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DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Parts 16 and 1107

[Docket No. FDA–2010–N–0646]

RIN 0910–AG39

Tobacco Products, Exemptions From Substantial Equivalence Requirements

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing this final rule to establish procedures for requesting an exemption from the substantial equivalence requirements of the Family Smoking Prevention and Tobacco Control Act (Tobacco Control Act). The final rule describes the process and statutory criteria for requesting an exemption and explains how FDA reviews requests for exemptions. This regulation satisfies the requirement in the Tobacco Control Act that FDA issue regulations implementing the exemption provision.

DATES: This rule is effective August 4, 2011.

FOR FURTHER INFORMATION CONTACT: Annette Marthaler, Center for Tobacco Products, Food and Drug Administration, 9200 Corporate Blvd., Rockville, MD 20850–3229, 877–287–1373, *annette.marthaler@fda.hhs.gov*.

SUPPLEMENTARY INFORMATION:

I. Introduction

In the **Federal Register** of January 6, 2011 (76 FR 737), FDA issued a notice of proposed rulemaking (NPRM) to establish a procedure for requesting an exemption from the substantial equivalence requirements of the Federal Food, Drug, and Cosmetic Act (the FD&C Act) applicable to tobacco products. This final rule establishes procedures for requesting an exemption under section 905(j)(3) of the FD&C Act (21 U.S.C. 387e(j)(3)). Among the procedures included in this final rule is the requirement that a request for an exemption and all information supporting the request be submitted in an electronic format. The final rule also addresses FDA's review of an exemption request and establishes procedures for rescinding an exemption. The final rule adds these requirements at § 1107.1 (21 CFR 1107.1).

The FD&C Act requires manufacturers to obtain an order under section 910(c)(1)(A)(i) of the FD&C Act (21 U.S.C. 387j(c)(1)(A)(i)) before they may introduce a new tobacco product into interstate commerce unless either: (1) FDA has issued an order finding the new tobacco product to be substantially equivalent to an appropriate predicate tobacco product and in compliance with the requirements of the FD&C Act or (2) the tobacco product is exempt from the requirements related to substantial equivalence under a regulation issued under section 905(j)(3) of the FD&C Act (see also section 910(a)(2)(A); 21 U.S.C. 387j(a)(2)(A)). This final rule is issued under section 905(j)(3)(B) of the FD&C Act, which requires that FDA issue regulations to implement the provision on exemptions from the substantial equivalence requirements of the Tobacco Control Act by July 1, 2011. (21 U.S.C. 387e(j)(3)(B); section 6 of the Tobacco Control Act). Section 905(j)(3)(A) of the FD&C Act provides that FDA may exempt from the requirements relating to the demonstration of substantial equivalence, tobacco products that are modified by adding or deleting a tobacco additive, or by increasing or decreasing the quantity of an existing tobacco additive, if FDA determines that: (1) The modification would be a minor modification of a tobacco product that can be sold under the FD&C Act; (2) a substantial equivalence report is not necessary to ensure that permitting the tobacco product to be marketed would be appropriate for protection of the public health; and (3) an exemption is otherwise appropriate.

II. Overview of the Final Rule

We considered all of the comments to the NPRM and the information submitted with the comments. After considering the comments and to clarify the information to be submitted in an exemption request, we have changed proposed § 1107.1(b) to state that an exemption request must identify the tobacco product(s) that is the subject of the exemption request and, as required by part 25 (21 CFR part 25), include an environmental assessment. On our own initiative, we also made minor edits to the introductory language in proposed § 1107.1(b) to more clearly state that all submissions need to be legible and in the English language. As discussed in the NPRM, FDA will provide information on its Web site on submitting an exemption request in an electronic format that FDA can review, process, and archive (*e.g.,* information on electronic media and methods of transmission) (*http://www.fda.gov/TobaccoProducts/default.htm*).

In response to comments expressing concern regarding the potential burden of requesting an exemption and after reconsidering the burden estimates, we have revised the burden estimates to more accurately reflect what we believe the burden will be for requesting an exemption. This is discussed in further detail in sections VII and VIII of this document.

III. Comments on the Proposed Rule

We received 13 comments on the NPRM. Comments were received from individuals, a trade association, and tobacco product manufacturers. To make it easier to identify comments and our responses, the word ''Comment,'' in parentheses, will appear before each comment, and the word ''Response,'' in parentheses, will appear before each response. We have combined similar comments under one comment. In addition, several sets of comments included comments on the ''Guidance for Industry and FDA Staff—Section 905(j) Reports: Demonstrating Substantial Equivalence for Tobacco Products'' (76 FR 789, January 6, 2011); those comments will be considered as part of FDA's review of that document.

A. General Comments

(Comment 1) Several comments generally objected to the rulemaking, stating, for example, that there ''should not be an exemption for the product'' and suggesting instead that tobacco products be removed from the market. We received one comment that expressed concern about using the term

''approval'' with respect to tobacco products because it implies that FDA sanctioned the product.

(Response) The issuance of a rule implementing the substantial equivalence exemption provision of the FD&C Act is explicitly required by section 905(j)(3)(B) of the FD&C Act. The statute requires FDA to implement the exemptions provision through rulemaking. This regulation fulfills that directive by establishing the procedures manufacturers must follow in order to request an exemption from the substantial equivalence provisions of the law. Neither the proposed nor final rule uses the term ''approval.''

(Comment 2) One comment stated that we failed to satisfy our statutory obligation to implement the FD&C Act and its provision authorizing exemptions from the statute's substantial equivalence requirements. This comment continued by stating that the proposed rule was not a meaningful attempt to comply with the statutory directive ''to issue regulations to implement'' the exemption provision and that, at most, the proposed rule ''would act as a placeholder to allow FDA to defer indefinitely its responsibilities under section 905(j)(3)(B).'' The comment stated that the proposed rule failed to give the exemption provision either meaningful substantive content or a viable procedural pathway. The comment also stated that this ''dereliction'' was concerning given the amount of time that has passed since the Tobacco Control Act was enacted.

(Response) We disagree with these comments. The statute requires FDA to implement the exemptions provision through rulemaking. This regulation fulfills that directive by establishing the procedures manufacturers must follow in order to request an exemption from the substantial equivalence provisions of the law. The rule provides a premarket pathway that will facilitate granting exemptions for tobacco products with minor modifications to additives that meet the statutory criteria. Many of the comments provided us with detailed information about the wide range of modifications made to tobacco product additives; these comments support the need for an exemption regulation that will accommodate various minor modifications to additives that meet the exemption criteria.

(Comment 3) One comment suggested that the rulemaking does not further the objectives of the Tobacco Control Act and will require the unnecessary expenditure of FDA and industry resources on submissions that have no bearing on the goals sought to be achieved by the Tobacco Control Act.

(Response) We disagree. The exemption pathway is a significant part of the regulatory scheme Congress enacted to achieve the goals of the Tobacco Control Act. The FD&C Act, as amended by the Tobacco Control Act, requires that new tobacco products undergo some type of premarket review by the FDA. This premarket review may be through a premarket application (section 910(b) of the FD&C Act; 21 U.S.C. 387j(b)), a substantial equivalence report (section 905(j); 21 U.S.C. 387e(j)), or a request for an exemption from the substantial equivalence requirements (section 905(j)(3)) (section 910(a)(2); 21 U.S.C. 387j(a)(2)). To ensure appropriate oversight over tobacco products, it is crucial that FDA have information about modifications to additives in tobacco products in order to determine whether the modifications are minor and, accordingly, whether it is appropriate to exempt the tobacco product from the substantial equivalence requirements of the statute (assuming the other required findings can be made).

(Comment 4) Some comments stated that FDA needs to address the meaning of ''new tobacco product'' before issuing a final exemption regulation. One commenter stated that ''simply repeating the language of the statute is insufficient,'' noting that the statutory definition of ''new tobacco product'' includes the term ''modification'' and, depending on how broadly the term ''modification'' is interpreted, ''potentially thousands of products that Congress intended to grandfather could be swept into the category of 'new tobacco products' simply because they have undergone routine, consistency-maintaining adjustments that have no public health significance.'' The commenter further stated that the lack of notice regarding the meaning of the terms ''new tobacco product'' and ''modification'' raises due process and Administrative Procedure Act concerns because it is ''difficult for interested persons to provide meaningful commentary on a proposed exemption from requirements applicable only to 'new tobacco products' when FDA has not revealed its understanding of what constitutes a 'new tobacco product.'''

(Response) The FD&C Act, as amended in 2009 by the Tobacco Control Act, defines ''new tobacco product'' at section 910(a)(1) as ''any tobacco product (including those products in test markets) that was not commercially marketed in the United States as of February 15, 2007; or any modification (including a change in design, any component, any part, or any constituent, including a smoke constituent, or in the content, delivery or form of nicotine, or any other additive or ingredient) of a tobacco product where the modified product was commercially marketed in the United States after February 15, 2007.'' The definition expressly states that a new tobacco product includes ''any'' modification of a tobacco product where the modified product was commercially marketed in the United States after February 15, 2007. Therefore, FDA disagrees with the suggestion in the comments that the term ''new tobacco product'' has not been sufficiently defined.

