa) or greater and (2) tanks with capacities greater than or equal to 151 m^3 and a vapor pressure of 5.2 kPa or greater. ''Level 2'' control essentially requires one of five options: (1) A fixed roof tank equipped with an internal floating roof; (2) a fixed roof tank equipped with an external floating roof; (3) a tank with a vapor-tight cover and vented through a closed-vent system to a control device that has an efficiency of 95 percent or more; (4) a pressure tank; or (5) a tank inside a permanent total enclosure (PTE) that is vented through a closed-vent system to an enclosed combustion control device. Tanks of any capacity (effectively those less than 75 m^3) with a vapor pressure of 76.6 kPa or greater are required to use one of the options listed above for Level 2 control, except that fixed roof tanks with either an internal or an external floating roof cannot be used. For tanks with capacities and vapor pressures less than those stated above, ''Level 1'' control is required. ''Level 1'' control generally requires a fixed roof with closure devices.

We evaluated two control options that would change the tank requirements if adopted. Option 1 would lower the vapor pressure threshold above which Level 2 controls would be required for some tanks. Option 2 would revise the vapor pressure threshold as in Option 1 and increase the required control efficiency from the current 95 percent to a 98 percent emissions reduction for all tanks required to use Level 2 controls. Through the review of air toxics MACT standards developed subsequent to the

[24] See *Technology Review and Cost Impacts for the Proposed Amendments to the Off-Site Waste and Recovery Operations Source Category,* which is available in the docket for this action.

OSWRO MACT standards, we noted that several other MACT standards refer to the Hazardous Organic NESHAP (HON) for their storage tank requirements. We evaluated revising the applicability of the OSWRO existing source requirements to use the same thresholds for Level 2 control as the thresholds for control required by the HON. As shown in Table 4, Option 1 would require Level 2 emissions control for tanks with capacities greater than or equal to 75 m^3, but less than 151 m^3, if the vapor pressure of the stored material is 13 kPa or greater, instead of 27.6 kPa or greater as required by the current MACT standard. No other tank size or vapor thresholds would be changed with Option 1. For tanks at new affected sources, the current OSWRO applicability thresholds are consistent with those required for the chemical industry under other NESHAP, including the HON, so no revised applicability requirements were evaluated for tanks located at new sources.

Because available data for the source category indicate most OSWRO tanks currently have fixed-roofs with emissions routed through a closed vent system to a control device, under Option 2 we considered the impacts of requiring a higher control efficiency than currently required by the OSWRO MACT standard. While carbon adsorption and other control devices are assumed to have a control efficiency of 95 percent, other technologies are capable of achieving greater emissions control, such as thermal incinerators. Several of these devices have been demonstrated to achieve a control efficiency of 98 percent or greater. Under Option 2, we considered the impacts of requiring a 98 percent emissions reduction for tanks meeting the lowered vapor pressure threshold under Option 1, and all other tanks required to use Level 2 emission controls, assuming a recuperative thermal oxidizer (RCO) would be used to attain this increased level of control.

Table 5 presents the emission reductions and costs of the two options considered for tanks at existing affected sources in the OSWRO source category under the technology review. For Option 1, data collected through our CAA section 114 questionnaire indicate that only some facilities have tanks in the size and vapor pressure range considered for this option, and based on these data we estimate that approximately three OSWRO facilities have tanks that would require additional control under Option 1. As seen in Table 5, for Option 1, we estimate the capital costs to be approximately $76,000, and the total annualized costs are estimated to be approximately $21,000. The estimated HAP emissions reduction is approximately 73 tpy, and the cost effectiveness is approximately $300/ton. For Option 2, data collected through our CAA section 114 questionnaire indicate that only some facilities have tanks that currently require Level 2 emissions controls or that would require Level 2 control with the revised vapor pressure threshold of Option 1, and based on this data we estimate that approximately 10 OSWRO facilities have tanks that would require additional control under Option 2. We estimate the capital costs to be approximately $2.8 million, and the total annualized costs are estimated to be approximately $1.3 million. The estimated HAP emissions reduction incremental to Option 1 is approximately 22 tpy, and the incremental cost effectiveness between Option 1 and Option 2 is approximately $56,000/ton.

TABLE 4—REQUIREMENTS OF TANK OPTIONS 1 AND 2 FOR EXISTING OSWRO AFFECTED SOURCES

Options 1 and 2 applicability thresholds		Then control level for options 1 and 2	Option 1 Requirements	Option 2 Requirements
If size (m^3) is	And vapor pressure (kPa) is			
<75	<76.6	1	Fixed roof.	
	≥76.6	[a] 2	95% control [b]	98% control.[b]
75 ≤ capacity < 151	<13.1	1	Fixed roof.	
	≥13.1	2	95% control [c]	98% control.[c]
151 ≤ capacity	<5.2	1	Fixed roof.	
	≥5.2	2	95% control [c]	98% control.[c]

[a] Except that fixed roof tanks equipped with an internal floating roof and tanks equipped with an external floating roof shall not be used.
[b] Control efficiency would apply to tanks vented through a closed vent system to a control device and tanks inside a PTE that are vented to a combustion control device; use of a pressure tank would still be an available control option.
[c] Control efficiency would apply to tanks vented through a closed vent system to a control device and tanks inside a PTE that are vented to a combustion control device; use of an internal or external floating roof or a pressure tank would still be available control options.

TABLE 5—NATIONWIDE EMISSIONS REDUCTIONS AND COSTS OF CONTROL OPTIONS FOR TANKS AT OSWRO FACILITIES

Regulatory options	HAP emissions reduction (tpy)	Capital cost ($)	Annual cost ($/yr)	Cost effectiveness ($/ton HAP removed)	Incremental cost effectiveness ($/ton HAP removed)
Option 1	72.8	76,000	21,000	300	.....
Option 2	95.0	2,800,000	1,300,000	13,000	56,000

Based on our analysis, the costs of Option 1 are reasonable, given the level of HAP emissions reduction that would be achieved with this control option. The costs of Option 2 do not appear reasonable, given the level of HAP emissions reduction it would achieve. Therefore, as a result of the technology review, we are proposing to revise the

OSWRO MACT standards in accordance with Option 1, i.e., to require Level 2 controls for tanks at existing affected sources with capacities greater than or equal to 75 m^3, but less than 151 m^3, and a vapor pressure of 13.1 kPa or greater. We solicit comment on our assessment and conclusions regarding all aspects of both options. As noted in section IV.B.2, we are concurrently proposing to revise the OSWRO MACT standards for existing affected sources to require Level 2 controls for these tanks under section 112(f)(2) of the CAA to provide an ample margin of safety to protect public health.

2. Equipment Leaks

The OSWRO MACT standards at 40 CFR 63.691 currently require compliance with either 40 CFR part 61, subpart V, or 40 CFR part 63, subpart H, to control emissions from equipment leaks at existing and new affected sources. While many provisions of these two rules are the same or similar, subpart H requires the use of a more stringent leak definition for valves in gas and vapor service and in light liquid service, pumps in light liquid service, and connectors. Specifically, subpart H lowers the leak definition for valves from 10,000 ppm (in subpart V) to 500 ppm, lowers the leak definition for pump seals from 10,000 ppm (in subpart V) to 1,000 ppm, and requires periodic instrument monitoring of connectors with a leak definition of 500 ppm, as opposed to instrument monitoring only being required if a potential leak is detected by visual, audible, olfactory, or other detection method (in subpart V). We identified the more stringent leak definitions of subpart H as a development in practices, processes or control technologies.

Assuming conservatively that each of the OSWRO facilities currently comply with subpart V and do not already comply with subpart H, we analyzed the costs and emission reductions of two options: Option 1—switching from a subpart V LDAR program to a subpart H LDAR program, without the subpart H connector monitoring requirements; Option 2—switching from a subpart V LDAR program to a subpart H LDAR program, with the subpart H connector monitoring requirements. The estimated costs and emissions reductions associated with these two options for the OSWRO source category are shown in Table 6. For Option 1 (subpart H without connector monitoring), we estimated the capital costs to be approximately $320,000, and the total annualized costs are estimated to be approximately $67,000. The estimated HAP emissions reduction is approximately 69 tpy, and the cost effectiveness is approximately $1,000/ton. For Option 2 (subpart H with connector monitoring), we estimated the capital costs to be approximately $1,900,000, and the total annualized costs are estimated to be approximately $530,000. The estimated HAP emissions reduction is approximately 138 tpy, and the cost effectiveness is approximately $4,000/ton. The incremental cost effectiveness between Option 1 and Option 2 is approximately $7,000.

TABLE 6—OSWRO EQUIPMENT LEAK OPTIONS EMISSION REDUCTIONS AND COSTS

Regulatory alternatives	HAP Emissions reduction (tpy)	Capital cost ($)	Annual cost ($/yr)	Cost effectiveness ($/ton HAP removed)	Incremental cost effectiveness ($/ton HAP removed)
Option 1: Subpart H, no connector monitoring	68.5	320,000	67,000	1,000	.....
Option 2: Subpart H with connector monitoring	138.1	1,900,000	530,000	4,000	7,000

Based on our analysis, the costs of Option 2, which includes all of the requirements of Option 1, are reasonable, given the level of HAP emissions reduction that would be achieved with this control option. Therefore, as a result of the technology review, we are proposing to revise the OSWRO MACT standards, in accordance with Option 2, to require existing and new affected sources to comply with subpart H rather than subpart V, including the subpart H requirements for connectors in gas and vapor service and in light liquid service. As noted in section IV.B.2, we are concurrently proposing to revise the OSWRO MACT standards for existing and new affected sources to require compliance with subpart H rather than subpart V, including the subpart H requirements for connectors in gas and vapor service and in light liquid service under section 112(f)(2) of the CAA to provide an ample margin of safety to protect public health. We solicit comment on our assessment and conclusions regarding all aspects of both options.

3. Process Vents

The current OSWRO MACT standards at 40 CFR 63.690 require emissions from process vents at existing and new affected sources to be routed through a closed vent system to a control device achieving at least 95 percent control. As discussed above for tanks, while carbon adsorption and other control devices are assumed to have a control efficiency of 95 percent, other technologies are capable of achieving greater emissions control, such as thermal incinerators. Several of these devices have been demonstrated to achieve a control efficiency of 98 percent or greater. Based on the combination of reported control efficiencies for these devices and known application to low concentration organic vapor gas streams, we investigated the use of a regenerative thermal oxidizer with a control efficiency of 98 percent as a potential control option.

Table 7 presents the emission reductions and costs of the 98 percent control options considered for process vents at existing affected sources in the OSWRO source category under the technology review. Data collected through our CAA section 114 questionnaire indicate that only some facilities have process vents, and based on these data we estimate that approximately eight OSWRO facilities have process vents that would require additional control to reduce emissions by 98 percent. We estimated the capital costs of complying with an increase from 95 to 98 percent HAP control for process vents to be approximately $9.8 million, and the total annualized costs are estimated to be approximately $3.3 million. The estimated HAP emissions reduction is approximately 10 tpy, and the cost effectiveness is approximately $350,000/ton of HAP emission reduction.

TABLE 7—OSWRO PROCESS VENT OPTION IMPACTS

Regulatory option	HAP emissions reduction (tpy)	Capital cost ($)	Annual cost ($/yr)	Cost effectiveness ($/ton HAP removed)
98 percent control	9.6	9,800,000	3,300,000	350,000

Based on our estimate of costs and HAP reduction, we do not consider increasing the emission reduction to 98 percent to be reasonable, and we are not proposing to revise the OSWRO MACT standards for process vents pursuant to CAA section 112(d)(6) to require this level of emissions control. We solicit comment on our analysis, and as noted in section IV.B.2, we also solicit comments regarding the emissions controls proposed as a result of this technology review, given the uncertainty in the emissions estimates and the potential impact on the estimates of cost effectiveness.

D. What other actions are we proposing?

We are also proposing revisions to the startup, shutdown and malfunction (SSM) provisions of the MACT rule to ensure that they are consistent with the court decision in *Sierra Club* v. *EPA,* 551 F. 3d 1019 (D.C. Cir. 2008), which vacated two provisions that exempted sources from the requirement to comply with otherwise applicable section 112(d) emission standards during periods of SSM. Second, we are proposing to require electronic reporting of emissions test results. Third, we are proposing to revise the routine maintenance provisions and limit those provisions only to tanks routing emissions to a control device. Fourth, we are proposing to clarify what ''seal the open end at all times'' means for open-ended lines and valves in the equipment leak provisions of the rule. Fifth, we are proposing that emissions of HAP from safety devices and closure devices directly to the atmosphere are prohibited, and we are proposing to require monitoring of pressure releases from pressure relief devices (PRDs) that release directly to the atmosphere. Sixth, we are proposing minor clarifications to the sample run times and sample site location required for some performance test methods, and we are proposing to allow the use of a different performance test method in two cases. Seventh, we are proposing various minor clarifications and corrections to the rule. In addition to these proposed revisions, we are seeking comments containing information regarding flares used by facilities in this source category. We present details and the rationales for the proposed changes in the following sections.

1. Startup, Shutdown and Malfunctions

a. Background

In its 2008 decision in *Sierra Club* v. *EPA,* 551 F.3d 1019 (D.C. Cir. 2008), the United States Court of Appeals for the District of Columbia Circuit vacated portions of two provisions in the EPA's CAA section 112 regulations governing the emissions of HAP during periods of SSM. Specifically, the Court vacated the SSM exemption contained in 40 CFR 63.6(f)(1) and 40 CFR 63.6(h)(1) holding that under section 302(k) of the CAA, emissions standards or limitations must be continuous in nature and that the SSM exemption violates the CAA's requirement that some section 112 standards apply continuously.

We are proposing to eliminate the SSM exemption in the OSWRO NESHAP. Consistent with *Sierra Club* v. *EPA,* we are proposing standards in this rule that apply at all times. We are also proposing several revisions to Table 2 (the General Provisions Applicability Table) as is explained in more detail below. For example, we are proposing to eliminate the incorporation of the General Provisions' requirement that the source develop an SSM plan. We also are proposing to eliminate and revise certain recordkeeping and reporting requirements related to the SSM exemption as further described below.

The EPA has attempted to eliminate provisions that are inappropriate, unnecessary, or redundant in the absence of the SSM exemption in this proposal. We are specifically seeking comment on whether we have successfully done so.

In proposing the standards in this rule, the EPA has taken into account startup and shutdown periods and, for the reasons explained below, has not proposed alternate standards for those periods.

Information on periods of startup and shutdown received from OSWRO facilities through the CAA section 114 questionnaire responses indicate that emissions during these periods are the same as during normal operations. The facilities do not process waste unless and until their control devices are operating to fully control emissions. Therefore, separate standards for periods of startup and shutdown are not necessary and are not being proposed. We solicit comment on our findings and conclusions regarding periods of startup and shutdown at OSWRO facilities.

Periods of startup, normal operations, and shutdown are all predictable and routine aspects of a source's operations. However, by contrast, malfunction is defined as a ''sudden, infrequent, and not reasonably preventable failure of air pollution control and monitoring equipment, process equipment or a process to operate in a normal or usual manner * * *'' (40 CFR 63.2). The EPA has determined that CAA section 112 does not require that emissions that occur during periods of malfunction be factored into development of CAA section 112 standards. Under section 112, emissions standards for new sources must be no less stringent than the level ''achieved'' by the best controlled similar source and for existing sources generally must be no less stringent than the average emission limitation ''achieved'' by the best performing 12 percent of sources in the category. There is nothing in section 112 that directs the EPA to consider malfunctions in determining the level ''achieved'' by the best performing sources when setting emission standards. As the DC Circuit has recognized, the phrase ''average emissions limitation achieved by the best performing 12 percent of sources ''says nothing about how the performance of the best units is to be calculated.'' *Nat'l Ass'n of Clean Water Agencies* v. *EPA,* 734 F.3d 1115, 1141 (D.C. Cir. 2013). While the EPA accounts for variability in setting emissions standards, nothing in section 112 requires the EPA to consider malfunctions as part of that analysis. A malfunction should not be treated in the same manner as the type of variation in performance that occurs during routine operations of a source. A malfunction is a failure of the source to perform in a ''normal or usual manner'' and no statutory language compels the EPA to consider such events in setting standards based on ''best performers.''

Further, accounting for malfunctions in setting emissions standards would be difficult, if not impossible, given the

myriad different types of malfunctions that can occur across all sources in the category and given the difficulties associated with predicting or accounting for the frequency, degree, and duration of various malfunctions that might occur. As such, the performance of units that are malfunctioning is not ''reasonably'' foreseeable. *See, e.g., Sierra Club* v. *EPA,* 167 F. 3d 658, 662 (D.C. Cir. 1999) (the EPA typically has wide latitude in determining the extent of data-gathering necessary to solve a problem. We generally defer to an agency's decision to proceed on the basis of imperfect scientific information, rather than to ''invest the resources to conduct the perfect study.''). *See also Weyerhaeuser* v. *Costle,* 590 F.2d 1011, 1058 (D.C. Cir. 1978) (''In the nature of things, no general limit, individual permit, or even any upset provision can anticipate all upset situations. After a certain point, the transgression of regulatory limits caused by 'uncontrollable acts of third parties,' such as strikes, sabotage, operator intoxication or insanity, and a variety of other eventualities, must be a matter for the administrative exercise of case-by-case enforcement discretion, not for specification in advance by regulation.''). In addition, the goal of a ''best controlled or best performing source'' is to operate in such a way as to avoid malfunctions of the source and accounting for malfunctions could lead to standards that are significantly less stringent than levels that are achieved by a well-performing non-malfunctioning source. It is reasonable to interpret section 112 to avoid such a result. The EPA's approach to malfunctions is consistent with CAA section 112 and is a reasonable interpretation of the statute.

In the event that a source fails to comply with the applicable CAA section 112(d) standards as a result of a malfunction event, the EPA would determine an appropriate response based on, among other things, the good faith efforts of the source to minimize emissions during malfunction periods, including preventative and corrective actions, as well as root cause analyses to ascertain and rectify excess emissions. The EPA would also consider whether the source's failure to comply with the CAA section 112(d) standard was, in fact, ''sudden, infrequent, not reasonably preventable'' and was not instead ''caused in part by poor maintenance or careless operation.'' 40 CFR 63.2 (definition of malfunction). Further, to the extent the EPA files an enforcement action against a source for violation of an emission standard, the source can raise any and all defenses in that enforcement action, and the federal district court will determine what, if any, relief is appropriate. The same is true for citizen enforcement actions. Similarly, the presiding officer in an administrative proceeding can consider any defense raised and determine whether administrative penalties are appropriate.

In several prior rules, the EPA had included an affirmative defense to civil penalties for violations caused by malfunctions in an effort to create a system that incorporates some flexibility, recognizing that there is a tension, inherent in many types of air regulations, to ensure adequate compliance, while simultaneously recognizing that despite the most diligent of efforts, emission standards may be violated under circumstances entirely beyond the control of the source. Although the EPA recognized that its case-by-case enforcement discretion provides sufficient flexibility in these circumstances, it included the affirmative defense to provide a more formalized approach and more regulatory clarity. *See Weyerhaeuser Co.* v. *Costle,* 590 F.2d 1011, 1057–58 (D.C. Cir. 1978) (holding that an informal case-by-case enforcement discretion approach is adequate); but see *Marathon Oil Co.* v. *EPA,* 564 F.2d 1253, 1272–73 (9th Cir. 1977) (requiring a more formalized approach to consideration of ''upsets beyond the control of the permit holder.''). Under the EPA's regulatory affirmative defense provisions, if a source could demonstrate in a judicial or administrative proceeding that it had met the requirements of the affirmative defense in the regulation, civil penalties would not be assessed. Recently, the United States Court of Appeals for the District of Columbia Circuit vacated such an affirmative defense in one of the EPA's section 112(d) regulations. *NRDC* v. *EPA,* No. 10–1371 (D.C. Cir. April 18, 2014) 2014 U.S. App. LEXIS 7281 (vacating affirmative defense provisions in a section 112(d) rule establishing emission standards for Portland cement kilns). The court found that the EPA lacked authority to establish an affirmative defense for private civil suits and held that under the CAA, the authority to determine civil penalty amounts lies exclusively with the courts, not the EPA. Specifically, the Court found: ''As the language of the statute makes clear, the courts determine, on a case-by-case basis, whether civil penalties are 'appropriate.''' See NRDC, 2014 U.S. App. LEXIS 7281 at *21 (''[U]nder this statute, deciding whether penalties are 'appropriate' in a given private civil suit is a job for the courts, not EPA.''). In light of NRDC, the EPA is not including a regulatory affirmative defense provision in this proposed rule. As explained above, if a source is unable to comply with emissions standards as a result of a malfunction, the EPA may use its case-by-case enforcement discretion to provide flexibility, as appropriate. Further, as the DC Circuit recognized, in an EPA or citizen enforcement action, the court has the discretion to consider any defense raised and determine whether penalties are appropriate. Cf. NRDC, 2014 U.S. App. LEXIS 7281 at *24. (arguments that violation were caused by unavoidable technology failure can be made to the courts in future civil cases when the issue arises). The same logic applies to EPA administrative enforcement actions.

b. Specific SSM-Related Proposed Changes

To address the United States Court of Appeals for the District of Columbia Circuit vacatur of portions of the EPA's CAA section 112 regulations governing the emissions of HAP during periods of SSM, we are proposing revisions and additions to certain provisions of the OSWRO rule. As described in detail below, we are proposing to revise the General Provisions applicability table (Table 2 to Subpart DD) in several of the references related to requirements that apply during periods of SSM. We are also proposing revisions related to the following provisions of the OSWRO rule: (1) The general duty to minimize emissions at all times; (2) the requirement for sources to comply with the emission limits in the rule at all times, with clarifications for what constitutes a deviation; (3) performance testing conditions requirements; (4) excused monitoring excursions provisions; and (5) malfunction recordkeeping and reporting requirements.

i. General Duty

We are proposing to revise the General Provisions table (Table 2) entry for 40 CFR 63.6(e) by adding rows specifically for 40 CFR 63.6(e)(1)(i), 63.6(e)(1)(ii), 63.6(e)(1)(iii), and 63.6(e)(3) and to include a ''no'' in the second column for the 40 CFR 63.6(e)(1)(i) entry. Section 63.6(e)(1)(i) describes the general duty to minimize emissions. Some of the language in that section is no longer necessary or appropriate in light of the elimination of the SSM exemption. We are proposing instead to add general duty regulatory text at 40 CFR 63.683(e) that reflects the

general duty to minimize emissions while eliminating the reference to periods covered by an SSM exemption. The current language in 40 CFR 63.6(e)(1)(i) characterizes what the general duty entails during periods of SSM. With the elimination of the SSM exemption, there is no need to differentiate between normal operations, startup and shutdown, and malfunction events in describing the general duty. Therefore the language the EPA is proposing for 40 CFR 63.683(e) does not include that language from 40 CFR 63.6(e)(1).

We are also proposing to include a ''no'' in the second column for the newly added entry for 40 CFR 63.6(e)(1)(ii). Section 63.6(e)(1)(ii) imposes requirements that are not necessary with the elimination of the SSM exemption or are redundant with the general duty requirement being added at 63.683(e).

The provisions of 40 CFR 63.6(e)(1)(iii) still apply, and we are keeping the ''yes'' in the second column for that section. For 40 CFR 63.6(e)(2), we are proposing to include a ''no'' in the second column for that section because it is a reserved section in the General Provisions.

We are also proposing to clarify in the applicability section of 40 CFR 63.680(g)(1) and (2) that the emission limits of subpart DD apply at all times except when the affected source is not operating and that the owner or operator must not shut down items of equipment required or used for compliance with the requirements of subpart DD.

ii. SSM Plan

We are also proposing to include a ''no'' in the second column for the newly added 40 CFR 63.6(e)(3) entry. Generally, this paragraph requires development of an SSM plan and specifies SSM recordkeeping and reporting requirements related to the SSM plan. As noted, the EPA is proposing to remove the SSM exemptions. Therefore, affected units will be subject to an emission standard during such events. The applicability of a standard during such events will ensure that sources have ample incentive to plan for and achieve compliance and thus the SSM plan requirements are no longer necessary.

iii. Compliance With Standards

We are proposing to revise the General Provisions table (Table 2) entry for 40 CFR 63.6(f)(1) by changing the ''yes'' in column 2 to a ''no.'' The current language of 40 CFR 63.6(f)(1) exempts sources from non-opacity standards during periods of SSM. As discussed above, the court in *Sierra Club* vacated the exemptions contained in this provision and held that the CAA requires that some section 112 standard apply continuously. Consistent with *Sierra Club,* the EPA is proposing to revise standards in this rule to apply at all times.

iv. Performance Testing

We are proposing to revise the General Provisions table (Table 2) entry for 40 CFR 63.7(e)(1) by changing the ''yes'' in column 2 to a ''no.'' Section 63.7(e)(1) describes performance testing requirements. The EPA is instead proposing to add a performance testing requirement at 40 CFR 63.694(l). The performance testing requirements we are proposing to add differ from the General Provisions performance testing provisions in several respects. The regulatory text does not include the language in 40 CFR 63.7(e)(1) that restated the SSM exemption. However, consistent with 40 CFR 63.7(e)(1), performance tests conducted under this subpart should be based on representative performance (i.e., performance based on normal operating conditions) of the affected source. The EPA is proposing to add language that requires the owner or operator to record the process information that is necessary to document operating conditions during the test and include in such record an explanation to support that such conditions represent normal operation. Section 63.7(e) requires that the owner or operator make available to the Administrator such records ''as may be necessary to determine the condition of the performance test'' upon request, but does not specifically require the information to be recorded. The regulatory text the EPA is proposing to add to this provision builds on that requirement and makes explicit the requirement to record the information.

v. Monitoring

We are proposing to revise the General Provisions table (Table 2) entries for 40 CFR 63.8(c)(1)(i) and (iii) by changing the ''yes'' in column 2 to a ''no.'' The cross-references to the general duty and SSM plan requirements in those subparagraphs are not necessary in light of other requirements of 40 CFR 63.8 that require good air pollution control practices (40 CFR 63.8(c)(1)) and that set out the requirements of a quality control program for monitoring equipment (40 CFR 63.8(d)).

vi. Recordkeeping

We are proposing to revise the General Provisions table (Table 2) entry for 40 CFR 63.10(b)(2)(i) by changing the ''yes'' in column 2 to a ''no.'' Section 63.10(b)(2)(i) describes the recordkeeping requirements during startup and shutdown. These recording provisions are no longer necessary because the EPA is proposing that recordkeeping and reporting applicable to normal operations will apply to startup and shutdown. In the absence of special provisions applicable to startup and shutdown, such as a startup and shutdown plan, there is no reason to retain additional recordkeeping for startup and shutdown periods.

We are proposing to revise the General Provisions table (Table 2) entry for 40 CFR 63.10(b)(2)(ii) by changing the ''yes'' in column 2 to a ''no.'' Section 63.10(b)(2)(ii) describes the recordkeeping requirements during a malfunction. The EPA is proposing to add such requirements to 40 CFR 63.696(h). The regulatory text we are proposing to add differs from the General Provisions it is replacing in that the General Provisions require the creation and retention of a record of the occurrence and duration of each malfunction of process, air pollution control, and monitoring equipment. The EPA is proposing that this requirement apply to any failure to meet an applicable standard and is requiring that the source record the date, time, and duration of the failure rather than the ''occurrence.'' The EPA is also proposing to add to 40 CFR 63.696(h) a requirement that sources keep records that include a list of the affected source or equipment and actions taken to minimize emissions, an estimate of the volume of each regulated pollutant emitted over the standard for which the source failed to meet the standard, and a description of the method used to estimate the emissions. Examples of such methods would include product-loss calculations, mass balance calculations, measurements when available, or engineering judgment based on known process parameters. The EPA is proposing to require that sources keep records of this information to ensure that there is adequate information to allow the EPA to determine the severity of any failure to meet a standard, and to provide data that may document how the source met the general duty to minimize emissions when the source has failed to meet an applicable standard.

We are proposing to revise the General Provisions table (Table 2) entry for 40 CFR 63.10(b)(2)(iv) by changing

the ''yes'' in column 2 to a ''no.'' When applicable, the provision requires sources to record actions taken during SSM events when actions were inconsistent with their SSM plan. The requirement is no longer appropriate because SSM plans will no longer be required. The requirement previously applicable under 40 CFR 63.10(b)(2)(iv)(B) to record actions to minimize emissions and record corrective actions is now applicable by reference to 40 CFR 63.696(h).

We are proposing to revise the General Provisions table (Table 2) entry for 40 CFR 63.10(b)(2)(v) by changing the ''yes'' in column 2 to a ''no.'' When applicable, the provision requires sources to record actions taken during SSM events to show that actions taken were consistent with their SSM plan. The requirement is no longer appropriate because SSM plans will no longer be required.

vii. Reporting

We are proposing to revise the General Provisions table (Table 2) entry for 40 CFR 63.10(d)(5)(i) by consolidating it with the entry for 63.10(d)(5)(ii) and changing the ''yes'' in column 2 to ''no.'' Section 63.10(d)(5)(i) describes the reporting requirements for startups, shutdowns, and malfunctions. To replace the General Provisions reporting requirements, the EPA is proposing to add reporting requirements to 40 CFR 63.697(b)(3). The replacement language differs from the General Provisions requirement in that it eliminates periodic SSM reports as a stand-alone report. We are proposing language that requires sources that fail to meet an applicable standard at any time to report the information concerning such events in the semi-annual summary report already required under this rule. We are proposing that the report must contain the number, date, time, duration, and the cause of such events (including unknown cause, if applicable), a list of the affected source or equipment, an estimate of the quantity of each regulated pollutant emitted over any emission limit, and a description of the method used to estimate the emissions.

Examples of such methods would include product-loss calculations, mass balance calculations, measurements when available, or engineering judgment based on known process parameters. The EPA is proposing this requirement to ensure that there is adequate information to determine compliance, to allow the EPA to determine the severity of the failure to meet an applicable standard, and to provide data that may document how the source met the general duty to minimize emissions during a failure to meet an applicable standard.

We will no longer require owners or operators to determine whether actions taken to correct a malfunction are consistent with an SSM plan, because plans would no longer be required. The proposed amendments therefore eliminate the cross reference to 40 CFR 63.10(d)(5)(i) that contains the description of the previously required SSM report format and submittal schedule from this section. These specifications are no longer necessary because the events will be reported in otherwise required reports with similar format and submittal requirements.

We are proposing to revise the General Provisions table (Table 2) entry for 40 CFR 63.10(d)(5)(ii) by consolidating it with the entry for 63.10(d)(5)(i) and changing the ''yes'' in column 2 to a ''no.'' Section 63.10(d)(5)(ii) describes an immediate report for startups, shutdown, and malfunctions when a source failed to meet an applicable standard but did not follow the SSM plan. We will no longer require owners and operators to report when actions taken during a startup, shutdown, or malfunction were not consistent with an SSM plan, because plans would no longer be required.

2. Electronic Reporting

In this proposal, the EPA is describing a process to increase the ease and efficiency of performance test data submittal while improving data accessibility. Specifically, the EPA is proposing that owners and operators of OSWRO facilities submit electronic copies of required performance test reports by direct computer-to-computer electronic transfer using EPA-provided software. The direct computer-to-computer electronic transfer is accomplished through the EPA's Central Data Exchange (CDX) using the Compliance and Emissions Data Reporting Interface (CEDRI). The Central Data Exchange is EPA's portal for submittal of electronic data. The EPA-provided software is called the Electronic Reporting Tool (ERT) which is used to generate electronic reports of performance tests and evaluations. The ERT generates an electronic report package which will be submitted using the CEDRI. The submitted report package will be stored in the CDX archive (the official copy of record) and EPA's public database called WebFIRE. All stakeholders will have access to all reports and data in WebFIRE and accessing these reports and data will be very straightforward and easy (*see* the WebFIRE Report Search and Retrieval link at *http://cfpub.epa.gov/webfire/index.cfm?action=fire.searchERTSubmission*). A description and instructions for use of the ERT can be found at *http://www.epa.gov/ttn/chief/ert/index.html* and CEDRI can be accessed through the CDX Web site (*www.epa.gov/cdx*). A description of the WebFIRE database is available at: *http://cfpub.epa.gov/oarweb/index.cfm?action=fire.main.*

The proposal to submit performance test data electronically to the EPA applies only to those performance tests conducted using test methods that are supported by the ERT. The ERT supports most of the commonly used EPA reference methods. A listing of the pollutants and test methods supported by the ERT is available at: *http://www.epa.gov/ttn/chief/ert/index.html.*

We believe that industry would benefit from this proposed approach to electronic data submittal. Specifically, by using this approach, industry will save time in the performance test submittal process. Additionally, the standardized format that the ERT uses allows sources to create a more complete test report resulting in less time spent on data backfilling if a source failed to include all data elements required to be submitted. Also through this proposal industry may only need to submit a report once to meet the requirements of the applicable subpart because stakeholders can readily access these reports from the WebFIRE database. This also benefits industry by cutting back on recordkeeping costs as the performance test reports that are submitted to the EPA using CEDRI are no longer required to be retained in hard copy, thereby, reducing staff time needed to coordinate these records.

Since the EPA will have performance test data in hand, we expect that there may be fewer or less substantial data collection requests in conjunction with prospective required residual risk assessments or technology reviews. This would result in a decrease in staff time needed to respond to data collection requests.

State, local and tribal air pollution control agencies (S/L/Ts) may also benefit from having electronic versions of the reports they are now receiving. For example, S/L/Ts may be able to conduct a more streamlined and accurate review of electronic data submitted to them. For example, the ERT would allow for an electronic review process, rather than a manual data assessment, therefore, making review and evaluation of the source provided data and calculations easier and more efficient. In addition, the public stands to benefit from electronic

reporting of emissions data because the electronic data will be easier for the public to access. How the air emissions data are collected, accessed and reviewed will be more transparent for all stakeholders.

One major advantage of the proposed submittal of performance test data through the ERT is a standardized method to compile and store much of the documentation required to be reported by this rule. The ERT clearly states what testing information would be required by the test method and has the ability to house additional data elements that might be required by a delegated authority.

In addition the EPA must have performance test data to conduct effective reviews of CAA sections 111, 112 and 129 standards, as well as for many other purposes including compliance determinations, emission factor development and annual emission rate determinations. In conducting these required reviews, the EPA has found it ineffective and time consuming, not only for us, but also for regulatory agencies and source owners and operators, to locate, collect and submit performance test data. In recent years, though, stack testing firms have typically collected performance test data in electronic format, making it possible to move to an electronic data submittal system that would increase the ease and efficiency of data submittal and improve data accessibility.

A common complaint heard from industry and regulators is that emission factors are outdated or not representative of a particular source category. With timely receipt and incorporation of data from most performance tests, the EPA would be able to ensure that emission factors, when updated, represent the most current range of operational practices. Finally, another benefit of the proposed data submittal to WebFIRE electronically is that these data would greatly improve the overall quality of existing and new emissions factors by supplementing the pool of emissions test data for establishing emissions factors.

In summary, in addition to supporting regulation development, control strategy development and other air pollution control activities, having an electronic database populated with performance test data would save industry, state, local, tribal agencies and the EPA significant time, money and effort, while also improving the quality of emission inventories and air quality regulations.