(Comment 5) Some comments stated that there are categories of routine, consistency-maintaining adjustments that are not intended to alter the chemical or perception properties of the product and that, therefore, should not be treated as modifications for which a premarket application, substantial equivalence report, or exemption request should be required. The comments cited to various provisions of the FD&C Act, such as the good manufacturing practice provisions under section 906(e) of the FD&C Act and the notifications under section 904(c) (21 U.S.C. 387d(c)), as support for their view that these ''routine consistency maintaining adjustments'' are not ''modifications'' for which premarket review is required, because these other provisions are intended to ensure that we receive information on these types of adjustments and, consequently, these provisions would otherwise be rendered meaningless. Other comments similarly stated that adjustments made in response to variations in manufacturing, and differences in materials from lot to lot that are necessary to maintain consistent product characteristics, should not be considered modifications. Some comments identified specific adjustments that should not be considered modifications, including specific adjustments to compensate for the inherent variability of tobacco, the need for multiple suppliers for components, and adjustments made at the supplier's initiative to maintain consistency. The comments stated that if ''modification'' were interpreted to include these adjustments, ''that excessively broad interpretation would result in hundreds of legally marketed products being swept into the statutory and regulatory regime for 'new tobacco products' even though they would not have changed in any meaningful way'' and that this would impose severe

burdens on both FDA and industry. One comment noted that a dictionary definition of ''modification'' supported excluding these ''adjustments'' from the scope of modification.

(Response) As previously discussed, the FD&C Act defines the term ''new tobacco product'' as specifically including any modification of a tobacco product where the product was commercially marketed after February 15, 2007. The statutory definition is not limited to modifications intended to have a certain effect or that are more than a routine adjustment of the product. While FDA agrees that the FD&C Act's reporting obligations and other requirements related to tobacco products would apply to tobacco products modified as the commenters suggest, we disagree that these various requirements suggest that these types of modifications would not subject the modified tobacco product to the premarket requirements for new tobacco products. Manufacturers and interested parties should refer to FDA's Web site for guidance on current enforcement policies related to premarket requirements for tobacco products (*http://www.fda.gov/TobaccoProducts/default.htm*).

(Comment 6) Some comments stated that a broad construction of ''modification'' in the definition of new tobacco product would allow FDA to eliminate grandfathered products because, for example, consistency-maintaining changes are routinely made to ''grandfathered'' products to ensure continued consistency of the tobacco product.

(Response) We use the term ''grandfathered'' to refer to those tobacco products that were commercially marketed in the United States as of February 15, 2007. Under the FD&C Act, a ''grandfathered'' product is not a ''new tobacco product'' and is not subject to the statute's premarket requirements unless the product has been modified after February 15, 2007. The statute provides that if there has been ''any modification (including a change in design, any component, any part, or any constituent, including a smoke constituent, or in the content, delivery, or form of nicotine, or any other additive or ingredient) of [the] tobacco product where the modified product was commercially marketed in the United States after February 15, 2007'' the modified product is considered a ''new tobacco product,'' and is subject to the premarket requirements. (Section 910(a)(1); 21 U.S.C. 387j(a)(1).) This rule is consistent with that provision.

(Comment 7) Some comments stated that the proposed rule envisions an application and approval process for obtaining exemptions that is ''procedurally indistinguishable from the process for obtaining a substantial equivalence order.''

(Response) We disagree with these comments because, as provided in § 1107.1, the information required for a new product in an exemption request is significantly different from the information submitted in a substantial equivalence report. Furthermore, after examining the detailed comments and information submitted to the NPRM, including information on the range of modifications made to tobacco products, we have reconsidered the estimates of the numbers and hours of submissions. We do not expect that an exemption request will be as lengthy or detailed as a 905(j) substantial equivalence report. We believe that the exemption pathway will be an efficient pathway to market when used for tobacco products with minor modifications to additives, where the modifications meet the criteria in section 905(j)(3) of the FD&C Act and where tobacco product manufacturers provide the information required in § 1107.1. Sections VII and VIII of this document provide additional information on the revised burden estimates.

(Comment 8) Several comments suggested that FDA define ''minor modification.''

(Response) FDA declines to include in the rule a specific definition of the term ''minor'' because the meaning of the term may vary depending on the type of tobacco product. To enable FDA to determine whether a particular modification is minor and therefore may be exempted from the substantial equivalence requirements, the manufacturer must submit the information in § 1107.1(b), including information explaining why the modification is minor. Given that this program is just beginning, FDA does not have the experience needed at the present time to provide a useful definition of ''minor modifications.'' Although FDA is not defining ''minor modifications'' in this rule, as FDA gains experience in evaluating exemption requests, FDA will consider issuing a rulemaking defining minor modifications.

(Comment 9) Several comments suggested that FDA should use the 510(k) program applicable to medical devices as a model in implementing the substantial equivalence and exemption provisions. For example, the comments suggested that FDA place the burden on manufacturers to make the initial determination as to whether the modification is minor according to the criteria in section 905(j)(3) of the FD&C Act. The comments continued by suggesting that FDA could issue a guidance with a decision-tree to facilitate the identification of changes that would not generally require FDA premarket review. Other comments suggested that reports regarding changes that do not impact public health should not be required to be reported to FDA, but rather should be documented by the manufacturer in a memorandum to file, similar to the requirements for medical devices cleared through premarket notifications (510(k)s).

(Response) FDA did consider the requirements applicable to medical devices when developing this rule, but concluded those requirements are inconsistent with section 905(j)(3) of the FD&C Act. Section 905(j)(3) specifically requires FDA to make certain findings, including a determination of whether the modification would be a minor modification of a tobacco product that can be sold under the FD&C Act, when determining whether to exempt a tobacco product from the requirement to demonstrate substantial equivalence.

B. Comments on Categories of Exemptions

(Comment 10) Several comments also suggested that FDA revise the proposed rule to create actual categories of minor modifications, or identify specific modifications, that meet the statutory criteria for exemption. The comments suggested that specific categories of changes could be exempted under section 905(j)(3) of the FD&C Act, including changes intended to ensure consistency or minor blend changes (*e.g.,* to ensure that the specifications of a tobacco product are consistently met), changes that do not raise public health concerns (*e.g.,* changes to additives that have been deemed by FDA as not harmful to health or changes reported to FDA under section 904(c)), changes in ''commodity'' ingredients (*e.g.,* changes in ingredient suppliers or use of interchangeable ingredients obtained from different manufacturers which are within pre-defined specification tolerances for use in the tobacco product), changes in packaging text or graphics where the manufacturer does not know whether, or does not intend that, the ingredient will become incorporated in the consumed product. One comment stated that, once the Agency decides to grant an exemption request for a particular additive, it should establish a categorical exemption for a range of levels of that additive that would then apply to all similar products

(*e.g.,* all cigarettes or all smokeless tobacco products). One comment suggested that the Agency develop a generic catalog of minor modifications that are classed by tobacco product type and manufacturing process upon which small manufacturers could rely in asserting that product modifications are exempt from the substantial equivalence requirements.

(Response) As discussed previously, in developing the proposed rule, we considered various approaches, including whether to include categories of exemptions in this initial rulemaking, but determined that we do not currently have sufficient information to enable us to make the findings required by the statute to support establishing categories of exemptions. However, we believe this information will develop as we review exemption requests and we intend to establish categories of exemptions when we have such information.

We have changed proposed § 1107.1(b) to clarify that a request for an exemption must identify the tobacco product(s) that is/are the subject of the exemption request. Although we are not establishing categories of exemptions at this time, manufacturers may submit one exemption request for multiple tobacco products if the request identifies the specific products and the information submitted under § 1107.1(b) applies to all the specified products. Finally, a manufacturer may submit an exemption request for a tobacco product(s) for a minor modification of an additive if the manufacturer specifies a range with a maximum and minimum as has been typically used for that tobacco product; again, the request must include the information required in § 1107.1(b) in order for us to make the necessary findings.

As discussed in the NPRM, FDA intends to provide technical and other nonfinancial assistance to small tobacco product manufacturers in complying with the premarket requirements of sections 905 and 910 of the FD&C Act, along with other requirements of the FD&C Act. Small tobacco product manufacturers may contact FDA at *smallbiz.tobacco@fda.hhs.gov* for assistance. Additionally, FDA is considering the best way to provide information about what kinds of modifications have been determined to be minor. One option might be to create a public database of exemption determinations that may help inform manufacturers when preparing exemption requests. We would appreciate feedback from manufacturers about whether they would be concerned about disclosure of exemption determinations and whether disclosing them would provide useful information. The other option would be for FDA to issue guidance in Question and Answer form which could be updated with new information on a regular basis.

(Comment 11) One comment suggested that the final rule should allow an exemption request to cover multiple products or a category of products and allow for modifications within a certain range. As one example, the comment suggested that, if supported by appropriate toxicological data, an exemption should allow a manufacturer to add a particular ingredient to any of its cigarette products up to a specified level, without requiring the manufacturer to file a substantial equivalence report or a separate exemption request for each product. Some comments urged adoption of a final rule that would establish a process focused on whether the addition of, or an increase in, the amount of an additive would increase the toxicity of the tobacco product. Similarly, other comments suggested that an exemption is appropriate when certain types of minor modifications would not increase the inherent public health risks of the product.