3. Routine Maintenance

40 CFR 63.693(b)(3)(i) of the OSWRO NESHAP allows for control devices to be bypassed to perform planned routine maintenance of the closed-vent system or control device in situations when the routine maintenance cannot be performed during periods that the emission point vented to the control device is shut down. The facility is allowed to bypass the control device for up to 240 hours per year.

The routine maintenance provision was originally established in the Hazardous Organic NESHAP (HON) (see 40 CFR 63.119(e)(3)–(4); 57 FR 62710, December 31, 1992 (proposed); 59 FR 19402, April 22, 1994 (final)) for facilities that elected to use a closed vent system and control device to comply with the emission limitation requirements for tanks. We included the routine maintenance provision in the HON for tanks routing emissions to control devices because the estimated HAP emissions to degas the tank would be greater than the emissions that would result if the tank emitted directly to the atmosphere for a short period of time during routine maintenance of the control device.

We intended for the OSWRO NESHAP to track the HON maintenance provisions, and as such, those provisions should have been limited to tanks. We have not identified a basis for applying the routine maintenance provisions in the OSWRO NESHAP to emission points other than tanks. Therefore, we are proposing to limit the provision to tanks routing emissions to a control device, consistent with the rationale provided in the HON. We request comment on this proposed revision.

4. Open-Ended Valves and Lines

The OSWRO NESHAP at 40 CFR 63.691(b) requires an owner or operator to control emissions from equipment leaks according to the requirements of either 40 CFR part 61, subpart V or 40 CFR part 63, subpart H. For open-ended valves and lines, both subpart V in § 61.242–6(a) and subpart H in § 63.167(a) require that the open end be equipped with a cap, blind flange, plug, or second valve that shall ''seal the open end.'' However, ''seal'' is not defined in either subpart, leading to uncertainty for the owner or operator as to whether compliance is being achieved. Inspections under the EPA's Air Toxics LDAR initiative have provided evidence that while certain open-ended lines may be equipped with a cap, blind flange, plug or second valve, these are not providing a ''seal'' as the EPA interprets the term.[25]

In response to this uncertainty, we are proposing to amend 40 CFR 63.691(a) to clarify what ''seal the open end'' means for open-ended valves and lines. This proposed clarification explains that, for the purpose of complying with the requirements of 40 CFR 63.167 of subpart H, open-ended valves and lines are ''sealed'' by the cap, blind flange, plug, or second valve instrument monitoring of the open-ended valve or line conducted according to Method 21 of 40 CFR part 60, appendix A indicates no readings of 500 ppm or greater.

In addition, 40 CFR 63.167(d) of subpart H and 40 CFR 61.242–6(d) of subpart V exempt open-ended valves and lines that are in an emergency shutdown system, and which are designed to open automatically, from the requirements to be equipped with a cap, blind flange, plug, or second valve that seals the open end. We are proposing that these open-ended valves and lines follow the requirements of 40 CFR 63.693(c)(2) for bypass devices that could be used to divert a vent stream from the closed-vent system to the atmosphere, which would require that each such open-ended line be equipped with either a flow indicator or a seal or locking device. We are also proposing recordkeeping and reporting requirements in 40 CFR 63.696(j)(2) and 40 CFR 63.697(b)(6) for these open-ended values and lines.

We solicit comments on our proposed approach to reducing the compliance uncertainty associated with ''sealed'' open-ended valves and lines and our proposed requirements for open-ended valves and lines that are in an emergency shutdown system and are designed to open automatically.

5. Safety Devices, Pressure Tanks, Bypasses and PRDs

The OSWRO MACT standards contain requirements for safety devices, closure devices on pressure tanks, PRDs and bypasses, established with the recognition that emission releases to the atmosphere from these devices and from bypasses of control equipment occur only in the event of unplanned and unpredictable events. While emissions vented to the atmosphere in these events may contain HAP that would otherwise be subject to the OSWRO MACT emission standards, the OSWRO MACT rule followed the EPA's former practice prior to the *Sierra Club* decision of exempting malfunction events from otherwise applicable

[25] See ''Region V OEL data for VV rulemaking'' available in the docket for this action.

emissions standards. Consequently, as these events were assumed to occur during malfunctions, the OSWRO MACT standards did not restrict emissions of HAP from these equipment or events to the atmosphere.

In the *Sierra Club* decision, the Court determined that the SSM exemption violated the CAA and vacated the regulatory provisions in the General Provisions containing the exemption. See section IV.D.1 of this preamble for additional discussion. To ensure the OSWRO MACT standards are consistent with the Court's action, we are proposing to remove the SSM exemption from the rule. In addition, in order for our treatment of malfunction-caused releases to the atmosphere to conform with the reasoning of the Court's ruling, we are proposing to add a provision that releases of HAP listed in Table 1 of 40 CFR part 63, subpart DD directly to the atmosphere from PRDs and closure devices on pressure tanks in off-site material service are prohibited. We are also proposing to prohibit bypasses that divert a process vent or closed vent system stream to the atmosphere such that it does not first pass through an emission control device, except to perform planned routine maintenance of the closed-vent system or emission control device for tanks, as discussed in section IV.D.3 of this preamble. We are further proposing to require owners or operators to keep records and report any bypass and the amount of HAP released to the atmosphere with the next periodic report. In addition, to add clarity to these proposed provisions, we are proposing to add definitions for ''bypass,'' ''pressure release,'' ''pressure relief device or valve,'' ''in gas/vapor service,'' ''in light liquid service'' ''in heavy liquid service'' and ''in liquid service'' to 40 CFR part 63, subpart DD. We are also proposing to remove the definition of ''safety device'' and the provisions related to safety devices from 40 CFR part 63, subpart DD, which would overlap with and be redundant of parts of the proposed definition of ''pressure relief device or valve'' and the provisions related to these devices. To our knowledge, pressure relief devices or valves are the only safety devices used in OSWRO processes.

To address potential releases from PRDs, we are also proposing to require facility owners or operators subject to the OSWRO MACT standards to employ monitoring of PRDs in off-site material service using a device or monitoring system that is capable of: (1) Identifying the pressure release; (2) recording the time and duration of each pressure release; and (3) notifying operators immediately that a pressure release is occurring. We are further proposing to require owners or operators to keep records and report any pressure release and the amount of HAP released to the atmosphere with the next periodic report.

Pressure releases to the atmosphere from PRDs in off-site material service have the potential to emit large quantities of HAP. Where a release occurs, it is important to identify and mitigate it as quickly as possible. We recognize that releases from PRDs sometimes occur in order to protect systems from failures that could endanger worker safety and the systems that the PRDs are designed to protect. We have provided a balanced approach designed to minimize HAP emissions while recognizing that these events may be unavoidable even in a well-designed and maintained system. For purposes of estimating the costs of this requirement, we assumed that operators would install electronic indicators on each relief device that vents to the atmosphere to identify and record the time and duration of each pressure release. However, we are proposing that owners and operators could choose to use an existing system, such as a parameter monitoring system, as long as it is sufficient to identify a pressure release, notify operators immediately that a release is occurring and record the time and duration of the release.

Based on our cost assumptions, the nationwide capital cost of installing these monitors for the OSWRO industry is approximately $1.75 million and the annualized cost of installing and operating these monitors is $250,000 per year. As noted above, the owner or operator may use parameter monitoring systems already in place. Therefore, our costs based on the installation of electronic indicators on each relief device that vents to the atmosphere is conservative and likely overstates the costs.

6. Performance Test Method Clarifications and Alternative Methods

The OSWRO NESHAP at 40 CFR 63.694 specifies test methods and procedures to be used in determining compliance with the requirements of subpart DD. We are proposing several minor changes to these provisions to correct errors and to provide consistency, clarification and flexibility.

We are proposing several minor clarifications to align the testing requirements with standard testing practices. We are proposing that test runs last ''at least 1 hour'', rather than stating that tests last ''1 hour'' in § 63.694(f)(1) and (i)(1). This is consistent with standard testing practice and other provisions of the rule that specify a minimum sampling time instead of an absolute sampling time. Requiring a minimum sampling time allows owners and operators to conduct longer sampling runs when necessary. For example, an owner or operator may conduct longer sampling runs to achieve a lower detection limit for a specific compound. We are proposing to specify that a minimum of three test runs are required in § 63.694(l)(3)(i) and (l)(4)(i), consistent with the Part 63 General Provisions and standard testing practices. We are proposing to specify in § 63.694(m)(2) that in the determination of process vent stream flow rate and total HAP concentration, the sample site selected must be at the center of the vent for vents smaller than 0.10 meter in diameter. EPA Methods 1 and 1A do not apply to stack diameters smaller than 0.10 meter in diameter, and the regulation as currently written states that it is unnecessary to traverse vents less than 0.10 meter in diameter, but is unclear on how sampling point selection must be chosen. We are proposing to clarify that the sampling point must be at the center of the vent; this sample point is the point most likely to provide a representative sample of the gas stream.

To provide consistency with other parts of the OSWRO MACT standards, we are proposing to clarify the requirements of § 63.694(j)(3) for determining the maximum HAP vapor pressure for off-site material in a tank if the Administrator and the owner or operator disagree on a determination of the maximum HAP vapor pressure for an off-site material stream using knowledge. We are proposing that results from direct measurement of the HAP vapor pressure must be used in these instances. This is consistent with § 63.694(b)(3)(iv), which uses the same language for VOHAP measurements.

We also are proposing to correct a citation in § 63.694(k)(3). The regulation currently references the wrong section of Method 21 for instrument response factors. The appropriate section in EPA Method 21 is 8.1.1, not 3.1.2(a).

We are proposing to allow the use of either EPA Method 25A or Method 18 in § 63.694(l)(3) and (4). We are clarifying that Method 25A must be used for determining compliance with the enclosed combustion device total organic compound (TOC) limit, while Method 18 is used for determining compliance with the total HAP concentration limit. We are making this change because Method 25A is a flame ionization method that measures concentration as carbon equivalents. It

is preferred over Method 18 for the measurement of TOC. Method 18 is used to determine the concentration of individual compounds, making it appropriate for measuring individual HAPs that can be summed and compared with the total HAP limit, especially when a finite list of HAPs is specified (such as in Table 1 of the OSWRO NESHAP). Because TOC includes all organic compounds (minus methane and ethane) and Method 18 requires a set list of individual compounds to be measured. In order to use Method 18 for TOC measurements, one would have to know every organic compound in the gas stream and analyze each individually, which is a difficult and nearly impossible task in most cases. Therefore, we are proposing that TOC is to be measured with Method 25A and total HAP is to be measured with Method 18. The changes in how the test methods are applied and how TOC is most appropriately measured result in changes in some of the equations in § 63.694 as well.

We are proposing additional flexibility in some of the test methods that are allowed by the OSWRO NESHAP. We are including the use of EPA Method 3A as an alternative to EPA Method 3B in § 63.694(l)(4)(iii)(A) for determining the oxygen concentration to use in oxygen correction equations. EPA Method 3A is just as effective as EPA Method 3B in determining oxygen concentration. We have also included the use of EPA Methods 2F and 2G as options for flow rate measurement in § 63.694(l)(2) and (m)(3). These methods are newer velocity measurement methods that were published after the original OSWRO rule. By allowing these test method alternatives in the rule, we are providing greater flexibility to sources and easing the burden on sources and delegated agencies by reducing the number of potential alternative method requests.

7. Other Clarifications and Corrections

We are proposing several miscellaneous minor changes to improve the clarity of the rule requirements. These proposed changes include:

- Updating the list in § 63.684(b)(5) of combustion devices that may be used to destroy the HAP contained in an off-site material stream, to include incinerators, boilers or industrial furnaces for which the owner or operator complies with the requirements of 40 CFR part 63, subpart EEE. Where the OSWRO MACT standards currently require that combustion devices used for the purposes of compliance with the OSWRO MACT standards must be regulated under various subparts of RCRA, many of these units now comply with 40 CFR part 63, subpart EEE, which had not been promulgated when the OSWRO MACT standards were developed. We are also proposing conforming changes to the boiler and process heater control device requirements in § 63.693(g)(1)(v). These changes clarify that combustion units complying with the requirements of subpart EEE may be used for the purposes of compliance with the OSWRO MACT standards.
- Revising the tank control level tables and the text in § 63.685(b) to clarify the control level required for tanks of any capacity (effectively those less than 75 m^3) with a vapor pressure of 76.6 kPa or greater. Tanks meeting these capacity and vapor pressure thresholds are not included in the control level tables referred to in § 63.685(b), currently Tables 3 and 4 of the OSWRO NESHAP, and instead text is included in § 63.685(b)(4) for these tanks. To clarify the requirements for these tanks, we are proposing to specify the requirements for these tanks in the tank control level tables (proposed Tables 3, 4 and 5) and remove the text in § 63.685(b)(4).
- Clarifying that where § 63.691 requires the owner or operator to control the HAP emitted from equipment leaks in accordance with either 40 CFR part 61, subpart V or 40 CFR part 63, subpart H, the definitions in 40 CFR 61.241 and 40 CFR 63.161 apply, with the differences listed, for the purposes of the OSWRO NESHAP.
- Clarifying the requirement of § 63.683(c)(1)(ii) that the average VOHAP concentration of the off-site material must be less than 500 ppmw at the point-of-delivery and clarifying the requirements of § 63.693(f)(1)(i)(B) and § 63.693(f)(1)(ii)(B) are to achieve a total incinerator outlet concentration of less than or equal to 20 ppmv on a dry basis corrected to 3 percent oxygen. Due to clerical errors, the ppm values of these requirements are not in the current OSWRO NESHAP, and we are proposing to insert them.
- Clarifying in §§ 63.684(h), 63.693(b)(8) and 63.694(b)(3)(iv) that the Administrator may require a performance test, revisions to a control device design analysis, or that direct measurement be used in the determination of a VOHAP concentration, rather than that the Administrator may only request such actions.
- Revising several references to the Part 63 General Provisions in Table 2 to correct errors, including errors where the entries in Table 2 conflict with the regulatory text in subpart DD and where references to specific sections of the General Provisions do not exist or are reserved.

8. Flare Performance

In addition to our proposed actions discussed above, we are seeking comments on the performance of flares used to control HAP emissions in this source category, as governed by the EPA's General Provisions at 40 CFR 63.11(b). In April 2012, the EPA conducted an external peer review of a draft technical report, ''Parameters for Properly Designed and Operated Flares'' (*http://www.epa.gov/ttn/atw/flare/2012flaretechreport.pdf*) (''draft flare technical report''). In this report, the EPA evaluated test data and identified a variety of parameters that may affect flare performance and that could be monitored to help ensure good combustion efficiency. Based on feedback received from the external ad-hoc peer review panel, the EPA has since undertaken an initiative to re-evaluate parameters that may affect overall flare performance at source categories known to use flares for controlling HAP emissions (e.g., petroleum refining).

Currently, OSWRO sources may choose from a variety of control techniques to control emissions from this source category. One option is to operate a flare to reduce HAP emissions in accordance with the provision in 40 CFR 63.693(h). However, responses to the CAA section 114 questionnaire indicate that flares are not commonly used as control devices for this source category, and we know of only one facility that uses a flare as a primary control device in order to comply with the OSWRO NESHAP. In addition, none of the flare performance data used in the draft flare technical report comes from OSWRO sources nor does it provide any test data on non-assisted flare types, which based on available information, is the only flare type found in the OSWRO source category. As indicated in the EPA flare draft technical report, one of the primary factors that affects flare performance is over-assisting flares with too much steam or air and while this can potentially occur in steam-assisted and air-assisted flare designs, non-assisted flare types do not have a potential to over-assist. Thus, we have no information to suggest that flares at OSWRO sources are achieving poor destruction efficiency. We solicit comments on our discussion and conclusions regarding flare performance, including additional information on flare performance related to this source category.

Examples of types of information we seek from commenters regarding flares for the OSWRO source category include: Frequency of flaring; number and types of flares used; waste gas characteristics such as flow rate, composition and heat content; assist gas characteristics such as target assist gas to waste gas ratios and minimum assist gas flow rates; use of flare gas recovery and other flare minimization practices; and existing flare monitoring systems.

E. What compliance dates are we proposing?

Under CAA section 112(d), the proposed compliance date for new and existing affected sources for the revised SSM requirements, electronic reporting requirements, the revised routine maintenance provisions, the operating and pressure release management requirements for PRDs, and the revised requirements regarding bypasses and closure devices on pressure tanks is the effective date of the final amendments. We are proposing this compliance date because available information indicates these new and revised requirements should be immediately implementable by the facilities.

We are also proposing that for existing affected sources subject to the OSWRO MACT standards, the compliance date for the PRD monitoring requirements is 3 years from the effective date of the final amendments. This time is needed regardless of whether an owner or operator of a facility chooses to comply with the PRD monitoring provisions by installing PRD release indicator systems and alarms, employing parameter monitoring, routing releases to a control device, or choosing another compliance option as permitted under the proposed provisions. This time period will allow OSWRO facility owners and operators to research equipment and vendors, and to purchase, install, test and properly operate any necessary equipment by the compliance date. For new affected sources, the proposed compliance date for PRD monitoring requirements is the effective date of the final amendments.

Finally, we are proposing revised requirements for equipment leaks and tanks under CAA sections 112(d)(6) and (f)(2). The compliance deadlines for standards developed under CAA section 112(f)(2) are addressed in CAA sections 112(f)(3) and (4). As provided in CAA Section 112(f)(4), risk standards shall not apply to existing affected sources until 90 days after the effective date of the rule, but the Administrator may grant a waiver for a particular source for a period of up to 2 years after the effective date. Here, the EPA is already aware of the steps needed for OSWRO facilities to comply with the proposed standards for equipment leaks and tanks and to reasonably estimate the amount of time it will take these facilities to do so. Therefore, consistent with CAA section 112(f)(4)(B), we are proposing that a two-year compliance period is necessary for the revised tank requirements to allow affected facilities to research equipment and vendors, purchase, install, test and properly operate any necessary equipment by the compliance date. We are also proposing, consistent with CAA section 112(f)(4)(B), that a one-year compliance period is necessary for the revised equipment leak requirements to allow affected facilities that are currently complying with 40 CFR part 61, subpart V adequate time to purchase, install and test any necessary equipment and modify their existing LDAR programs. In addition, pursuant to CAA section 112(d)(6), we are proposing these same compliance dates for the revised tank and equipment leak standards. For new affected sources, the proposed compliance date for the revised tank and equipment leak standards is the effective date of the final amendments.

V. Summary of Cost, Environmental and Economic Impacts

A. What are the affected sources?

We estimate that there are approximately 52 major source OSWRO facilities. Based on available permit information, seven facilities are known to be exempt from most of the rule requirements due to the low HAP content of the off-site waste they receive or because they comply instead with 40 CFR part 61, subpart FF, as allowed by the OSWRO NESHAP, and they are not expected to be affected by the proposed rule revisions. These facilities are only required to document that the total annual quantity of the HAP contained in the off-site material received at the plant site is less than 1 megagram per year, and they are not subject to any other emissions limits or monitoring, reporting or recordkeeping requirements. We are not aware of any new OSWRO facilities that are expected to be constructed in the foreseeable future.

B. What are the air quality impacts?

For equipment leaks, we are proposing to eliminate the option of complying with 40 CFR part 61, subpart V, and requiring facilities in the OSWRO source category to comply with 40 CFR part 63, subpart H, including connector monitoring. We estimate the HAP emission reduction for this change to be approximately 138 tpy. For tanks, we are proposing to require tanks of certain sizes and containing materials above certain vapor pressures to use Level 2 controls. We estimate the HAP emission reduction for this change to be approximately 73 tpy. We do not anticipate any HAP emission reduction from our proposed clarification of the rule provision ''seal the open end'' (in the context of open-ended valves and lines), clarification of the scope of the routine maintenance provisions, or requirement to electronically report the results of emissions testing.

For the proposed revisions to the MACT standards regarding SSM, including monitoring of PRDs in off-site material service, we were not able to quantify the possible emission reductions so none are included in our assessment of air quality impacts.

Therefore, the estimated total HAP emission reductions for the proposed rule revisions for the OSWRO source category are estimated to be 211 tpy.

C. What are the cost impacts?

For equipment leaks, we are proposing to eliminate the option of complying with 40 CFR part 61, subpart V, and to require facilities in the OSWRO source category to comply with 40 CFR part 63, subpart H (including connector monitoring). We estimate the nationwide capital costs to be $1.9 million and the annualized costs to be $530,000. For tanks, we are proposing to require tanks of certain sizes and containing materials above certain vapor pressures to use Level 2 controls. We estimate the nationwide capital costs to be $76,000 and the annualized costs to be $21,000. We do not anticipate any quantifiable capital or annualized costs for our proposed definition of ''seal'' (in the context of open-ended valves and lines), clarification of the scope of the routine maintenance provisions and requirement to electronically report the results of emissions testing.

For the proposed requirements to install and operate monitors on PRDs, we estimate the nationwide capital costs to be $1.75 million and the annualized costs to be $250,000.

Therefore, the total capital costs for the proposed standards for the OSWRO source category are approximately $3.7 million and the total annualized costs are approximately $800,000.

D. What are the economic impacts?

Both the magnitude of control costs needed to comply with a regulation and the distribution of these costs among affected facilities can have a role in determining how the market will change in response to that regulation. Total annualized costs for the proposed

amendments are estimated to be about $800,000. The average annualized cost per facility is estimated to be about $24,000.

Without detailed industry data, it is not possible to conduct a complete quantitative analysis of economic impacts. However, prior analyses suggest the impacts of these proposed amendments will be minimal. The *Economic Impact Analysis for the Final OSWRO NESHAP*[26] found that demand for off-site waste services was highly inelastic. This means that suppliers are predominantly able to pass along cost increases to consumers through higher prices with little, if any, decrease in the quantity of service demanded. While we do not have specific information on prices charged or the quantity of service provided, company revenues are a function of both these factors. The cost-to-sales ratio is less than one quarter of one percent for all of the 27 firms included in this analysis, suggesting any increase in price would be minimal.

E. What are the benefits?

We have estimated that this action will achieve HAP emissions reduction of 211 tons per year. The proposed standards will result in significant reductions in the actual and MACT-allowable emissions of HAP and will reduce the actual and potential cancer risks and non-cancer health effects due to emissions of HAP from this source category, as discussed in section IV.B.2. We have not quantified the monetary benefits associated with these reductions; however, these avoided emissions will result in improvements in air quality and reduced negative health effects associate with exposure to air pollution of these emissions.

VI. Request for Comments

We are soliciting comments on all aspects of this proposed action. In addition to general comments on this proposed action, we are also interested in any additional data that may help to improve the risk assessments and other analyses. We are specifically interested in receiving any improvements to the data used in the site-specific emissions profiles used for risk modeling. Such data should include supporting documentation in sufficient detail to allow characterization of the quality and representativeness of the data or information. Section VII of this preamble provides more information on submitting data.

[26] EPA. June 1996.

VII. Submitting Data Corrections

The site-specific emissions profiles used in the source category risk and demographic analyses and instructions are available for download on the RTR Web page at *http://www.epa.gov/ttn/atw/rrisk/rtrpg.html.* The data files include detailed information for each HAP emissions release point for the facilities included in the source category.

If you believe that the data are not representative or are inaccurate, please identify the data in question, provide your reason for concern and provide any ''improved'' data that you have, if available. When you submit data, we request that you provide documentation of the basis for the revised values to support your suggested changes. To submit comments on the data downloaded from the RTR page, complete the following steps:

1. Within this downloaded file, enter suggested revisions to the data fields appropriate for that information.

2. Fill in the commenter information fields for each suggested revision (i.e., commenter name, commenter organization, commenter email address, commenter phone number and revision comments).

3. Gather documentation for any suggested emissions revisions (*e.g.,* performance test reports, material balance calculations).

4. Send the entire downloaded file with suggested revisions in Microsoft® Access format and all accompanying documentation to Docket ID No. EPA–HQ–OAR–2012–0360 (through one of the methods described in the **ADDRESSES** section of this preamble).

5. If you are providing comments on a single facility or multiple facilities, you need only submit one file for all facilities. The file should contain all suggested changes for all sources at that facility. We request that all data revision comments be submitted in the form of updated Microsoft® Excel files that are generated by the Microsoft® Access file. These files are provided on the RTR Web page at: *http://www.epa.gov/ttn/atw/rrisk/rtrpg.html.*

VIII. Statutory and Executive Order Reviews

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

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

B. Paperwork Reduction Act

The information collection requirements in this proposed rule have been submitted for approval to OMB under the *Paperwork Reduction Act,* 44 U.S.C. 3501, *et seq.* The Information Collection Request (ICR) document prepared by the EPA has been assigned the EPA ICR number 1717.10.

The information requirements are based on notification, recordkeeping and reporting requirements in the NESHAP General Provisions (40 CFR part 63, subpart A), which are mandatory for all operators subject to national emissions standards. These recordkeeping and reporting requirements are specifically authorized by CAA section 114 (42 U.S.C. 7414). All information submitted to the EPA pursuant to the recordkeeping and reporting requirements for which a claim of confidentiality is made is safeguarded according to agency policies set forth in 40 CFR part 2, subpart B.

We estimate approximately 52 regulated entities are currently subject to subpart DD; however, five facilities are only subject to off-site waste HAP content determination requirements and are not subject to the emissions standards and other requirements of the OSWRO NESHAP due to the low HAP content of the off-site waste they receive. Also, two facilities are not subject to the emissions standards and other requirements of the OSWRO NESHAP because they comply instead with 40 CFR part 61, subpart FF, as allowed by the OSWRO NESHAP. Therefore, we estimate that there is an annual average of 45 respondents that are subject to the annual monitoring, reporting and recordkeeping requirements of the regulation. This is a decrease of 191 regulated entities from our estimate for the previous ICR (EPA ICR Number 1717.09, OMB Control Number 2060–0313) for the OSWRO source category. The annual monitoring, reporting and recordkeeping burden for this collection (averaged over the first 3 years after the effective date of the standards) for the proposed amended subpart DD, including existing rule provisions unchanged by this proposal, is estimated to be 45,147 labor hours at a cost of $2.5 million per year. This represents a decrease of approximately $15 million and 133,000 labor hours from the previous ICR, due primarily to the reduction in the estimated number of regulated entities. In order to more accurately assess the change in burden resulting from these proposed

amendments, we estimate that the burden for each of the 45 facilities subject to the annual monitoring, reporting and recordkeeping requirements of the regulations has increased by $6,000 and 92 labor hours from the previous ICR estimate.

The total burden for the federal government (averaged over the first 3 years after the effective date of the standard) is estimated to be 449 labor hours per year at an annual cost of $20,200. Burden is defined at 5 CFR 1320.3(b).

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for the EPA's regulations in 40 CFR are listed in 40 CFR part 9.

To comment on the agency's need for this information, the accuracy of the provided burden estimates and any suggested methods for minimizing respondent burden, the EPA has established a public docket for this rule, which includes this ICR, under Docket ID No. EPA–HQ–OAR–2012–0360. Submit any comments related to the ICR to the EPA and OMB. See the **ADDRESSES** section at the beginning of this document for where to submit comments to the EPA. Send comments to OMB at the Office of Information and Regulatory Affairs, Office of Management and Budget, 725 17th Street, NW., Washington, DC 20503, Attention: Desk Office for the EPA. Since OMB is required to make a decision concerning the ICR between 30 and 60 days after July 2, 2014, a comment to OMB is best assured of having its full effect if OMB receives it by August 1, 2014.

The final rule will respond to any OMB or public comments on the information collection requirements contained in this proposal.

C. Regulatory Flexibility Act

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

For purposes of assessing the impacts of this proposed rule on small entities, small entity is defined as: (1) A small business as defined by the Small Business Administration's (SBA) regulations at 13 CFR 121.201; (2) a small governmental jurisdiction that is a government of a city, county, town, school district or special district with a population of less than 50,000; and (3) a small organization that is any not-for-profit enterprise that is independently owned and operated and is not dominant in its field. Facilities in this source category are not categorized as a single industry and, as a result, cannot be classified under a single NAICS code category. During the development of these proposed amendments, the EPA identified 45 facilities affected by this proposal. These 45 facilities represent 27 firms in 20 industries. These industries and the SBA size standards are shown in Table 8.

TABLE 8—INDUSTRIES INCLUDED IN OSWRO SOURCE CATEGORY

NAICS	Description	SBA Size standard
211111	Crude Petroleum and Natural Gas Extraction	500 employees.
221310	Water Supply and Irrigation Systems	$7.0 million annual receipts.
237310	Highway, Street, and Bridge Construction	$33.5 million annual receipts.
324110	Petroleum Refineries	1,500 employees.
325180	Other Basic Inorganic Chemical Manufacturing	1,000 employees.
325194	Cyclic Crude, Intermediate, and Gum and Wood Chemical Manufacturing	750 employees.
325199	All Other Basic Organic Chemical Manufacturing	1,000 employees.
325211	Plastics Material and Resin Manufacturing	750 employees.
327310	Cement Manufacturing	750 employees.
331313	Alumina Refining and Primary Aluminum Production	1,000 employees.
333316	Photographic and Photocopying Equipment Manufacturing	1,000 employees.
336411	Aircraft Manufacturing	1,500 employees.
424690	Other Chemical and Allied Products Merchant Wholesalers	100 employees.
561110	Office Administrative Services	$7.0 million annual receipts.
562111	Solid Waste Collection	$35.5 million annual receipts.
562211	Hazardous Waste Treatment and Disposal	$35.5 million annual receipts.
562213	Solid Waste Combustion and Incinerators	$35.5 million annual receipts.
562219	Other Nonhazardous Waste Treatment and Disposal	$35.5 million annual receipts.
562920	Materials Recovery Facilities	$19.0 million annual receipts.
928110	National Security [a]	n/a.

[a] One facility is operated by the U.S. Department of Defense. Small business size standards are not established for this sector.

After considering the economic impacts of this proposed rule on small entities, I certify that this action will not have a significant economic impact on a substantial number of small entities. For the small business screening analysis, the EPA identified the ultimate parent company (firm) for each facility and obtained firm-level employment and revenues using various sources, including the American Business Directory, Hoovers, corporate Web sites and publically available financial reports. The screening analysis shows that four of the 27 firms that own facilities in the OSWRO source category can be classified as small firms using the SBA size standards for their respective industries. Based on the sales test screening methodology, all four firms will experience minimal impact, or a cost-to-sales ratio of 1 percent or less. Details of this analysis can be found in the memo ''Economic Impact Analysis for Risk and Technology Review: Off-site Waste and Recovery Operations Source Category'' in the docket.

We continue to be interested in the potential impacts of the proposed rule on small entities and welcome comments on issues related to such impacts.

D. Unfunded Mandates Reform Act

This rule does not contain a federal mandate that may result in expenditures of $100 million or more for state, local and tribal governments, in aggregate, or

the private sector in any one year. The total annualized cost of this rule is estimated to be no more than $800,000 in any one year. Thus, this proposed rule is not subject to the requirements of sections 202 or 205 of the UMRA.

This proposed rule is also not subject to the requirements of section 203 of UMRA because it contains no regulatory requirements that might significantly or uniquely affect small governments because it contains no requirements that apply to such governments nor does it impose obligations upon them.

E. Executive Order 13132: Federalism

This action does not have federalism implications. It will not have substantial direct effects on the states, on the relationship between the national government and the states, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132. None of the facilities subject to this action are owned or operated by state governments. Thus, Executive Order 13132 does not apply to this proposed rule.

In the spirit of Executive Order 13132, and consistent with the EPA policy to promote communications between the EPA and State and local governments, the EPA specifically solicits comment on this proposed rule from state and local officials.

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

This action does not have tribal implications, as specified in Executive Order 13175 (65 FR 67249, November 9, 2000). There are no Off-Site Waste Recovery Operation facilities that are owned or operated by tribal governments. Thus, Executive Order 13175 does not apply to this action. The EPA specifically solicits comment on this proposed action from tribal officials.

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

This action is not subject to Executive Order 13045 (62 FR 19885, April 23, 1997) because it is not economically significant as defined in Executive Order 12866, and because the agency does not believe the environmental health risks or safety risks addressed by this action present a disproportionate risk to children. Because the proposed rule amendments would result in reduced emissions of HAP and reduced risk to anyone exposed, the EPA believes that the proposed rule amendments would provide additional protection to children. The EPA's risk assessments are included in the docket for this proposed rule.

The public is invited to submit comments or identify peer-reviewed studies and data that assess effects of early life exposure to HAP emitted by OSWRO facilities.

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

This action is not subject to Executive Order 13211 (66 FR 28355, May 22, 2001), because it is 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 (15 U.S.C. 272 note), directs the EPA to use voluntary consensus standards (VCS) in its regulatory activities unless to do so would be inconsistent with applicable law or otherwise impractical. VCS are technical standards (e.g., materials specifications, test methods, sampling procedures and business practices) that are developed or adopted by VCS bodies. NTTAA directs the EPA to provide Congress, through OMB, explanations when the agency decides not to use available and applicable VCS.

This proposed rule involves technical standards. The EPA proposes to add EPA Methods 2F and 2G to the list of methods allowed to determine process vent stream gas volumetric flow rate. No applicable VCS were identified for these methods. In addition, the EPA is proposing to allow EPA Method 3A as an alternative to EPA Method 3B for determining the oxygen concentration to use in oxygen correction equations. While several candidate VCS were identified (ANSI/ASME PTC 19–10–1981 Part 10, ASME B133.9–1994 (2001), ISO 10396:1993 (2007), ISO 12039:2001, ASTM D5835–95 (2013), ASTM D6522–00 (2011), and CAN/CSA Z223.2–M86 (1999)), we do not propose to use any of these standards in this proposed rule. The use of these VCS would not be practical due to lack of equivalency, documentation, validation data and other important technical and policy considerations. The EPA also proposes to require the use of EPA Method 25A to determine compliance with the control device percent reduction requirement, if the owner or operator chooses to measure total organic content. While the agency identified two candidate VCS (ISO 14965:2000(E), EN 12619 (1999)) as being potentially applicable, we do not propose to use either standard in this proposed rule. The use of these VCS would not be practical due to the limited measurement ranges of these methods. (For more detail, see ''Voluntary Consensus Standard Results for NESHAP: Off-Site Waste and Recovery Operations 40 CFR Part 63, Subpart DD'' in the docket for this proposed rule.)

The EPA welcomes comments on this aspect of the proposed rule and, specifically, invites the public to identify potentially-applicable VCS and to explain why such standards should be used in this regulation.

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

Executive Order 12898 (59 FR 7629, February 16, 1994) establishes federal executive policy on environmental justice. Its main provision directs federal agencies, to the greatest extent practical 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 proposed rule will not have disproportionately high and adverse human health or environmental effects on minority, low income or indigenous populations because it increases the level of environmental protection for all affected populations without having any disproportionately high and adverse human health or environmental effects on any population, including any minority, low income or indigenous populations.

To gain a better understanding of the source category and near source populations, the EPA conducted a proximity analysis for OSWRO facilities to identify any overrepresentation of minority, low income or indigenous populations. This analysis only gives some indication of the prevalence of sub-populations that may be exposed to air pollution from the sources; it does not identify the demographic characteristics of the most highly affected individuals or communities, nor does it quantify the level of risk faced by those individuals or communities. More information on the source category's risk can be found in section IV of this preamble.

In determining the aggregate demographic makeup of the communities near affected sources, the EPA focused on those census blocks within 3 miles of affected sources, determined the demographic composition (e.g., race, income, etc.) of these census blocks, and compared them to the corresponding compositions nationally. The results of this proximity analysis show that most demographic categories were below or within 20 percent of their corresponding national averages except for the African American and minority populations. The African American segment of the population within 3 miles of any source affected by this proposed rule exceeds the national average by 166 percent, or 21 percentage points (34 percent versus 13 percent). The minority population within 3 miles exceeds the national average by 64 percent, or 24 percentage points, (61 percent versus 37 percent). However, as noted previously, risks from this source category were found to be acceptable for all populations. Additionally, the proposed changes to the standard increase the level of environmental protection for all affected populations by reducing emissions from equipment leaks and tanks.

Further details concerning this analysis are presented in the December 3, 2013 memorandum titled, *Environmental Justice Review: Off-Site Waste and Recovery Operations, RTR,* a copy of which is available in the docket for this action (EPA–HQ–OAR–2012–0360).

List of Subjects in 40 CFR Part 63

Environmental protection, Administrative practice and procedures, Air pollution control, Hazardous substances, Reporting and recordkeeping requirements, Volatile organic compounds.

Dated: May 30, 2014.

Gina McCarthy,

Administrator.

For the reasons stated in the preamble, the Environmental Protection Agency (EPA) proposes to amend Title 40, chapter I, of the Code of Federal Regulations (CFR) as follows:

PART 63—[AMENDED]

■ 1. The authority citation for part 63 continues to read as follows:

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

Subpart DD—[Amended]

■ 2. Section 63.680 is amended by:

■ a. Revising paragraphs (e)(1) and (2); and

■ b. Adding paragraph (g) to read as follows:

§ 63.680 Applicability and designation of affected sources.

* * * * *

(e) * * *

(1) *Existing sources.* The owner or operator of an affected source that commenced construction or reconstruction before October 13, 1994, must achieve compliance with the provisions of this subpart on or before the date specified in paragraph (e)(1)(i),(ii), or (iii) of this section as applicable to the affected source.

(i) For an affected source that commenced construction or reconstruction before October 13, 1994 and receives off-site material for the first time before February 1, 2000, the owner or operator of this affected source must achieve compliance with the provisions of the subpart (except §§ 63.685(b)(1)(ii), 63.691(b), and 63.691(c)(3)(i) and (ii) of this subpart) on or before February 1, 2000 unless an extension has been granted by the Administrator as provided in 40 CFR 63.6(i). These existing affected sources shall be in compliance with the tank requirements of § 63.685(b)(1)(ii) of this subpart two years after the publication date of the final amendments on [DATE OF PUBLICATION OF THE FINAL RULE IN THE **FEDERAL REGISTER**], the equipment leak requirements of § 63.691(b) of this subpart one year after the publication date of the final amendments on [DATE OF PUBLICATION OF THE FINAL RULE IN THE **FEDERAL REGISTER**], and the pressure relief device monitoring requirements of § 63.691(c)(3)(i) and (ii) of this subpart three years after the publication date of the final amendments on [DATE OF PUBLICATION OF THE FINAL RULE IN THE **FEDERAL REGISTER**].

(ii) For an affected source that commenced construction or reconstruction before October 13, 1994, but receives off-site material for the first time on or after February 1, 2000, but before [DATE OF PUBLICATION OF THE FINAL RULE IN THE **FEDERAL REGISTER**], the owner or operator of the affected source must achieve compliance with the provisions of this subpart (except §§ 63.685(b)(1)(ii), 63.691(b), and 63.691(c)(3)(i) and (ii) of this subpart) upon the first date that the affected source begins to manage off-site material. These existing affected sources shall be in compliance with the tank requirements of § 63.685(b)(1)(ii) of this subpart two years after the publication date of the final amendments on [DATE OF PUBLICATION OF THE FINAL RULE IN THE **FEDERAL REGISTER**], the equipment leak requirements of § 63.691(b) of this subpart one year after the publication date of the final amendments on [DATE OF PUBLICATION OF THE FINAL RULE IN THE **FEDERAL REGISTER**], and the pressure relief device monitoring requirements of § 63.691(c)(3)(i) and (ii) of this subpart three years after the publication date of the final amendments on [DATE OF PUBLICATION OF THE FINAL RULE IN THE **FEDERAL REGISTER**].

(iii) For an affected source that commenced construction or reconstruction before October 13, 1994, but receives off-site material for the first time on or after [DATE OF PUBLICATION OF THE FINAL RULE IN THE **FEDERAL REGISTER**], the owner or operator of the affected source must achieve compliance with the provisions of this subpart (except §§ 63.685 (b)(1)(ii), 63.691(b), and 63.691(c)(3)(i) and (ii) of this subpart) upon the first date that the affected source begins to manage off-site material. These existing affected sources shall be in compliance with the tank requirements of § 63.685(b)(1)(ii) of this subpart two years after the publication date of the final amendments on [DATE OF PUBLICATION OF THE FINAL RULE IN THE **FEDERAL REGISTER**], the equipment leak requirements of § 63.691(b) of this subpart one year after the publication date of the final amendments on [DATE OF PUBLICATION OF THE FINAL RULE IN THE **FEDERAL REGISTER**], and the pressure relief device monitoring requirements of § 63.691(c)(3)(i) and (ii) of this subpart three years after the publication date of the final amendments on [DATE OF PUBLICATION OF THE FINAL RULE IN THE **FEDERAL REGISTER**].

(2) *New sources.* The owner or operator of an affected source for which construction or reconstruction commences on or after October 13, 1994, must achieve compliance with the provisions of this subpart (except §§ 63.685(b)(2), 63.691(b), and 63.691(c)(i) and (ii) of this subpart) on or before July 1, 1996, or upon initial startup of operations, whichever date is later as provided in 40 CFR 63.6(b). New affected sources that commenced construction or reconstruction after October 13, 1994, but on or before [INSERT DATE OF PUBLICATION IN THE **FEDERAL REGISTER**], shall be in compliance with the tank requirements of § 63.685(b)(2) of this subpart two years after the publication date of the final amendments, the equipment leak requirements of § 63.691(b) of this

subpart one after the publication date of the final amendments, and the pressure relief device monitoring requirements of § 63.691(c)(i) and (ii) of this subpart three years after the effective date of the final amendments. New affected sources that commence construction or reconstruction after July 2, 2014 shall be in compliance with the tank requirements of § 63.685(b)(2) of this subpart, the equipment leak requirements of § 63.691(b) of this subpart, and the pressure relief device monitoring requirements of § 63.691(c)(3)(i) and (ii) of this subpart upon initial startup or by the effective date of the final amendments, whichever is later.

* * * * *

(g) *Applicability of this subpart.* (1) The emission limitations set forth in this subpart and the emission limitations referred to in this subpart shall apply at all times except during periods of non-operation of the affected source (or specific portion thereof) resulting in cessation of the emissions to which this subpart applies.

(2) The owner or operator shall not shut down items of equipment that are required or utilized for compliance with this subpart during times when emissions are being routed to such items of equipment, if the shutdown would contravene requirements of this subpart applicable to such items of equipment.

■ 3. Section 63.681 is amended by:

■ a. Adding, in alphabetical order, definitions for ''Bypass'', ''In gas/vapor service'', ''In heavy liquid service'', ''In light liquid service'', ''In liquid service'', ''Pressure release'', and ''Pressure relief device or valve'';

■ b. Revising the definitions of ''Point-of-treatment'' and ''Process vent''; and

■ c. Removing the definition of ''Safety device'' to read as follows:

§ 63.681 Definitions.

* * * * *

Bypass means diverting a process vent or closed vent system stream to the atmosphere such that it does not first pass through an emission control device.

* * * * *

In gas/vapor service means that a piece of equipment in off-site material service contains a gas or vapor at operating conditions.

In heavy liquid service means that a piece of equipment in off-site material service is not in gas/vapor service or in light liquid service.

In light liquid service means that a piece of equipment in off-site material service contains a liquid that meets the following conditions:

(1) The vapor pressure of one or more of the organic compounds is greater than 0.3 kilopascals at 20 °C,

(2) The total concentration of the pure organic compounds constituents having a vapor pressure greater than 0.3 kilopascals at 20 °C is equal to or greater than 20 percent by weight of the total process stream, and

(3) The fluid is a liquid at operating conditions.

Note to *In light liquid service.* Vapor pressures may be determined by the methods described in 40 CFR 60.485(e)(1).

In liquid service means that a piece of equipment in off-site material service is not in gas/vapor service.

* * * * *

Point-of-treatment means a point after the treated material exits the treatment process but before the first point downstream of the treatment process exit where the organic constituents in the treated material have the potential to volatilize and be released to the atmosphere. For the purpose of applying this definition to this subpart, the first point downstream of the treatment process exit is not a fugitive emission point due to an equipment leak from any of the following equipment components: Pumps, compressors, valves, connectors, instrumentation systems, or pressure relief devices.

Pressure release means the emission of materials resulting from the system pressure being greater than the set pressure of the pressure relief device. This release can be one release or a series of releases over a short time period.

Pressure relief device or valve means a safety device used to prevent operating pressures from exceeding the maximum allowable working pressure of the process equipment. A common pressure relief device is a spring-loaded pressure relief valve. Devices that are actuated either by a pressure of less than or equal to 2.5 pounds per square inch gauge or by a vacuum are not pressure relief devices.

* * * * *

Process vent means an open-ended pipe, stack, or duct through which a gas stream containing HAP is continuously or intermittently discharged to the atmosphere from any of the processes listed in § 63.680(c)(2)(i) through (vi) of this subpart. For the purpose of this subpart, a process vent is none of the following: a pressure relief device; an open-ended line or other vent that is subject to the equipment leak control requirements under § 63.691 of this subpart; or a stack or other vent that is used to exhaust combustion products from a boiler, furnace, process heater, incinerator, or other combustion device.

* * * * *

■ 4. Section 63.683 is revised by adding paragraphs (e) and (f) to read as follows:

§ 63.683 Standards: General.

* * * * *

(e) *General Duty.* At all times, the owner or operator must operate and maintain any affected source, including associated air pollution control equipment and monitoring equipment, in a manner consistent with safety and good air pollution control practices for minimizing emissions. The general duty to minimize emissions does not require the owner operator to make any further efforts to reduce emissions if levels required by the applicable standard have been achieved. Determination of whether a source is operating in compliance with operation and maintenance requirements will be based on information available to the Administrator, which may include, but is not limited to, monitoring results, review of operation and maintenance procedures, review of operation and maintenance records, and inspection of the source.

(f) In addition to the cases listed in § 63.695(e)(4) of this subpart, deviation means any of the cases listed in paragraphs (f)(1) through (6) of this section.

(1) Any instance in which an affected source subject to this subpart, or an owner or operator of such a source, fails to meet any requirement or obligation established by this subpart, including, but not limited to, any emission limit, operating limit or work practice standard.

(2) When a performance test indicates that emissions of a pollutant in Table 1 to this subpart are exceeding the emission standard for the pollutant specified in Table 1 to this subpart.

(3) When the average value of a monitored operating parameter, based on the data averaging period for compliance specified in § 63.695 of this subpart, does not meet the operating limit specified in § 63.693 of this subpart.

(4) When an affected source discharges directly into the atmosphere from any of the sources specified in paragraphs (f)(4)(i) and (ii) of this section.

(i) A pressure relief device, as defined in § 63.681 of this subpart.

(ii) A bypass, as defined in § 63.681 of this subpart.

(5) Any instance in which the affected source subject to this subpart, or an owner or operator of such a source, fails to meet any term or condition specified

in paragraph (f)(5)(i) or (ii) of this section.

(i) Any term or condition that is adopted to implement an applicable requirement in this subpart.

(ii) Any term or condition relating to compliance with this subpart that is included in the operating permit for an affected source to obtain such a permit.

(6) Any failure to collect required data, except for periods of monitoring system malfunctions, repairs associated with monitoring system malfunctions, and required monitoring system quality assurance or quality control activities (including, as applicable, calibration checks and required zero and span adjustments).

■ 5. Section 63.684 is amended by adding paragraph (b)(5)(v) and revising paragraph (h) to read as follows:

§ 63.684 Standards: Off-site Material Treatment.

* * * * *

(b) * * *

(5) * * *

(v) An incinerator, boiler, or industrial furnace for which the owner or operator has submitted a Notification of Compliance under 40 CFR 63.1207(j) and 63.1210(d) and complies with the requirements of 40 CFR part 63, subpart EEE at all times (including times when non-hazardous waste is being burned).

* * * * *

(h) The Administrator may at any time conduct or require that the owner or operator conduct testing necessary to demonstrate that a treatment process is achieving the applicable performance requirements of this section. The testing shall be conducted in accordance with the applicable requirements of this section. The Administrator may elect to have an authorized representative observe testing conducted by the owner or operator.

■ 6. Section 63.685 is amended by:

■ a. Revising paragraphs (b) introductory text, (b)(1), and (b)(2);

■ b. Removing paragraph (b)(4);

■ c. Revising paragraphs (c)(1), (c)(2)(i), (c)(2)(iii)(B), (g)(2), and (h)(3); and

■ d. Removing paragraph (i)(3) and redesignating paragraph (i)(4) as paragraph (i)(3) to read as follows:

§ 63.685 Standards: Tanks.

* * * * *

(b) According to the date an affected source commenced construction or reconstruction and the date an affected source receives off-site material for the first time as established in § 63.680(e)(i) through (iii) of this subpart, the owner or operator shall control air emissions from each tank subject to this section in accordance with either paragraph (b)(1)(i) or (ii) of this section.

(1)(i) For a tank that is part of an existing affected source but the tank is not used for a waste stabilization process as defined in § 63.681 of this subpart, the owner or operator shall determine whether the tank is required to use either Tank Level 1 controls or Tank Level 2 controls as specified for the tank by Table 3 of this subpart based on the off-site material maximum HAP vapor pressure, the tank's design capacity. The owner or operator shall control air emissions from a tank required by Table 3 to use Tank Level 1 controls in accordance with the requirements of paragraph (c) of this section. The owner or operator shall control air emissions from a tank required by Table 3 to use Tank Level 2 controls in accordance with the requirements of paragraph (d) of this section.

(ii) For a tank that is part of an existing affected source but the tank is not used for a waste stabilization process as defined in § 63.681 of this subpart, the owner or operator shall determine whether the tank is required to use either Tank Level 1 controls or Tank Level 2 controls as specified for the tank by Table 4 of this subpart based on the off-site material maximum HAP vapor pressure and the tank's design capacity. The owner or operator shall control air emissions from a tank required by Table 4 to use Tank Level 1 controls in accordance with the requirements of paragraph (c) of this section. The owner or operator shall control air emissions from a tank required by Table 4 to use Tank Level 2 controls in accordance with the requirements of paragraph (d) of this section.

(2) For a tank that is part of a new affected source but the tank is not used for a waste stabilization process as defined in § 63.681 of this subpart, the owner or operator shall determine whether the tank is required to use either Tank Level 1 controls or Tank Level 2 controls as specified for the tank by Table 5 of this subpart based on the off-site material maximum HAP vapor pressure and the tank's design capacity. The owner or operator shall control air emissions from a tank required by Table 5 to use Tank Level 1 controls in accordance with the requirements of paragraph (c) of this section. The owner or operator shall control air emissions from a tank required by Table 5 to use Tank Level 2 controls in accordance with the requirements of paragraph (d) of this section.

* * * * *

(c) * * *

(1) The owner or operator shall determine the maximum HAP vapor pressure for an off-site material to be managed in the tank using Tank Level 1 controls before the first time the off-site material is placed in the tank. The maximum HAP vapor pressure shall be determined using the procedures specified in § 63.694(j) of this subpart. Thereafter, the owner or operator shall perform a new determination whenever changes to the off-site material managed in the tank could potentially cause the maximum HAP vapor pressure to increase to a level that is equal to or greater than the maximum HAP vapor pressure limit for the tank design capacity category specified in Table 3, Table 4, or Table 5 of this subpart, as applicable to the tank.

(2) * * *

(i) The owner or operator controls air emissions from the tank in accordance with the provisions specified in subpart OO of 40 CFR part 63—National Emission Standards for Tanks—Level 1, except that 40 CFR 63.902(c)(2) and (3) shall not apply for the purposes of this subpart.

* * * * *

(iii) * * *

(B) At all other times, air emissions from the tank must be controlled in accordance with the provisions specified in 40 CFR part 67, subpart OO—National Emission Standards for Tanks—Level 1, except that 40 CFR 63.902(c)(2) and (3) shall not apply for the purposes of this subpart.

* * * * *

(g) * * *

(2) Whenever an off-site material is in the tank, the fixed roof shall be installed with each closure device secured in the closed position and the vapor headspace underneath the fixed roof vented to the control device except that to the control device except that venting to the control device is not required, and opening of closure devices or removal of the fixed roof is allowed at the following times:

(i) To provide access to the tank for performing routine inspection, maintenance, or other activities needed for normal operations. Examples of such activities include those times when a worker needs to open a port to sample liquid in the tank, or when a worker needs to open a hatch to maintain or repair equipment. Following completion of the activity, the owner or operator shall promptly secure the closure device in the closed position or reinstall the cover, as applicable, to the tank.

(ii) To remove accumulated sludge or other residues from the bottom of the tank.

* * * * *

(h) * * *

(3) Whenever an off-site material is in the tank, the tank shall be operated as a closed system that does not vent to the atmosphere except at those times when purging of inerts from the tank is required and the purge stream is routed to a closed-vent system and control device designed and operated in accordance with the requirements of § 63.693 of this subpart.

(i) * * *

(3) The owner or operator shall inspect and monitor the closed-vent system and control device as specified in § 63.693.

■ 7. Section 63.686 is amended by revising paragraphs (b)(1) through (3) to read as follows:

§ 63.686 Standards: Oil-water and organic water separators.

* * * * *

(b) * * *

(1) A floating roof in accordance with all applicable provisions specified in 40 CFR part 63, subpart VV—National Emission Standards for Oil-Water Separators and Organic-Water Separators, except that §§ 63.1043(c)(2), 63.1044(c)(2), and 63.1045(b)(3)(i) shall not apply for the purposes of this subpart. For portions of the separator where it is infeasible to install and operate a floating roof, such as over a weir mechanism, the owner or operator shall comply with the requirements specified in paragraph (b)(2) of this section.

(2) A fixed-roof that is vented through a closed-vent system to a control device in accordance with all applicable provisions specified in 40 CFR part 63, subpart VV—National Emission Standards for Oil-Water Separators and Organic-Water Separators, except that §§ 63.1043(c)(2), 63.1044(c)(2), and 63.1045(b)(3)(i) shall not apply for the purposes of this subpart.

(3) A pressurized separator that operates as a closed system in accordance with all applicable provisions specified in 40 CFR part 63, subpart VV—National Emission Standards for Oil-Water Separators and Organic-Water Separators, except that §§ 63.1043(c)(2), 63.1044(c)(2), and 63.1045(b)(3)(i) shall not apply for the purposes of this subpart.

■ 8. Section 63.687 is amended by revising paragraphs (b)(1) and (2) to read as follows:

§ 63.687 Standards: Surface impoundments.

* * * * *

(b) * * *

(1) A floating membrane cover in accordance with the applicable provisions specified in 40 CFR part 63, subpart QQ—National Emission Standards for Surface Impoundments, except that §§ 63.942(c)(2) and (3) and 63.943(c)(2) shall not apply for the purposes of this subpart; or

(2) A cover that is vented through a closed-vent system to a control device in accordance with all applicable provisions specified in 40 CFR part 63, subpart QQ—National Emission Standards for Surface Impoundments, except that §§ 63.942(c)(2) and (3) and 63.943(c)(2) shall not apply for the purposes of this subpart.

■ 9. Section 63.688 is amended by revising paragraphs (b)(1)(i), (b)(1)(ii), and (b)(3)(i) to read as follows:

§ 63.688 Standards: Containers.

* * * * *

(b) * * *

(1) * * *

(i) The owner or operator controls air emissions from the container in accordance with the standards for Container Level 1 controls as specified in 40 CFR part 63, subpart PP—National Emission Standards for Containers, except that §§ 63.922(d)(4) and (5) and 63.923(d)(4) and (5) shall not apply for the purposes of this subpart.

(ii) As an alternative to meeting the requirements in paragraph (b)(1)(i) of this section, an owner or operator may choose to control air emissions from the container in accordance with the standards for either Container Level 2 controls or Container Level 3 controls as specified in subpart PP of 40 CFR part 63—National Emission Standards for Containers, except that §§ 63.922(d)(4) and (5) and 63.923(d)(4) and (5) shall not apply for the purposes of this subpart.

* * * * *

(3) * * *

(i) The owner or operator controls air emissions from the container in accordance with the standards for Container Level 2 controls as specified in 40 CFR part 63, subpart PP—National Emission Standards for Containers, except that §§ 63.922(d)(4) and (5) and 63.923(d)(4) and (5) shall not apply for the purposes of this subpart.

* * * * *

■ 10. Section 63.689 is amended by revising paragraph (d)(5) to read as follows:

§ 63.689 Standards: Transfer systems.

* * * * *

(d) * * *

(5) Whenever an off-site material is in the transfer system, the cover shall be installed with each closure device secured in the closed position, except the opening of closure devices or removal of the cover is allowed to provide access to the transfer system for performing routine inspection, maintenance, repair, or other activities needed for normal operations. Examples of such activities include those times when a worker needs to open a hatch or remove the cover to repair conveyance equipment mounted under the cover or to clear a blockage of material inside the system. Following completion of the activity, the owner or operator shall promptly secure the closure device in the closed position or reinstall the cover, as applicable.

* * * * *

■ 11. Section 63.691 is amended by:

■ a. Revising paragraph (b); and

■ b. Adding paragraph (c) to read as follows:

§ 63.691 Standards: Equipment leaks.

* * * * *

(b) According to the date an affected source commenced construction or reconstruction and the date an affected source receives off-site material for the first time, as established in § 63.680(e)(i) through (iii) of this subpart, the owner or operator shall control the HAP emitted from equipment leaks in accordance with the applicable provisions specified in either paragraph (b)(1) or (2) of this section.

(1)(i) The owner or operator controls the HAP emitted from equipment leaks in accordance with §§ 61.241 through 61.247 in 40 CFR part 61, subpart V—National Emission Standards for Equipment Leaks, with the difference noted in paragraphs (b)(1)(iii) and (iv) of this section for the purposes of this subpart; or

(ii) The owner or operator controls the HAP emitted from equipment leaks in accordance with §§ 63.161 through 63.182 in 40 CFR part 63, subpart H—National Emission Standards for Organic Hazardous Air Pollutants from Equipment Leaks, with the differences noted in paragraphs (b)(2)(i) through (iv) of this section for the purposes of this subpart.

(iii) On or after [DATE OF PUBLICATION OF THE FINAL RULE AMENDMENTS IN THE **FEDERAL REGISTER**], for the purpose of complying with the requirements of 40 CFR 61.242–6(a)(2), the open end is sealed when instrument monitoring of the open-ended valve or line conducted according to Method 21 of 40 CFR part 60, appendix A indicates no readings of 500 ppm or greater.

(iv) On or after [DATE OF PUBLICATION OF THE FINAL RULE IN THE **FEDERAL REGISTER**], for the purpose of complying with the requirements of 40 CFR 61.242–6(d),

open-ended valves or lines in an emergency shutdown system which are designed to open automatically in the event of a process upset and that are exempt from the requirements in 40 CFR 61.242–6(a), (b), and (c) must comply with the requirements in § 63.693(c)(2) of this subpart.

(2) The owner or operator controls the HAP emitted from equipment leaks in accordance with §§ 63.161 through § 63.183 in 40 CFR part 63, subpart H—National Emission Standards for Organic Hazardous Air Pollutants for Equipment Leaks, with the differences noted in paragraphs (b)(2)(i) through (v) of this section for the purposes of this subpart.

(i) For each valve in gas/vapor or in light liquid service, as defined in § 63.681 of this subpart, that is part of an affected source under this subpart, an instrument reading that defines a leak is 500 ppm or greater as detected by Method 21 of 40 CFR part 60, appendix A.

(ii) For each pump in light liquid service, as defined in § 63.681 of this subpart, that is part of an affected source under this subpart, an instrument reading that defines a leak is 1,000 ppm or greater as detected by Method 21 of 40 CFR part 60, appendix A. Repair is not required unless an instrument reading of 2,000 ppm or greater is detected.

(iii) On or after [DATE OF PUBLICATION OF THE FINAL RULE IN THE **FEDERAL REGISTER**], for the purpose of complying with the requirements of 40 CFR 63.167(a)(2), the open end is sealed when instrument monitoring of the open-ended valve or line conducted according to Method 21 of 40 CFR part 60, appendix A indicates no readings of 500 ppm or greater.

(iv) On or after [DATE OF PUBLICATION OF THE FINAL RULE IN THE **FEDERAL REGISTER**], for the purpose of complying with the requirements of 40 CFR 63.167(d), open-ended valves or lines in an emergency shutdown system which are designed to open automatically in the event of a process upset and that are exempt from the requirements in 40 CFR 63.167(a), (b), and (c) must comply with the requirements in § 63.693(c)(2) of this subpart.

(v) For the purposes of this subpart, the pressure relief device requirements of § 63.691(c) of this subpart rather than those of 40 CFR 63.165 shall apply.

(c) *Requirements for pressure relief devices.* Except as provided in paragraph (c)(4) of this section, the owner or operator must comply with the requirements specified in paragraphs (c)(1) through (3) of this section for pressure relief devices in off-site material service.

(1) *Operating requirements.* Except during a pressure release event, operate each pressure relief device in off-site material gas or vapor service with an instrument reading of less than 500 ppm above background as detected by Method 21 of 40 CFR part 60, appendix A.

(2) *Pressure release requirements.* For pressure relief devices in off-site material gas or vapor service, the owner or operator must comply with either paragraph (c)(2)(i) or (ii) of this section following a pressure release, as applicable.

(i) If the pressure relief device does not consist of or include a rupture disk, the pressure relief device shall be returned to a condition indicated by an instrument reading of less than 500 ppm above background, as detected by Method 21 of 40 CFR part 60, appendix A, no later than 5 calendar days after the pressure release device returns to off-site material service following a pressure release, except as provided in 40 CFR 63.171.

(ii) If the pressure relief device consists of or includes a rupture disk, except as provided in 40 CFR 63.171, install a replacement disk as soon as practicable but no later than 5 calendar days after the pressure release.

(3) *Pressure release management.* Except as provided in paragraph (c)(4) of this section, emissions of HAP listed in Table 1 of this subpart may not be discharged directly to the atmosphere from pressure relief devices in off-site material service, and according to the date an affected source commenced construction or reconstruction and the date an affected source receives off-site material for the first time, as established in § 63.680(e)(1)(i) through (iii) of this subpart, the owner or operator must comply with the requirements specified in paragraphs (c)(3)(i) and (ii) of this section for all pressure relief devices in off-site material service.

(i) The owner or operator must equip each pressure relief device in off-site material service with a device(s) or use a monitoring system. The device or monitoring system may be either specific to the pressure release device itself or may be associated with the process system or piping, sufficient to indicate a pressure release to the atmosphere. Examples of these types of devices or monitoring systems include, but are not limited to, a rupture disk indicator, magnetic sensor, motion detector on the pressure relief valve stem. The devices or monitoring systems must be capable of meeting the requirements specified in paragraphs (c)(3)(i)(A) through (C) of this section.

(A) Identifying the pressure release;

(B) Recording the time and duration of each pressure release; and

(C) Notifying operators immediately that a pressure release is occurring.

(ii) If any pressure relief device in off-site material service releases directly to the atmosphere as a result of a pressure release event, the owner or operator must calculate the quantity of HAP listed in Table 1 of this subpart released during each pressure release event and report this quantity as required in § 63.697(b)(5). Calculations may be based on data from the pressure relief device monitoring alone or in combination with process parameter monitoring data and process knowledge.

(4) Pressure relief devices routed to a drain system, process or control device. If a pressure relief device in off-site material service is designed and operated to route all pressure releases through a closed vent system to a drain system, process or control device, paragraphs (c)(1), (2), and (3) of this section do not apply. The closed vent system and the process or control device (if applicable) must meet the requirements of § 63.693 of this subpart. The drain system (if applicable) must meet the requirements of § 63.689 of this subpart.

■ 12. Section 63.693 is amended by:

■ a. Revising paragraphs (b)(3) and (8), (c)(1)(ii), and (c)(2) introductory text;

■ b. Adding paragraph (c)(2)(iii); and

■ c. Revising paragraphs (f)(1)(i)(B) and (ii)(B) and (g)(1)(v) to read as follows:

§ 63.693 Standards: Closed-vent systems and control devices.

* * * * *

(b) * * *

(3) Whenever gases or vapors containing HAP are routed from a tank through a closed-vent system connected to a control device used to comply with the requirements of § 63.685(b)(1), (2), or (3) of this subpart, the control device must be operating except as provided for in paragraphs (b)(3)(i) and (ii) of this section.

(i) The control device may only be bypassed for the purpose of performing planned routine maintenance of the closed-vent system or control device in situations when the routine maintenance cannot be performed during periods that tank emissions are vented to the control device.

(ii) On an annual basis, the total time that the closed-vent system or control device is bypassed to perform routine maintenance shall not exceed 240 hours per each calendar year.

* * * * *

(8) In the case when an owner or operator chooses to use a design analysis to demonstrate compliance of a control device with the applicable performance requirements specified in this section as provided for in paragraphs (d) through (g) of this section, the Administrator may require that the design analysis be revised or amended by the owner or operator to correct any deficiencies identified by the Administrator. If the owner or operator and the Administrator do not agree on the acceptability of using the design analysis (including any changes required by the Administrator) to demonstrate that the control device achieves the applicable performance requirements, then the disagreement must be resolved using the results of a performance test conducted by the owner or operator in accordance with the requirements of § 63.694(l) of this subpart. The Administrator may choose to have an authorized representative observe the performance test conducted by the owner or operator. Should the results of this performance test not agree with the determination of control device performance based on the design analysis, then the results of the performance test will be used to establish compliance with this subpart.

* * * * *

(c) * * *

(1) * * *

(ii) A closed-vent system that is designed to operate at a pressure below atmospheric pressure. The system shall be equipped with at least one pressure gauge or other pressure measurement device that can be read from a readily accessible location to verify that negative pressure is being maintained in the closed-vent system when the control device is operating.

(2) In situations when the closed-vent system includes bypass devices that could be used to divert a vent stream from the closed-vent system to the atmosphere at a point upstream of the control device inlet, each bypass device must be equipped with either a flow indicator as specified in paragraph (c)(2)(i) of this section or a seal or locking device as specified in paragraph (c)(2)(ii) of this section, except as provided for in paragraph (c)(2)(iii) of this section:

* * * * *

(iii) Equipment needed for safety reasons, including low leg drains, open-ended valves and lines not in emergency shutdown systems, and pressure relief devices subject to the requirements of § 63.691(c) of this subpart are not subject to the requirements of paragraphs (c)(2)(i) and (ii) of this section.

* * * * *

(f) * * *

(1) * * *

(i) * * *

(B) To achieve a total incinerator outlet concentration for the TOC, less methane and ethane, of less than or equal to 20 ppmv on a dry basis corrected to 3 percent oxygen.

(ii) * * *

(B) To achieve a total incinerator outlet concentration for the HAP, listed in Table 1 of this subpart, of less than or equal to 20 ppmv on a dry basis corrected to 3 percent oxygen.

* * * * *

(g) * * *

(1) * * *

(v) Introduce the vent stream to a boiler or process heater for which the owner or operator either has been issued a final permit under 40 CFR part 270 and complies with the requirements of 40 CFR part 266, subpart H; or has certified compliance with the interim status requirements of 40 CFR part 266, subpart H; or has submitted a Notification of Compliance under 40 CFR 63.1207(j) and 63.1210(d) and complies with the requirements of 40 CFR part 63, subpart EEE at all times (including times when non-hazardous waste is being burned).

* * * * *

■ 13. Section 63.694 is amended by revising paragraphs (b)(3)(iv), (f)(1), (i)(1), (j)(3), (k)(3), (l) introductory text, (l)(3) introductory text, (l)(3)(i), (l)(3)(ii)(B), (l)(4) introductory text, (l)(4)(i), (l)(4)(ii)(A) and (B), (l)(4)(iii)(A), and (m)(2) and (3) to read as follows:

§ 63.694 Testing methods and procedures.

* * * * *

(b) * * *

(3) * * *

(iv) In the event that the Administrator and the owner or operator disagree on a determination of the average VOHAP concentration for an off-site material stream using knowledge, then the results from a determination of VOHAP concentration using direct measurement as specified in paragraph (b)(2) of this section shall be used to establish compliance with the applicable requirements of this subpart. The Administrator may perform or require that the owner or operator perform this determination using direct measurement.

(f) * * *

(1) The actual HAP mass removal rate (MR) shall be determined based on results for a minimum of three consecutive runs. The sampling time for each run shall be at least 1 hour.

* * * * *

(i) * * *

(1) The actual HAP mass removal rate (MR_{bio}) shall be determined based on results for a minimum of three consecutive runs. The sampling time for each run shall be at least 1 hour.

* * * * *

(j) * * *

(3) *Use of knowledge to determine the maximum HAP vapor pressure of the off-site material.* Documentation shall be prepared and recorded that presents the information used as the basis for the owner's or operator's knowledge that the maximum HAP vapor pressure of the off-site material is less than the maximum vapor pressure limit listed in Table 3, Table 4, or Table 5 of this subpart for the applicable tank design capacity category. Examples of information that may be used include: the off-site material is generated by a process for which at other locations it previously has been determined by direct measurement that the off-site material maximum HAP vapor pressure is less than the maximum vapor pressure limit for the appropriate tank design capacity category. In the event that the Administrator and the owner or operator disagree on a determination of the maximum HAP vapor pressure for an off-site material stream using knowledge, then the results from a determination of HAP vapor pressure using direct measurement as specified in paragraph (j)(2) of this section shall be used to establish compliance with the applicable requirements of this subpart. The Administrator may perform or require that the owner or operator perform this determination using direct measurement.

(k) * * *

(3) The detection instrument shall meet the performance criteria of Method 21 of 40 CFR part 60, appendix A, except the instrument response factor criteria in section 8.1.1 of Method 21 shall be for the weighted average composition of the organic constituents in the material placed in the unit at the time of monitoring, not for each individual organic constituent.

* * * * *

(l) *Control device performance test procedures.* Performance tests shall be conducted under such conditions as the Administrator specifies to the owner or operator based on representative performance of the affected source for the period being tested. Representative conditions exclude periods of startup and shutdown. The owner or operator may not conduct performance tests

during periods of malfunction. The owner or operator must record the process information that is necessary to document operating conditions during the test and include in such record an explanation to support that such conditions represent normal operation. Upon request, the owner or operator shall make available to the Administrator such records as may be necessary to determine the conditions of performance tests.