(Response) As discussed previously, a single exemption request may be submitted for multiple tobacco products. Note that manufacturers must identify each tobacco product proposed to be included within the exemption and include the information required by § 1107.1(b) in the request. Also, a manufacturer may submit an exemption request for a tobacco product(s) for a modification of an additive within a specified range. As provided in § 1107.1(c), the Agency's determination on whether to grant an exemption request will be based on whether the criteria in section 905(j)(3) of the FD&C Act are met.

(Comment 12) One comment stated that the language of section 910(a)(2)(A)(ii) of the FD&C Act ''contemplates that exemptions from substantial equivalence will be categorical in nature, based on general regulations promulgated ex ante'' and the statute does not require an affirmative ''order.''

(Response) We disagree with the comment suggesting that section 910(a)(2)(A)(ii) requires categorical exemptions; the language the comment refers to states that an order under section 910(c)(1)(A)(i) for a new tobacco product is required unless ''the tobacco product is exempt from the requirements of section 905(j) pursuant to a regulation issued under section 905(j)(3).'' This rule implements section 905(j)(3)'s exemption provision by establishing a pathway for manufacturers to seek exemptions from the substantial equivalence requirements of the FD&C Act. An exemption granted through this pathway would be an exemption ''pursuant to a regulation issued under section 905(j)(3).'' The rule is also consistent with language in section 905(j)(3) of the FD&C Act requiring FDA to make specific determinations, and language in section 905(j)(1)(A)(ii) of the FD&C Act that indicates that FDA must affirmatively ''grant'' an exemption.

(Comment 13) Some comments requested that the Agency use its general rulemaking authority under section 701(a) of the FD&C Act to broaden the rule to include exemptions for more than just the addition or deletion of a tobacco additive, for example, to exempt minor modifications resulting from a company's change in vendors, blend maintenance adjustments, or adjustments in cigarette ventilation to maintain consistent strength of taste in response to agronomic variations. Similarly, some comments stated that FDA could issue other types of exemptions based on the ''where otherwise appropriate'' language in section 905(j)(3) of the FD&C Act. For example, the comment suggested we rely on this language to issue industry-wide exemptions for materials and/or components that are mandated by state or Federal law (such as Fire Safe Compliance paper).

(Response) Under section 905(j)(3), FDA may exempt from the requirements relating to the demonstration of substantial equivalence only tobacco products that are modified by adding or deleting a tobacco product additive, or increasing or decreasing the quantity of an existing tobacco additive, if FDA makes three specific findings. One of these findings is that the exemption is otherwise appropriate. Thus, under the statutory language, exemptions from substantial equivalence requirements are limited to modifications of additive levels; the ''otherwise appropriate'' language is not a separate ground for exempting a tobacco product from the substantial equivalence requirements of the statute.

(Comment 14) Some comments suggested that the reduction or elimination of an additive should be categorically exempt from the substantial equivalent requirements. These comments referred to section 904(c)(3), which requires manufacturers to notify FDA within 60 days after entering a product into the market when a manufacturer ''eliminates or decreases an existing additive, or adds or increases an additive that has by

regulation been designated by the Secretary as an additive that is not a human or animal carcinogen, or otherwise harmful to health under intended conditions of use.'' One comment suggested that the final rule should categorically exempt such modifications in recognition of the Congressional determination that additions or increases of ''designated'' additives do not require premarket review before a manufacturer enters a product into the market. The comment also suggested merging the exemption process with the ''designation'' process under section 904(c)(3).

(Response) As discussed previously, we do not have sufficient information at this time to establish categorical exemptions, although we intend to establish categorical exemptions as information develops. Thus, comments related to the designation of additives that are not human or animal carcinogens as being one category of modifications that should be exempted are premature and outside the scope of this regulation.

C. Comments on Specific Provisions of the Rule

(Comment 15) One comment discussed the proposed certification provision and noted that Congress excluded any consideration of behavioral effects from the substantial equivalence evaluation and in the evaluation of exemption requests for minor modifications. Similarly, other comments requested clarification that the rule would not require tobacco manufacturers to conduct behavioral research because the proposed rule might be read as meaning that a manufacturer would need to conduct behavioral research on minors in order to evaluate a product's appeal to minors. One comment stated that the data and certification requirements pose insurmountable practical problems because the comment did not believe that sufficiently sensitive tools exist to measure addictiveness, appeal to, or use by, minors. The comment stated, however, that toxicity data would likely be needed to evaluate some minor modification exemption requests and that data should be presented in a truthful manner. The comment suggested that if the Agency believes a certification is necessary, a more appropriate requirement would be similar to 21 CFR 807.87(k) (this provision requires that a premarket notification (510(k)) include a statement that the submitter believes, to the best of his or her knowledge, that all data and information submitted are truthful and accurate and that no material fact has been omitted).

(Response) We did not intend for the proposed rule to imply that behavioral research must be conducted or submitted to support a certification. Rather, the rule requires only that the certification summarize the supporting evidence, which could be a literature review, previous studies, or other information. The certification is intended to provide us with assurance that there is a basis for making the findings required by section 905(j)(3) of the FD&C Act.

D. Comments on FDA's Implementation of the Rule and Review of Requests

(Comment 16) Several comments stated that the proposed rule would create an enormously burdensome process, similar to a premarket application, for minor modifications to tobacco products. For example, several comments noted that, if finalized, the rule would require a tobacco product manufacturer to submit three reports to FDA regarding the requested minor modification: The initial minor modification report, a 905(j)(1)(A)(ii) report, and a separate report under section 904(c)(2) or (c)(3) for any change in a tobacco additive. One comment stated that this would create a duplicative process that would exceed the requirements for new tobacco product applications and modified risk tobacco products, and other comments stated that the reporting of certain changes to additives in section 904(c)(2) would be rendered meaningless. Some comments stated that the process established in the proposed rule—requiring submission of an exemption request and, once granted, submission of a report under section 905(j)(1)(A)(ii) of the FD&C Act—is more burdensome and potentially lengthier than submission of a 905(j) substantial equivalence report or a premarket tobacco application.

(Response) These comments refer in part to the requirement that a manufacturer who obtains an exemption is also required to report to FDA under section 905(j)(1)(A)(ii) of the FD&C Act (this requirement is not addressed in this rulemaking). Specifically, section 905(j)(1)(A)(ii) of the FD&C Act requires the applicant to report to FDA at least 90 days prior to introducing or delivering for introduction into interstate commerce the tobacco product that is the subject of the exemption, the basis for the applicant's determination that ''the tobacco product is modified within the meaning of [section 905(j)(3)], the modifications are to a product that is commercially marketed and in compliance with the requirements of this Act, and all of the modifications are covered by exemptions granted by FDA pursuant to [section 905(j)(3)].'' In addition, this submission must describe ''action taken by [the applicant] to comply with the requirements under section 907 (21 U.S.C. 387g) that are applicable to the tobacco product'' (section 905(j)(1)(B) of the FD&C Act). As noted earlier, the FD&C Act does set up distinct notification and reporting requirements, including those in sections 904(c) and 905(j)(1)(A)(ii), related to additives. In addition, in some cases the statute does require manufacturers to make multiple submissions before they may market a new tobacco product. We expect, however, that the overall exemption pathway to market will be less burdensome than the substantial equivalence or premarket application pathways to market. In addition, as discussed previously, a single exemption request may be submitted for multiple tobacco products, as long as each tobacco product is identified and the information required by § 1107.1(b) is submitted with the request. Also, a manufacturer may submit an exemption request for a modification of an additive within a specified range, which would minimize potential burden and duplication of information. Moreover, a manufacturer may submit the information required by 904(c)(2) in conjunction with the submission of a section 905(j)(1)(A)(ii) report.

(Comment 17) Several comments noted that the proposed process provided no time limit for FDA review of exemption requests and, consequently, a manufacturer may have to wait a long time for FDA to review its request for an exemption for a minor modification to its tobacco product. One comment suggested that FDA should make a decision on an exemption request within 90 days. This comment also suggested that one way to achieve more efficient review would be to allow a manufacturer to provide the notification required under section 905(j)(1)(A)(ii) at the same time FDA reviews the exemption request (submitting the information for an exemption request with the report under 905(j)(1)(A)(ii)); another comment suggested that the manufacturer document the exemption in its files rather than submit the section 905(j)(1)(A)(ii) report. These comments suggested that these approaches would eliminate the inefficiency of requiring an Agency decision on an exemption request before a manufacturer could

submit a 90-day notification under section 905(j)(1)(A)(ii) of the FD&C Act.

(Response) We agree that review of exemption requests should occur in a timely manner, and we do not expect the review process to be lengthy if the request includes the information stated in § 1107.1(b). We do not expect that the information submitted in an exemption request will be as lengthy or detailed as in a 905(j) substantial equivalence report. We understand that concerns regarding the length of time needed to prepare a submission were due in large part to the burden estimates in the NPRM; as discussed previously, however, we have revised our burden estimates. More discussion on the burden estimate can be found at sections VII and VIII of this rulemaking.

We disagree, however, that the report under section 905(j)(1)(A)(ii) of the FD&C Act could be made in conjunction with an exemption request under § 1107.1 or that documenting the information specified in section 905(j)(1)(A)(ii) in the manufacturer's files would be appropriate. Section 905(j) requires that each person who proposes to begin the introduction or delivery for introduction into interstate commerce for commercial distribution a new tobacco product must submit either a report under section 905(j)(1)(A)(i) demonstrating that the new tobacco product is substantially equivalent to an appropriate predicate product, or a report under section 905(j)(1)(A)(ii) stating the basis for their determination that the product is modified within the meaning of section 905(j)(3), the modifications are to a commercially marketed product, and that the modifications are covered by exemptions granted by FDA. Thus, documenting the information in the manufacturer's files would not be appropriate. Furthermore, the information required in a report under section 905(j)(1)(A)(ii) that ''all of the modifications are covered by exemptions granted by [FDA]'' will not be available until FDA grants the exemption; thus, the report under section 905(j)(1)(A)(ii) may not be submitted simultaneously with the exemption request.

(Comment 18) One comment proposed an alternative rule that would require manufacturers to report to FDA ''a baseline list'' that would include ''maximum use levels'' of each additive in each product, the maximum use levels (MULs) of each tobacco type used in that category, and the established ranges for all other design parameters used in products in that category.'' The comment suggested that FDA could use these reports to create a composite list of MULs and established design parameter ranges for each product category based on information from grandfathered products and other legally marketed products. The composite list would be published in the Code of Federal Regulations. Manufacturers would be required to submit changes to its baseline list to reflect any new tobacco products the manufacturer has legally introduced into the market. Through an amendment process, tobacco manufacturers could increase MULs or expand design parameter ranges when there is evidence that use levels or design parameters are ''generally recognized as appropriate for public health.'' The comment stated that its proposal would also clarify that adjustments to tobacco products that are not intended to alter the chemical or perception properties of the product are not ''modifications'' and thus do not make the product a new tobacco product subject to premarket requirements.

(Response) In general, we disagree that this alternative would appropriately implement section 905(j)(3) of the FD&C Act. We note, for example, that a key premise of the alternative is the definition of ''modification'' which, in the alternative, would be defined, with certain exceptions, as ''any change made by a tobacco product manufacturer * * * that is intended to or does alter the chemical or perception properties of the product.'' This definition is inconsistent with the language of section 910(a) of the FD&C Act, which does not include intent as an element of the definition of ''modification.''

(Comment 19) Some comments suggested that, because regulations implementing section 905(j)(3) are not yet in place, FDA should exercise enforcement discretion for tobacco products that might use that pathway to market when the regulations are in place. These comments suggested that exemptions from reporting are essential to a workable system and FDA is bound to receive a significant volume of submissions for minor and inconsequential changes to tobacco products before such exemptions are issued.

(Response) This final rule implements the exemption provision pathway to market and renders this comment moot.

(Comment 20) One commenter requested an extension of the comment period.

(Response) FDA declines to extend the comment period in an effort to ensure that the exemption pathway becomes available as required by statute. As indicated in the preamble to the proposed rule, however, FDA anticipates that there will be further guidance and rulemakings on this topic and will request comment accordingly.

IV. Effective Date

For the effective date of this final rule see the **DATES** section of this document.

V. Legal Authority

Section 905(j)(3)(A) of the FD&C Act provides that FDA may exempt from the requirements relating to the demonstration of substantial equivalence tobacco products that are modified by adding or deleting a tobacco additive, or increasing or decreasing the quantity of an existing tobacco additive, if FDA determines the modification would be a minor modification of a tobacco product that can be sold under the FD&C Act; a substantial equivalence report is not necessary to ensure that permitting the tobacco product to be marketed would be appropriate for protection of the public health; and an exemption is otherwise appropriate. Section 905(j)(3)(B) of the FD&C Act requires that FDA issue regulations to implement the provision on exemptions from the substantial equivalence requirements of the Tobacco Control Act. FDA is issuing this rule as required by section 905(j)(3)(B) of the FD&C Act. Additionally, section 701(a) of the FD&C Act (21 U.S.C. 371) gives FDA general rulemaking authority to issue regulations for the efficient enforcement of the FD&C Act.

VI. Environmental Impact

The Agency has determined under § 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.

VII. Analysis of Impacts

A. Introduction

FDA has examined the impacts of the final 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 final rule is not an economically significant

regulatory action under 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 the exemption pathway put into place by this rule provides an option that potentially reduces costs, the Agency certifies that the final 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 $136 million, using the most current (2010) Implicit Price Deflator for the Gross Domestic Product. FDA does not expect this final rule to result in any 1-year expenditure that would meet or exceed this amount.

B. Public Comments Concerning Impact Analysis

FDA received several comments covering such topics as the accuracy of FDA's assessment of social costs and benefits, the accuracy of burden estimates, compliance with requirements such as Executive Order 12866 and the Regulatory Flexibility Act, and the effect of this rule on small businesses.

(Comment 21) One comment stated that bringing a modified product to market under the proposed exemption pathway could cost as much or possibly more than filing a section 905(j) report alone because the Agency estimated that requesting an exemption and filing a section 905(j) report would each require 360 hours. Bringing a product to market under an exemption would require both submissions.

(Response) This comment reflects some misunderstanding of the nature of the reports submitted under 905(j) of the FD&C Act with and without substantial equivalence exemptions. In the absence of an exemption, a report demonstrating substantial equivalence under section 905(j)(1)(A)(i) must be submitted. If an exemption has been requested and granted, a report must still be submitted under section 905(j)(1)(A)(ii), but it will cite the exemption(s) in place of demonstrating substantial equivalence. The 360-hour estimate refers to a section 905(j) report demonstrating substantial equivalence. A report citing an exemption would be far shorter.

(Comment 22) One comment stated that FDA incorrectly concluded that the proposed rule was not significant under Executive Order 12866.

(Response) FDA should have stated that the proposed rule was not economically significant. We have added that statement to the final rule.

(Comment 23) One comment argued that FDA's conclusion that the proposed rule does not impose social costs is ''irrational,'' ''erroneous,'' and ''so unreasonable as to be arbitrary and capricious.'' The comment further stated that FDA ''inappropriately stacks the deck'' by using a baseline scenario in which there are no exemptions and that by this reasoning, ''it is literally impossible for its exemption rule to impose costs, regardless of how burdensome or byzantine an exemption pathway the rule sets forth.'' In light of the statutory mandate to implement exemptions, the no-exemption scenario cannot be treated as the baseline. Finally, the comment argued that FDA had not complied with its obligation to rationally consider the costs of the rule compared with alternative means of implementing exemptions.

(Response) FDA disagrees that the proposed rule would impose social costs. The current regulatory framework requires submission of a substantial equivalence report (or a premarket application) before introducing any new tobacco product, and without rulemaking this framework would continue into the future. Substantial equivalence reports have a substantial burden, preliminarily estimated at 360 hours. Use of this baseline is appropriate and does not ''stack the deck.'' The Office of Management and Budget's (OMB's) Circular A–4 states that the baseline ''should be the best assessment of the way the world would look absent the proposed action.'' Without this rule, all new tobacco products would be required to submit a premarket application or substantial equivalence report.

We do not argue that under the stated baseline it is literally impossible for this exemption rule to impose costs. We acknowledge the theoretical possibility that uncertainty regarding the kinds of product modifications that may be granted an exemption and the amount of supporting evidence that will be required as the basis for an exemption could impose additional social costs. We think this is extremely unlikely, especially in the long run, because uncertainty will be reduced as manufacturers gain experience with the regulatory regime. Although the theoretical possibility exists that this rule could increase costs in the short run, we therefore do not anticipate that it will increase costs in the long run.

The comment seems to imply that a regulatory alternative in which certain types of modifications are automatically exempted should be used as the baseline. This suggestion confuses the choice of baseline with an analysis of alternatives. Nevertheless, FDA recognizes that there are regulatory alternatives, such as identifying categories of modifications that are exempt, that could have reduced costs more than this rule will. That is why in the future, when the Agency has sufficient information to do so, FDA may identify categories of modifications that are exempt.

This comment may be reacting to the apparent lack of cost savings under the exemption pathway, or the perceived large cost of both the exemption and substantial equivalence pathways. As discussed elsewhere in this preamble, FDA now believes it significantly overestimated the burden of requesting an exemption. Our current estimate, based on new information, indicates that the exemption pathway will offer cost savings.

(Comment 24) One comment argued that based on the history of FDA's 510(k) Program, it is clear that the broad interpretation of the section 905(j) reporting mandate embodied in current guidance (''Guidance for Industry and FDA Staff—Section 905(j) Reports: Demonstrating Substantial Equivalence for Tobacco Products'' (76 FR 789, January 6, 2011)) will ''impose an incredible and unnecessary administrative burden on the Agency and the tobacco product manufacturing industry.'' Many of the submissions will be unnecessary for protection of the public health. FDA estimated that 905(j)(3) reports will cost $35,000 each, ''evidencing the burden on industry of an onerous reporting mandate.''