* * * * *

(3) To determine compliance with the control device percent reduction requirement, the owner or operator shall use Method 18 of 40 CFR part 60, appendix A to measure the HAP in Table 1 of this subpart or Method 25A of 40 CFR part 60, appendix A to measure TOC. Method 18 may be used to measure methane and ethane, and the measured concentration may be subtracted from the Method 25A measurement. Alternatively, any other method or data that has been validated according to the applicable procedures in Method 301 in 40 CFR part 63, appendix A may be used. The following procedures shall be used to calculate percent reduction efficiency:

(i) A minimum of three sample runs must be performed. The minimum sampling time for each run shall be 1 hour. For Method 18, either an integrated sample or a minimum of four grab samples shall be taken. If grab sampling is used, then the samples shall be taken at approximately equal intervals in time such as 15 minute intervals during the run.

(ii) * * *

(B) When the TOC mass rate is calculated, the average concentration reading (minus methane and ethane) measured by Method 25A of 40 CFR part 60, appendix A shall be used in the equation in paragraph (l)(3)(ii)(A) of this section.

* * * * *

(4) To determine compliance with the enclosed combustion device total HAP concentration limit of this subpart, the owner or operator shall use Method 18 of 40 CFR part 60, appendix A to measure the total HAP in Table 1 of this subpart of Method 25A of 40 CFR part 60, appendix A to measure TOC. Method 18 may be used to measure methane and ethane and the measured concentration may be subtracted from the Method 25A measurement. Alternatively, any other method or data that has been validated according to Method 301 in appendix A of this part, may be used. The following procedures shall be used to calculate parts per million by volume concentration, corrected to 3 percent oxygen:

(i) A minimum of three sample runs must be performed. The minimum sampling time for each run shall be 1 hour. For Method 18, either an integrated sample or a minimum of four grab samples shall be taken. If grab sampling is used, then the samples shall be taken at approximately equal intervals in time, such as 15 minute intervals during the run.

(ii) * * *

(A) The TOC concentration (C_{TOC}) is the average concentration readings provided by Method 25 A of 40 CFR part 60, appendix A, minus the concentration of methane and ethane.

(B) The total HAP concentration (C_{HAP}) shall be computed according to the following equation:

$$C_{HAP} = \sum_{i=1}^{x} \frac{\sum_{j=1}^{n} C_{ji}}{x}$$

Where:

C_{HAP} = Total concentration of HAP compounds listed in Table 1 of this subpart, dry basis, parts per million by volume.

C_{ij} = Concentration of sample components j of sample i, dry basis, parts per million by volume.

n = Number of components in the sample.

x = Number of samples in the sample run.

(iii) * * *

(A) The emission rate correction factor or excess air, integrated sampling and analysis procedures of Method 3B of 40 CFR part 60, appendix A shall be used to determine the oxygen concentration ($\%O_{2dry}$). Alternatively, the owner or operator may use Method 3A of 40 CFR part 60, appendix A to determine the oxygen concentration. The samples shall be collected during the same time that the samples are collected for determining TOC concentration or total HAP concentration.

* * * * *

(m) * * *

(2) No traverse site selection method is needed for vents smaller than 0.10 meter in diameter. For vents smaller than 0.10 meter in diameter, sample at the center of the vent.

(3) Process vent stream gas volumetric flow rate must be determined using Method 2, 2A, 2C, 2D, 2F, or 2G of 40 CFR part 60, appendix A, as appropriate.

* * * * *

■ 14. Section 63.695 is amended by:

■ a. Revising paragraph (a) introductory text;

■ b. Adding paragraph (a)(5);

■ c. Revising paragraphs (e)(4) and (5); and

■ d. Removing paragraphs (e)(6) and (7) to read as follows:

§ 63.695 Inspection and monitoring requirements.

(a) The owner or operator must install, calibrate, maintain, and operate all monitoring system components according to §§ 63.8 of this part, 63.684(e), 63.693(d)(3), (e)(3), (f)(3), (g)(3), and (h)(3) of this subpart, and paragraph (a)(5) of this section and perform the inspection and monitoring procedures specified in paragraphs (a)(1) through (4) of this section.

* * * * *

(5)(i) Except for periods of monitoring system malfunctions, repairs associated with monitoring system malfunctions and required monitoring system quality assurance or quality control activities (including, as applicable, calibration checks and required zero and span adjustments), the owner or operator must operate the continuous monitoring system at all times the affected source is operating. A monitoring system malfunction is any sudden, infrequent, not reasonably preventable failure of the monitoring system to provide data. Monitoring system failures that are caused in part by poor maintenance or careless operation are not malfunctions. The owner or operator is required to complete monitoring system repairs in response to monitoring system malfunctions and to return them monitoring system to operation as expeditiously as practicable.

(ii) The owner or operator may not use data recorded during monitoring system malfunctions, repairs associated with monitoring system malfunctions, or required monitoring system quality assurance or control activities in calculations used to report emissions or operating levels. The owner or operator must use all the data collected during all other required data collection periods in assessing the operation of the control device and associated control system. The owner or operator must report any periods for which the monitoring system failed to collect required data.

* * * * *

(e) * * *

(4) A deviation for a given control device is determined to have occurred when the monitoring data or lack of monitoring data result in any one of the criteria specified in paragraphs (e)(4)(i) through (iii) of this section being met. When multiple operating parameters are monitored for the same control device and during the same operating day more than one of these operating parameters meets a deviation criterion specified in paragraphs (e)(4)(i) through (iii) of this

section, then a single deviation is determined to have occurred for the control device for that operating day.

(i) A deviation occurs when the daily average value of a monitored operating parameter is less than the minimum operating parameter limit (or, if applicable, greater than the maximum operating parameter limit) established for the operating parameter in accordance with the requirements of paragraph (e)(3) of this section.

(ii) A deviation occurs when the period of control device operation is 4 hours or greater in an operating day and the monitoring data are insufficient to constitute a valid hour of data for at least 75 percent of the operating hours. Monitoring data are insufficient to constitute a valid hour of data if measured values are unavailable for any of the 15-minute periods within the hour.

(iii) A deviation occurs when the period of control device operation is less than 4 hours in an operating day and more than 1 of the hours during the period does not constitute a valid hour of data due to insufficient monitoring data. Monitoring data are insufficient to constitute a valid hour of data if measured values are unavailable for any of the 15-minute periods within the hour.

(5) For each deviation, except when the deviation occurs during periods of non-operation of the unit or the process that is vented to the control device (resulting in cessation of HAP emissions to which the monitoring applies), the owner or operator shall be deemed to have failed to have applied control in a manner that achieves the required operating parameter limits. Failure to achieve the required operating parameter limits is a violation of this standard.

* * * * *

■ 15. Section 63.696 is amended by revising paragraph (h) and adding paragraphs (i) and (j) to read as follows:

§ 63.696 Recordkeeping requirements.

* * * * *

(h) An owner or operator shall record the malfunction information specified in paragraphs (h)(1) through (3) of this section.

(1) In the event that an affected unit fails to meet an applicable standard, record the number of failures. For each failure record the date, time and duration of the failure.

(2) For each failure to meet an applicable standard, record and retain a list of the affected sources or equipment, an estimate of the volume of each regulated pollutant emitted over any emission limit and a description of the method used to estimate the emissions.

(3) Record actions taken to minimize emissions in accordance with § 63.683(e) of this subpart and any corrective actions taken to return the affected unit to its normal or usual manner of operation.

(i) For pressure relief devices in off-site material service, keep records of the information specified in paragraphs (i)(1) through (5) of this section, as applicable.

(1) A list of identification numbers for pressure relief devices that the owner or operator elects to route emissions through a closed-vent system to a control device, process or drain system under the provisions in § 63.691(c)(4) of this subpart.

(2) A list of identification numbers for pressure relief devices that do not consist of or include a rupture disk, subject to the provisions in § 63.691(c)(2)(i) of this subpart.

(3) A list of identification numbers for pressure relief devices equipped with rupture disks, subject to the provisions in § 63.691(c)(2)(ii) of this subpart.

(4) The dates and results of the Method 21 of 40 CFR part 60, appendix A, monitoring following a pressure release for each pressure relief device subject to the provisions in § 63.691(c)(2)(i) of this subpart. The results of each monitoring event shall include:

(i) The measured background level.

(ii) The maximum instrument reading measured at each pressure relief device.

(5) For pressure relief devices in off-site material service subject to § 63.691(c)(3) of this subpart, keep records of each pressure release to the atmosphere, including the following information:

(i) The source, nature, and cause of the pressure release.

(ii) The date, time, and duration of the pressure release.

(iii) An estimate of the quantity of HAP listed in Table 1 of this subpart emitted during the pressure release and the calculations used for determining this quantity.

(iv) The actions taken to prevent this pressure release.

(v) The measures adopted to prevent future such pressure releases.

(j)(1) For pressure tank closure devices, as specified in § 63.685(h)(2) of this subpart, keep records of each release to the atmosphere, including the information specified in paragraphs (j)(3) through (7) of this section.

(2) For each closed vent system that includes bypass devices that could divert a stream away from the control device and into the atmosphere, as specified in § 63.693(c)(2) of this subpart, and each open-ended valve or line in an emergency shutdown system which is designed to open automatically in the event of a process upset, as specified in 40 CFR 63.167(d) or 40 CFR 61.242–6(d), keep records of each release to the atmosphere, including the information specified in paragraphs (j)(3) through (9) of this section.

(3) The source, nature, and cause of the release.

(4) The date, time, and duration of the release.

(5) An estimate of the quantity of HAP listed in Table 1 of this subpart emitted during the release and the calculations used for determining this quantity.

(6) The actions taken to prevent this release.

(7) The measures adopted to prevent future such release.

(8) Hourly records of whether the bypass flow indicator specified under § 63.693(c)(2) of this subpart was operating and whether a diversion was detected at any time during the hour, as well as records of the times of all periods when the vent stream is diverted from the control device or the flow indicator is not operating.

(9) Where a seal mechanism is used to comply with § 63.693(c)(2) of this subpart, hourly records of flow are not required. In such cases, the owner or operator shall record that the monthly visual inspection of the seals or closure mechanism has been done, and shall record the duration of all periods when the seal mechanism is broken, the bypass line valve position has changed, or the key for a lock-and-key type lock has been checked out, and records of any car-seal that has broken.

■ 16. Section 63.697 is amended by:

■ a. Revising paragraph (a) introductory text, adding paragraphs (a)(1)(i) and (ii) and (a)(3);

■ b. Revising paragraph (b)(3) and (4); and

■ c. Adding paragraphs (b)(5) and (6) to read as follows:

§ 63.697 Reporting requirements.

(a) Each owner or operator of an affected source subject to this subpart must comply with the notification requirements specified in paragraph (a)(1) of this section and the reporting requirements specified in paragraphs (a)(2) and (3) of this section.

(1) * * *

(i) For pressure relief devices in off-site material service subject to the requirements of § 63.691(c) of this subpart, the owner or operator must submit the information listed in paragraph (a)(1)(ii) of this section in the notification of compliance status

required under § 63.9(h) of this part within 150 days after the first applicable compliance date for pressure relief device monitoring.

(ii) For pressure relief devices in off-site material service, a description of the device or monitoring system to be implemented, including the pressure relief devices and process parameters to be monitored (if applicable), a description of the alarms or other methods by which operators will be notified of a pressure release, and a description of how the owner or operator will determine the information to be recorded under § 63.696(i)(5)(ii) through (iii) of this subpart (i.e., the duration of the pressure release and the methodology and calculations for determining the quantity of HAP listed in Table 1 of this subpart emitted during the pressure release).

* * * * *

(3) *Electronic reporting.* Within 60 days after the date of completing each performance test (as defined in § 63.2 of this part) required by this subpart, the owner or operator must submit the results of the performance test according to the manner specified by either paragraph (a)(3)(i) or (ii) of this section.

(i) For data collected using test methods supported by the EPA's Electronic Reporting Tool (ERT) as listed on the EPA's ERT Web site (*http://www.epa.gov/ttn/chief/ert/index.html*), the owner or operator must submit the results of the performance test to the EPA via the Compliance and Emissions Data Reporting Interface (CEDRI) accessed through the EPA's Central Data Exchange (CDX) (*http://cdx.epa.gov/epa_home.asp*). Performance test data must be submitted in a file format generated through the use of the EPA's ERT. Owners or operators who claim that some of the performance test information being submitted is confidential business information (CBI) must submit a complete file generated through the use of the EPA's ERT, including information claimed to be CBI, on a compact disc, flash drive, or other commonly used electronic storage media to the EPA. The electronic media must be clearly marked as CBI and mailed to U.S. EPA/OAPQS/CORE CBI Office, Attention: WebFIRE Administrator, MD C404–02, 4930 Old Page Rd., Durham, NC 27703. The same ERT file with the CBI omitted must be submitted to the EPA via the EPA's CDX as described earlier in this paragraph (a)(3)(i).

(ii) For data collected using test methods that are not supported by the EPA's ERT as listed on the EPA's ERT Web site, the owner or operator must submit the results of the performance test to the Administrator at the appropriate address listed in 40 CFR 60.4.

(b) * * *

(3) *Reports of malfunctions.* If a source fails to meet an applicable standard, report such events in the Periodic Report. Report the number of failures to meet an applicable standard. For each instance, report the date, time and duration of each failure. For each failure the report must include a list of the affected sources or equipment, an estimate of the volume of each regulated pollutant emitted over any emission limit, and a description of the method used to estimate the emissions.

(4) A summary report specified in § 63.10(e)(3) of this part shall be submitted on a semiannual basis (i.e., once every 6-month period). The summary report must include a description of all deviations as defined in § 63.695(e) of this subpart that have occurred during the 6-month reporting period. For each deviation caused when the daily average value of a monitored operating parameter is less than the minimum operating parameter limit (or, if applicable, greater than the maximum operating parameter limit), the report must include the daily average values of the monitored parameter, the applicable operating parameter limit, and the date and duration of the period that the deviation occurred. For each deviation caused by lack of monitoring data, the report must include the date and duration of period when the monitoring data were not collected and the reason why the data were not collected.

(5) For pressure relief devices in off-site material service subject to § 63.691(c) of this subpart, Periodic Reports must include the information specified in paragraphs (b)(5)(i) through (iii) of this section.

(i) For pressure relief devices in off-site material service subject to § 63.691(c) of this subpart, report the results of all monitoring conducted within the reporting period.

(ii) For pressure relief devices in off-site material service subject to § 63.691(c)(2)(i) of this subpart, report any instrument reading of 500 ppm above background or greater, if detected more than 5 days after the pressure release.

(iii) For pressure relief devices in off-site material service subject to § 63.691(c)(3) of this subpart, report each pressure release to the atmosphere, including the following information:

(A) The source, nature, and cause of the pressure release.

(B) The date, time, and duration of the pressure release.

(C) An estimate of the quantity of HAP listed in Table 1 of this subpart emitted during the pressure release and the method used for determining this quantity.

(D) The actions taken to prevent this pressure release.

(E) The measures adopted to prevent future such pressure releases.

(6) *Pressure tank closure device or bypass deviation report.* The owner or operator must submit to the Administrator the information specified in paragraph (b)(6)(iv) of this section when any of the conditions in paragraphs (b)(6)(i) through (iii) of this section are met.

(i) Any pressure tank closure device, as specified in § 63.685(h)(2) of this subpart, has released to the atmosphere.

(ii) Any closed vent system that includes bypass devices that could divert a vent a stream away from the control device and into the atmosphere, as specified in § 63.693(c)(2) of this subpart, has released directly to the atmosphere.

(iii) Any open-ended valve or line in an emergency shutdown system which is designed to open automatically in the event of a process upset, as specified in 40 CFR 63.167(d) or 40 CFR 61.242–6(d), has released directly to the atmosphere.

(iv) The pressure tank closure device or bypass deviation report must include the information specified in paragraphs (b)(6)(iv)(A) through (E) of this section.

(A) The source, nature and cause of the release.

(B) The date, time and duration of the discharge.

(C) An estimate of the quantity of HAP listed in Table 1 of this subpart emitted during the release and the method used for determining this quantity.

(D) The actions taken to prevent this release.

(E) The measures adopted to prevent future such releases.

* * * * *

■ 17. Section 63.698 is amended by revising paragraph (c) introductory text and adding paragraph (c)(5) to read as follows:

§ 63.698 Implementation and enforcement.

* * * * *

(c) The authorities that cannot be delegated to State, local, or Tribal agencies are as specified in paragraphs (c)(1) through (5) of this section.

* * * * *

(5) Approval of alternatives to the electronic reporting requirements in § 63.697(a)(3).

■ 18. Table 2 to subpart DD of part 63 is amended by:

■ a. Removing entries 63.1(a)(13) and 63.1(a)(14);
■ b. Revising entries 63.1(b)(2), 63.1(c)(3), and 63.1(c)(4);
■ c. Removing entry 63.4(a)(1) through 63.4(a)(3) and adding entries 63.4(a)(1)–63.4(a)(2) and 63.4(a)(3);
■ d. Revising entries 63.4(a)(5) and 63.5(a)(1);
■ e. Revising entries 63.5(b)(5), 63.6(b)(3), 63.6(b)(4);
■ f. Removing entry 63.6(e) and adding entries 63.6(e)(1)(i) through 63.6(e)(1)(iii), 63.6(e)(2), and 63.6(e)(3);
■ g. Revising entry 63.6(f)(1);
■ h. Adding entry 63.7(a)(4);
■ i. Revising entries 63.7(e)(1) and 63.7(f);
■ j. Revising entry 63.8(c)(1)(iii);
■ k. Revising entry 63.9(g);
■ l. Revising entries 63.10(b)(2)(i) through (v);
■ m. Removing entry 63.10(c) and adding entries 63.10(c)(1)–(6), 63.10(c)(7)–(8), and 63.10(c)(9)–(15);
■ n. Removing entries 63.10(d)(5)(i) and 63.10(d)(5)(ii), and adding entry 63.10(d)(5);
■ o. Removing entry 63.10(e) and adding entries 63.10(e)(1)–63.10(e)(2), 63.10(e)(3), and 63.10(e)(4); and
■ p. Adding entry 63.16 to read as follows:

TABLE 2 TO SUBPART DD OF PART 63—APPLICABILITY OF PARAGRAPHS IN SUBPART A OF THIS PART 63—GENERAL PROVISIONS TO SUBPART DD

Subpart A reference	Applies to Subpart DD	Explanation
*	*	* * * * *
63.1(b)(2)	No	Reserved.
*	*	* * * * *
63.1(c)(3)	No	Reserved.
63.1(c)(4)	No	Reserved.
*	*	* * * * *
63.4(a)(1)–63.4(a)(2)	Yes.	
63.4(a)(3)	No	Reserved.
*	*	* * * * *
63.4(a)(5)	No	Reserved.
*	*	* * * * *
63.5(a)(1)	Yes.	
*	*	* * * * *
63.5(b)(5)	No	Reserved.
*	*	* * * * *
63.6(b)(3)	No.	
63.6(b)(4)	No.	
*	*	* * * * *
63.6(e)(1)(i)	No	See § 63.683(e) of this subpart for general duty requirement.
63.6(e)(1)(ii)	No	
63.6(e)(1)(iii)	Yes	
63.6(e)(2)	No	Reserved.
63.6(e)(3)	No.	
63.6(f)(1)	No.	
*	*	* * * * *
63.7(a)(4)	Yes.	
*	*	* * * * *
63.7(e)(1)	No	See § 63.694(l) of this subpart.
*	*	* * * * *
63.7(f)	Yes.	
*	*	* * * * *
63.8(c)(1)(iii)	No.	
*	*	* * * * *
63.9(g)	Yes.	
*	*	* * * * *
63.10(b)(2)(i)	No.	
63.10(b)(2)(ii)	No	See § 63.696(h) of this subpart for recordkeeping of (1) date, time and duration; (2) listing of affected source or equipment, and an estimate of the volume of each regulated pollutant emitted over the standard; and (3) actions to minimize emissions and correct the failure.
63.10(b)(2)(iii)	Yes.	
63.10(b)(2)(iv)	No.	
63.10(b)(2)(v)	No.	

TABLE 2 TO SUBPART DD OF PART 63—APPLICABILITY OF PARAGRAPHS IN SUBPART A OF THIS PART 63—GENERAL PROVISIONS TO SUBPART DD—Continued

Subpart A reference	Applies to Subpart DD	Explanation
*	*	* * * * *
63.10(c)(1)–(6)	No.	
63.10(c)(7)–(8)	Yes.	
63.10(9)–(15)	No.	
*	*	* * * * *
63.10(d)(5)	No	See § 63.697(b)(3) of this subpart for reporting of malfunctions.
63.10(e)(1)–63.10(e)(2)	No.	
63.10(e)(3)	Yes.	
63.10(e)(4)	No.	
*	*	* * * * *
63.16	No.	

* * * * *

■ 19. Table 3 to subpart DD of part 63 is revised to read as follows:

TABLE 3 TO SUBPART DD OF PART 63—TANK CONTROL LEVELS FOR TANKS AT EXISTING AFFECTED SOURCES AS REQUIRED BY 40 CFR 63.685(b)(1)(i)

Tank design capacity (cubic meters)	Maximum HAP vapor pressure of off-site material managed in tank (kilopascals)	Tank control level
Design capacity less than 75 m^3	Maximum HAP vapor pressure less than 76.6 kPa.	Level 1.
Design capacity less than 75 m^3	Maximum HAP vapor pressure equal to or greater than 76.6 kPa.	Level 2, except that fixed roof tanks equipped with an internal floating roof and tanks equipped with an external floating roof as provided for in § 63.685(d)(1) and (2) of this subpart shall not be used.
Design capacity equal to or greater than 75 m^3 and less than 151 m^3.	Maximum HAP vapor pressure less than 27.6 kPa.	Level 1.
	Maximum HAP vapor pressure equal to or greater than 27.6 kPa.	Level 2.
Design capacity equal to or greater than 151 m^3.	Maximum HAP vapor pressure less than 5.2 kPa.	Level 1.
	Maximum HAP vapor pressure equal to or greater than 5.2 kPa.	Level 2.

■ 20. Table 4 to subpart DD of part 63 is revised to read as follows:

TABLE 4 TO SUBPART DD OF PART 63—TANK CONTROL LEVELS FOR TANKS AT EXISTING AFFECTED SOURCES AS REQUIRED BY 40 CFR 63.685(b)(1)(ii)

Tank design capacity (cubic meters)	Maximum HAP vapor pressure of off-site material managed in tank (kilopascals)	Tank control level
Design capacity less than 75 m^3	Maximum HAP vapor pressure less than 76.6 kPa.	Level 1.
Design capacity less than 75 m^3	Maximum HAP vapor pressure equal to or greater than 76.6 kPa.	Level 2, except that fixed roof tanks equipped with an internal floating roof and tanks equipped with an external floating roof as provided for in § 63.685(d)(1) and (2) of this subpart shall not be used.
Design capacity equal to or greater than 75 m^3 and less than 151 m^3.	Maximum HAP vapor pressure less than 13.1 kPa.	Level 1.
	Maximum HAP vapor pressure equal to or greater than 13.1 kPa.	Level 2.
Design capacity equal to or greater than 151 m^3.	Maximum HAP vapor pressure less than 5.2 kPa.	Level 1.
	Maximum HAP vapor pressure equal to or greater than 5.2 kPa.	Level 2.

■ 21. Table 5 is added to subpart DD of part 63 to read as follows:

TABLE 5 TO SUBPART DD OF PART 63—TANK CONTROL LEVELS FOR TANKS AT NEW AFFECTED SOURCES AS REQUIRED BY 40 CFR 63.685(b)(2)

Tank design capacity (cubic meters)	Maximum HAP vapor pressure of off-site material managed in tank (kilopascals)	Tank control level
Design capacity less than 38 m^3	Maximum HAP vapor pressure less than 76.6 kPa.	Level 1.
Design capacity less than 38 m^3	Maximum HAP vapor pressure equal to or greater than 76.6 kPa.	Level 2, except that fixed roof tanks equipped with an internal floating roof and tanks equipped with an external floating roof as provided for in § 63.685(d)(1) and (2) of this subpart shall not be used.
Design capacity equal to or greater than 38 m^3 and less than 151 m^3.	Maximum HAP vapor pressure less than 13.1 kPa.	Level 1.
	Maximum HAP vapor pressure equal to or greater than 13.1 kPa.	Level 2.
Design capacity equal to or greater than 151 m^3.	Maximum HAP vapor pressure less than 0.7 kPa.	Level 1.
	Maximum HAP vapor pressure equal to or greater than 0.7 kPa.	Level 2.

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Part III

Department of Homeland Security

Coast Guard

33 CFR Parts 83, 84, 85, et al.

Changes to the Inland Navigation Rules; Final Rule

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Parts 83, 84, 85, 86, 87, and 88

[Docket No. USCG–2012–0102]

RIN 1625–AB88

Changes to the Inland Navigation Rules

AGENCY: Coast Guard, DHS.

ACTION: Final rule.

SUMMARY: The Coast Guard is amending the inland navigation rules and their annexes to align the regulations with amendments made by the International Maritime Organization to the Convention on the International Regulations for Preventing Collisions at Sea, to which the United States is a signatory, and to incorporate recommendations made by the Navigation Safety Advisory Council. These changes harmonize domestic and international law by reducing and alleviating equipment requirements on vessels, addressing technological advancements, such as wing-in-ground craft, and increasing public awareness of the inland navigation rules. These changes also make references to applicable requirements easier to locate by using the same format in domestic regulations as is used in the international convention.

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

ADDRESSES: Comments and material received from the public, as well as documents mentioned in this preamble as being available in the docket, are part of docket USCG–2012–0102 and are available for inspection or copying at the Docket Management Facility (M–30), U.S. Department of Transportation, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. You may also find this docket online by going to *http://www.regulations.gov* and following the instructions on that Web site.

FOR FURTHER INFORMATION CONTACT: If you have questions on this rule, call or email Lieutenant Commander Megan L Cull, Coast Guard; telephone 202–372–1565, email *megan.l.cull@uscg.mil.* If you have questions on viewing the docket, call Ms. Cheryl Collins, Program Manager, Docket Operations, telephone 202–366–9826.

SUPPLEMENTARY INFORMATION:

Table of Contents for Preamble

I. Abbreviations
II. Basis and Purpose
III. Background and Regulatory History
IV. Discussion of Comments and Changes
A. General comments regarding the rulemaking including comments on harmonization and formatting.
B. Comments received to proposed changes resulting in modification of regulation
C. Comments received to unaltered text that resulted in change
D. Comments received on unaltered text that did not result in change
E. Technical changes
V. Regulatory Analyses
A. Regulatory Planning and Review
B. Small Entities
C. Assistance for Small Entities
D. Collection of Information
E. Federalism
F. Unfunded Mandates Reform Act
G. Taking of Private Property
H. Civil Justice Reform
I. Protection of Children
J. Indian Tribal Governments
K. Energy Effects
L. Technical Standards
M. Environment

I. Abbreviations

CFR Code of Federal Regulations
COLREGS Convention on the International Regulations for Preventing Collisions at Sea
DHS Department of Homeland Security
E.O. Executive Order
FR **Federal Register**
IMO International Maritime Organization
NAVSAC Navigation Safety Advisory Council
NBSAC National Boating Safety Advisory Council
NPRM Notice of proposed rulemaking
OMB Office of Management and Budget
§ Section symbol
RAM Restricted in ability to maneuver
SOLAS International Convention for the Safety of Life at Sea
U.S.C. United States Code
WIG craft Wing-in-Ground craft

II. Basis and Purpose

The purpose of this rulemaking is to harmonize existing domestic law with current international law because as currently written, Coast Guard regulations relating to inland navigation rules are inconsistent with the international standards found in the Convention on the International Regulations for Preventing Collisions at Sea (COLREGS), to which the United States is a signatory. In addition to the alignment with international standards, the Navigation Safety Advisory Council (NAVSAC) recommended several changes to the regulations that simplify the inland navigation rules and alternatives to equipment requirements for certain vessels. The Coast Guard has initiated this rulemaking under the authority of the Coast Guard and Maritime Transportation Act of 2004 (Pub. L. 108–293) and Department of Homeland Security Delegation 0170.1, Delegation to the Commandant of the Coast Guard.

III. Background and Regulatory History

In 1972, the International Maritime Organization (IMO) formalized the COLREGS. The United States ratified this treaty and adopted the COLREGS in the International Navigation Rules Act of 1977. Ratification of this treaty made all U.S. vessels subject to the COLREGS while operating on international waters. The corresponding rules for inland waters, or inland navigation rules, did not go into effect until Congress enacted the Inland Navigational Rules Act of 1980. The inland navigation rules and the COLREGS are very similar in both content and format.

The IMO has made several amendments to the COLREGS since they were promulgated in 1972. The United States has adopted these amendments through statute until the two most recent IMO amendments in 2001 and 2007.

In 2004, Congress passed the Coast Guard and Maritime Transportation Act of 2004, which amended Section 3 of the Inland Navigational Rules Act of 1980 and in effect, gave the Secretary of Homeland Security (''the Secretary'') the authority to issue inland navigation regulations. The Secretary delegated the authority to develop and enforce navigation safety regulations to the Commandant of the Coast Guard through Department of Homeland Security Delegation 0170.1, ''Delegation to the Commandant of the Coast Guard.'' Based on this authority, the Coast Guard is incorporating the 2001 and 2007 IMO amendments in this final rule (FR).

In 2010, the Coast Guard used the authority granted by Congress and delegated by the Secretary to move the inland navigation rules from the United States Code (U.S.C.) to 33 CFR part 83. 75 FR 19544. Regulations in 33 CFR part 83, along with regulations in 33 CFR parts 84 through 88, now comprise the complete domestic inland navigation rules. Movement to the CFR in 2010 effectively ended statutory codification of the inland rules of the road.

The Coast Guard published the Changes to the Inland Navigation Rules NPRM on August 28, 2012. (77 FR 52176). This NPRM proposed amendments to 33 CFR part 83, along with 33 CFR parts 84 through 88, to align U.S. inland navigation rules with the COLREGS as much as practicable and to incorporate other NAVSAC recommendations and Coast Guard changes.

IV. Discussion of Comments and Changes

We received 49 comments from 10 different commenters representing educational institutions, maritime organizations, and private companies. We decided to organize this discussion of comments under the following headings: General comments regarding the rulemaking including comments on harmonization and formatting; comments received to proposed changes resulting in modification of this regulation; comments to unaltered text resulting in changes to the rule; and comments to unaltered text not resulting in changes to the rule.

The first section below includes our responses to comments regarding the overall rulemaking, including the topics of harmonization and formatting; a rejected NAVSAC recommendation; preemption; and lighting and bells.

A. General Comments Regarding the Rulemaking Including Comments on Harmonization and Formatting

One commenter complimented the Coast Guard on the extensive work that went into creating a ''safety [oriented and] efficient draft with minimal cost to mariners and operators.'' We appreciate that the effort was noted. We believe navigational safety should always be paramount and we strive to balance the cost to the mariners with the risks associated with operating on the water and the need to improve safety of navigation.

1. Formatting and Harmonization

Regarding our effort to harmonize with the COLREGS, we received three comments. One was generally supportive, stating that recreational boaters find that uniform, consistent regulations make compliance easier, thereby increasing their overall safety on the water. We agree with this statement, as it is our intent to make compliance easier and to follow NAVSAC's and the U. S. Government's direction to align the inland navigation rules with the COLREGS.

The second commenter was concerned about the effect that harmonization with the international standards would have on the CFR language and the commenter recommended keeping titles of sections and subsections in the CFR. After taking this commenter's recommendation into account, we decided to proceed with our proposal to align with the COLREGS but ensured that regulatory references in 33 CFR parts 83–88 accurately reflect the amended text of the rule and match the COLREGS. When further clarity was required, we inserted the exact rules to which the regulation pertains in parenthesis and clarified which subparts the rule was referencing. Our reasoning is as follows: IMO uses the term ''Part'' to describe a section but because of CFR formatting, those references would have to become ''Subpart.'' Additionally, where the IMO referenced a ''Section'' we were unable to use that term because of the contextual meaning the term ''Section'' has within the CFR.

Lastly, the third commenter was concerned about the inland navigation rules being formatted differently from the rest of the CFR and stated that conforming to the COLREGS is counterproductive to making the rules easier to read because, in this instance, we are utilizing a different numbering system from the rest of the CFR. We understand the reason for concern but feel that the application of these rules in waters adjacent to areas where the COLREGS apply makes it vitally important to ensure consistency between the two areas. Adopting the international format and titling scheme furthers our goal of making compliance easy, because it makes the regulatory transition as seamless as possible between inland waters (where these inland navigation rules apply) and international waters (where the COLREGS apply). The Office of the Federal Register (publisher of the CFR) approved and authorized this deviation from their standard format.

Pertaining to format concerns, one commenter wrote to request clarification of the proposed text which states that in § 83.01 ''regulations in this subchapter'' seem to be limited to Part 83 of Title 33 of the CFR. When we say ''regulations in this subchapter'', we are referring to subchapter E—Inland Navigation Rules, which includes Part 83 through 90. The commenter also questioned the use of ''Part'' in § 83.08(a) which states ''in accordance with the Rules of this Part''. This is an instance in which we applied the deviation from the COLREGS and inserted a reference to the applicable rules; in this case we changed ''Part'' to ''Subpart'' and inserted ''(Rules 4–19)'' to clear up any confusion.

2. The Rejected NAVSAC Recommendation

We received an unfavorable comment regarding the Coast Guard's decision not to adopt an alternative proposed by NAVSAC that would require vessels greater than 16 feet in length to carry the inland navigation rules booklet; we reasoned in the regulatory analyses of the NPRM that there was a ''lack of quantifiable benefits to justify a high regulatory burden on recreational vessels at this time.'' [1] The commenter stated that the inland navigation rules apply to all vessels, specifically pointing to rules regarding application (Rule 1), responsibility (Rule 2), and definitions (Rule 3), and recommended an alternative threshold for carriage of the inland navigation rules booklet which would require carriage on ''recreational vessels that have room for more than three crew.''

The Coast Guard continues to believe that mandatory carriage of the inland navigation rules booklet should not be expanded beyond the current population of ''self-propelled vessels of 12 meters or more in length''. We do not believe it would improve navigational safety for vessels less than 12 meters in length to carry the booklet, and the cost of requiring the nearly 6.5 million vessels within this category to carry the booklet (which costs $23 from the Government Printing Office, purchasing information is provided below) [2] or electronic copy is unnecessarily costly (approximately $150 million total), particularly in light of the following additional considerations.

First, according to the Coast Guard's annual Recreational Boating Statistics,[3] only 14 percent of reported boating deaths occurred on boats where the operator had received boating safety instruction. Furthermore, only nine percent of reported boating deaths occurred on boats where the operator had received safety instruction from a course provider approved by the National Association of State Boating Law Administrators (NASBLA). Based on these statistics, the Coast Guard believes that boating safety courses, especially those approved by NASBLA, reduce reportable accidents and incidents. These approved courses include navigation rules familiarization and are required for some or all boat owners in nearly half of the United States.[4] As a result of ever increasing state mandates for boating education, the number of recreational boaters that have completed a NASBLA-approved course has increased by more than 23 percent, from 397,633 in 2008 to

[1] 33 Section V(A)(2) of this preamble, ''Alternative 2—Incorporation of burden is increasing NAVSAC recommendations''.

[2] *http://bookstore.gpo.gov/products/sku/050-012-00407-2.*

[3] Coast Guard Recreational Boating Statistics are viewable online at: *http://www.uscgboating.org/statistics/accident_statistics.aspx.*

[4] Approved navigation courses are listed here: *http://www.nasbla.net/courseListing.php.* An example of a training course that provides ''rules of the road'' can be seen here: *http://www.boatcourse.com/California/default.aspx.*

491,525 in 2012.[5] The Coast Guard believes that expanding overall knowledge of the navigational rules has contributed to the decrease in reportable accidents and fatalities. Therefore, the Coast Guard's position is that navigation rules education offers better prevention than the simple requirement to carry the booklet. The Coast Guard does recognize the value of having a copy of the booklet aboard for reference, but believes that emphasis must remain on boaters' knowledge of the rules. Although the Coast Guard is not expanding the requirement to carry the inland navigation rules booklet based on the commenter's recommendation, operators on vessels less than 12 meters may do so voluntarily.

Secondly, the enforcement of required carriage, as proposed by the commenter, is particularly challenging. There are no current correlating measures of ''crew'' because recreational vessels are not required to have professional ''crew'' nor are there any capacity requirements which correlate to capacity for the application of the recommended requirement. Thirdly, the requirement for vessels of less than 12 meters in length to carry a paper book or an electronic copy of the navigation rules may be impractical because a large portion of the population of impacted vessels includes open construction vessels, which have limited or no stowage capacity. We acknowledge that the mandate for commercial vessels and vessels longer than 12 meters may appear as a discrepancy but we believe it to be a matter of practicality. The Coast Guard continues to require the carriage of the inland navigation rules booklet for reference by professional mariners onboard commercial vessels and onboard all vessels over 12 meters in length, but we do not believe that expanding the population required to carry the book as proposed is practical or enforceable.

Finally, at the November 2011 NAVSAC meeting, NAVSAC withdrew this recommendation and has since considered it closed.

3. Preemption

One commenter pointed out that the preemption statement which was proposed to be inserted at § 83.01(a) needs to make clear that field preemption is intended, not merely conflict preemption. We agree with the comment that the rule should explicitly state that Coast Guard regulations regarding inland navigation rules are field preemptive, not merely conflict preemptive. As stated below in our Federalism analysis section, Congress specifically granted to the Coast Guard, through delegation by the Secretary, the exclusive authority to prescribe inland navigation regulations ''applicable to all vessels upon the inland waters of the United States and technical annexes that are as consistent as possible with the respective annexes to the International Regulations.''[6] In doing so, Congress intended Coast Guard regulations to be exclusive within this field, meaning that states and local governments are preempted from regulating within the field of inland navigation rules.

Additionally, the commenter asked what subchapter the Coast Guard was referring to in the proposed regulatory text, which stated: ''The regulations in this subchapter have preemptive effect over State or local regulation within the same field.'' The Coast Guard is referring to Subchapter E of Chapter I of Title 33, Code of Federal Regulations, which is the subject of this rulemaking.

Another comment stated that it is unwise for our proposed 33 CFR 83.08 (Rule 8(a)) to differ from the COLREGS by limiting its application to Subpart B of the Rules (i.e., Rules 4–19). We disagree with this statement. This proposed section matches COLREG Rule 8(a), as amended by IMO Resolution A.910(22). The IMO resolution changed the rule to ''Any action to avoid collision shall be taken in accordance with the Rules of this Part and shall, if the circumstances of the case admit, be positive, made in ample time and with due regard to the observance of good seamanship.'' As we noted above, we have slightly modified the phrase by using ''Subpart'' where IMO uses ''Part'', and therefore have changed our text to reflect the reference appropriately, including a parenthetical reference for clarification. It is our intent that Rule 8(a) should be taken with full knowledge and compliance with Rules 4–19.

4. Lighting and Bells

We received two comments regarding our proposed change to allow the optional display of an all-round white light by sailing vessels less than 7 meters in length and vessels under oars in § 83.25(d)(i) and (ii). One commenter agreed and noted that many of these vessels lack an installed electrical system and that the option to display an all-round white light would provide an additional level of flexibility to boaters. We agree that boating and navigational safety would only improve with this optional lighting arrangement. The other commenter, however, thought this proposed change was contradictory, confusing, and potentially dangerous. He contended that a constant white light with accompanying sidelights is universally recognized as the navigation lights of a power-driven vessel, and that § 83.23(d) specifically authorizes this combination for power-driven vessels of less than 12 meters in length. As an alternative, he recommended that we create a new signal utilizing alternately flashing red and green lights in keeping with the optional red over green masthead lights authorized for sailing vessels in § 83.25(c) or prescribe that the white light displayed by these small sailing vessels or vessels under oars be flashing at a frequency of 120 flashes or more per minute (in accordance with the definition of a flashing light in § 83.21(f)). The Coast Guard agrees that a white light with sidelights is universally recognized as the navigation light of a power-driven vessel, but asserts that this rule would not allow these small sailing vessels or vessels under oars to be construed as power-driven vessels because it provides that a single white light would be displayed, not red and green sidelights.

Secondly, we disagree with this comment because, as the Navigation Safety Advisory Council (NAVSAC) and the National Boating Safety Advisory Council (NBSAC) recommend, the proposed change provides these smaller vessels flexibility to enhance safety and visibility. We also disagree with the commenter's assertion that the proposed lighting option is unsafe; providing these vessels with the ability to be better seen would only enhance navigational safety. The optional fixed white light we propose is presented in the COLREGS for vessels of less than 7 meters in length whose maximum speed is less than 7 knots. The Coast Guard believes that application of the all-round white light in the international rules is complementary to this application proposed by NAVSAC for the Inland Navigational Rules. We believe that the optional all-round white light proposed in the NPRM as recommended by NAVSAC and NBSAC provides increased safety over the existing rule which specified that a vessel meeting the criteria was not required to be lighted but may show a fixed white light (white hand torch) which ''shall be exhibited in sufficient time to prevent collision'' (*see* 33 CFR 83.25(d)(i)).

Another commenter wrote to support our proposed revision to remove the requirement for a bell aboard vessels

[5] Based on annual reporting the Coast Guard receives from 56 States and territories on the number of recreational boaters completing NASBLA-approved courses.

[6] 33 U.S.C. 2071.

greater than 12 meters in length but less than 50 meters. We agree with the commenter; this change recognizes the development of alternative methods, beyond bells, to provide an audible warning to help avoid collisions. The commenter further supported this proposed revision by stating that the change will provide greater flexibility for recreational boaters to comply with the regulations.

Lastly, a commenter stated that the change from ''Secretary'' to ''Coast Guard'' in §§ 83.30(g) and 83.35(l) was unexpected but refreshingly clear. We believe it is a change without much distinction but the recent formal delegation to USCG from DHS (Department of Homeland Security Delegation 0170.1, Delegation to the Commandant of the Coast Guard) has allowed this change which should be easier for the public to understand.

B. Comments Received to Proposed Changes Resulting in Modification of Regulation

1. ''Other Electronic'' in § 83.07(b)

One commenter made several comments regarding our proposed insertion of the words ''and other electronic'' into § 83.07(b) in accordance with a NAVSAC resolution. The commenter made several arguments: First, that the insertion would be a deviation from the COLREGS, contrary to our goal of aligning with the COLREGS; second, he expressed concern regarding the applicability of 'other electronic' navigational equipment as it applies to Rule 7(b) which pertains to the radar and the automatic radar plotting aid (ARPA) functions and their use in collision avoidance; third, the commenter pointed out that the addition results in no substantive change in the rule because paragraph (a) of the rule already requires mariners to use ''all available means'' to determine if a risk of collision exists. Finally, the commenter argued that the additional requirement may obscure the enforcement and application of the Pennsylvania Rule,[7] which shifts the burden of proof to a vessel, once it has been established that that vessel has violated a law or regulation intended to prevent collisions, to rebut the presumption of causation by demonstrating that the violation could not have caused the collision.

With regard to these comments, the Coast Guard has reconsidered this addition and has decided to withdraw the amendment. We acknowledge that by inserting the language, mariners would have been reminded to use the other electronic navigation equipment. However, the proposed paragraph (b) pertains to radar functions and the functionality currently described there may not directly pertain to all ''other electronic equipment''.

Additionally, as the commenter pointed out, one of the guiding principles of this rulemaking was to align with the COLREGS as much as possible. The insertion of the phrase ''and other electronic'' would have been a deviation from the COLREGS.

Lastly, we recognize that our use of the phrase ''other electronic equipment'' in § 83.07(b) might have had unintended consequences in light of the Pennsylvania Rule. Specifically, in litigation following a collision, the Pennsylvania Rule as applied to the proposed language could potentially have been used to shift the burden onto a navigational watch officer to prove that his or her failure to employ every electronic device in the wheelhouse did not cause the collision. Our intent in proposing the phrase ''other electronic equipment'' in § 83.07(b) was to require a navigational watch officer to utilize equipment such as the Automatic Identification System (AIS) to determine whether the risk of collision exists. Paragraph (a) of Rule 7 (§ 83.07) achieves this purpose, without the unintended consequences discussed above, by only requiring officers to use those available means ''appropriate to the prevailing circumstances and conditions. . . .''

2. Relocation of §§ 88.11 and 88.12 Regarding Lights on Law Enforcement and Public Safety Vessels

We received three comments regarding our proposed relocation of regulations regarding lights for law enforcement vessels (§ 88.11) and lights for vessels involved in public safety activities (§ 88.12). We had proposed, based on NAVSAC's recommendation, to relocate these paragraphs to 33 CFR 83.27 which pertains to vessels restricted in ability to maneuver. The commenters expressed concern about the unintended consequences of describing these vessels as ''restricted in ability to maneuver (RAM)'' and how that might impact the hierarchy of vessels as described in Rule 18 (§ 83.18), because it would provide these vessels precedence. Additionally, the existing text in § 88.12, as it describes public safety vessels, specifically indicates that it does not convey any special privilege to these vessels. Therefore, the language as written would be problematic if inserted without edit, as proposed in Rule 27 (§ 83.27), regarding vessels restricted in ability to maneuver (RAM). At the November 2012 NAVSAC meeting members were briefed on the concerns raised by commenters and as a result, NAVSAC amended the original resolution to provide for separate relocation of the paragraph concerning public safety light (§ 88.12) from the law-enforcement light (§ 88.11). It is our opinion that the original intent of the relocation was to facilitate visibility and knowledge of these lights. However, separating these two related regulations (§§ 88.11 and 88.12) would only perpetuate the problem of lack of public knowledge. Additionally, we agree with the commenters that by placing both public safety and law enforcement lights in the RAM section as proposed may unnecessarily provide these vessels with precedence based on hierarchy of vessels as defined in Rule 18.

Since the remainder of existing 33 CFR part 88 has been removed by this rule, we have chosen to renumber the remaining paragraphs sequentially and law-enforcement vessels will now be 33 CFR 88.05 and public safety activities will be 33 CFR 88.07. Additionally, as a result of our decision to retain these provisions in 33 CFR part 88, we also need to retain § 88.01 (Purpose and applicability) and § 88.03 (Definitions).

We received one comment regarding the proposed relocation of § 88.13 (Lights on Barges) and § 88.15 (Dredge Pipelines) to § 83.24(k) through (o), which contains rules pertaining to towing and pushing. The commenter offered that § 83.30 (Anchored Vessels and Vessels Aground) was a better fit, given the content of the paragraphs being relocated. We agree that the requirements for lights on moored barges fits better in the recommended § 83.30(h)–(l) and will rename the section to ''Vessels Anchored, Aground, and Moored Barges''. We also agree with the commenter's recommendation to relocate § 88.15 to § 83.27(d)(iv) because it pertains to lights on dredge pipelines and the recommended relocation site pertains to dredging operations.

C. Comments Received to Unaltered Text That Resulted in Change

We received one comment pertaining to § 83.24(f)(iii) and the omission of a comma. The paragraph is meant to depict the configuration of a single towing vessel with barges on both sides (towing on the hips), not multiple towing vessels with barges on both sides in a single configuration. We agree and have inserted a comma so that it now reads: ''on both sides of the towing vessel, a sternlight . . .''

[7] *The Pennsylvania,* 86 US 125; 22 L Ed 148 (1873).

We received one comment regarding the permanent exemptions provided for in Rule 38 (§ 83.38) which have long since expired and are no longer necessary (e.g., ''9 years after the effective date of the Inland Navigational Rules Act of 1980''). We agree and have chosen to strike this phrase as it occurs in § 83.38 (d)(i), (d)(ii), (d)(iv)(2). Additionally, we have removed § 83.38 (d)(v) and (vii) as proposed in the NPRM because those dates have lapsed. Accordingly, § 83.38 (d)(vi) as proposed in the NPRM has been relocated to § 83.38 (d)(v) in this final rule.

We received one comment regarding the use of the phrase ''on a clear dark night'' currently in § 88.15 and being relocated to § 83.27(d)(iv) by this rulemaking. The commenter said that the phrase was carried over from the old Pilot Rules but lacks specificity and could lead to disagreement and argument. The commenter recommended striking the phrase from §§ 83.24(p)(i)(3) and 83.24(p)(ii)(2). We concur that the use of ''clear dark night'' is ambiguous and have chosen to remove the text as recommended.

D. Comments Received on Unaltered Text That Did Not Result in Change

We received one comment expressing concern about inland tow boat operations and the application of international conventions and regulations on them. The commenter recognized the benefit of aligning the inland navigational rules with the COLREGS as proposed by NAVSAC, but was concerned about the application of other international regulations on the inland towing industry. We agree that there are benefits to aligning the inland navigational rules with the COLREGS. This rule does not deal with other international regulations.

One comment we received questioned whether ''inland'' should be capitalized in each occurrence of the rule to reflect that it is the proper name of those waters specified in The Act and not all internal waters of the United States. We have chosen not to amend other instances of the word ''inland'' because the statutory authority doesn't capitalize it. *See* 33 U.S.C. 2071.

We received a comment regarding the practical implication of Rule 3(f) (§ 83.03(f)) pertaining to a vessel not under command; this is defined as a vessel not able to maneuver as required by the rules through some exceptional circumstance and is therefore unable to keep out of the way of another vessel. The commenter argued that vessels not under command because of some exceptional circumstance such as fire, flooding, man-overboard, or the like may well be able or want to maneuver to stabilize the situation aboard the vessel and the commenter was concerned about the limitations imposed by the definition and the vessel's ability or inability to maneuver as a result. We reviewed the definition and believe it provides adequate flexibility for vessels claiming not to be under command, while requiring adequate warning to other vessels operating in the vicinity that the vessel is unable to maneuver as required and may not be able to keep out of the way of other vessels. When this condition is taken in the context of Rule 18 (§ 83.18), these vessels have the highest precedence, and all other vessels should use caution when operating in their vicinity, or as required by 46 U.S.C. 2304, provide assistance.

One comment expressed concern over a contradiction in the definition of a vessel ''restricted in ability to maneuver'' and those vessels that are likely to claim this status. The commenter pointed out that vessels restricted in ability to maneuver as defined in § 83.03(g) (Rule 3(g)—cable laying, buoy tending, dredging, surveying, replenishment or transferring of personnel, etc) are in fact highly maneuverable. The commenter recommended that the definition in Rule 3(g) be modified to ''the term vessel restricted in ability to maneuver means a vessel which, from the nature of her work, is relieved of its obligation to keep out of the way of another vessel as may be required by the rules . . .'' We have chosen not to change the text as recommended because: (1) it would be a deviation from the COLREGS; and (2) we feel the current definition adequately provides that a vessel's work is the reason for the restriction and for the effect on the vessel's normal ability to maneuver.

One commenter wrote to say that he was pleased to see that the Coast Guard had decided against including an amendment to § 83.05 (Rule 5) to accommodate and include unmanned vehicles and vessels. The Coast Guard understands that the field of unmanned vessels is growing rapidly but has thus far chosen to defer to the international community on the application of collision avoidance rules to these vessels or vehicles. Accordingly, the U.S. representative at meetings of the international maritime community will continue to advocate for regulations to ensure the safety of both manned and unmanned vessels.

One commenter found the phrase ''not to impede'' in § 83.08(f) (Rule 8(f)) contradictory and confusing. The commenter stated that while there are very specific responsibilities for give-way and stand-on vessels in Rules 16 and 17 (§§ 83.16–17), the responsibilities are not specific for those vessels which are ''not to impede''. Furthermore, the commenter questioned ''how a vessel should maneuver if they are deemed to be both 'stand-on' and 'not to impede'; wouldn't it be a violation of rule 17 if the stand-on vessel maneuvered?'' The language we used in this explanation reflects our attempts to align with the COLREGS. In our reading of Rule 8(f), ''not to impede'' is applicable to vessels crossing a narrow channel or fairway (see § 83.09(d)–Rule 9(d)), vessels engaged in fishing (see § 83.10(i)–Rule 10(i)), and those vessels of less than 20 meters (see § 83.10(j)–Rule 10(j)). Therefore, these vessels have the freedom of navigation and are able to utilize narrow channels and fairways for their own purposes. However, if vessels are sighted utilizing the narrow channel or fairway, these vessels using the channel for their own purposes are to cease and follow the steering and sailing rules while vacating and allowing the safe passage of the other vessel.

One comment proposed a change in § 83.15(b) (Rule 15) regarding power-driven vessels: ''a power-driven vessel crossing a river shall keep out of the way of a power-driven vessel ascending or descending the river''. This comment proposed that the power-driven vessel crossing a river was responsible to keep out of the way of *any* vessel ascending or descending the river. The previous amendment to this rule was a result of a NAVSAC 1992 recommendation. The Coast Guard will ask NAVSAC to consider these concerns at its next meeting.

One commenter pointed out that § 83.19(a) (Rule 19) clearly states that the factor which determines restricted visibility is ''vessels not in sight of one another when navigating in or near an area of restricted visibility''. He recommended the definition of restricted visibility be expanded in § 83.03(l) to read: ''the term restricted visibility means the inability, due to fog, mist, falling snow, heavy rainstorms, sandstorms or any other similar meteorological condition, to observe visually a potential risk of collision''. The Coast Guard has decided to not change the text in either of the referenced rules because doing so would not align with the COLREGS. Additionally, the proposed change is not needed because § 83.03(l) is clear when read together with § 83.19 (Conduct of vessels in restricted visibility, Rule 19).

We received three comments regarding the use of day shapes as defined by the Rules in Subpart C (§§ 83.20–83.31). One commenter felt that § 83.20 (Rule 20) should be amended to state that the shapes should only be displayed while the vessel is explicitly conducting operations as defined by the use of the shapes. Another commenter pointed out that in § 83.24(e) (Rule 24) the use of the diamond shape for vessels towing another vessel a distance that exceeds 200 meters is often misused; some towing vessels have chosen to permanently display the lights and in doing so may incorrectly be displaying the diamond shape while towing alongside, pushing ahead or towing astern when the length of tow is shorter than 200 meters.

We also received a comment concerning special-purpose lights and shapes. The commenter pointed out that § 83.26(a) (Rule 26(a)) makes it perfectly clear that a ''vessel engaged in fishing . . . shall exhibit only the lights and shapes prescribed in this Rule'', and he recommended similar wording be adopted for all vessels displaying special-purpose lights under § 83.20 (Rule 20). The Coast Guard disagrees for the following reasons. First, doing so would not align with the COLREGS. Second, we believe the Rules which provide tacit guidance between § 83.03 (Rule 3) and § 83.20(d) (Rule 20(d)) are adequate for defining when shapes are to be displayed. These rules do not modify the text as one commenter proposed to ''The Rules concerning shapes shall be complies (sic) with throughout the twenty-four hour day''. Further, the Oxford Dictionary's definition of day, which is ''the part of a day when it is light; the time between sunrise and sunset'', aligns with our use of day shapes. In this way, the application of day shapes is in concert with the use of special purpose lights which are to be used, as specified by § 83.20(b)(Rule 20(b)), ''from sunset to sunrise''. Lastly, the rules are explicit about the use and display of day shapes and we point out that 33 U.S.C. 2072 provides the enforcement and penalty provisions for incorrect display of shapes and lights and serves as an enforcement mechanism when violations are noted.

One commenter expressed confusion regarding the use of the word ''line'' with regard to the vertical placement of lights as referenced in § 83.24 (Rule 24) and proposed the use of ''axis'' instead. Within the inland navigation rules the term ''vertical line'' is used throughout the lights section; whereas, ''vertical axis'' is only used with regard to sound signal configuration in 33 CFR 86 (Annex III). It is our belief that 'line' is more easily understood than 'axis' but we believe that the application of 'axis' to sound signals is appropriate because during reduced visibility it would be difficult to ascertain if they were in ''line'' whereas the more generic ''axis'' may apply. For these reasons, changing the wording from ''line'' to ''axis'' in § 83.24 would not improve the rule.

We received one comment regarding the requirement in § 83.27(e)(ii) (Rule 27(e)) for small vessels engaged in diving operations to have a rigid replica flag with all-round visibility. The commenter pointed out that it is impossible for the rigid replica of the International Code flag ''A'' authorized by this rule to be visible from all-round as it is a two-dimensional flag. The commenter proposed that in order to make the rigid replica all-round visible, two intersecting rigid replicas would be more suitable. The Coast Guard has chosen not to adopt this recommendation at this time because to do so would be a deviation from the COLREGS. Additionally, the rule does not require all-round visibility but rather asks that measures be taken to ensure its all-round visibility. A subtle difference but we believe that the rule requires that the rigid replica not be placed where it might be blocked by the superstructure or other object. We do understand the potential for vessels approaching the rigid replica on a side angle to not be able to distinguish it and discern its meaning, but believe the rigid replica provision instead of a cloth flag is an attempt at ensuring other vessels are aware that the subject vessel is engaged in diving operations. Therefore, while we understand the commenter's concerns regarding the ''all-round visibility'' possible with a single rigid Code ''A'' flag, we will not adopt his recommendation at this point. We may, however, present the proposed alternative of intersecting rigid replicas at a future NAVSAC meeting.

Lastly, we received a comment requesting the Coast Guard to explicitly define what constitutes a ''high speed craft'' according to the Rules. We have chosen not to further define the term ''high speed craft'' in Part 83 because there is a reference in 33 CFR 84.01(b) (Annex I) which provides the definition and operational requirements for vessels to be considered high speed craft. The Coast Guard has chosen to insert clarifying language to ensure compliance with requirements in § 83.24(i) by towing vessels on the Mississippi River. We were informed that the point of reference (the Huey P. Long Bridge) was confusing because there are two such named bridges on the lower Mississippi River. As a result, we have inserted a mile marker reference to ensure compliance.

We are adopting without change all other proposed amendments found in the NPRM (August, 28, 2012, 77 FR 52176).

E. Technical changes

We have made several technical changes in this final rule to improve readability and correct typographical errors. In the NPRM, one of the references in § 83.25 to ''white lights'' used the word ''while'' instead of ''white.'' In the NPRM, references to ''meter'' in § 83.26(f)(1) and § 84.06(a)(2) should have used the plural ''meters.'' In the NPRM, § 83.27(f) contained a reference to Rule 30, but left out the standard parenthetical cross-reference to the appropriate CFR section. In the NPRM, § 84.07 (renumbered in this final rule as § 84.13) used an outdated address. We have made corrections to these sections in this final rule.

Prior to this rulemaking, 33 CFR part 86, subpart A—Whistles, contained Table 86.05 regarding sound signal intensity and range of audibility. The Table was followed by a note that read as follows: ''The range of audibility in the table above is for information and is approximately the range at which a whistle may usually be heard on its forward axis in conditions of still air on board a vessel having average background noise level at the listening posts (taken to be 68 dB in the octave band centered on 250 Hz and 63 dB in the octave band centered on 500 Hz).

In practice the range at which a whistle may be heard is extremely variable and depends critically on weather conditions; the values given can be regarded as typical but under conditions of strong wind or high ambient noise level at the listening post the range may be much reduced.''

In the NPRM, we revised and relocated the Table so that it appears as Table C in § 86.01. However, in the NPRM, we inadvertently deleted the note. Accordingly, in this final rule, we have reinserted the information from the note. For purposes of readability, we have made minor adjustments to the language of the note, and we have relocated it to appear in the regulatory text at § 86.01(c).

V. Regulatory Analyses

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

A. Regulatory Planning and Review

Executive Orders (E.O.s) 12866 (''Regulatory Planning and Review'') and 13563 (''Improving Regulation and Regulatory Review'') direct agencies to assess the costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). Executive Order 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting regulatory flexibility and further requires agencies to adapt rules that are outdated or outmoded. This rule does that by removing contradictory language, expanding options for compliance, allowing for new technologies and removing outdated equipment from our regulations.

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

As stated in section *IV. Discussion of Comments and Changes* of this preamble, this rule updates existing regulations to match those in the COLREGS, incorporates certain provisions suggested by NAVSAC, and adds language regarding federalism, based on President Obama's 2009 memorandum and E.O. 13132. These regulations fall under two categories: harmonizing and discretionary. Harmonizing changes include provisions associated with the Presidential memorandum and the COLREGS. Discretionary provisions are those recommended by NAVSAC.

Alternatives Considered

Alternative 1—No Action. We rejected this alternative, as this alternative would ensure that the current differences between the domestic and international navigation rules continue, creating potential navigational errors and potential for mishaps, and would not be consistent with the Coast Guard's commitment to tailor the inland navigation rules to conform with the COLREGS as much as practicable. The rule incorporates regulations that are less stringent than the current regulations while maintaining the benefits of the current regulations.

Alternative 2—Incorporation of burden-increasing NAVSAC recommendations. Alternative 2 would include all the changes in the rule and two additional changes recommended by NAVSAC. Those additional changes, which would increase the burden on the regulated community and expand the affected population, are as follows:

1. Lighting of gas pipelines (33 CFR 88.15). A 1991 NAVSAC resolution proposed lighting gas pipelines in a manner similar to that done with dredge pipelines as described in 33 CFR 88.15. However, the Department of Transportation's Pipeline and Hazardous Material Safety Administration has since published regulations affecting some of the gas pipelines that necessitated the original NAVSAC resolution. No comments were submitted regarding this alternative.

2. Requiring that vessels greater than 16 feet must carry the inland navigation rules booklet. This provision would expand the population of vessels that must carry a copy of the inland navigation rules from vessels 12 meters (approximately 39.37 feet) or more in length to all vessels more than 16 feet long. The Coast Guard chooses not to adopt this resolution for a number of reasons, one of which was the lack of quantifiable benefits to justify a high regulatory burden on recreational vessels. Requiring the carriage of the booklet will affect 6.5 million vessels within the ''over 16ft to but less than 20 meters'' category, at the cost of $23 a book.[8] At that rate, the cost to implement this alternative will cost approximately $150 million. As stated in the preamble of this rule, we believe that education is a better method of prevention than requiring the carriage of the book, that enforcement will be challenging, and that it will be impractical for some to carry the book (particularly in open construction vessels). Given these reasons, we rejected this alternative.

Summary of the Rule

Vessels affected by this rule are those traveling on inland waters of the United States. There will be an additional cost for future WIG craft to install a light. There would not be additional costs or burden from the other harmonizing or discretionary provisions. A benefit of the harmonizing provisions is complying with the COLREGS and the Presidential memorandum. Both harmonizing and discretionary provisions also provide regulatory flexibility to certain vessels. Some of the discretionary changes may help to reduce risk of collision. A summary of the Regulatory Analysis is provided in Table 1.

[8] This is a high estimate as the booklet can also be downloaded at *http://www.navcen.uscg.gov/pdf/navRules/CIM16672_2D_NavRules_111123.pdf*

TABLE 1—SUMMARY OF THE REGULATORY ANALYSIS

Category	Summary (harmonization)	Summary (discretionary)
Affected population	All vessels traveling on inland waters Certain subgroups of vessels (refer to Table 3 for details).	All vessels traveling on inland waters. Certain subgroups of vessels (refer to Table 3 for details).
Costs	Costs: $112 annual $1,119 10-year total	Costs: $0.
Cost savings* (undiscounted)	Cost savings: $271,642 annual $2.72 million 10-year total	
Un-quantified benefits	Compliance with the COLREGS and Presidential memo. Increased regulatory flexibility of regulations to certain vessels.	Incorporation of NAVSAC and NBSAC recommendations. Increased regulatory flexibility of regulations to certain vessels. Reduction of risk of collision for certain vessels.

* Cost savings are uncertain. Our estimate illustrates the maximum cost savings that industry would receive.

Affected Population

This rule affects vessels on inland waters of the United States. Some of the provisions in this rule affect specific subgroups of these vessels. Population groups and subgroups affected by this rule arelisted in Table 2.

TABLE 2—BREAKDOWN OF AFFECTED POPULATIONS BY PROVISION TYPE

Affected by harmonization provisions	Affected by discretionary provisions
Vessels on inland waters.	Vessels on inland waters.
Subgroups	Subgroups.
10: WIG craft.[9]	N/A: Sailing vessels of less than 7 meters in length.
907: Vessels of 12 meters or more, but less than 20 meters in length.	N/A: Vessels under oars.
New high-speed vessels of 50 meters or more in length.	N/A: Fishing vessels (non-trawling).
N/A: Vessels less than 75 meters.	
N/A: Vessels 20 meters or more in length.	
N/A: Vessels equipped with radiotelephone alarms or radiotelegraph alarms.	
N/A: Partially sunken vessels and objects being towed in combination.	

Summary of the Impacts of This Rule on Affected Populations

Since the publication of the NPRM, there were seven main changes made to the proposed rules and several more clarifying edits. Table 3 characterizes these changes.

TABLE 3—CHANGES SINCE THE NPRM

Final rule section	Changes from the NPRM	Impacts
83.07(b)	*Removes "other electronic equipment from the phrase, "[p]roper use shall be made of radar and other electronic equipment if fitted and operational. . ."*.	*No cost or impact. "[O]ther electronic equipment" was deemed redundant so its removal will not have an impact.*
83.27, 83.30	*Includes Dredge pipelines. Vessels anchored, aground, and moored barges. Re-labels and moves requirements to new locations.*	*No cost or impact since the location of the regulation changed, but not the requirements.*
88.01, 88.03, 88.05, 88.07	*Reinserts Purpose & Applicability and Definitions sections for reference of section 88. Law enforcement lighting, public Safety Vessels.*	*No cost or impact since the location of the regulation changed, but not the requirements.*
83.24(f)(iii)	*Removal of the "s" in "towing vessels" and the addition of a comma to the phrase "on both sides of the towing vessel, a sternlight. . ."*.	*No impact because it is a clarifying change.*
83.24(i)	*Addition of mile-marker reference point in 83.24 for the Huey P. Long Bridge.*	*No impact; provides more specificity.*
83.27(d)(iv)(1)(C) and 83.27(d)(iv)(2)(B)	*Remove "clear dark night" from the Dredge Pipeline Lighting requirements.*	*Removes ambiguous language.*
83.38d(i), d(ii), d(iv)	*Removes expired exemptions*	*No impact. Change reduces unnecessary language.*

[9] Wing-in-Ground craft are low-flying vehicles that use air pressure between the wing of the craft and the Earth's surface to create lift. While it is capable of flight, given the low altitude in which a WIG craft flies, it was incorporated by IMO (and consequently, US regulations) as a vessel. For more information regarding WIG craft, please refer to the IMO Web site: *http://www.imo.org/ourwork/safety/regulations/pages/wig.aspx* and this Web site dedicated to the discussion of WIG craft: *http://www.se-technology.com/wig/index.php*.

TABLE 3—CHANGES SINCE THE NPRM—Continued

Final rule section	Changes from the NPRM	Impacts
83.01, 83.04, 83.08(a), 83.08(f)(ii), 83.08(f)(iii), 83.10(a), 83.11, 83.13(a), 83.18(e), 83.18(f)(ii), 83.19(c), 83.20(a), 83.22, 83.26(f), 86.01(g)(i), 84.02(i).	*Insertion of clarifying references to specify Rules, Subpart, or Subchapter.*	*Clarifying language to ensure mariners aware of appropriate references.*
84.07, 84.08, 84.09, 84.10, 84.11, 84.12, 84.13, 84.14.	*Section 84.07–84.13 in the NPRM moved to 84.13–84.20 respectively.*	*No impact, necessary for IBR reference and to maintain alignment with COLREGs.*

Besides the above changes, this rule modifies various sections of 33 CFR parts 83 through 88 to align domestic regulations with COLREGS, as much as practicable, and to incorporate NAVSAC recommendations. In Table 4, we provide a summary of the impacts, grouped by provision type and then affected population. Please refer to the regulatory text for specific changes.

TABLE 4—SUMMARY OF IMPACTS OF THE PROPOSED RULE ON THE AFFECTED POPULATIONS

Section(s) and descriptions		Population	Costs and benefits
Harmonizing Provisions			
Presidential Memo:			
§ 83.01(a)	States that vessels must comply with this rule and that this rule preempts state and local laws.	All vessels	Cost: $0. Vessels already comply with the federal regulations. There are no state laws that conflict with the federal regulations. Benefit: Clarifies federalism and adheres to the Presidential memo.
Alignment with COLREGS:			
§ 83.03(a), § 83.03(n), § 83.18(f), § 83.23(c), § 83.31.	Provides operational and lighting requirements for WIG craft when operating on water.	WIG craft	Cost: $1,119. To install an all-round red light for 1 vessel per year. Benefit: Conforms with COLREGS.
§ 83.08(a)	Adds the phrase to read as, "[Any action taken to avoid collision] shall be taken in accordance with the Rules of this part and shall. . . ."	All vessels	Cost: $0. All vessels must comply with existing regulations. There are no additional costs to the modified regulations in this part. Benefit: Conforms with COLREGS.
§ 83.33(a), Part 86, Subpart B	Removes the need for a bell	New vessels 12 meters or more in length, but less than 20 meters in length.	Cost Savings: $299 per vessel, $2.72 million over 10 years. Benefits: More lenient requirement. Conforms with COLREGS.
§ 83.35(i)	If the vessel is equipped with a bell and the bell is used, the sound must be made at 2-minute intervals, which is the same as the existing sounding requirements.	New vessels 12 meters or more in length, but less than 20 meters in length.	Cost: $0. Applies to the use of existing bells. The use of bells is optional. Benefits: Reduces risk of collision if proper sound signal is used during reduced visibility. Conforms with COLREGS.
§ 84.19	Allows an optional modification to the masthead lighting. Moves section to 33 CFR 84.19.	New high-speed vessels of 50 meters or more in length.	Cost: $0. Does not require additional lights or modifications to existing lights. Benefits: Makes lighting requirements more lenient. Accommodates new vessels with novel designs. Conforms with COLREGS.