(Response) FDA acknowledges that tobacco product manufacturers may face new challenges in complying with the various provisions of the Tobacco Control Act. However, this rule will not impose any new obligations on manufacturers. In the absence of this rule, all modifications leading to new tobacco products would require the demonstration of substantial equivalence (if not submission of a premarket application), as discussed previously in this document. This rule provides an alternative pathway to substantial equivalence and premarket applications for marketing new tobacco products and may reduce both industry

costs and the burden on FDA of reviewing submissions.

(Comment 25) A comment argued that the approach taken in FDA's impact analysis is legally deficient because it would allow the Agency to skirt its obligations under the Regulatory Flexibility Act by assuming any regulation issued to implement substantial equivalence exemptions is cost free. The comment further stated that FDA can only avoid the requirements of the Regulatory Flexibility Act by certifying that the rule will not have a significant impact on a substantial number of small businesses and that such a certification must be reasonably supported.

(Response) FDA disagrees that the Agency has skirted any obligations under the Regulatory Flexibility Act. FDA proposed to certify that the rule would not have a significant impact on a substantial number of small entities because compared to the appropriate baseline, the rule would offer an alternative channel that may reduce costs. See the Response to Comment 23 for a discussion of the baseline on this issue.

(Comment 26) A comment argued that the approach taken in FDA's impact analysis is legally deficient because it would allow the Agency to skirt its obligations under Executive Order 12866 by assuming any regulation issued to implement substantial equivalence exemptions is cost free. FDA must rationally compare the costs and benefits of the proposed rule and consider reasonable alternatives. After assessing costs and benefits FDA must proceed ''only upon a reasoned determination that the benefits of the intended regulation justify its costs.''

(Response) FDA disagrees. For regulatory actions which are not economically significant, Executive Order 12866 requires a statement of potential costs and benefits. FDA has rationally compared the costs and benefits of the proposed rule according to the correct baseline, as explained in the Response to Comment 23. An analysis of regulatory alternatives is only required for economically significant rules.

(Comment 27) A comment argued that the approach taken in FDA's impact analysis is legally deficient because it would allow the Agency to skirt its obligations under the Administrative Procedure Act. ''FDA's assumption that the cost of its proposed rule is zero demonstrates that FDA's assessment of social costs is so unreasonable as to be arbitrary and capricious.''

(Response) FDA disagrees with the assertion that the Agency's assessment of social costs is unreasonable, arbitrary, or capricious. See the Response to Comment 23 for a discussion about the baseline for details.

(Comment 28) A comment argued that FDA's impact analysis is unreasonable because after incorrectly concluding that the proposed rule is costless, FDA conducts a cursory impact analysis quantifying the cost of preparing an exemption request.

(Response) FDA concluded that the proposed rule was highly unlikely to impose social costs. We do not conclude or state that preparing and submitting a request for exemption would be without cost. The question of interest in the impact analysis is the cost of marketing a new tobacco product through the exemption pathway compared to the cost of marketing a new tobacco product through the substantial equivalence pathway. FDA provided an estimate of the absolute cost of obtaining an exemption to allow the reader to make additional comparisons.

(Comment 29) A comment argued that FDA's impact analysis is unreasonable and ''so misguided as to demonstrate that FDA has no real understanding of the practical consequences of its proposed rule for the industry it is charged with regulating.''

(Response) FDA disagrees that the analysis is misguided or that the Agency has no understanding of the industry it is charged with regulating. However, the Agency does acknowledge that because statutory deadlines compelled us to start developing a rule for substantial equivalence exemptions before substantial equivalence reporting requirements went into effect, there was considerable uncertainty surrounding our estimates as well as the process itself. For this reason we repeatedly requested comment throughout the preliminary impact analysis. Because we have gained additional information and experience since publishing the proposed rule, we have revised our estimates as discussed in the paragraphs that follow.

(Comment 30) Multiple comments asserted that FDA's impact analysis is unreasonable and dramatically underestimates the costs and burdens associated with the proposed rule. One comment stated that if FDA takes the position that routine, minor adjustments to maintain consistency trigger the need for an exemption or substantial equivalence report, then FDA's best estimate that 50 exemption requests will be submitted per year is ''absurdly low.'' Multiple comments indicated that there will be at least several hundred exemption requests submitted per year, possibly several thousand. One comment stated that it is arbitrary to estimate that 50 of 233 new products introduced each year would be the subject of an exemption request; FDA's approach based on counting new products is flawed because manufacturers will have to file potentially hundreds of exemption requests each year for existing tobacco products; and, the estimate that FDA will request additional information for 40 requests per year is also far too low.

(Response) The estimates referred to by this comment are not estimates of the cost of this rule, but estimates of the absolute cost of preparing exemption requests. As described in the preliminary regulatory impact analysis, this rule offers a potentially cost-reducing additional pathway for marketing a subset of new tobacco products.

Based on the original estimate that 233 new products are introduced each year, FDA disagrees that it was arbitrary to choose 50 as our best estimate of how many exemption requests we would receive. Because the statute sets specific criteria for when exemptions may be granted, we can clearly expect that not all new products would be eligible.

Since publication of the proposed rule, FDA has gained additional information from viewing comments and initial substantial equivalence reports and through other activities within the usual scope of operation for FDA's Center for Tobacco Products. We now know more about the range and frequency of modifications that are made to tobacco products. Based on this new information, we have revised upward the number of exemption requests we expect to receive to 500 per year. We now anticipate requesting additional information for 150 of these requests.

(Comment 31) Comments argued that FDA provided ''no basis whatsoever,'' ''reasonable or otherwise'' for its estimates that it will take 360 hours to prepare an exemption request and 50 hours to respond to a request for additional information. Comments further argued that these estimates are arbitrary and capricious and do not comply with requirements under the Paperwork Reduction Act (the PRA), the Regulatory Flexibility Act, and Executive Order 12866; preparing these submissions will take substantially longer than estimated; and the lack of basis for the burden estimate is clear because the same burden estimate, 360 hours, was used for demonstration of substantial equivalence and requesting a substantial equivalence exemption.

(Response) The estimates referred to by this comment are not estimates of the

cost of this rule, but estimates of the absolute cost of preparing an exemption request. FDA disagrees that these estimates are too low and are completely without basis. The processes FDA is implementing for substantial equivalence reports and substantial equivalence exemptions are completely new, so there is considerable uncertainty around the time that such submissions will take to prepare. The estimates in the proposed rule represented the Agency's best estimates at the time, based on the requirements set out in the rule and other submission processes administered by the Agency. There was no ideal submission process to which to compare a substantial equivalence exemption request. Although comments have asserted that the time it takes to request an exemption was underestimated, no alternative estimates were provided. The fact that the burden estimates were originally the same for demonstrating substantial equivalence and requesting an exemption reflected an effort to be conservative in estimating the cost savings offered by this rule and uncertainty surrounding these burdens.

Since publication of the proposed rule, FDA has gained additional information from reviewing comments and initial substantial equivalence reports and through other activities within the usual scope of operation for FDA's Center for Tobacco Products. We now know more about the range of modifications that are made to tobacco products and are persuaded that we overestimated the time that will be required to prepare and submit an exemption request. Based on the limited information required relative to a substantial equivalence report, we now estimate that an exemption request for a suitable product, meeting the requirements set forth in this rule, could be prepared in 12 hours, and that a response to a request for additional information could be prepared in 3 hours. For more detail see section VIII of this document.

(Comment 32) One comment argued that FDA does not show how costs will be reduced through this rule because the cost of demonstrating substantial equivalence is not estimated.

(Response) As noted by many comments, FDA initially estimated that demonstrating substantial equivalence and requesting an exemption would each take 360 hours, which would imply that on average costs would not actually be reduced by this rule (though costs could certainly be reduced for some subset of potentially eligible new tobacco products). The initial estimate of the time required to prepare a substantial equivalence report is currently being updated based on initial submissions to the Agency, but we anticipate that the updated estimate will remain substantially higher than our downwardly revised estimate of the cost of preparing an exemption request.

(Comment 33) Comments argued that uncertainty about the circumstances under which FDA would request additional information makes it more difficult for manufacturers to determine whether it will be less costly to request an exemption and that FDA should provide additional information regarding the types of modifications that will be considered for exemption requests. One comment further argued that spending 360 hours on an exemption request that is ultimately denied, and then submitting a substantial equivalence report, wastes resources.

(Response) FDA disagrees that it is prudent to provide additional information at this time regarding the types of modifications that will be considered for an exemption, as explained elsewhere in the preamble. We also note that based on current information, we estimate the burden of submitting an exemption request to be far lower than initially estimated. the cost of responding to a request for additional information will also be lower than initially estimated, and fewer resources will be expended if an exemption request is ultimately denied. Nevertheless, it is up to the individual manufacturer to make a reasoned determination as to whether the likelihood that an exemption is granted justifies the cost of submitting an exemption request. The criteria set forth in the statute and this rule will form the basis for that determination.

(Comment 34) A comment argued that in estimating the time required to prepare an exemption request, FDA has not considered the ''massive amount of confusion and uncertainty'' that will stem from the lack of clear definition of ''minor modification'' or clear standards for what modifications would be eligible for exemptions.

(Response) The statute and this rule plainly state that only modifications pertaining to tobacco product additives could be eligible for an exemption. The time we have estimated that it takes to submit an exemption request reflects the reality that we have not set up categories of modifications which are automatically exempt. Instead the manufacturer must provide an explanation as to why the modification should be exempt, following the requirements of this rule.

(Comment 35) A comment asserted that FDA discounts the possibility that overall submission costs could increase as a result of the uncertainty generated by the proposed rule and pointed out that FDA does not estimate the annual number or percentage of exemption requests it expects to deny. The comment argues that because the number of exemption requests will far exceed 50 per year, the number of requests denied due to inadequate information regarding the exemption criteria will be higher than FDA anticipates. The comment further states that ''having failed to provide any meaningful guidance on the exemption criteria in the nearly 2 years since the Family Smoking Prevention and Tobacco Control Act was signed into law, FDA cannot blithely assume that the criteria will somehow become clear in time to save manufacturers from incurring major, unnecessary costs in preparing exemption requests that are denied because they are found not to meet criteria that FDA has not divulged.'' A similar comment argues that the cost savings of this rule are merely theoretical.

(Response) FDA disagrees with the characterization that the Agency discounted the possibility that overall submission costs could increase. This possibility was discussed in the preliminary analysis precisely because the Agency did not feel it should be ignored. FDA maintains the conclusion that in the long run, absolute costs for preparing exemption requests will certainly not exceed the baseline costs for demonstrating substantial equivalence because manufacturers always have the option available of demonstrating substantial equivalence for these products. Manufacturers can limit the number of exemption requests which are ultimately denied by adhering to the criteria for an exemption set forth in the statute and this rule. Only modifications pertaining to additives could possibly be eligible. Although costs could theoretically be generated in the near term, this is unlikely because the cost savings likely to result from a single exemption is high relative to the cost of preparing a single exemption request.

While we agree that the number of exemption requests will be higher than initially estimated, we do not attempt to estimate the number (or proportion) that will ultimately be denied because it depends on the quality and suitability of the submissions. In light of currently available information, the exemption pathway is reasonably expected to offer cost savings.

(Comment 36) Comments argued that due to the high estimated cost of preparing exemption requests, FDA should assist small businesses by setting up categorical exemptions and developing a catalog of minor modifications (by product type and manufacturing process) that are exempt from substantial equivalence requirements.

(Response) Our reasons for not setting up categorical exemptions at this time are discussed elsewhere in the preamble. FDA reiterates that this rule activates an additional pathway for marketing new tobacco products, providing manufacturers with an option that may reduce costs. Therefore this rule imposes no incremental burden from which to provide relief.

However, FDA also acknowledges that setting up categorical exemptions or developing a catalog of minor modifications could offer greater potential cost savings for tobacco product manufacturers, many of which are small, in complying with requirements under the Tobacco Control Act. That is why the Agency may choose to set up categorical exemptions in the future when there is more information about what categories would be appropriate.

(Comment 37) Manufacturers commented that FDA should issue industry-wide exemptions from 905(j) requirements, or 910 requirements if applicable, for modifications that are required to comply with a change in state or Federal law because not exempting such modifications could cause small manufacturers to go out of business and would place an undue burden on small manufacturers.

(Response) FDA disagrees that declining to broaden the scope of the exemption pathway places an undue burden on small manufacturers. FDA reiterates that this rule establishes an additional pathway for marketing new tobacco products, providing manufacturers with an option that may reduce costs. Therefore this rule imposes no incremental burden from which to provide relief. For changes in additives, small manufacturers may request an exemption. The absolute cost of requesting an exemption is expected to be far less than originally estimated, and the potential cost savings relative to demonstrating substantial equivalence far greater. Although broadening the scope of the exemption pathway could offer a larger potential reduction in costs, FDA declines to do so as explained elsewhere in the preamble.

(Comment 38) Manufacturers commented that the estimated 360 hours it would take to prepare an exemption request would be an unduly burdensome requirement to place on small manufacturers for the addition or deletion of an additive, or a change in the quantity of an additive. The comments stated that small manufacturers do not have in-house scientists or engineers who can spend all their time preparing exemption requests and could be driven out of business by this requirement.

(Response) As discussed previously in this document, FDA has revised downward the estimate of the time it takes to prepare an exemption request. FDA reiterates that because this rule activates an alternative pathway for marketing new tobacco products that may reduce costs, it imposes no incremental burden from which to provide relief. Regardless of whether the preparation of submissions to FDA is done entirely in-house or with the help of contractors, the cost should not increase as a result of this rule. Small manufacturers would have to prepare substantial equivalence reports for all new products (not requiring a premarket application) in the absence of this rule. Small manufacturers may realize some savings by submitting exemption requests for a subset of their new products rather than demonstrating substantial equivalence.

C. Baseline

Under the current regulatory framework, tobacco product manufacturers must submit to FDA either a premarket application or a report under section 905(j)(1)(A)(i) demonstrating substantial equivalence to an appropriate predicate product, and FDA must issue the appropriate corresponding order, before a new tobacco product may be introduced or delivered for introduction into interstate commerce. This rulemaking activates a third option, the substantial equivalence exemption pathway for marketing new tobacco products. Compared with the cost associated with the current baseline, this rule may result in cost savings if tobacco manufacturers request, and are granted, substantial equivalence exemptions for some new tobacco products.

D. Number of Affected Entities

This final rule may potentially apply to any tobacco product manufacturer or importer whose products are regulated under the Tobacco Control Act. Statistics of U.S. Businesses data indicate that there are 20 domestic cigarette manufacturers and 46 other tobacco product manufacturers (U.S. Census, 2009). Because other tobacco product manufacturers would include cigar and pipe tobacco manufacturers, not all 46 firms represent manufacturers that are currently regulated under the Tobacco Control Act.[1] An unknown number of importers would be affected.[2] It is possible that not all potentially affected manufacturers and importers will choose to request exemptions.

E. Number of Exemption Requests

The number of new products introduced in a given year is the theoretical maximum number that could be introduced under a substantial equivalence exemption. However, some new products may not be substantially equivalent to an appropriate predicate tobacco product and will require premarket authorization under section 910(c), in which case they will certainly not be eligible for an exemption. The remaining products could demonstrate substantial equivalence in a 905(j)(1)(A)(i) report. Under this final rule, a subset of those substantially equivalent products will be eligible for possible introduction into interstate commerce through the substantial equivalence exemption pathway.

FDA considers AC Nielsen scanner data, industry comments, and experience from substantial equivalence reports submitted since passage of the Tobacco Control Act in order to estimate the number of exemptions that may be requested on an annual basis. We assume the average number of new products introduced annually will be approximately the same going forward as in recent years. However, it is also possible that requirements imposed by the Tobacco Control Act will lead manufacturers to introduce new products at a lower rate in the future.

Using AC Nielsen scanner data covering late 2007 to late 2009, FDA counts a Universal Product Code (UPC) as introduced in 2008 if total dollar sales in late 2007 were zero, but total dollar sales in 2008 were greater than zero. With this definition, FDA finds that 628 new cigarette UPCs, 215 new chewing tobacco UPCs, 36 new smoking tobacco UPCs (excluding pipe tobacco), and 36 new cigarette paper UPCs were introduced in 2008. This sums to an estimated 915 new UPCs in 2008.

Unique UPCs are often assigned to different types of packaging for otherwise identical products. In the preliminary regulatory impact analysis,

[1] A possible offsetting factor is that these data only include firms with payroll, and there could be some small tobacco product manufacturers without payroll.

[2] Manufacturers, wholesalers, and retailers could all theoretically import tobacco products. Census data do not distinguish firms that import from firms that do not.

FDA excluded from consideration new UPCs that appeared to be for products that differed from existing products only in packaging. In response to comments stating that our initial approach undercounted new tobacco products because of the extremely minor changes that are often made to existing products, we consider all new UPCs in this final regulatory impact analysis. The number of new UPCs still may not accurately reflect the number of new tobacco products if enough modifications are so minor that they do not trigger a UPC change. FDA does not know the extent to which this may be the case, but based on comments from industry and experience with substantial equivalence reports, relatively minor modifications are more common than originally thought.

As outlined previously, some new products may require premarket authorization under section 910(c), and an unknown proportion of the remaining products would be introduced through the exemption pathway. This rule does not require a one-to-one correspondence between the exemption requests and new products introduced through the exemption pathway. Based on the number and content of substantial equivalence reports FDA has received so far, FDA estimates that in the first years after the procedure is in place, 500 exemption requests will be submitted per year covering 750 new tobacco products. This number has been revised upward substantially from the estimate in the preliminary regulatory impact analysis as FDA has learned from industry comments and from substantial equivalence reports that tobacco product manufacturers make many small modifications to their products which may qualify for an exemption. FDA anticipates requesting additional information to support 150 of those exemption requests. This number is uncertain because it depends on the quality of the initial requests.