[10] By 1995, the Coast Guard considered telegraphs to be obsolete. *http://www.gpo.gov/fdsys/pkg/FR-1995-01-27/pdf/95-2092.pdf.*

TABLE 4—SUMMARY OF IMPACTS OF THE PROPOSED RULE ON THE AFFECTED POPULATIONS—Continued

Part 86, Subpart A	Expands the acceptable range for fundamental frequencies. Vessels have the option of purchasing a greater range of whistles with different ranges than previously allowed. Reduces the required frequencies for vessels of 20 meters or more in length.	Vessels of less than 75 meters in length. Vessels of 20 meters or more in length.	Cost: $0. Does not require vessels to buy a new whistle. Benefits: less stringent standards allows for greater options of whistles for new vessels. Conforms with COLREGS.
33 CFR Part 87	Radiotelegraph and radiotelephone alarms would no longer be accepted as approved distress calls Adds Digital Selective Calling, INMARSAT, and other mobile satellite service provider ship to Earth stations	Vessels equipped with radiotelephone alarms or radiotelegraph alarms.	Cost: $0. Radiotelegraphs are obsolete.[10] Radiotelephones can be used, but not their alarms. Does not require equipment replacement. Has been effect since SOLAS V in 1999. Benefit: Updates the list of approved distress signal equipment to incorporate the latest technologies. Conforms with COLREGS.
Part 83.24(g)	Partially sunken vessels and objects being towed in combination.	Partially submerged vessels and other objects being towed, in combination, would comply with lighting and shape requirements.	Cost: $0. Lighting and shape requirements for partially submerged vessels or other objects are already outlined. This rule uses same requirements if towing more than one at a time. Benefits: Conforms with COLREGS.
§ 83.03(m)–(q), § 83.08(a), § 83.09, § 83.18(d), § 83.18(e), § 83.20(e), § 83.23(c)–(d), § 83.24(c)(1), § 83.35(i)–(j), Part 84—ANNEX I, § 85—ANNEX II, Part 86—ANNEX III, Part 87—ANNEX IV, Part 88—ANNEX V, § 88.03, § 88.05, § 88.09, § 88.11, § 88.12.	Renumbers or moves regulations without substantive changes in order to align text with that of COLREGS.	.....	Cost: $0. Changes include removal of headings, moving sections to other locations, or renumbering. Provides no additional requirements to industry. Benefits: Adherence to COLREGS formatting. Simplifies use between COLREGS and the CFR.
Discretionary Provisions			
§ 83.25(d)	Allows the optional use of an all-round white light.	Sailing vessels of less than 7 meters in length. Vessels under oars	Cost: $0. Vessels can use additional lighting in the form of an all-round white light. Does not require the purchase of additional equipment. Benefits: Allows for more lighting options for better visibility. Incorporates NAVSAC and NBSAC recommendations.
§ 83.26(c)	Removes contradictory requirement. Provides clear standard.	Fishing vessel (non-trawling)	Cost: $0. Removes contradictory statement. Benefit: Provides a clear standard.
83.27(d)	Remove "clear dark night" from the Dredge Pipeline Lighting requirements.	Dredge Pipelines	Cost: $0. Removes confusing and unexplained stipulation. Benefits: Provides a clear standard.

Costs

As stated in section *II. Basis and Purpose* of this preamble, the primary purpose of this rule is to harmonize existing domestic law with current international law. The secondary purpose of this rule is to incorporate NAVSAC recommendations. We note that the discretionary NAVSAC recommendations do not require any additional cost, but rather add options and provides clarity to the existing rules.

Most of the provisions harmonize the CFR with the COLREGS by moving sections to different locations, renumbering, or reformatting.[11] There are six changes to the COLREGS that affect specific vessels. The first change incorporates WIG craft into the population of affected vessels. The second change removes the need for a

[11] International Maritime Organization. *Convention On the International Regulations For Preventing Collisions at Sea, 2003 (Consolidated Edition 2003). www.imo.org.*

bell, particularly for new vessels of 12 meters or more in length, but less than 20 meters. The third change modifies sound requirements for certain vessels. The fourth change modifies the formula for lighting requirements for high-speed vessels. The fifth significant COLREGS provision removes radiotelegraphs and radiotelephones as approved equipment for distress calls. The sixth and final change adds language about the combination of partially submerged vessels.

A more detailed description of these changes is outlined in the following paragraphs. One other harmonizing change adds a preemption provision explaining that the codified regulation preempts state or local law within the same field. This provision complies with the Presidential memorandum and E.O. 13132, which requires executive agencies to ensure that its preemption statements have a sufficient legal basis and to make explicit in the codified regulation its intention to preempt state law, but does not change the compliance standards for vessels.

1. Wing-in-Ground (WIG) Craft. As stated in the preamble of the NPRM, there is ongoing prototype and feasibility testing in the United States for WIG crafts. We did not receive any comments regarding our cost or growth estimates, so our estimates remain the same.

Prototype versions may be tested on inland waters and some of the prototypes may successfully pass testing. Given the existence of prototype tests and the possibility of one being successful, we assume one new vessel operating on inland waters in any given year.[5] The incremental cost for one WIG craft covers the addition of an all-round, high-intensity red light.

We calculated cost of this provision for WIG craft masthead light based on the estimated number of vessels (one vessel annually), multiplied by the cost of the light (one light required per vessel), and determined that this section of the rule would provide a total 10-year undiscounted cost of $1,119.[6] Table 5 describes the costs in terms of per vessel, annual savings, and total undiscounted cost.

TABLE 5—PER VESSEL, AVERAGE, RECURRING, TOTAL 10-YEAR UNDISCOUNTED/DISCOUNTED COSTS

Future vessel population (annual)	Per vessel cost	Total 10-year undiscounted cost	7% Discounted 10-year cost	3% Discounted 10-year cost
1	$112	$1,119	$786	$954

Note: numbers may not add up due to rounding.

Table 6 provides the breakdown of cost, both undiscounted and discounted (at 3 and 7 percent rates), over the 10-year period of analysis.

TABLE 6—TOTAL 10-YEAR UNDISCOUNTED AND DISCOUNTED COSTS

Year	Undiscounted	7% Discounted costs	3% Discounted costs
Year 1	$112	$105	$109
Year 2	112	98	105
Year 3	112	91	102
Year 4	112	85	99
Year 5	112	80	97
Year 6	112	75	94
Year 7	112	70	91
Year 8	112	65	88
Year 9	112	61	86
Year 10	112	57	83
Total	1,119	786	954
Annualized	112	112	112

2. New vessels of 12 meters or more, but less than 20 meters, in length. One of the provisions in the NPRM removed the need for bells on vessels of 12 meters or more, but less than 20 meters, in length. This means that existing vessels of such length have the option of removing their bells, but are not required to do so. There is no cost to existing vessels since the provision does not require additional equipment or changes, nor does it require the removal of existing equipment. We did not receive any comments regarding our assumptions or methodologies regarding the removal of these bells. Therefore, the average retail price of a bell ($299) represents the potential costs incurred by the owner should the owner choose to purchase and install a bell.[7] [8] The future growth rate is based on the build

[5] There has been some experimentation in developing WIG craft in some other countries, which would explain the additional language to incorporate WIG craft into regulation. Currently, there are only 3 in existence internationally. News regarding the Singaporean-flagged WIG craft: *http://www.wigetworks.com/pdf/Press_Release-MV_Airfish_8_Christening_Ceremony.pdf*. News regarding the two Korean WIG craft: *http://articles.maritimepropulsion.com/article/Wing-in-Gound-Effect-Craft-e28093-Furure-is-Here-Say-Korean-Shipbuilders41727.aspx*.

[6] The average cost for an all-round red light is $112. The low cost is $70 *http://www.go2marine.com/item/16246/series-40-all-round-navigation-lights-40004.html?WT.mc_id=gb1&utm_source=googlebase&utm_medium=productfeed&utm_campaign=googleshopping*. The high cost is $153 *http://shop.sailboatowners.com/prod.php?5910/Series+32+All-Round+LED+Lights*.

[7] The cost to purchase an 8-inch bell is based on publically available information. Costs range between $109 and $489, making the average cost price $299. Date accessed April 2012. Low cost: *http://www.westmarine.com/webapp/wcs/stores/servlet/ProductDisplay?productId=101003&catalogId=10001&langId=-1&storeId=11151&storeNum=50751&subdeptNum=50765&classNum=50766*. High cost: *http://www.wmjmarine.com/34437.html*.

[8] Based on subject matter experts including industry and Coast Guard, manufacturers of recreational vessels do not install bells on the vessels. In order to comply with current regulations, owners would purchase a bell 200 mm in diameter (approx. 8 inches) on the retail market and install it themselves.

years of vessels listed in the Marine Information for Safety and Law Enforcement database from the years 2008 to 2011. During this time, 3,628 vessels were built in the 12–20 meter size range at an average rate of 907 annually (or 0.01 percent of the total population). The cost savings to industry is based on the growth rate, multiplied by the cost of a bell. This section of the rule will provide a 10-year total undiscounted cost savings of $2.72 million. Table 7 describes the savings in terms of per vessel, annual savings, and total undiscounted savings.

TABLE 7—PER VESSEL (GREATER THAN OR EQUAL TO 12 METERS, BUT LESS THAN 20 METERS, IN LENGTH), RECURRING, AND TOTAL 10-YEAR UNDISCOUNTED COSTS

Future vessel population (annual)	Per vessel cost savings	Annual cost savings	Total 10-year undiscounted cost savings
907	$299	$271,642	$2,716,420

Note: numbers may not add due to rounding.

Table 8 provides the breakdown of cost savings, both undiscounted and discounted (at 3 and 7 percent rates), over the 10-year period of analysis.

TABLE 8—10-YEAR UNDISCOUNTED AND DISCOUNTED RATES

Year	Undiscounted	7% Discount rates	3% Discount rates
Year 1	$271,642	$253,871	$263,730
Year 2	271,642	237,263	256,049
Year 3	271,642	221,741	248,591
Year 4	271,642	207,234	241,350
Year 5	271,642	193,677	234,321
Year 6	271,642	181,007	227,496
Year 7	271,642	169,165	220,870
Year 8	271,642	158,098	214,437
Year 9	271,642	147,755	208,191
Year 10	271,642	138,089	202,127
Total	2,716,420	1,907,899	2,317,161
Annualized	271,642	271,642	271,642

3. Sound requirements based on the length of a vessel. Other modifications to sound requirements include the usage of a bell on certain vessels, and the relaxation of frequency standards for other vessels. As stated in the paragraphs dealing with cost savings, vessels of 12 meters or more in length are not required to have a bell. Should the owner choose to retain the bell and then decide to use it, the bell must be used at 2-minute intervals, which are the existing sounding requirements for a bell.

For whistles used on vessels of less than 75 meters in length, the acceptable range for frequencies would be expanded. This provision allows for the purchase of whistles that sound in the newly expanded ranges. The required sound-pressure levels for vessels of 20 meters or more in length would also be relaxed. Currently, whistles for these vessels need to project the appropriate sound-pressure levels measured at multiple frequency ranges. Our rule requires the whistle to obtain a single minimum sound-pressure level, which is based on the vessel's length, and is measured at only one frequency range.

There is no cost for this provision, as this does not require the replacement of an existing whistle since those would still be within the proposed standards. While there were comments pertaining to these requirements, there were no comments regarding the no-cost assumption for either the optional lighting requirement or the relaxation of the whistle requirement. Therefore, we maintain our no-cost assumption for the final rule.

4. High-speed Craft. The proposed lighting requirement replaces the established formula for placement of masthead lighting for new, high-speed vessels of 50 meters or greater in length with length-to-beam ratios greater than 3. This formula sets a lower minimum height for the main masthead light than the current U.S. formula. Vessels often operate with some angle of trim,[9] which makes complying with the original formula onerous. The new formula accounts for trim, and aligns U.S. regulations with international standards. There were no comments regarding high-speed craft. Therefore, there is no change to our no-cost assumption in adhering to this requirement of the rule.

5. Radiotelegraphs and Radiotelephones alarms and updates to approved emergency distress call equipment. Another COLREGS change involves the removal of radiotelegraph alarms and radiotelephone alarms as approved equipment for announcing distress except via Morse Code SOS. This type of equipment is currently obsolete and is no longer used by industry. Also, this change was made in SOLAS V in 1999. It was also instituted domestically by the Coast Guard since the 1990s and has been in effect since then.[10] We did not receive comments regarding the use of this equipment, so our no-cost assumption will remain the same for the final rule.

6. Partially sunken vessels and objects being towed in combination. Currently, partially submerged vessels or objects being towed must follow certain lighting and shape requirements. This provision states that any combination of these two items being towed would also need to

[9] Angle of trim describes the orientation of a vessel with respect to the water. For example, zero trim occurs when the fore and aft drafts are the same.

[10] *http://www.gpo.gov/fdsys/pkg/FR-1995-01-27/pdf/95-2092.pdf.*

follow the same lighting and shape requirements. The intent of this change is to conform with the COLREGS. This provision was listed in the COLREGS, but was accidentally left out when the provision was transferred to our regulations. Combinations of towed objects may be lit the same as individual objects. This means there are no additional lighting requirements that exist for combinations that did not exist for individuals. There were no comments regarding this provision; therefore, no cost changes were made.

Other harmonizing changes to the CFR are non-substantive and simply align current regulations to match the formatting of the COLREGS (refer to Table 4 for the summary of these non-substantive changes). Overall, we estimate that the harmonizing provisions of this rule would have no cost to industry. We did not receive any comments to the contrary. However, we received comments regarding the removal or relocation of certain phrases and paragraphs. Changes as listed in Table 4 will have no cost or impact on owners complying with this rule. Therefore, our no-cost assumption remains the same for these harmonizing changes.

As noted above, there is a second category of changes, which are recommendations from NAVSAC. These changes represent discretionary actions on the part of the Coast Guard. The changes from NAVSAC allow for the use of additional equipment as a means of reducing risk of collision. Specifically, NAVSAC recommended the optional use of an all-round white light. As optional requirements, the Coast Guard anticipates that only those vessel owners/operators that foresee a benefit (safety or otherwise) greater than costs would install such a light. Also, because this change would not require the purchase of new equipment, it does not carry any costs. We did not receive any comment that materially alters our no-cost assumption for this provision.

The Coast Guard has chosen to insert clarifying language to ensure compliance with requirements in 83.24(i) by towing vessels on the Mississippi River. We were informed that the point of reference (the Huey P Long Bridge) was confusing because there are two such named bridges on the lower Mississippi River. As a result, we have inserted a mile marker reference to ensure compliance. There is no added cost in this clarification.

One final change is to correct an error in the CFR. Prior to this final rule, 33 CFR 83.26 contained two subparagraphs (c). This final rule clarifies that 33 CFR 83.26(b) applies to fishing vessels engaged in trawling, and 33 CFR 83.26(c) applies to fishing vessels engaged in fishing, other than trawling. Since this change will not require the purchase of additional equipment, but rather reduce confusion in regulation, this change would not require an additional cost burden to vessel owners.

Since the overall impact of this rule is to relax existing requirements on certain vessels, the only cost in this rule is the cost to install an all-round red light on future WIG craft. Since the remaining changes would not involve a change in compliance standards, there are no costs associated with the other requirements. We did not receive any comments that materially altered our assumptions; therefore, this no-cost assumption remains the same.

Benefits

Benefits from harmonizing current inland navigation rules with the COLREGS would be ensuring that the United States, as a signatory to the COLREGS, aligns its domestic regulations as close as practicable to the international standards. Publishing these regulations in the CFR provides greater awareness to the public of changes to the COLREGS and allows for greater public input in terms of application to inland navigation. Modifying the format and numbering of the regulations to match the formatting and numbering of the COLREGS allows for ease of use in terms of referencing either document for requirements.

The more significant COLREGS changes primarily expand current options available for vessels to use, particularly for those dealing with lighting and sound. As a result, vessel owners or operators would find it easier to comply with the new regulations than with the existing ones.

Specific benefits from the more significant COLREGS changes are as follows:

1. *Wing-in-Ground (WIG) Craft.* Adding WIG craft to the list of vessels conforms with the COLREGS. Given the possibility of future vessels, these changes provide WIG craft guidance on navigation and lighting.

2. *New vessels of 12 meters or more, but less than 20 meters, in length.* Vessels of this length no longer need a bell. Not having a bell provides greater regulatory flexibility. If the vessel has a bell, the vessel must use it properly. Proper usage of a bell reduces risk of collision if the proper sound signal is used during reduced visibility.

3. Sound requirements based on the length of a vessel. This change expands the acceptable range for fundamental frequencies, which provides less-stringent standards and allows for greater options of whistles for new vessels.

4. High-speed Craft. The regulation changes the lighting formula, making lighting requirements more lenient by accommodating new vessels with novel designs. This change conforms with the COLREGS.

5. Radiotelegraph and Radiotelephone alarms and updates to approved emergency distress call equipment. This change provides regulatory flexibility by updating the list of approved distress signal equipment to incorporate the latest technologies and remove outdated ones.

6. Partially sunken vessels and objects being towed in combination. Objects being towed must follow certain lighting and shape requirements. Towing multiple or combinations of such vessels and objects would also need to follow the same lighting and shape requirements. This conforms with the COLREGS.

NAVSAC Changes. This rule also includes benefits from incorporating NAVSAC- and NBSAC-recommended regulations. NAVSAC recommended the optional use of an all-round white light. Should owners opt to install an all-round white light to a vessel of less than 7 meters in length or a vessel under oars, the benefit would be greater visibility for that vessel. Greater visibility would reduce the risk of collision, particularly in the period between sunset and sunrise and during periods of reduced visibility. We received comments regarding the use of an all-round white light on a sailing vessel, to the effect that the vessel might be mistaken for a power-driven vessel.''

We counter that the lighting requirements are different and that the inherent benefits of additional lighting would be to the benefit of the sailing vessel. Therefore, our benefit assumption remains the same.

NAVSAC also recommended changes to navigation requirements, such as requiring vessels to use navigation technology for collision avoidance purposes if the equipment is already installed. Adopting the requirement to use already installed navigational technology for collision avoidance purposes reduces the risk of a collision.

Finally this rule fixes an erroneous and contradictory provision in the regulations. Removing the contradictory paragraph provides a clear standard that vessel owners can follow.

All of these recommendations provide greater regulatory flexibility as a means of reducing risk of collision.

B. Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601–612), we have considered whether this rule would have a significant economic impact on a substantial number of small entities. The term ''small entities'' comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000.

As discussed in the cost section of this regulatory analysis, the primary purpose of this rule is to align existing domestic law with international law, but there are also discretionary proposals included in this final rule. Compliance with both harmonizing and discretionary provisions will not require any additional burden to vessel owners, including small entities. Most harmonizing changes are made to use consistent formatting between the CFR and COLREGS, which in turn provides ease of use for owners. New vessels will have greater options in terms of lighting modifications, navigation equipment, and sound equipment.

Discretionary changes will also provide greater regulatory flexibility to small entities in terms of allowing the use of optional lighting and additional navigational equipment. We conclude that there would be no additional costs to small entities complying with this final rule. There would be a cost savings for vessel manufacturers who no longer need to install a bell for vessels of equal to or more than 12 meters, but less than 20 meters, in length. The only cost of the rule would be for one new WIG craft a year to install an all-round, high-intensity red light for about $112.[5] Currently, we estimate there are no small entities affected by this rule that plan to operate new WIG crafts.

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

C. Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121), we offered to assist small entities in understanding this rule so that they could better evaluate its effects on them and participate in the rulemaking. If the rule affects your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please consult LCDR Megan Cull by phone at (202) 372–1565 or via email at *Megan.L.Cull@uscg.mil.* The Coast Guard will not retaliate against small entities that question or complain about this rule or any policy or action of the Coast Guard.

Small businesses may send comments on the actions of Federal employees who enforce, or otherwise determine compliance with, Federal regulations to the Small Business and Agriculture Regulatory Enforcement Ombudsman and the Regional Small Business Regulatory Fairness Boards. The Ombudsman evaluates these actions annually and rates each agency's responsiveness to small business. If you wish to comment on actions by employees of the Coast Guard, call 1–888–REG–FAIR (1–888–734–3247).

D. Collection of Information

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

E. Federalism

Executive Order 13132 requires that in implementing policies that have federalism implications, agencies be guided by fundamental federalism principles. A rule has implications for federalism under Executive Order 13132, Federalism, if it has a substantial direct effect on the States, on the relationship between the national government, or on the distribution of power and responsibilities among the various levels of government. For actions that preempt state law, Executive Order 13121 requires that an agency construe a Federal Statute to preempt state law only where the statute contains an express preemption provision or there is some other clear evidence that Congress intended the preemption of State Law, or where the exercise of State authority conflicts with the exercise of Federal authority under the Federal statute. We have analyzed this rule under that Order and have determined that it is consistent with the fundamental federalism principles and preemption requirements described in Executive Order 13132. Our analysis is explained below.

It is well settled that States may not regulate in categories reserved for regulation by the Coast Guard. In 33 U.S.C. 2071, Congress specifically granted to the Secretary the authority to prescribe ''inland navigation regulations applicable to all vessels upon the inland waters of the United States and technical annexes that are as consistent as possible with the respective annexes to the International Regulations.'' As this rulemaking updates existing inland navigation regulations, it falls within the scope of authority Congress granted exclusively to the Secretary. Therefore, states and local governments may not regulate within the field of inland navigation. Accordingly, this rule is consistent with the principles of federalism and preemption requirements in Executive Order 13132.

F. Unfunded Mandates Reform Act

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

G. Taking of Private Property

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

H. Civil Justice Reform

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

I. Protection of Children

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

J. Indian Tribal Governments

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

[5] There has been some experimentation in developing WIG craft in some other countries, which would explain the additional language to incorporate WIG craft into the regulations. Currently, there are only 3 currently in existence internationally and none in the U.S. News regarding the Singaporean-flagged WIG craft: *http://www.wigetworks.com/pdf/Press_Release-MV_Airfish_8_Christening_Ceremony.pdf.* News regarding the two Korean WIG craft: *http://articles.maritimepropulsion.com/article/Wing-in-Gound-Effect-Craft-e28093-Furure-is-Here-Say-Korean-Shipbuilders41727.aspx.*

responsibilities between the Federal Government and Indian tribes.

K. Energy Effects

We have analyzed this rule under Executive Order 13211 (''Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use''). We have determined that it is not a ''significant energy action'' under that order because it is not a ''significant regulatory action'' under Executive Order 12866 and is not likely to have a significant adverse effect on the supply, distribution, or use of energy.

L. Technical Standards

The National Technology Transfer and Advancement Act, codified as a note to 15 U.S.C. 272, directs agencies to use voluntary consensus standards in their regulatory activities unless the agency provides Congress, through the OMB, with an explanation of why using these standards would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (e.g., specifications of materials, performance, design, or operation; test methods; sampling procedures; and related management systems practices) that are developed or adopted by voluntary consensus standards bodies. This rule does not use technical standards. Therefore, we did not consider the use of voluntary consensus standards.

M. Environment

We have analyzed this rule under Department of Homeland Security Management Directive 023–01 and Commandant Instruction M16475.lD, which guide the Coast Guard in complying with the National Environmental Policy Act of 1969, 42 U.S.C. 4321–4370f, and have concluded that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. A final environmental analysis checklist supporting this determination is available in the docket where indicated under the **ADDRESSES** section of this preamble. This rule is categorically excluded under section 2.B.2, figure 2–1, paragraph (34)(i) of the Instruction and 6(a) of the **Federal Register**, Vol. 67, No. 141, Tuesday, July 23, 2002, page 48243. This rule involves regulations that are in aid of navigation, such as those concerning the rules of the road, COLREGS, bridge-to-bridge communications, vessel traffic services, and marking of navigation systems.

List of Subjects

33 CFR Part 83

Navigation (water), Waterways.

33 CFR Part 84

Incorporation by reference, Navigation (water), Waterways.

33 CFR Part 85

Fishing vessels, Navigation (water), Waterways.

33 CFR Part 86

Navigation (water), Waterways.

33 CFR Part 87

Navigation (water), Waterways.

33 CFR Part 88

Navigation (water), Waterways.

For the reasons discussed in the preamble, under the authority of 33 CFR 1.05–1, the Coast Guard amends 33 CFR Parts 83 through 88 as follows:

Title 33—Navigation and Navigable Waters

■ 1. Revise part 83 to read as follows:

PART 83—RULES

Subpart A—General

Sec.
83.01 Application (Rule 1).
83.02 Responsibility (Rule 2).
83.03 General definitions (Rule 3).

Subpart B—Steering and Sailing Rules

Conduct of Vessels in Any Condition of Visibility

83.04 Application (Rule 4).
83.05 Look-out (Rule 5).
83.06 Safe speed (Rule 6).
83.07 Risk of collision (Rule 7).
83.08 Action to avoid collision (Rule 8).
83.09 Narrow channels (Rule 9).
83.10 Traffic separation schemes (Rule 10).

Conduct of Vessels in Sight of One Another

83.11 Application (Rule 11).
83.12 Sailing vessels (Rule 12).
83.13 Overtaking (Rule 13).
83.14 Head-on situation (Rule 14).
83.15 Crossing situation (Rule 15).
83.16 Action by give-way vessel (Rule 16).
83.17 Action by stand-on vessel (Rule 17).
83.18 Responsibilities between vessels (Rule 18).

Conduct of Vessels in Restricted Visibility

83.19 Conduct of vessels in restricted visibility (Rule 19).

Subpart C—Lights and Shapes

83.20 Application (Rule 20).
83.21 Definitions (Rule 21).
83.22 Visibility of lights (Rule 22).
83.23 Power-driven vessels underway (Rule 23).
83.24 Towing and pushing (Rule 24).
83.25 Sailing vessels underway and vessels under oars (Rule 25).
83.26 Fishing vessels (Rule 26).
83.27 Vessels not under command or restricted in their ability to maneuver (Rule 27).
83.28 [Reserved] (Rule 28).
83.29 Pilot vessels (Rule 29).
83.30 Anchored vessels, vessels aground and moored barges (Rule 30).
83.31 Seaplanes (Rule 31).

Subpart D—Sound and Light Signals

83.32 Definitions (Rule 32).
83.33 Equipment for sound signals (Rule 33).
83.34 Maneuvering and warning signals (Rule 34).
83.35 Sound signals in restricted visibility (Rule 35).
83.36 Signals to attract attention (Rule 36).
83.37 Distress signals (Rule 37).

Subpart E—Exemptions

83.38 Exemptions (Rule 38).

Authority: Sec. 303, Pub. L. 108–293, 118 Stat. 1042 (33 U.S.C. 2071); Department of Homeland Security Delegation No. 0170.1.

Subpart A—General

§ 83.01 Application (Rule 1).

(a) These Rules apply to all vessels upon the inland waters of the United States, and to vessels of the United States on the Canadian waters of the Great Lakes to the extent that there is no conflict with Canadian law. The regulations in this subchapter (subchapter E, 33 CFR parts 83 through 90) have preemptive effect over State or local regulation within the same field.

(b)(i) These Rules constitute special rules made by an appropriate authority within the meaning of Rule 1(b) of the International Regulations for Preventing Collisions at Sea, 1972, including annexes currently in force for the United States (''International Regulations'').

(ii) All vessels complying with the construction and equipment requirements of the International Regulations are considered to be in compliance with these Rules.

(c) Nothing in these Rules shall interfere with the operation of any special rules made by the Secretary of the Navy with respect to additional station or signal lights and shapes or whistle signals for ships of war and vessels proceeding under convoy, or by the Secretary with respect to additional station or signal lights and shapes for fishing vessels engaged in fishing as a fleet. These additional station or signal lights and shapes or whistle signals shall, so far as possible, be such that they cannot be mistaken for any light, shape, or signal authorized elsewhere under these Rules. Notice of such special rules shall be published in the **Federal Register** and, after the effective

date specified in such notice, they shall have effect as if they were a part of these Rules.

(d) Traffic separation schemes may be established for the purpose of these Rules. Vessel traffic service regulations may be in effect in certain areas.

(e) Whenever the Secretary determines that a vessel or class of vessels of special construction or purpose cannot comply fully with the provisions of any of these Rules with respect to the number, position, range, or arc of visibility of lights or shapes, as well as to the disposition and characteristics of sound-signaling appliances, the vessel shall comply with such other provisions in regard to the number, position, range, or arc of visibility of lights or shapes, as well as to the disposition and characteristics of sound-signaling appliances, as the Secretary shall have determined to be the closest possible compliance with these Rules. The Secretary may issue a certificate of alternative compliance for a vessel or class of vessels specifying the closest possible compliance with these Rules. The Secretary of the Navy shall make these determinations and issue certificates of alternative compliance for vessels of the Navy.

(f) The Secretary may accept a certificate of alternative compliance issued by a contracting party to the International Regulations if it determines that the alternative compliance standards of the contracting party are substantially the same as those of the United States.

(g) The operator of each self-propelled vessel 12 meters or more in length shall carry, on board and maintain for ready reference, a copy of these Rules.

§ 83.02 Responsibility (Rule 2).

(a) Nothing in these Rules shall exonerate any vessel, or the owner, master, or crew thereof, from the consequences of any neglect to comply with these Rules or of the neglect of any precaution which may be required by the ordinary practice of seamen, or by the special circumstances of the case.

(b) In construing and complying with these Rules due regard shall be had to all dangers of navigation and collision and to any special circumstances, including the limitations of the vessels involved, which may make a departure from these Rules necessary to avoid immediate danger.

§ 83.03 General definitions (Rule 3).

For the purpose of these Rules and Subchapter E, except where the context otherwise requires:

(a) The word *vessel* includes every description of water craft, including non-displacement craft, WIG craft and seaplanes, used or capable of being used as a means of transportation on water.

(b) The term *power-driven vessel* means any vessel propelled by machinery.

(c) The term *sailing vessel* means any vessel under sail provided that propelling machinery, if fitted, is not being used.

(d) The term *vessel engaged in fishing* means any vessel fishing with nets, lines, trawls, or other fishing apparatus which restricts maneuverability, but does not include a vessel fishing with trolling lines or other fishing apparatus which do not restrict maneuverability.

(e) The word *seaplane* includes any aircraft designed to maneuver on the water.

(f) The term *vessel not under command* means a vessel which, through some exceptional circumstance, is unable to maneuver as required by these Rules and is therefore unable to keep out of the way of another vessel.

(g) The term *vessel restricted in her ability to maneuver* means a vessel which, from the nature of her work, is restricted in her ability to maneuver as required by these Rules and is therefore unable to keep out of the way of another vessel. The term *vessels restricted in their ability to maneuver* include, but are not limited to:

(i) A vessel engaged in laying, servicing, or picking up a navigation mark, submarine cable, or pipeline;

(ii) a vessel engaged in dredging, surveying, or underwater operations;

(iii) a vessel engaged in replenishment or transferring persons, provisions, or cargo while underway;

(iv) a vessel engaged in the launching or recovery of aircraft;

(v) a vessel engaged in mine clearance operations;

(vi) a vessel engaged in a towing operation such as severely restricts the towing vessel and her tow in their ability to deviate from their course.

(h) [Reserved]

(i) The word *underway* means that a vessel is not at anchor, or made fast to the shore, or aground.

(j) The words *length* and *breadth* of a vessel mean her length overall and greatest breadth.

(k) Vessels shall be deemed to be in sight of one another only when one can be observed visually from the other.

(l) The term *restricted visibility* means any condition in which visibility is restricted by fog, mist, falling snow, heavy rainstorms, sandstorms, or any other similar causes.

(m) The term *Wing-In-Ground* (WIG) craft means a multimodal craft which, in its main operational mode, flies in close proximity to the surface by utilizing surface-effect action.

(n) *Western Rivers* means the Mississippi River, its tributaries, South Pass, and Southwest Pass, to the navigational demarcation lines dividing the high seas from harbors, rivers, and other inland waters of the United States, and the Port Allen-Morgan City Alternate Route, and that part of the Atchafalaya River above its junction with the Port Allen-Morgan City Alternate Route including the Old River and the Red River.

(o) *Great Lakes* means the Great Lakes and their connecting and tributary waters including the Calumet River as far as the Thomas J. O'Brien Lock and Controlling Works (between mile 326 and 327), the Chicago River as far as the east side of the Ashland Avenue Bridge (between mile 321 and 322), and the Saint Lawrence River as far east as the lower exit of Saint Lambert Lock.

(p) *Secretary* means the Secretary of the Department in which the Coast Guard is operating.

(q) *Inland Waters* means the navigable waters of the United States shoreward of the navigational demarcation lines dividing the high seas from harbors, rivers, and other inland waters of the United States and the waters of the Great Lakes on the United States side of the International Boundary.

(r) *Inland Rules* or *Rules* means these Inland Navigational Rules and the annexes thereto, which govern the conduct of vessels and specify the lights, shapes, and sound signals that apply on inland waters.

(s) *International Regulations* means the International Regulations for Preventing Collisions at Sea, 1972, including annexes currently in force for the United States.

Subpart B—Steering and Sailing Rules

Conduct of Vessels in Any Condition of Visibility

§ 83.04 Application (Rule 4).

Rules 4 through 10 (§§ 83.04 through 83.10) apply in any condition of visibility.

§ 83.05 Look-out (Rule 5).

Every vessel shall at all times maintain a proper look-out by sight and hearing as well as by all available means appropriate in the prevailing circumstances and conditions so as to make a full appraisal of the situation and of the risk of collision.

§ 83.06 Safe speed (Rule 6).

Every vessel shall at all times proceed at a safe speed so that she can take proper and effective action to avoid

collision and be stopped within a distance appropriate to the prevailing circumstances and conditions. In determining a safe speed the following factors shall be among those taken into account:

(a) By all vessels:

(i) The state of visibility;

(ii) The traffic density including concentration of fishing vessels or any other vessels;

(iii) The maneuverability of the vessel with special reference to stopping distance and turning ability in the prevailing conditions;

(iv) At night, the presence of background light such as from shores lights or from back scatter of her own lights;

(v) The state of wind, sea, and current, and the proximity of navigational hazards;

(vi) The draft in relation to the available depth of water.

(b) Additionally, by vessels with operational radar:

(i) The characteristics, efficiency and limitations of the radar equipment;

(ii) Any constraints imposed by the radar range scale in use;

(iii) The effect on radar detection of the sea state, weather, and other sources of interference;

(iv) The possibility that small vessels, ice and other floating objects may not be detected by radar at an adequate range;

(v) The number, location, and movement of vessels detected by radar;

(vi) The more exact assessment of the visibility that may be possible when radar is used to determine the range of vessels or other objects in the vicinity.

§ 83.07 Risk of collision (Rule 7).

(a) Every vessel shall use all available means appropriate to the prevailing circumstances and conditions to determine if risk of collision exists. If there is any doubt such risk shall be deemed to exist.

(b) Proper use shall be made of radar equipment if fitted and operational, including long-range scanning to obtain early warning of risk of collision and radar plotting or equivalent systematic observation of detected objects.

(c) Assumptions shall not be made on the basis of scanty information, especially scanty radar information.

(d) In determining if risk of collision exists the following considerations shall be among those taken into account:

(i) Such risk shall be deemed to exist if the compass bearing of an approaching vessel does not appreciably change.

(ii) Such risk may sometimes exist even when an appreciable bearing change is evident, particularly when approaching a very large vessel or a tow or when approaching a vessel at close range.

§ 83.08 Action to avoid collision (Rule 8).

(a) Any action taken to avoid collision shall be taken in accordance with the Rules of this subpart (Rules 4–19) (§§ 83.04 through 83.19) and shall, if the circumstances of the case admit, be positive, made in ample time and with due regard to the observance of good seamanship.

(b) Any alteration of course and/or speed to avoid collision shall, if the circumstances of the case admit, be large enough to be readily apparent to another vessel observing visually or by radar; a succession of small alterations of course and/or speed should be avoided.

(c) If there is sufficient sea room, alteration of course alone may be the most effective action to avoid a close-quarters situation provided that it is made in good time, is substantial and does not result in another close-quarters situation.

(d) Action taken to avoid collision with another vessel shall be such as to result in passing at a safe distance. The effectiveness of the action shall be carefully checked until the other vessel is finally past and clear.

(e) If necessary to avoid collision or allow more time to assess the situation, a vessel shall slacken her speed or take all way off by stopping or reversing her means of propulsion.

(f)(i) A vessel which, by any of these Rules, is required not to impede the passage or safe passage of another vessel shall, when required by the circumstances of the case, take early action to allow sufficient sea room for the safe passage of the other vessel.

(ii) A vessel required not to impede the passage or safe passage of another vessel is not relieved of this obligation if approaching the other vessel so as to involve risk of collision and shall, when taking action, have full regard to the action which may be required by the Rules of Subpart B (Rules 4–19).

(iii) A vessel the passage of which is not to be impeded remains fully obliged to comply with the Rules of Subpart B (Rules 4–19) when the two vessels are approaching one another so as to involve risk of collision.

§ 83.09 Narrow channels (Rule 9).

(a)(i) A vessel proceeding along the course of a narrow channel or fairway shall keep as near to the outer limit of the channel or fairway which lies on her starboard side as is safe and practicable.

(ii) Notwithstanding paragraph (a)(i) of this Rule and Rule 14(a) (§ 83.14(a)), a power-driven vessel operating in narrow channels or fairways on the Great Lakes, Western Rivers, or waters specified by the Secretary, and proceeding downbound with a following current shall have the right-of-way over an upbound vessel, shall propose the manner and place of passage, and shall initiate the maneuvering signals prescribed by Rule 34(a)(i) (§ 83.34(a)(i)), as appropriate. The vessel proceeding upbound against the current shall hold as necessary to permit safe passing.

(b) A vessel of less than 20 meters in length or a sailing vessel shall not impede the passage of a vessel that can safely navigate only within a narrow channel or fairway.

(c) A vessel engaged in fishing shall not impede the passage of any other vessel navigating within a narrow channel or fairway.

(d) A vessel shall not cross a narrow channel or fairway if such crossing impedes the passage of a vessel which can safely navigate only within that channel or fairway. The latter vessel shall use the danger signal prescribed in Rule 34(d) (§ 83.34(d)) if in doubt as to the intention of the crossing vessel.

(e)(i) In a narrow channel or fairway when overtaking, the power-driven vessel intending to overtake another power-driven vessel shall indicate her intention by sounding the appropriate signal prescribed in Rule 34(c) (§ 83.34(c)) and take steps to permit safe passing. The power-driven vessel being overtaken, if in agreement, shall sound the same signal and may, if specifically agreed to, take steps to permit safe passing. If in doubt she shall sound the danger signal prescribed in Rule 34(d) (§ 83.34(d)).

(ii) This Rule does not relieve the overtaking vessel of her obligation under Rule 13 (§ 83.13).

(f) A vessel nearing a bend or an area of a narrow channel or fairway where other vessels may be obscured by an intervening obstruction shall navigate with particular alertness and caution and shall sound the appropriate signal prescribed in Rule 34(e) (§ 83.34(e)).

(g) Any vessel shall, if the circumstances of the case admit, avoid anchoring in a narrow channel.

§ 83.10 Traffic separation schemes (Rule 10).

(a) This Rule applies to traffic separation schemes and does not relieve any vessel of her obligation under any other Rule in subchapter E.

(b) A vessel using a traffic separation scheme shall:

(i) Proceed in the appropriate traffic lane in the general direction of traffic flow for that lane;

(ii) So far as practicable keep clear of a traffic separation line or separation zone;

(iii) Normally join or leave a traffic lane at the termination of the lane, but when joining or leaving from either side shall do so at as small an angle to the general direction of traffic flow as practicable.

(c) A vessel shall, so far as practicable, avoid crossing traffic lanes but if obliged to do so shall cross on a heading as nearly as practicable at right angles to the general direction of traffic flow.

(d)(i) A vessel shall not use an inshore traffic zone when she can safely use the appropriate traffic lane within the adjacent traffic separation scheme. However, vessels of less than 20 meters in length, sailing vessels, and vessels engaged in fishing may use the inshore traffic zone.

(ii) Notwithstanding paragraph (d)(i) of this Rule, a vessel may use an inshore traffic zone when en route to or from a port, offshore installation or structure, pilot station, or any other place situated within the inshore traffic zone, or to avoid immediate danger.

(e) A vessel other than a crossing vessel or a vessel joining or leaving a lane shall not normally enter a separation zone or cross a separation line except:

(i) In cases of emergency to avoid immediate danger;

(ii) To engage in fishing within a separation zone.

(f) A vessel navigating in areas near the terminations of traffic separation schemes shall do so with particular caution.

(g) A vessel shall so far as practicable avoid anchoring in a traffic separation scheme or in areas near its terminations.

(h) A vessel not using a traffic separation scheme shall avoid it by as wide a margin as is practicable.

(i) A vessel engaged in fishing shall not impede the passage of any vessel following a traffic lane.

(j) A vessel of less than 20 meters in length or a sailing vessel shall not impede the safe passage of a power-driven vessel following a traffic lane.

(k) A vessel restricted in her ability to maneuver when engaged in an operation for the maintenance of safety of navigation in a traffic separation scheme is exempted from complying with this Rule to the extent necessary to carry out the operation.

(l) A vessel restricted in her ability to maneuver when engaged in an operation for the laying, servicing, or picking up of a submarine cable, within a traffic separation scheme, is exempted from complying with this Rule to the extent necessary to carry out the operation.

Conduct of Vessels in Sight of One Another

§ 83.11 Application (Rule 11).

Rules 11 through 18 (§§ 83.11 through 83.18) apply to vessels in sight of one another.

§ 83.12 Sailing vessels (Rule 12).

(a) When two sailing vessels are approaching one another, so as to involve risk of collision, one of them shall keep out of the way of the other as follows:

(i) When each has the wind on a different side, the vessel which has the wind on the port side shall keep out of the way of the other.

(ii) When both have the wind on the same side, the vessel which is to windward shall keep out of the way of the vessel which is to leeward.

(iii) If a vessel with the wind on the port side sees a vessel to windward and cannot determine with certainty whether the other vessel has the wind on the port or on the starboard side, she shall keep out of the way of the other.

(b) For the purpose of this Rule, the windward side shall be deemed to be the side opposite to that on which the mainsail is carried or, in the case of a square-rigged vessel, the side opposite to that on which the largest fore-and-aft sail is carried.

§ 83.13 Overtaking (Rule 13).

(a) Notwithstanding anything contained in Rules 4 through 18 (§§ 83.04 through 83.18), any vessel overtaking any other shall keep out of the way of the vessel being overtaken.

(b) A vessel shall be deemed to be overtaking when coming up with another vessel from a direction more than 22.5 degrees abaft her beam; that is, in such a position with reference to the vessel she is overtaking, that at night she would be able to see only the sternlight of that vessel but neither of her sidelights.

(c) When a vessel is in any doubt as to whether she is overtaking another, she shall assume that this is the case and act accordingly.

(d) Any subsequent alteration of the bearing between the two vessels shall not make the overtaking vessel a crossing vessel within the meaning of these Rules or relieve her of the duty of keeping clear of the overtaken vessel until she is finally past and clear.

§ 83.14 Head-on situation (Rule 14).

(a) Unless otherwise agreed, when two power-driven vessels are meeting on reciprocal or nearly reciprocal courses so as to involve risk of collision each shall alter her course to starboard so that each shall pass on the port side of the other.

(b) Such a situation shall be deemed to exist when a vessel sees the other ahead or nearly ahead and by night she could see the masthead lights of the other in a line or nearly in a line and/or both sidelights and by day she observes the corresponding aspect of the other vessel.

(c) When a vessel is in any doubt as to whether such a situation exists she shall assume that it does exist and act accordingly.

(d) Notwithstanding paragraph (a) of this Rule, a power-driven vessel operating on the Great Lakes, Western Rivers, or waters specified by the Secretary, and proceeding downbound with a following current shall have the right-of-way over an upbound vessel, shall propose the manner of passage, and shall initiate the maneuvering signals prescribed by Rule 34(a)(i) (§ 83.34(a)(i)), as appropriate.

§ 83.15 Crossing situation (Rule 15).

(a) When two power-driven vessels are crossing so as to involve risk of collision, the vessel which has the other on her starboard side shall keep out of the way and shall, if the circumstances of the case admit, avoid crossing ahead of the other vessel.

(b) Notwithstanding paragraph (a) of this Rule, on the Great Lakes, Western Rivers, or water specified by the Secretary, a power-driven vessel crossing a river shall keep out of the way of a power-driven vessel ascending or descending the river.

§ 83.16 Action by give-way vessel (Rule 16).

Every vessel which is directed to keep out of the way of another vessel shall, so far as possible, take early and substantial action to keep well clear.

§ 83.17 Action by stand-on vessel (Rule 17).

(a)(i) Where one of two vessels is to keep out of the way, the other shall keep her course and speed.

(ii) The latter vessel may, however, take action to avoid collision by her maneuver alone, as soon as it becomes apparent to her that the vessel required to keep out of the way is not taking appropriate action in compliance with these Rules.

(b) When, from any cause, the vessel required to keep her course and speed finds herself so close that collision cannot be avoided by the action of the give-way vessel alone, she shall take

such action as will best aid to avoid collision.

(c) A power-driven vessel which takes action in a crossing situation in accordance with paragraph (a)(ii) of this Rule to avoid collision with another power-driven vessel shall, if the circumstances of the case admit, not alter course to port for a vessel on her own port side.

(d) This Rule does not relieve the give-way vessel of her obligation to keep out of the way.

§ 83.18 Responsibilities between vessels (Rule 18).

Except where Rules 9, 10, and 13 (§§ 83.09, 83.10, and 83.13) otherwise require:

(a) A power-driven vessel underway shall keep out of the way of:

(i) A vessel not under command;

(ii) A vessel restricted in her ability to maneuver;

(iii) A vessel engaged in fishing;

(iv) A sailing vessel.

(b) A sailing vessel underway shall keep out of the way of:

(i) A vessel not under command;

(ii) A vessel restricted in her ability to maneuver; and

(iii) A vessel engaged in fishing.

(c) A vessel engaged in fishing when underway shall, so far as possible, keep out of the way of:

(i) A vessel not under command; and

(ii) A vessel restricted in her ability to maneuver.

(d) [Reserved]

(e) A seaplane on the water shall, in general, keep well clear of all vessels and avoid impeding their navigation. In circumstances, however, where risk of collision exists, she shall comply with the Rules of this Subpart (Rules 4–19) (§§ 83.4 through 83.19); and

(f)(i) a WIG craft shall, when taking off, landing and in flight near the surface, keep well clear of all other vessels and avoid impeding their navigation; and

(ii) a WIG craft operating on the water surface shall comply with the Rules of this Subpart (Rules 4–19) (§§ 83.4 through 83.19) as a power-driven vessel.

Conduct of Vessels in Restricted Visibility

§ 83.19 Conduct of vessels in restricted visibility (Rule 19).

(a) This Rule applies to vessels not in sight of one another when navigating in or near an area of restricted visibility.

(b) Every vessel shall proceed at a safe speed adapted to the prevailing circumstances and conditions of restricted visibility. A power-driven vessel shall have her engines ready for immediate maneuver.

(c) Every vessel shall have due regard to the prevailing circumstances and conditions of restricted visibility when complying with Rules 4 through 10 (§§ 83.04 through 83.10).

(d) A vessel which detects by radar alone the presence of another vessel shall determine if a close-quarters situation is developing or risk of collision exists. If so, she shall take avoiding action in ample time, provided that when such action consists of an alteration of course, so far as possible the following shall be avoided:

(i) An alteration of course to port for a vessel forward of the beam, other than for a vessel being overtaken;

(ii) An alteration of course toward a vessel abeam or abaft the beam.

(e) Except where it has been determined that a risk of collision does not exist, every vessel which hears apparently forward of her beam the fog signal of another vessel, or which cannot avoid a close-quarters situation with another vessel forward of her beam, shall reduce her speed to the minimum at which she can be kept on course. She shall if necessary take all her way off and, in any event, navigate with extreme caution until danger of collision is over.

Subpart C—Lights and Shapes

§ 83.20 Application (Rule 20).

(a) Rules in this subpart (Rules 20–31) (§§ 83.20 through 83.31) shall be complied with in all weathers.

(b) The Rules concerning lights (§§ 83.20 through 83.31) shall be complied with from sunset to sunrise, and during such times no other lights shall be exhibited, except such lights as cannot be mistaken for the lights specified in these Rules or do not impair their visibility or distinctive character, or interfere with the keeping of a proper lookout.

(c) The lights prescribed by these Rules shall, if carried, also be exhibited from sunrise to sunset in restricted visibility and may be exhibited in all other circumstances when it is deemed necessary.

(d) The Rules concerning shapes shall be complied with by day.

(e) The lights and shapes specified in these Rules shall comply with the provisions of Annex I of these Rules (33 CFR part 84).

(f) A vessel's navigation lights and shapes may be lowered if necessary to pass under a bridge.

§ 83.21 Definitions (Rule 21).

(a) *Masthead light* means a white light placed over the fore and aft centerline of the vessel showing an unbroken light over an arc of the horizon of 225 degrees and so fixed as to show the light from right ahead to 22.5 degrees abaft the beam on either side of the vessel, except that on a vessel of less than 12 meters in length the masthead light shall be placed as nearly as practicable to the fore and aft centerline of the vessel.

(b) *Sidelights* mean a green light on the starboard side and a red light on the port side each showing an unbroken light over an arc of the horizon of 112.5 degrees and so fixed as to show the light from right ahead to 22.5 degrees abaft the beam on its respective side. On a vessel of less than 20 meters in length the side lights may be combined in one lantern carried on the fore and aft centerline of the vessel, except that on a vessel of less than 12 meters in length the sidelights when combined in one lantern shall be placed as nearly as practicable to the fore and aft centerline of the vessel.

(c) *Sternlight* means a white light placed as nearly as practicable at the stern showing an unbroken light over an arc of the horizon of 135 degrees and so fixed as to show the light 67.5 degrees from right aft on each side of the vessel.

(d) *Towing light* means a yellow light having the same characteristics as the ''sternlight'' defined in paragraph (c) of this Rule.

(e) *All-round light* means a light showing an unbroken light over an arc of the horizon of 360 degrees.

(f) *Flashing light* means a light flashing at regular intervals at a frequency of 120 flashes or more per minute.

(g) *Special flashing light* means a yellow light flashing at regular intervals at a frequency of 50 to 70 flashes per minute, placed as far forward and as nearly as practicable on the fore and aft centerline of the tow and showing an unbroken light over an arc of the horizon of not less than 180 degrees nor more than 225 degrees and so fixed as to show the light from right ahead to abeam and no more than 22.5 degrees abaft the beam on either side of the vessel.

§ 83.22 Visibility of lights (Rule 22).

The lights prescribed in these Rules (Subpart C) shall have an intensity as specified in Annex I to these Rules (33 CFR part 84), so as to be visible at the following minimum ranges:

(a) In a vessel of 50 meters or more in length:

(i) A masthead light, 6 miles;

(ii) A sidelight, 3 miles;

(iii) A sternlight, 3 miles;

(iv) A towing light, 3 miles;

(v) A white, red, green or yellow all-round light, 3 miles; and

(vi) A special flashing light, 2 miles.

(b) In a vessel of 12 meters or more in length but less than 50 meters in length:

(i) A masthead light, 5 miles; except that where the length of the vessel is less than 20 meters, 3 miles;

(ii) A sidelight, 2 miles;

(iii) A sternlight, 2 miles;

(iv) A towing light, 2 miles;

(v) A white, red, green or yellow all-round light, 2 miles; and

(vi) A special flashing light, 2 miles.

(c) In a vessel of less than 12 meters in length—

(i) A masthead light, 2 miles;

(ii) A sidelight, 1 mile;

(iii) A sternlight, 2 miles;

(iv) A towing light, 2 miles;

(iv) A white, red, green or yellow all-round light, 2 miles; and

(v) A special flashing light, 2 miles.

(d) In an inconspicuous, partly submerged vessel or objects being towed:

(i) A white all-round light, 3 miles.

(ii) [Reserved]

§ 83.23 Power-driven vessels underway (Rule 23).

(a) A power-driven vessel underway shall exhibit:

(i) A masthead light forward;

(ii) A second masthead light abaft of and higher than the forward one; except that a vessel of less than 50 meters in length shall not be obliged to exhibit such light but may do so;

(iii) Sidelights; and

(iv) A sternlight.

(b) An air-cushion vessel when operating in the non-displacement mode shall, in addition to the lights prescribed in paragraph (a) of this Rule, exhibit an all-round flashing yellow light where it can best be seen.

(c) A WIG craft only when taking off, landing and in flight near the surface shall, in addition to the lights prescribed in paragraph (a) of this Rule, exhibit a high intensity all-round flashing red light.

(d) A power-driven vessel of less than 12 meters in length may, in lieu of the lights prescribed in paragraph (a) of this Rule, exhibit an all-round white light and sidelights.

(e) A power-driven vessel when operating on the Great Lakes may carry an all-round white light in lieu of the second masthead light and sternlight prescribed in paragraph (a) of this Rule. The light shall be carried in the position of the second masthead light and be visible at the same minimum range.

§ 83.24 Towing and pushing (Rule 24).

(a) A power-driven vessel when towing astern shall exhibit:

(i) Instead of the light prescribed either in Rule 23(a)(i) or 23(a)(ii) (§§ 83.23(a)(i) and (ii)), two masthead lights in a vertical line. When the length of the tow, measuring from the stern of the towing vessel to the after end of the tow exceeds 200 meters, three such lights in a vertical line;

(ii) Sidelights;

(iii) A sternlight;

(iv) A towing light in a vertical line above the sternlight; and

(v) When the length of the tow exceeds 200 meters, a diamond shape where it can best be seen.

(b) When a pushing vessel and a vessel being pushed ahead are rigidly connected in a composite unit they shall be regarded as a power-driven vessel and exhibit the lights prescribed in Rule 23 (§ 83.23).

(c) A power-driven vessel when pushing ahead or towing alongside, except as required by paragraphs (b) and (i) of this Rule, shall exhibit:

(i) Instead of the light prescribed either in Rule 23(a)(i) or 23(a)(ii) (§ 83.23(a)(i) or (ii)), two masthead lights in a vertical line;

(ii) Sidelights; and

(iii) Two towing lights in a vertical line.

(d) A power-driven vessel to which paragraphs (a) or (c) of this Rule apply shall also comply with Rule 23(a) (i) and 23(a)(ii)(§ 83.23(a)(i) or (ii)).

(e) A vessel or object other than those referred to in paragraph (g) of this Rule being towed shall exhibit:

(i) Sidelights;

(ii) A sternlight; and

(iii) When the length of the tow exceeds 200 meters, a diamond shape where it can best be seen.

(f) Provided that any number of vessels being towed alongside or pushed in a group shall be lighted as one vessel, except as provided in paragraph (f)(iii) of this Rule.

(i) A vessel being pushed ahead, not being part of a composite unit, shall exhibit at the forward end, sidelights and a special flashing light.

(ii) A vessel being towed alongside shall exhibit a sternlight and at the forward end, sidelights and a special flashing light.

(iii) When vessels are towed alongside on both sides of the towing vessel, a sternlight shall be exhibited on the stern of the outboard vessel on each side of the towing vessel, and a single set of sidelights as far forward and as far outboard as is practicable, and a single special flashing light.

(g) An inconspicuous, partly submerged vessel or object, or combination of such vessels or objects being towed, shall exhibit:

(i) If it is less than 25 meters in breadth, one all-round white light at or near each end;

(ii) If it is 25 meters or more in breadth, four all-round white lights to mark its length and breadth;

(iii) If it exceeds 100 meters in length, additional all-round white lights between the lights prescribed in paragraphs (g)(i) and (ii) of this Rule so that the distance between the lights shall not exceed 100 meters: Provided, that any vessels or objects being towed alongside each other shall be lighted as one vessel or object;

(iv) A diamond shape at or near the aftermost extremity of the last vessel or object being towed; and

(v) The towing vessel may direct a searchlight in the direction of the tow to indicate its presence to an approaching vessel.

(h) Where from any sufficient cause it is impracticable for a vessel or object being towed to exhibit the lights prescribed in paragraph (e) or (g) of this Rule, all possible measures shall be taken to light the vessel or object towed or at least to indicate the presence of the unlighted vessel or object.

(i) Notwithstanding paragraph (c) of this Rule, on the Western Rivers (except below the Huey P. Long Bridge at mile 106.1 Above Head of Passes on the Mississippi River) and on waters specified by the Secretary, a power-driven vessel when pushing ahead or towing alongside, except as paragraph (b) of this Rule applies, shall exhibit:

(i) Sidelights; and

(ii) Two towing lights in a vertical line.

(j) Where from any sufficient cause it is impracticable for a vessel not normally engaged in towing operations to display the lights prescribed by paragraph (a), (c) or (i) of this Rule, such vessel shall not be required to exhibit those lights when engaged in towing another vessel in distress or otherwise in need of assistance. All possible measures shall be taken to indicate the nature of the relationship between the towing vessel and the vessel being assisted. The searchlight authorized by Rule 36 (§ 83.36) may be used to illuminate the tow.

§ 83.25 Sailing vessels underway and vessels under oars (Rule 25).

(a) A sailing vessel underway shall exhibit:

(i) Sidelights; and

(ii) A sternlight.

(b) In a sailing vessel of less than 20 meters in length the lights prescribed in paragraph (a) of this Rule may be combined in one lantern carried at or near the top of the mast where it can best be seen.

(c) A sailing vessel underway may, in addition to the lights prescribed in paragraph (a) of this Rule, exhibit at or near the top of the mast, where they can best be seen, two all-round lights in a vertical line, the upper being red and the lower green, but these lights shall not be exhibited in conjunction with the combined lantern permitted by paragraph (b) of this Rule.

(d)(i) A sailing vessel of less than 7 meters in length shall, if practicable, exhibit the lights prescribed in paragraph (a) or (b) of this Rule, but if she does not, she shall exhibit an all-round white light or have ready at hand an electric torch or lighted lantern showing a white light which shall be exhibited in sufficient time to prevent collision.

(ii) A vessel under oars may exhibit the lights prescribed in this Rule for sailing vessels, but if she does not, she shall exhibit an all-round white light or have ready at hand an electric torch or lighted lantern showing a white light which shall be exhibited in sufficient time to prevent collision.

(e) A vessel proceeding under sail when also being propelled by machinery shall exhibit forward, where it can best be seen, a conical shape, apex downward. A vessel of less than 12 meters in length is not required to exhibit this shape, but may do so.

§ 83.26 Fishing vessels (Rule 26).

(a) A vessel engaged in fishing, whether underway or at anchor, shall exhibit only the lights and shapes prescribed in this Rule.

(b) A vessel when engaged in trawling, by which is meant the dragging through the water of a dredge net or other apparatus used as a fishing appliance, shall exhibit:

(i) Two all-round lights in a vertical line, the upper being green and the lower white, or a shape consisting of two cones with their apexes together in a vertical line one above the other;

(ii) A masthead light abaft of and higher than the all-round green light; a vessel of less than 50 meters in length shall not be obliged to exhibit such a light but may do so;

(iii) When making way through the water, in addition to the lights prescribed in this paragraph, sidelights and a sternlight.

(c) A vessel engaged in fishing, other than trawling, shall exhibit:

(i) Two all-round lights in a vertical line, the upper being red and the lower white, or a shape consisting of two cones with apexes together in a vertical line one above the other;

(ii) When there is outlying gear extending more than 150 meters horizontally from the vessel, an all-round white light or a cone apex upward in the direction of the gear;

(iii) When making way through the water, in addition to the lights prescribed in this paragraph, sidelights and a sternlight.

(d) [Reserved]

(e) A vessel when not engaged in fishing shall not exhibit the lights or shapes prescribed in this Rule, but only those prescribed for a vessel of her length.

(f) Additional signals for fishing vessels fishing in close proximity:

(i) The lights mentioned herein shall be placed where they can best be seen. They shall be at least 0.9 meters apart but at a lower level than lights prescribed in this Rule. The lights shall be visible all around the horizon at a distance of at least 1 mile but at a lesser distance from the lights prescribed by paragraphs (a) through (c) of this Rule for fishing vessels.

(ii) *Signals for trawlers.*

(1) Vessels when engaged in trawling, whether using demersal or pelagic gear, may exhibit:

(A) When shooting their nets: Two white lights in a vertical line;

(B) When hauling their nets: One white light over one red light in a vertical line;

(C) When a net has come fast upon an obstruction: Two red lights in a vertical line.

(2) Each vessel engaged in pair trawling may exhibit:

(A) By night, a searchlight directed forward and in the direction of the other vessel of the pair;

(B) When shooting or hauling their nets or when their nets have come fast upon an obstruction, the lights prescribed in paragraph (a) of this Rule.

(iii) *Signals for purse seiners.*

(1) Vessels engaged in fishing with purse seine gear may exhibit two yellow lights in a vertical line. These lights shall flash alternately every second and with equal light and occultation duration. These lights may be exhibited only when the vessel is hampered by its fishing gear.

(2) [Reserved]

§ 83.27 Vessels not under command or restricted in their ability to maneuver (Rule 27).

(a) A vessel not under command shall exhibit:

(i) Two all-round red lights in a vertical line where they can best be seen;

(ii) Two balls or similar shapes in a vertical line where they can best be seen; and

(iii) When making way through the water, in addition to the lights prescribed in this paragraph, sidelights and a sternlight.

(b) A vessel restricted in her ability to maneuver, except a vessel engaged in mine clearance operations, shall exhibit:

(i) Three all-round lights in a vertical line where they can best be seen. The highest and lowest of these lights shall be red and the middle light shall be white;

(ii) Three shapes in a vertical line where they can best be seen. The highest and lowest of these shapes shall be balls and the middle one a diamond;

(iii) when making way through the water, a masthead light or lights, sidelights and a sternlight, in addition to the lights prescribed in paragraph (b)(i) of this Rule; and

(iv) When at anchor, in addition to the lights or shapes prescribed in paragraphs (b)(i) and (ii) of this Rule, the light, lights or shapes prescribed in Rule 30 (§ 83.30).

(c) A vessel engaged in a towing operation which severely restricts the towing vessel and her tow in their ability to deviate from their course shall, in addition to the lights or shapes prescribed in paragraphs (b)(i) and (ii) of this Rule, exhibit the lights or shapes prescribed in Rule 24 (§ 83.24).

(d) A vessel engaged in dredging or underwater operations, when restricted in her ability to maneuver, shall exhibit the lights and shapes prescribed in paragraphs (b)(i), (ii), and (iii) of this Rule and shall in addition, when an obstruction exists, exhibit:

(i) Two all-round red lights or two balls in a vertical line to indicate the side on which the obstruction exists;

(ii) Two all-round green lights or two diamonds in a vertical line to indicate the side on which another vessel may pass; and

(iii) When at anchor, the lights or shapes prescribed by this paragraph, instead of the lights or shape prescribed in Rule 30 (§ 83.30).

(iv) Dredge pipelines that are floating or supported on trestles shall display the following lights at night and in periods of restricted visibility.

(1) One row of yellow lights. The lights must be:

(A) Flashing 50 to 70 times per minute,

(B) Visible all around the horizon,

(C) Visible for at least 2 miles,

(D) Not less than 1 and not more than 3.5 meters above the water,

(E) Approximately equally spaced, and

(F) Not more than 10 meters apart where the pipeline crosses a navigable channel. Where the pipeline does not cross a navigable channel the lights must be sufficient in number to clearly show the pipeline's length and course.

(2) Two red lights at each end of the pipeline, including the ends in a channel where the pipeline is separated to allow vessels to pass (whether open or closed). The lights must be:

(A) Visible all around the horizon, and

(B) Visible for at least 2 miles, and

(C) One meter apart in a vertical line with the lower light at the same height above the water as the flashing yellow light.

(e) Whenever the size of a vessel engaged in diving operations makes it impracticable to exhibit all lights and shapes prescribed in paragraph (d) of this Rule, as appropriate, the following shall instead be exhibited:

(i) Three all-round lights in a vertical line where they can best be seen. The highest and lowest of these lights shall be red and the middle light shall be white;

(ii) A rigid replica of the International Code flag ''A'' not less than 1 meter in height. Measures shall be taken to insure its all-round visibility.

(f) A vessel engaged in mine clearance operations shall, in addition to the lights prescribed for a power-driven vessel in Rule 23 (§ 83.23) or to the lights or shape prescribed for a vessel at anchor in Rule 30 (§ 83.30), as appropriate, exhibit three all-round green lights or three balls. One of these lights or shapes shall be exhibited near the foremast head and one at each end of the fore yard. These lights or shapes indicate that it is dangerous for another vessel to approach within 1000 meters of the mine clearance vessel.

(g) A vessel of less than 12 meters in length, except when engaged in diving operations, is not required to exhibit the lights or shapes prescribed in this Rule.

(h) The signals prescribed in this Rule are not signals of vessels in distress and requiring assistance. Such signals are contained in Annex IV to these Rules (33 CFR part 87).

§ 83.28 [Reserved] (Rule 28).

§ 83.29 Pilot vessels (Rule 29).

(a) A vessel engaged on pilotage duty shall exhibit:

(i) At or near the masthead, two all-round lights in a vertical line, the upper being white and the lower red;

(ii) When underway, in addition, sidelights and a sternlight; and

(iii) When at anchor, in addition to the lights prescribed in paragraph (i) of this Rule, the anchor light, lights, or shape prescribed in Rule 30 (§ 83.30) for anchored vessels.

(b) A pilot vessel when not engaged on pilotage duty shall exhibit the lights or shapes prescribed for a vessel of her length.

§ 83.30 Vessels anchored, aground, and moored barges (Rule 30).

(a) A vessel at anchor shall exhibit where it can best be seen:

(i) In the fore part, an all-round white light or one ball;

(ii) At or near the stern and at a lower level than the light prescribed in paragraph (i) of this Rule, an all-round white light.

(b) A vessel of less than 50 meters in length may exhibit an all-round white light where it can best be seen instead of the lights prescribed in paragraph (a) of this Rule.

(c) A vessel at anchor may, and a vessel of 100 meters or more in length shall, also use the available working or equivalent lights to illuminate her decks.

(d) A vessel aground shall exhibit the lights prescribed in paragraph (a) or (b) of this Rule and in addition, if practicable, where they can best be seen:

(i) Two all-round red lights in a vertical line; and

(ii) Three balls in a vertical line.

(e) A vessel of less than 7 meters in length, when at anchor, not in or near a narrow channel, fairway, anchorage, or where other vessels normally navigate, shall not be required to exhibit the lights or shape prescribed in paragraphs (a) and (b) of this Rule.

(f) A vessel of less than 12 meters in length when aground shall not be required to exhibit the lights or shapes prescribed in paragraphs (d)(i) and (ii) of this Rule.

(g) A vessel of less than 20 meters in length, when at anchor in a special anchorage area designated by the Coast Guard, shall not be required to exhibit the anchor lights and shapes required by this Rule.

(h) The following barges shall display at night and if practicable in periods of restricted visibility the lights described in paragraph (i) of this Rule:

(i) Every barge projecting into a buoyed or restricted channel.

(ii) Every barge so moored that it reduces the available navigable width of any channel to less than 80 meters.

(iii) Barges moored in groups more than two barges wide or to a maximum width of over 25 meters.

(iv) Every barge not moored parallel to the bank or dock.

(i) Barges described in paragraph (h) of this Rule shall carry two unobstructed all-round white lights of an intensity to be visible for at least 1 nautical mile and meeting the technical requirements as prescribed in Annex I (33 CFR part 84).

(j) A barge or group of barges at anchor or made fast to one or more mooring buoys or other similar device, in lieu of the provisions of this Rule, may carry unobstructed all-round white lights of an intensity to be visible for at least 1 nautical mile that meet the requirements of Annex I (33 CFR part 84) and shall be arranged as follows:

(i) Any barge that projects from a group formation, shall be lighted on its outboard corners.

(ii) On a single barge moored in water where other vessels normally navigate on both sides of the barge, lights shall be placed to mark the corner extremities of the barge.

(iii) On barges moored in group formation, moored in water where other vessels normally navigate on both sides of the group, lights shall be placed to mark the corner extremities of the group.

(k) The following are exempt from the requirements of this Rule:

(i) A barge or group of barges moored in a slip or slough used primarily for mooring purposes.

(ii) A barge or group of barges moored behind a pierhead.

(iii) A barge less than 20 meters in length when moored in a special anchorage area designated in accordance with § 109.10 of this chapter.

(l) Barges moored in well-illuminated areas are exempt from the lighting requirements of this Rule. These areas are as follows:

Chicago Sanitary Ship Canal

(1) Mile 293.2 to 293.9
(2) Mile 295.2 to 296.1
(3) Mile 297.5 to 297.8
(4) Mile 298 to 298.2
(5) Mile 298.6 to 298.8
(6) Mile 299.3 to 299.4
(7) Mile 299.8 to 300.5
(8) Mile 303 to 303.2
(9) Mile 303.7 to 303.9
(10) Mile 305.7 to 305.8
(11) Mile 310.7 to 310.9
(12) Mile 311 to 311.2
(13) Mile 312.5 to 312.6
(14) Mile 313.8 to 314.2
(15) Mile 314.6
(16) Mile 314.8 to 315.3
(17) Mile 315.7 to 316
(18) Mile 316.8
(19) Mile 316.85 to 317.05
(20) Mile 317.5
(21) Mile 318.4 to 318.9
(22) Mile 318.7 to 318.8
(23) Mile 320 to 320.3
(24) Mile 320.6
(25) Mile 322.3 to 322.4
(26) Mile 322.8
(27) Mile 322.9 to 327.2

Calumet Sag Channel

(28) Mile 316.5

Little Calumet River

(29) Mile 321.2

(30) Mile 322.3

Calumet River

(31) Mile 328.5 to 328.7
(32) Mile 329.2 to 329.4
(33) Mile 330 west bank to 330.2
(34) Mile 331.4 to 331.6
(35) Mile 332.2 to 332.4
(36) Mile 332.6 to 332.8

Cumberland River

(37) Mile 126.8
(38) Mile 191

§ 83.31 Seaplanes (Rule 31).

Where it is impracticable for a seaplane or a WIG craft to exhibit lights and shapes of the characteristics or in the positions prescribed in the Rules of this subpart, she shall exhibit lights and shapes as closely similar in characteristics and position as is possible.

Subpart D—Sound and Light Signals

§ 83.32 Definitions (Rule 32).

(a) The word *whistle* means any sound signaling appliance capable of producing the prescribed blasts and which complies with specifications in Annex III to these Rules (33 CFR part 86).

(b) The term *short blast* means a blast of about 1 second's duration.

(c) The term *prolonged blast* means a blast of from 4 to 6 seconds' duration.

§ 83.33 Equipment for sound signals (Rule 33).

(a) A vessel of 12 meters or more in length shall be provided with a whistle, a vessel of 20 meters or more in length shall be provided with a bell in addition to a whistle, and a vessel of 100 meters or more in length shall, in addition, be provided with a gong, the tone and sound of which cannot be confused with that of the bell. The whistle, bell and gong shall comply with the specifications in Annex III to these Rules (33 CFR part 86). The bell or gong or both may be replaced by other equipment having the same respective sound characteristics, provided that manual sounding of the prescribed signals shall always be possible.