F. Benefits and Costs

The main effect of this final rule would be a potential reduction in the costs of introducing new tobacco products compared with the current baseline. Under the baseline scenario, all new products that do not undergo premarket review under section 910(c) must submit a substantial equivalence report under section 905(j)(1)(A)(i). If an exemption request is submitted and granted, a manufacturer would be able to submit a different 905(j) report in which, under section 905(j)(1)(A)(ii), a discussion of the exemption(s) is used in place of the demonstration of substantial equivalence. On a per-product basis, when one exemption request covers one new tobacco product, the cost savings attributable to this rule equals the difference between the cost of demonstrating substantial equivalence and the cost of both requesting an exemption and submitting a report under section 905(j)(1)(A)(ii).[3] The savings could be greater in cases in which a single exemption request is used for multiple products.

FDA has concluded that we significantly overestimated the burden of requesting a substantial equivalence exemption as we prepared the proposed rule. The estimate, 360 hours, was based in part on other submission processes the Agency has direct experience with, but there was no ideal existing submission process to which to compare a substantial equivalence exemption request. We did not yet have experience reviewing the substantial equivalence reports this pathway provides an exemption from. Since publication of the proposed rule, we have gained additional information from reviewing comments and initial substantial equivalence reports and through other activities within the usual scope of operation of FDA's Center for Tobacco Products. We now know more about the range of modifications that are made to tobacco products. Based on the limited information required to be submitted relative to a substantial equivalence report, we now estimate that preparing an exemption request will require 12 hours for the requirements of § 1107.1(b)(1) through § 1107.1(b)(8). We also estimate an additional 12 hours will be required to prepare the environmental assessment, for a total of 24 hours. For more detail on the estimate, see section VIII of this document, which explains that an exemption request does not require a comparison to a predicate or inclusion of information on multiple characteristics, but rather requires limited information for the product that is the subject of the exemption request and on the modification of the additive.

Based on the requirements set forth in the codified language, FDA anticipates that preparation of most sections would require technical scientific and engineering expertise. Legal input and review would also play a role. Therefore, in valuing the time cost, FDA uses the weighted average of tobacco manufacturing industry-specific hourly wages for life, physical, and social science occupations ($30.91), architecture and engineering occupations ($40.93), and legal occupations ($71.83) (Ref. U.S. BLS, 2010). FDA assigns these occupational categories weights of 40 percent, 40 percent, and 20 percent. The resulting composite wage is $43.10. FDA then doubles this amount to $86.20 to account for benefits and overhead. Multiplying this wage by the burden estimates above yields a cost per exemption request of $1,034 for the requirements of § 1107.1(b)(1) through § 1107.1(b)(8) and an additional $1,034 for the environmental assessment, or a total of $2,069. FDA anticipates that when it asks a manufacturer to provide additional information in support of an exemption request, it will take an average of 3 hours to prepare the additional information. Using the same hourly cost of labor, providing additional information is estimated to result in an additional cost of $259.

Under the Tobacco Control Act, completion of the substantial equivalence pathway for marketing a new tobacco product requires submission of a report under section 905(j)(1)(A)(ii). This is a basic requirement that is expected to take 3 hours. Valued at a wage of $86.20, it would then cost $259 to submit one report under section 905(j)(1)(A)(ii).

In the case that one exemption request covers one product and the exemption is granted without a request for additional information, the substantial equivalence exemption pathway (consisting of an exemption request, including an environmental assessment, and a subsequent report under section 905(j)(1)(A)(ii) for a product embodying one modification) would take 27 hours at a cost of $2,328. These are elective costs in that firms will not choose this pathway unless the potential savings relative to demonstrating substantial equivalence justifies the risk of submitting an exemption request that is ultimately denied. The preliminary time burden estimate for submitting a substantial equivalence report under section 905(j)(1)(A)(i) was 360 hours. This estimate is currently being updated based on the initial submissions to the Agency, but for a new tobacco product satisfying the criteria for an exemption, we anticipate that the burden of preparing a substantial equivalence report and an environmental assessment will continue to be appreciably higher than the burden described previously for utilizing the exemption pathway.

Based on FDA's expectation that 500 exemption requests will be received per year, the absolute cost of preparing exemption requests would be $517,224 for the requirements of § 1107.1(b)(1) through § 1107.1(b)(8) and an additional

[3] An environmental assessment would be required with either pathway.

$517,224 for the environmental assessments. The absolute cost of replying to requests for additional information would be $38,792 if, as anticipated, we ask for additional information supporting 150 of the 500 requests. If these exemptions are cited in the 905(j)(1)(A)(ii) reports for 750 new products, those reports would cost an additional $193,959. If all these exemptions were granted, the total savings attributable to this rule would be the difference between the cost of bringing all 750 products to market through the substantial equivalence pathway and the sum of the four costs enumerated above. However, the cost savings is expected to be lower because it is unlikely that all the requested exemptions would be granted.

In order to grant an exemption, FDA must find, among other things, that a report demonstrating substantial equivalence would not be necessary to ensure that permitting the tobacco product to be marketed would be appropriate for protection of the public health. Furthermore, an exemption could be rescinded if found to be inappropriate, and the process for rescission would depend on whether there is a serious risk to public health. Therefore, FDA does not anticipate that setting up this mechanism for obtaining substantial equivalence exemptions will result in costs to public health.

Under this final rule, there may still be some uncertainty on the part of manufacturers about what kinds of product modifications may be granted an exemption and how much supporting evidence will be required as the basis for an exemption. If some manufacturers are more conservative in requesting exemptions than FDA would be in granting them, they may not fully avail themselves of the potential cost savings. Alternatively, if some manufacturers are too optimistic about what types of modifications will be exempt, they will incur higher costs because they will have to submit substantial equivalence reports in addition to having submitted unsuccessful exemption requests.

FDA acknowledges the theoretical possibility that overall submission costs could increase as the result of this uncertainty. This would happen if so many unsuccessful exemption requests were submitted that the excess costs associated with them exceeded any cost savings from exemptions that were granted. This situation is unlikely to occur, especially in the long run. The cost of submitting an exemption request is expected to be low relative to the potential savings. As time goes on and manufacturers gain experience with submission costs and the requirements that must be met for exemptions, they might continue to submit unsuccessful exemption requests, but this would increasingly be a well-informed choice based on an accurate estimation of the probability of being granted an exemption and the excess cost of preparing an unsuccessful request compared with the cost savings attributable to an exemption. Moreover, it is possible that some of the information compiled for an exemption request would be reused as part of a demonstration of substantial equivalence, thus reducing the effort expended in preparing both types of submissions.

G. Conclusion

In summary, the substantial equivalence exemption requirements laid out in this final rule offer an additional channel for legally introducing new tobacco products that result from minor modifications of tobacco products that can be sold under the FD&C Act. Successfully introducing a product through this channel is expected to reduce costs. If manufacturers do not want to risk having to submit substantial equivalence reports in addition to having submitted unsuccessful exemption requests, they may choose to maintain the status quo and not pursue substantial equivalence exemptions.

H. Regulatory Flexibility Act

The Tobacco Control Act requires that tobacco product manufacturers obtain either a marketing authorization order under section 910(c) or an order under section 910(a)(2) finding the new tobacco product to be substantially equivalent to an appropriate predicate tobacco product before introducing a new product into interstate commerce. Although this requirement is costly, the option of requesting an exemption as set forth in this final rule provides an alternative pathway that potentially reduces costs. Manufacturers of new tobacco products may choose not to use this alternative pathway to market their products. Therefore, this final rule imposes no incremental burden from which to provide relief and will not have a significant impact on a substantial number of small entities.

VIII. Paperwork Reduction Act of 1995

This final rule contains information collection requirements that are subject to review by OMB under the PRA (44 U.S.C. 3501–3520). The title, description, and respondent description of the information collection provisions are shown in the paragraphs that follow with an estimate of the annual reporting and recordkeeping burden. Included in the estimate is the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing each collection of information.

Title: Exemptions from Substantial Equivalence Requirements for Tobacco Products, Final Rule.

Description: In this final rule, a pathway would be established by FDA for manufacturers to request exemptions from the substantial equivalence requirements of the FD&C Act. As it acquires more information about the additives in tobacco products from which to establish categories of exemptions, FDA may issue additional regulations or guidance on this subject. This rule would implement section 905(j)(3) of the FD&C Act, under which FDA may exempt tobacco products that are modified by adding or deleting a tobacco additive, or increasing or decreasing the quantity of an existing tobacco additive, if FDA determines that: (1) The modification would be a minor modification of a tobacco product that can be sold under the FD&C Act, (2) a report is not necessary to ensure that permitting the tobacco product to be marketed would be appropriate for protection of the public health, and (3) an exemption is otherwise appropriate.

The rule also explains that an exemption request may be made only by the manufacturer of a legally marketed tobacco product for a minor modification to that manufacturer's product and the request (and supporting information) must be submitted in an electronic format that FDA can process, review, and archive. In addition, the request and all supporting information must be legible and in (or translated into) the English language.