(b) A vessel of less than 12 meters in length shall not be obliged to carry the sound signaling appliances prescribed in paragraph (a) of this Rule but if she does not, she shall be provided with some other means of making an efficient sound signal.

§ 83.34 Maneuvering and warning signals (Rule 34).

(a) When power-driven vessels are in sight of one another and meeting or crossing at a distance within half a mile of each other, each vessel underway, when maneuvering as authorized or required by these Rules:

(i) Shall indicate that maneuver by the following signals on her whistle:

(1) One short blast to mean ''I intend to leave you on my port side'';

(2) Two short blasts to mean ''I intend to leave you on my starboard side''; and

(3) Three short blasts to mean ''I am operating astern propulsion''.

(ii) Upon hearing the one or two blast signal of the other shall, if in agreement, sound the same whistle signal and take the steps necessary to effect a safe passing. If, however, from any cause, the vessel doubts the safety of the proposed maneuver, she shall sound the danger signal specified in paragraph (d) of this Rule and each vessel shall take appropriate precautionary action until a safe passing agreement is made.

(b) A vessel may supplement the whistle signals prescribed in paragraph (a) of this Rule by light signals:

(i) These signals shall have the following significance:

(1) One flash to mean ''I intend to leave you on my port side'';

(2) Two flashes to mean ''I intend to leave you on my starboard side'';

(3) Three flashes to mean ''I am operating astern propulsion'';

(ii) The duration of each flash shall be about 1 second; and

(iii) The light used for this signal shall, if fitted, be one all-round white or yellow light, visible at a minimum range of 2 miles, synchronized with the whistle, and shall comply with the provisions of Annex I to these Rules (33 CFR part 84).

(c) When in sight of one another:

(i) A power-driven vessel intending to overtake another power-driven vessel shall indicate her intention by the following signals on her whistle:

(1) One short blast to mean ''I intend to overtake you on your starboard side'';

(2) Two short blasts to mean ''I intend to overtake you on your port side''; and

(ii) The power-driven vessel about to be overtaken shall, if in agreement, sound a similar sound signal. If in doubt she shall sound the danger signal prescribed in paragraph (d) of this Rule.

(d) When vessels in sight of one another are approaching each other and, from any cause, either vessel fails to understand the intentions or actions of the other, or is in doubt whether sufficient action is being taken by the other to avoid collision, the vessel in doubt shall immediately indicate such doubt by giving at least five short and rapid blasts on the whistle. This signal may be supplemented by a light signal of at least five short and rapid flashes.

(e) A vessel nearing a bend or an area of a channel or fairway where other vessels may be obscured by an intervening obstruction shall sound one prolonged blast. This signal shall be answered with a prolonged blast by any approaching vessel that may be within hearing around the bend or behind the intervening obstruction.

(f) If whistles are fitted on a vessel at a distance apart of more than 100 meters, one whistle only shall be used for giving maneuvering and warning signals.

(g) When a power-driven vessel is leaving a dock or berth, she shall sound one prolonged blast.

(h) A vessel that reaches agreement with another vessel in a head-on, crossing, or overtaking situation, as for example, by using the radiotelephone as prescribed by the Vessel Bridge-to-Bridge Radiotelephone Act (85 Stat. 164; 33 U.S.C. 1201 *et seq.*), is not obliged to sound the whistle signals prescribed by this Rule, but may do so. If agreement is not reached, then whistle signals shall be exchanged in a timely manner and shall prevail.

§ 83.35 Sound signals in restricted visibility (Rule 35).

In or near an area of restricted visibility, whether by day or night, the signals prescribed in this Rule shall be used as follows:

(a) A power-driven vessel making way through the water shall sound, at intervals of not more than 2 minutes, one prolonged blast.

(b) A power-driven vessel underway but stopped and making no way through the water shall sound, at intervals of not more than 2 minutes, two prolonged blasts in succession, with an interval of about 2 seconds between them.

(c) A vessel not under command; a vessel restricted in her ability to maneuver, whether underway or at anchor; a sailing vessel; a vessel engaged in fishing, whether underway or at anchor; and a vessel engaged in towing or pushing another vessel shall, instead of the signals prescribed in paragraphs (a) or (b) of this Rule, sound, at intervals of not more than 2 minutes, three blasts in succession, namely, one prolonged followed by two short blasts.

(d) [Reserved]

(e) A vessel towed or if more than one vessel is towed the last vessel of the tow, if manned, shall at intervals of not more than 2 minutes sound four blasts in succession, namely, one prolonged followed by three short blasts. When practicable, this signal shall be made immediately after the signal made by the towing vessel.

(f) When a pushing vessel and a vessel being pushed ahead are rigidly connected in a composite unit they shall

be regarded as a power-driven vessel and shall give the signals prescribed in paragraphs (a) or (b) of this Rule.

(g) A vessel at anchor shall at intervals of not more than 1 minute ring the bell rapidly for about 5 seconds. In a vessel of 100 meters or more in length the bell shall be sounded in the forepart of the vessel and immediately after the ringing of the bell the gong shall be sounded rapidly for about 5 seconds in the after part of the vessel. A vessel at anchor may in addition sound three blasts in succession, namely, one short, one prolonged and one short blast, to give warning of her position and of the possibility of collision to an approaching vessel.

(h) A vessel aground shall give the bell signal and if required the gong signal prescribed in paragraph (f) of this Rule and shall, in addition, give three separate and distinct strokes on the bell immediately before and after the rapid ringing of the bell. A vessel aground may in addition sound an appropriate whistle signal.

(i) A vessel of 12 meters or more but less than 20 meters in length shall not be obliged to give the bell signals prescribed in paragraphs (g) and (h) of this Rule. However, if she does not, she shall make some other efficient sound signal at intervals of not more than 2 minutes.

(j) A vessel of less than 12 meters in length shall not be obliged to give the above-mentioned signals but, if she does not, shall make some other efficient sound signal at intervals of not more than 2 minutes.

(k) A pilot vessel when engaged on pilotage duty may, in addition to the signals prescribed in paragraphs (a), (b) or (g) of this Rule, sound an identity signal consisting of four short blasts.

(l) The following vessels shall not be required to sound signals as prescribed in paragraph (g) of this Rule when anchored in a special anchorage area designated by the Coast Guard:

(i) A vessel of less than 20 meters in length; and

(ii) A barge, canal boat, scow, or other nondescript craft.

§ 83.36 Signals to attract attention (Rule 36).

If necessary to attract the attention of another vessel, any vessel may make light or sound signals that cannot be mistaken for any signal authorized elsewhere in these Rules, or may direct the beam of her searchlight in the direction of the danger, in such a way as not to embarrass any vessel.

§ 83.37 Distress signals (Rule 37).

When a vessel is in distress and requires assistance she shall use or exhibit the signals described in Annex IV to these Rules (33 CFR part 87).

Subpart E—Exemptions

§ 83.38 Exemptions (Rule 38).

Any vessel or class of vessels, the keel of which was laid or which was at a corresponding stage of construction before December 24, 1980, provided that she complies with the requirements of—

(a) The Act of June 7, 1897 (30 Stat. 96), as amended (33 U.S.C. 154–232) for vessels navigating the waters subject to that statute;

(b) Section 4233 of the Revised Statutes (33 U.S.C. 301–356) for vessels navigating the waters subject to that statute;

(c) The Act of February 8, 1895 (28 Stat. 645), as amended (33 U.S.C. 241–295) for vessels navigating the waters subject to that statute; or

(d) Sections 3, 4, and 5 of the Act of April 25, 1940 (54 Stat. 163), as amended (46 U.S.C. 526b, c, and d) for motorboats navigating the waters subject to that statute, shall be exempted from compliance with the technical Annexes to these Rules (33 CFR parts 84 through 88) as follows:

(i) The installation of lights with ranges prescribed in Rule 22 (§ 83.22), vessels of less than 20 meters in length are permanently exempt.

(ii) The installation of lights with color specifications as prescribed in Annex I to these Rules (33 CFR part 84), vessels of less than 20 meters in length are permanently exempt.

(iii) The repositioning of lights as a result of conversion to metric units and rounding off measurement figures are permanently exempt.

(iv) The horizontal repositioning of masthead lights prescribed by Annex I to these Rules (33 CFR part 84), vessels of less than 150 meters in length are permanently exempt; and

(v) Power-driven vessels of 12 meters or more but less than 20 meters in length are permanently exempt from the provisions of Rule 23(a)(i) and (iv) (§ 83.23(a)(i) and (iv)) provided that, in place of these lights, the vessel exhibits a white light aft visible all-round the horizon.

■ 2. Revise part 84 to read as follows:

PART 84—ANNEX I: POSITIONING AND TECHNICAL DETAILS OF LIGHTS AND SHAPES

Sec.

84.01 Definitions.
84.02 Vertical positioning and spacing of lights.
84.03 Horizontal positioning and spacing of lights.
84.04 Details of location of direction-indicating lights for fishing vessels, dredgers and vessels engaged in underwater operations.
84.05 Screens.
84.06 Shapes.
84.13 Color specification of lights.
84.14 Intensity of lights.
84.15 Horizontal sectors.
84.16 Vertical sectors.
84.17 Intensity of non-electric lights.
84.18 Maneuvering light.
84.19 High-speed craft.
84.20 Approval.

Authority: Sec. 303, Pub. L. 108–293, 118 Stat. 1042 (33 U.S.C. 2071); Department of Homeland Security Delegation No. 0170.1.

§ 84.01 Definitions.

(a) The term *height above the hull* means height above the uppermost continuous deck. This height shall be measured from the position vertically beneath the location of the light.

(b) *High-speed craft* means a craft capable of maximum speed in meters per second (m/s) equal to or exceeding: $3.7\nabla^{0.1667}$; where ∇=displacement corresponding to the design waterline (cubic meters).

Note to paragraph (b): The same formula expressed in pounds and knots is maximum speed in knots (kts) equal to exceeding 1.98 (lbs) $3.7\nabla^{0.1667}$; where ∇=displacement corresponding to design waterline in pounds.

(c) The term *practical cut-off* means, for vessels 20 meters or more in length, 12.5 percent of the minimum luminous intensity (Table 84.14(b)) corresponding to the greatest range of visibility for which the requirements of Annex I (33 CFR part 84) are met.

(d) The term *Rule* or *Rules* has the same meaning as in 33 CFR 83.03(r).

§ 84.02 Vertical positioning and spacing of lights.

(a) On a power-driven vessel of 20 meters or more in length the masthead lights shall be placed as follows:

(i) The forward masthead light, or if only one masthead light is carried, then that light, at a height above the hull of not less than 5 meters, and, if the breadth of the vessel exceeds 5 meters, then at a height above the hull not less than such breadth, so however that the light need not be placed at a greater height above the hull than 8 meters.

(ii) When two masthead lights are carried the after one shall be at least 2 meters vertically higher than the forward one.

(b) The vertical separation of the masthead lights of power-driven vessels shall be such that in all normal conditions of trim the after light will be seen over and separate from the forward light at a distance of 1000 meters from the stem when viewed from water level.

(c) The masthead light of a power-driven vessel of 12 meters but less than

20 meters in length shall be placed at a height above the gunwale of not less than 2.5 meters.

(d) The masthead light, or the all-round light described in Rule 23(d)(§ 83.23(d) of this chapter), of a power-driven vessel of less than 12 meters in length shall be carried at least one meter higher than the sidelights.

(e) One of the two or three masthead lights prescribed for a power-driven vessel when engaged in towing or pushing another vessel shall be placed in the same position as either the forward masthead light or the after masthead light, provided that the lowest after masthead light shall be at least 2 meters vertically higher than the highest forward masthead light.

(f)(i) The masthead light or lights prescribed in Rule 23(a) (§ 83.23(a) of this chapter) shall be so placed as to be above and clear of all other lights and obstructions except as described in paragraph (f)(ii) of this section.

(ii) When it is impracticable to carry the all-round lights prescribed in Rule 27(b)(i)(§ 83.27(b)(i) of this chapter) below the masthead lights, they may be carried above the after masthead light(s) or vertically in between the forward masthead light(s) and after masthead light(s), provided that in the latter case the requirement of § 84.03(d) shall be complied with.

(g) The sidelights of a power-driven vessel shall be placed at least one meter lower than the forward masthead light. They shall not be so low as to be interfered with by deck lights.

(h) [Reserved]

(i) When the Rules in this subchapter E prescribe two or three lights to be carried in a vertical line, they shall be spaced as follows:

(i) On a vessel of 20 meters in length or more such lights shall be spaced not less than 1 meter apart, and the lowest of these lights shall, except where a towing light is required, be placed at a height of not less than 4 meters above the hull.

(ii) On a vessel of less than 20 meters in length such lights shall be spaced not less than 1 meter apart and the lowest of these lights shall, except where a towing light is required, be placed at a height of not less than 2 meters above the gunwale.

(iii) When three lights are carried they shall be equally spaced.

(j) The lower of the two all-round lights prescribed for a vessel when engaged in fishing shall be a height above the sidelights not less than twice the distance between the two vertical lights.

(k) The forward anchor light prescribed in Rule 30(a)(i) (§ 83.30(a)(i)), when two are carried, shall not be less than 4.5 meters above the after one. On a vessel of 50 meters or more in length this forward anchor light shall be placed at a height or not less than 6 meters above the hull.

§ 84.03 Horizontal positioning and spacing of lights.

(a) Except as specified in paragraph (e) of this section, when two masthead lights are prescribed for a power-driven vessel, the horizontal distance between them must not be less than one quarter of the length of the vessel but need not be more than 50 meters. The forward light must be placed not more than one half of the length of the vessel from the stem.

(b) On a power-driven vessel of 20 meters or more in length the sidelights shall not be placed in front of the forward masthead lights. They shall be placed at or near the side of the vessel.

(c) When the lights prescribed in Rule 27(b)(i) (§ 83.27(b)(i) of this chapter) are placed vertically between the forward masthead light(s) and the after masthead light(s), these all-round lights shall be placed at a horizontal distance of not less than 2 meters from the fore and aft centerline of the vessel in the athwartship direction.

(d) When only one masthead light is prescribed for a power-driven vessel, this light must be exhibited forward of amidships. For a vessel of less than 20 meters in length, the vessel shall exhibit one masthead light as far forward as is practicable.

(e) On power-driven vessels 50 meters but less than 60 meters in length operated on the Western Rivers, and those waters specified in § 89.25 of this chapter, the horizontal distance between masthead lights shall not be less than 10 meters.

§ 84.04 Details of location of direction-indicating lights for fishing vessels, dredgers and vessels engaged in underwater operations.

(a) The light indicating the direction of the outlying gear from a vessel engaged in fishing as prescribed in Rule 26(c)(ii) (§ 83.26(c)(ii) of this chapter) shall be placed at a horizontal distance of not less than 2 meters and not more than 6 meters away from the two all-round red and white lights. This light shall be placed not higher than the all-round white light prescribed in Rule 26(c)(i)(§ 83.26(c)(i) of this chapter) and not lower than the sidelights.

(b) The lights and shapes on a vessel engaged in dredging or underwater operations to indicate the obstructed side and/or the side on which it is safe to pass, as prescribed in Rule 27(d)(i) and (ii)(§ 83.27(d)(i) and (ii) of this chapter), shall be placed at the maximum practical horizontal distance, but in no case less than 2 meters, from the lights or shapes prescribed in Rule 27(b)(i) and (ii)(§ 83.27(b)(i)and (ii) of this chapter). In no case shall the upper of these lights or shapes be at a greater height than the lower of the three lights or shapes prescribed in Rule 27(b)(i) and (ii) (§ 83.27(b)(i) and (ii) of this chapter).

§ 84.05 Screens.

(a) The sidelights of vessels of 20 meters or more in length shall be fitted with matt black inboard screens and meet the requirements of § 84.15. On vessels of less than 20 meters in length, the sidelights, if necessary to meet the requirements of § 84.15, shall be fitted with matt black inboard screens. With a combined lantern, using a single vertical filament and a very narrow division between the green and red sections, external screens need not be fitted.

(b) On power-driven vessels less than 12 meters in length constructed after July 31, 1983, the masthead light, or the all-round light described in Rule 23(d)(§ 83.23(d) of this chapter) shall be screened to prevent direct illumination of the vessel forward of the operator's position.

§ 84.06 Shapes.

(a) Shapes shall be black and of the following sizes:

(i) A ball shall have a diameter of not less than 0.6 meter.

(ii) A cone shall have a base diameter of not less than 0.6 meters and a height equal to its diameter.

(iii) A diamond shape shall consist of two cones (as defined in paragraph (a)(ii) of this section) having a common base.

(b) The vertical distance between shapes shall be at least 1.5 meters.

(c) In a vessel of less than 20 meters in length shapes of lesser dimensions but commensurate with the size of the vessel may be used and the distance apart may be correspondingly reduced.

§ 84.13 Color specification of lights.

(a) The chromaticity of all navigation lights shall conform to the following standards, which lie within the boundaries of the area of the diagram specified for each color by the International Commission on Illumination (CIE), in the ''Colors of Light Signals'', which is incorporated by reference. It is Publication CIE No. 2.2. (TC–1.6), 1975, and is available from the Illumination Engineering Society, 345 East 47th Street, New York, NY 10017 and is available for inspection at the Coast Guard, Shore Infrastructure

Logistics Center, Aids to Navigation and Marine Environmental Response Product Line (CG–SILC–ATON/MER), 2703 Martin Luther King, Jr. Ave, Mailstop 7714, Washington, DC 20593–7714. It is also available for inspection at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call 202–741–6030, or go to: *http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html*. This incorporation by reference was approved by the Director of the Federal Register.

(b) The boundaries of the area for each color are given by indicating the corner co-ordinates, which are as follows:

(i) *White:*
x 0.525 0.525 0.452 0.310 0.310 0.443
y 0.382 0.440 0.440 0.348 0.283 0.382

(ii) *Green:*
x 0.028 0.009 0.300 0.203
y 0.385 0.723 0.511 0.356

(iii) *Red:*
x 0.680 0.660 0.735 0.721
y 0.320 0.320 0.265 0.259

(iv) *Yellow:*
x 0.612 0.618 0.575 0.575
y 0.382 0.382 0.425 0.406

§ 84.14 Intensity of lights.

(a) The minimum luminous intensity of lights shall be calculated by using the formula:

$$I = 3.43 \times 10^6 \times T \times D^2 \times K^{-D}$$

Where:

I is luminous intensity in candelas under service conditions,
T is threshold factor 2×10^{-7}lux,
D is range of visibility (luminous range) of the light in nautical miles,
K is atmospheric transmissivity. For prescribed lights the value of K shall be 0.8, corresponding to a meteorological visibility of approximately 13 nautical miles.

(b) A selection of figures derived from the formula is given in the following table (Table 84.14(b)):

TABLE 84.14(b)

Range of visibility (luminous range) of light in nautical miles D	Minimum luminous intensity of light in candelas for K = 0.8 I
1	0.9
2	4.3
3	12
4	27
5	52
6	94

§ 84.15 Horizontal sectors.

(a)(i) In the forward direction, sidelights as fitted on the vessel shall show the minimum required intensities. The intensities shall decrease to reach practical cut-off between 1 and 3 degrees outside the prescribed sectors.

(ii) For sternlights and masthead lights and at 22.5 degrees abaft the beam for sidelights, the minimum required intensities shall be maintained over the arc of the horizon up to 5 degrees within the limits of the sectors prescribed in Rule 21 (§ 83.21 of this chapter). From 5 degrees within the prescribed sectors the intensity may decrease by 50 percent up to the prescribed limits; it shall decrease steadily to reach practical cut-off at not more than 5 degrees outside the prescribed sectors.

(b) All-round lights shall be so located as not to be obscured by masts, topmasts or structures within angular sectors of more than 6 degrees, except anchor lights prescribed in Rule 30 (§ 83.30 of this chapter), which need not be placed at an impracticable height above the hull, and the all-round white light described in Rule 23(e) (§ 83.23(e) of this chapter), which may not be obscured at all.

(c) If it is impracticable to comply with paragraph (b) of this section by exhibiting only one all-round light, two all-round lights shall be used suitably positioned or screened to appear, as far as practicable, as one light at a minimum distance of one nautical mile.

Note to paragraph (c): Two unscreened all-round lights that are 1.28 meters apart or less will appear as one light to the naked eye at a distance of one nautical mile.

§ 84.16 Vertical sectors.

(a) The vertical sectors of electric lights as fitted, with the exception of lights on sailing vessels underway and on unmanned barges, shall ensure that:

(i) At least the required minimum intensity is maintained at all angles from 5 degrees above to 5 degrees below the horizontal;

(ii) At least 60 percent of the required minimum intensity is maintained from 7.5 degrees above to 7.5 degrees below the horizontal.

(b) In the case of sailing vessels underway, the vertical sectors of electric lights, as fitted, shall ensure that:

(i) At least the required minimum intensity is maintained at all angles from 5 degrees above to 5 degrees below the horizontal;

(ii) At least 50 percent of the required minimum intensity is maintained from 25 degrees above to 25 degrees below the horizontal.

(c) In the case of unmanned barges the minimum required intensity of electric lights as fitted shall be maintained on the horizontal.

(d) In the case of lights other than electric lights these specifications shall be met as closely as possible.

§ 84.17 Intensity of non-electric lights.

Non-electric lights shall so far as practicable comply with the minimum intensities, as specified in the Table 84.14(b).

§ 84.18 Maneuvering light.

Notwithstanding the provisions of § 84.02(f), the maneuvering light described in Rule 34(b)(§ 83.34(b) of this chapter) shall be placed approximately in the same fore and aft vertical plane as the masthead light or lights and, where practicable, at a minimum height of one-half meter vertically above the forward masthead light, provided that it shall be carried not less than one-half meter vertically above or below the after masthead light. On a vessel where only one masthead light is carried the maneuvering light, if fitted, shall be carried where it can best be seen, not less than one-half meter vertically apart from the masthead light.

§ 84.19 High-speed craft.

(a) The masthead light of high-speed craft may be placed at a height related to the breadth of the craft lower than that prescribed in § 84.02(a)(i), provided that the base angle of the isosceles triangle formed by the sidelights and masthead light, when seen in end elevation is not less than 27°.

(b) On high-speed craft of 50 meters or more in length, the vertical separation between foremast and mainmast light of 4.5 meters required by § 84.02(k) may be modified provided that such distance shall not be less than the value determined by the following formula:

$$y = \frac{(a + 17\Psi)C}{1000} + 2 \ ;$$

Where:

y is the height of the mainmast light above the foremast light in meters;
a is the height of the foremast light above the water surface in service condition in meters;
Ψ is the trim in service condition in degrees;
C is the horizontal separation of masthead lights in meters.

Note to § 84.19: Refer to the International Code of Safety for High-Speed Craft, 1994 and the International Code of Safety for High-Speed Craft, 2000.

§ 84.20 Approval.

The construction of lights and shapes and the installation of lights on board the vessel must satisfy the Commandant, U.S. Coast Guard.

PART 85—[REMOVED AND RESERVED]

■ 3. Part 85 is removed and reserved.

■ 4. Revise part 86 to read as follows:

PART 86—ANNEX III: TECHNICAL DETAILS OF SOUND SIGNAL APPLIANCES

Sec.
86.01 Whistles.
86.02 Bell or Gong.
86.03 Approval. [Reserved]

Authority: Sec. 303, Pub. L. 108–293, 118 Stat. 1042 (33 U.S.C. 2071); Department of Homeland Security Delegation No. 0170.1.

§ 86.01 Whistles.

(a) *Frequencies and range of audibility.* The fundamental frequency of the signal shall lie within the range 70–700 Hz. The range of audibility of the signal from a whistle shall be determined by those frequencies, which may include the fundamental and/or one or more higher frequencies, which lie within the range 180–700 Hz (+/−1%) for a vessel of 20 meters or more in length, or 180–2100 Hz (+/−1%) for a vessel of less than 20 meters in length and which provide the sound pressure levels specified in paragraph (c) of this section.

(b) *Limits of fundamental frequencies.* To ensure a wide variety of whistle characteristics, the fundamental frequency of a whistle shall be between the following limits:

(i) 70–200 Hz, for a vessel 200 meters or more in length.

(ii) 130–350 Hz, for a vessel 75 meters but less than 200 meters in length.

(iii) 250–700 Hz, for a vessel less than 75 meters in length.

(c) *Sound signal intensity and range of audibility.*

A whistle fitted in a vessel shall provide, in the direction of maximum intensity of the whistle and at a distance of 1 meter from it, a sound pressure level in at least one ⅓rd-octave band within the range of frequencies 180–700 Hz (+/−1%) for a vessel of 20 meters or more in length, or 180–2100 Hz (+/−1%) for a vessel of less than 20 meters in length, of not less than the appropriate figure given in Table 86.01(c) of this section. The range of audibility in Table 86.01(c) is the approximate range at which a whistle may be heard on its forward axis with 90% probability in conditions of still air on board a vessel having average background noise level at the listening posts (taken to be 68 dB in the octave band centered on 250 Hz and 63 dB in the octave band centered on 500 Hz). It is shown for information purposes only. In practice, the range at which a whistle may be heard is extremely variable and depends critically on weather conditions; the values given can be regarded as typical but under conditions of strong wind or high ambient noise level at the listening post the range may be reduced.

TABLE 86.01(c)

Length of vessel in meters	⅓rd-octave band level at 1 meter in dB referred to 2×10^{-5}N/m^2	Audibility range in nautical miles
200 or more	143	2
75 but less than 200	138	1.5
20 but less than 75	130	1
Less than 20	[1] 120	0.5
	[2] 115	
	[3] 111	

[1] When the measured frequencies lie within the range 180–450 Hz.
[2] When the measured frequencies lie within the range 450–800 Hz.
[3] When the measured frequencies lie within the range 800–2100 Hz.

(d) *Directional properties.* The sound pressure level of a directional whistle shall be not more than 4 dB below the sound pressure level, specified in paragraph (c) of this section, in any direction in the horizontal plane within ±45 degrees of the forward axis. The sound pressure level of the whistle in any other direction in the horizontal plane shall not be more than 10 dB less than the sound pressure level specified for the forward axis, so that the range of audibility in any direction will be at least half the range required on the forward axis. The sound pressure level shall be measured in that one ⅓rd-octave band which determines the audibility range.

(e) *Positioning of whistles.* (i) When a directional whistle is to be used as the only whistle on the vessel and is permanently installed, it shall be installed with its forward axis directed forward.

(ii) A whistle shall be placed as high as practicable on a vessel, in order to reduce interception of the emitted sound by obstructions and also to minimize hearing damage risk to personnel. The sound pressure level of the vessel's own signal at listening posts shall not exceed 110 dB(A) and so far as practicable should not exceed 100 dB(A).

(f) *Fitting of more than one whistle.* If whistles are fitted at a distance apart of more than 100 meters, they shall not be sounded simultaneously.

(g) *Combined whistle systems.* (i) A combined whistle system is a number of whistles (sound emitting sources) operated together. For the purposes of the Rules of Subchapter E a combined whistle system is to be regarded as a single whistle.

(ii) The whistles of a combined system shall:

(1) Be located at a distance apart of not more than 100 meters;

(2) Be sounded simultaneously;

(3) Each have a fundamental frequency different from those of the others by at least 10 Hz; and

(4) Have a tonal characteristic appropriate for the length of vessel which shall be evidenced by at least two-thirds of the whistles in the combined system having fundamental frequencies falling within the limits prescribed in paragraph (b) of this section, or if there are only two whistles in the combined system, by the higher fundamental frequency falling within the limits prescribed in paragraph (b) of this section.

Note to paragraph (g): If, due to the presence of obstructions, the sound field of a single whistle or of one of the whistles referred to in paragraph (f) of this section is likely to have a zone of greatly reduced signal level, a combined whistle system should be fitted so as to overcome this reduction.

(h) *Towing vessel whistles.* A power-driven vessel normally engaged in pushing ahead or towing alongside may, at all times, use a whistle whose characteristic falls within the limits prescribed by paragraph (b) of this section for the longest customary

composite length of the vessel and its tow.

§ 86.02 Bell or gong.

(a) *Intensity of signal.* A bell or gong, or other device having similar sound characteristics shall produce a sound pressure level of not less than 110 dB at 1 meter.

(b) *Construction.* Bells and gongs shall be made of corrosion-resistant material and designed to give clear tone. The diameter of the mouth of the bell shall be not less than 300 mm for vessels of 20 meters or more in length. Where practicable, a power-driven bell striker is recommended to ensure constant force but manual operation shall be possible. The mass of the striker shall be not less than 3 percent of the mass of the bell.

§ 86.03 Approval. [Reserved]

■ 5. Revise part 87 to read as follows

PART 87—ANNEX IV: DISTRESS SIGNALS

Sec.
87.01 Need of assistance.
87.02 Exclusive use.
87.03 Supplemental signals.

Authority: Sec. 303, Pub. L. 108–293, 118 Stat. 1042 (33 U.S.C. 2071); Department of Homeland Security Delegation No. 0170.1.

§ 87.01 Need of assistance.

The following signals, used or exhibited either together or separately, indicate distress and need of assistance:

(a) A gun or other explosive signal fired at intervals of about a minute;

(b) A continuous sounding with any fog-signaling apparatus;

(c) Rockets or shells, throwing red stars fired one at a time at short intervals;

(d) A signal made by any method consisting of the group . . . – – – . . . (SOS) in the Morse Code;

(e) A signal sent by radiotelephony consisting of the spoken word ''Mayday'';

(f) The International Code Signal of distress indicated by N.C.;

(g) A signal consisting of a square flag having above or below it a ball or anything resembling a ball;

(h) Flames on the vessel (as from a burning tar barrel, oil barrel, etc.);

(i) A rocket parachute flare or a hand flare showing a red light;

(j) A smoke signal giving off orange-colored smoke;

(k) Slowly and repeatedly raising and lowering arms outstretched to each side;

(l) A distress alert by means of digital selective calling (DSC) transmitted on:

(i) VHF channel 70, or

(ii) MF/HF on the frequencies 2187.5 kHz, 8414.5 kHz, 4207.5 kHz, 6312 kHz, 12577 kHz or 16804.5 kHz;

(m) A ship-to-shore distress alert transmitted by the ship's Inmarsat or other mobile satellite service provider ship earth station;

(n) Signals transmitted by emergency position-indicating radio beacons;

(o) Signals transmitted by radiocommunication systems, including survival craft radar transponders meeting the requirements of 47 CFR 80.1095; and

(p) A high intensity white light flashing at regular intervals from 50 to 70 times per minute.

§ 87.02 Exclusive use.

The use or exhibition of any of the foregoing signals except for the purpose of indicating distress and need of assistance and the use of other signals which may be confused with any of the above signals is prohibited.

§ 87.03 Supplemental signals.

Attention is drawn to the relevant sections of the International Code of Signals, the International Aeronautical and Maritime Search and Rescue Manual, Volume III, the International Telecommunication Union Radio Regulations and the following signals:

(a) A piece of orange-colored canvas with either a black square and circle or other appropriate symbol (for identification from the air);

(b) A dye marker.

■ 6. Revise Part 88 to read as follows:

PART 88—ANNEX V: PILOT RULES

Sec.
88.01 Purpose and applicability.
88.03 Definitions.
88.05 Law enforcement vessels.
88.07 Public safety activities.

Authority: Sec. 303, Pub. L. 108–293, 118 Stat. 1042 (33 U.S.C. 2071); Department of Homeland Security Delegation No. 0170.1.

§ 88.01 Purpose and applicability.

This part applies to all vessels operating on United States inland waters and to United States vessels operating on the Canadian waters of the Great Lakes to the extent there is no conflict with Canadian law.

§ 88.03 Definitions.

The terms used in this part have the same meaning as the terms defined in part 83 of this subchapter.

§ 88.05 Law enforcement vessels.

(a) Law enforcement vessels may display a flashing blue light when engaged in direct law enforcement or public safety activities. This light must be located so that it does not interfere with the visibility of the vessel's navigation lights.

(b) The blue light described in this section may be displayed by law enforcement vessels of the United States and the States and their political subdivisions.

§ 88.07 Public safety activities.

(a) Vessels engaged in government sanctioned public safety activities, and commercial vessels performing similar functions, may display an alternately flashing red and yellow light signal. This identification light signal must be located so that it does not interfere with the visibility of the vessel's navigation lights. The identification light signal may be used only as an identification signal and conveys no special privilege. Vessels using the identification light signal during public safety activities must abide by the inland navigation rules, and must not presume that the light or the exigency gives them precedence or right of way.

(b) Public safety activities include but are not limited to patrolling marine parades, regattas, or special water celebrations; traffic control; salvage; firefighting; medical assistance; assisting disabled vessels; and search and rescue.

Dated: June 12, 2014.

Gary C. Rasicot,

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

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Wednesday, July 2, 2014

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FEDERAL REGISTER PAGES AND DATE, JULY

37155–37616 1
37617–37926 2

CFR PARTS AFFECTED DURING JULY

At the end of each month the Office of the Federal Register publishes separately a List of CFR Sections Affected (LSA), which lists parts and sections affected by documents published since the revision date of each title.

3 CFR

Proclamations:
9145 37615

7 CFR

400 37155
402 37155
407 37155
457 37155
Proposed Rules:
354 37231

12 CFR

208 37166
225 37166
1238 37167
Proposed Rules:
46 37231
225 37420
252 37420
325 37235

14 CFR

39 ..... 37167, 37169, 37171
71 ..... 37173, 37174
Proposed Rules:
25 ..... 37670, 37674
39 ..... 37239, 37243, 37246, 37248, 37676, 37679, 37681, 37684
1204 37252

15 CFR

774 37551
Proposed Rules:
774 37548

21 CFR

510 37617
514 37175
520 37617
522 37617
529 37617
556 37617
558 ..... 37617, 37621, 37622
1308 37623
Proposed Rules:
216 37687

22 CFR

121 37536

25 CFR

Proposed Rules:
151 37254

26 CFR

1 ..... 37175, 37181, 37630, 37633
31 37181
602 37633
Proposed Rules:
1 37697

29 CFR

1910 37189

31 CFR

558 37190

33 CFR

83 37898
84 37898
85 37898
86 37898
87 37898
88 37898
117 ..... 37196, 37197
165 ..... 37197, 37198, 37200, 37202, 37204, 37207, 37209, 37644

38 CFR

77 37211
Proposed Rules:
38 37698

39 CFR

Proposed Rules:
3050 37702

40 CFR

13 37644
52 ..... 37222, 37224, 37646
272 37226
Proposed Rules:
13 37704
52 ..... 37255, 37258
60 37259
63 37850
272 37261

44 CFR

64 ..... 37650, 37652, 37657

45 CFR

153 37661
Proposed Rules:
155 37262
156 37262

46 CFR

506 37662

47 CFR

Proposed Rules:
1 37705
8 37448
27 37705
73 37705

49 CFR

233 37664

50 CFR
Ch. I 37578
Ch. II 37578
Proposed Rules:
17 37706
622 .....37269, 37270
679 37486

LIST OF PUBLIC LAWS

Note: No public bills which have become law were received by the Office of the Federal Register for inclusion in today's **List of Public Laws**.

Last List June 12, 2014

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