Under the rule, an exemption request must be submitted with supporting documentation and contain the manufacturer's address and contact information; identification of the tobacco product(s); a detailed explanation of the purpose for the modification; a detailed description of the modification; a detailed explanation of why the modification is a minor modification of a tobacco product that can be sold under the FD&C Act; a detailed explanation of why a report under section 905(j)(1)(A)(i) intended to demonstrate substantial equivalence is not necessary to ensure that permitting the tobacco product to be marketed would be appropriate for the protection of the public health; a certification summarizing the supporting evidence and providing the rationale for why the

modification does not increase the tobacco product's appeal to or use by minors, toxicity, addictiveness, or abuse liability; other information justifying an exemption; and an environmental assessment under part 25 prepared in accordance with § 25.40.

As described previously, the request must contain a certification by a responsible official summarizing the supporting evidence and providing the rationale for the official's determination that the modification will not increase the product's toxicity, addictiveness, or appeal to/use by minors; and include other information justifying an exemption. This information will enable FDA to determine whether the exemption request would be appropriate for the protection of the public health. This final rule also includes a procedural mechanism for rescinding an exemption where necessary to protect the public health. In general, FDA would rescind an exemption only after providing the manufacturer notice of the proposed rescission and an opportunity for an informal hearing under part 16 (21 CFR part 16). However, FDA may rescind an exemption prior to notice and opportunity for a hearing under part 16 if the continuance of the exemption presents a serious risk to public health. In that case, FDA would provide the manufacturer an opportunity for a hearing as soon as possible after the rescission.

FDA will review the information submitted in support of the request and determine whether to grant or deny the request based on whether the criteria specified in the statute are satisfied. If FDA determines that the information submitted is insufficient to enable it to determine whether an exemption is appropriate, FDA may request additional information from the manufacturer. If the manufacturer fails to respond within the timeframe requested, FDA will consider the exemption request withdrawn.

Description of Respondents: Manufacturers of tobacco products who are requesting an exemption from the substantial equivalence requirements of the FD&C Act, as amended by the Tobacco Control Act.

Comments: FDA received several comments related to the PRA in response to its proposed rule (76 FR 737). Several comments noted that the hours per response were the same for both an exemption request and the submission of a 905(j) substantial equivalence report, which indicated that the exemption pathway would not be less burdensome than the substantial equivalence report. Some comments stated that the estimated hours suggested a very burdensome process, and other comments suggested that the estimated hours were too low given the information required by § 1107.1.

The estimated hours per response in the NPRM were based on Agency experience and approved information collections for other types of submissions to the FDA, although those also vary greatly depending on the statutory requirements and there was no exact parallel for this process. The estimated hours for the exemption request also reflected considerations that initial exemption requests may take longer to prepare, until knowledge and experience with the pathway develops. We believed that 360 hours per exemption request would be at the high end of the estimated hours per response, but did not want to underestimate the hours per response particularly at the outset of the process before experience with requesting exemptions develops. The comments to the NPRM provided FDA with a much better sense of the range of modifications that are made to tobacco products and after reviewing the information, we believe we overestimated the hours that would be needed to prepare an exemption request. Our revised estimates reflect the fact that the preparation and submission of an exemption request differs significantly from preparation of a substantial equivalence report under section 905(j)(1)(A)(i). For example, the preparation of an exemption request does not require a comparison to a predicate or inclusion of information on multiple characteristics, but rather requires more limited information for the product that is the subject of the exemption request and on the modification of the additive.

Additionally, several comments to the proposed rule stated that the number of exemption requests may be much higher than the 50 indicated in the proposed rule with some comments suggesting as high as hundreds or thousands depending on the scope of modifications that might use the pathway. After considering potential use of this process as indicated by the comments, we are increasing that number of requests to 500 on a yearly basis.

One comment also suggested that the proposed rule was not compliant with the PRA because there was no practical utility for the information collected and there is no plan for the efficient and effective use of the information to be collected. We disagree with these comments because, as several comments to the proposal noted, the regulation follows the statutory language, including the findings that FDA must make when determining whether it may make an exemption determination. The information that the rule requires is information that FDA needs in order to make the required findings, for example, information as to whether the modification is minor. Without the information required by the rule, FDA will not have the information necessary to determine whether an exemption is appropriate.

TABLE 1—ESTIMATED ANNUAL REPORTING BURDEN

21 CFR section or FD&C act section	Number of respondents	Number of response er respondent	Total annual responses	Average burden per response	Total hours
1107.1(b)	500	1	500	12	6,000
1107.1(c)	150	1	150	3	450
25.40	500	1	500	12	6,000
905(j)(1)(A)(ii)	750	1	750	3	2,250
Total					14,700

Table 1 describes the annual reporting burden as a result of the provisions set forth in this final rule. Based on comments and information on the NPRM, FDA estimates that it will receive 500 exemption requests annually and that it will take a manufacturer 12 hours to prepare an exemption request. FDA estimates that

it would need to request additional data for 150 of these requests in part due to the fact that it is a new process, and that it will take 3 hours to prepare a response to a request for additional data. FDA anticipates using the rescission authority to respond to one issue of concern related to an exemption determination each year (the burden hours for § 1107.1(d) are included under part 16 hearing regulations and are not included in the burden estimates in Table 1 of this document).

FDA is also including an estimation of the burden associated with preparing the report required by section 905(j)(1)(A)(ii) of the FD&C Act. FDA estimates that it will take 3 hours to prepare the report required by section 905(j)(1)(A)(ii), which requires a manufacturer to submit a report at least 90 days prior to making an introduction or delivery into interstate commerce for commercial distribution of a tobacco product, with the basis for the manufacturer's determination that the tobacco product is modified within the meaning of the exemption provision (section 905(j)(3)), the modifications are to a product that is commercially marketed and in compliance with the FD&C Act, the modifications are covered by exemptions granted under section 905(j)(3), and action taken to comply with any applicable requirements of section 907. FDA is also including an estimation of the burden associated with preparing an environmental assessment under part 25 prepared in accordance with the requirements of § 25.40, as referenced in § 1107.1(b)(9). FDA estimates that it will take 12 hours to prepare the environmental assessment.

The information collection provisions of this final rule have been submitted to OMB for review. Prior to the effective date of this final rule, FDA will publish a notice in the **Federal Register** announcing OMB's decision to approve, modify, or disapprove the information collection provisions in this final rule. 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.

IX. Federalism

FDA has analyzed this final rule in accordance with the principles set forth in Executive Order 13132. FDA has determined that the rule does not contain policies 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. Accordingly, the Agency concludes that the rule does not contain policies that have federalism implications as defined in the Executive order and, consequently, a federalism summary impact statement is not required.

X. References

The following references have been placed on display in the Division of Dockets Management (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852, and may be seen by interested persons between 9 a.m. and 4 p.m., Monday through Friday. (FDA has verified the Web site addresses, but we are not responsible for any subsequent changes to the Web sites after this document publishes in the **Federal Register**).

1. U.S. Census Bureau, 2007 Economic Census, ''Sector 31: EC0731I1: Manufacturing: Industry Series: Detailed Statistics by Industry for the United States: 2007,'' release date: October 30, 2009, access date: August 30, 2010, (*http://factfinder.census.gov/servlet/IBQTable?_bm=y&-ds_name=EC0731I1&-NAICS2007=312210*√*312221*√*312229&-ib_type=NAICS2007&-geo_id=&-industry=312221&-_lang=en&-fds_name=EC0700A1*).

2. U.S. Bureau of Labor Statistics, ''Occupational Employment Statistics: May 2009 National Industry-Specific Occupational Employment and Wage Estimates NAICS 312200—Tobacco Manufacturing,'' May 14, 2010, *http://data.bls.gov/cgi-bin/print.pl/oes/current/naics4_312200.htm.*

List of Subjects

21 CFR Part 16

Administrative practice and procedure.

21 CFR Part 1107

Tobacco products, Substantial equivalence, Exemptions.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs, 21 CFR parts 16 and 1107 are amended to read as follows:

PART 16—REGULATORY HEARING BEFORE THE FOOD AND DRUG ADMINISTRATION

■ 1. The authority citation for 21 CFR part 16 continues to read as follows:

Authority: 15 U.S.C. 1451–1461; 21 U.S.C. 141–149, 321–394, 467f, 679, 821, 1034; 28 U.S.C. 2112; 42 U.S.C. 201–262, 263b, 364.

§ 16.1 [Amended]

■ 2. Section 16.1 is amended in paragraph (b)(2) by adding in numerical sequence ''§ 1107.1(d), relating to rescission of an exemption from the requirement of demonstrating substantial equivalence for a tobacco product.''

■ 3. Add part 1107 to subchapter K to read as follows:

PART 1107—ESTABLISHMENT REGISTRATION, PRODUCT LISTING, AND SUBSTANTIAL EQUIVALENCE REPORTS

Subpart A—Exemptions

Sec.
1107.1 Exemptions.

Subpart B [Reserved]

Authority: 21 U.S.C. 387e(j) and 387j.

Subpart A—Exemptions

§ 1107.1 Exemptions.

(a) *General requirements.* Under section 905(j)(3) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 387e(j)(3)), FDA may exempt from the requirements relating to the demonstration that a tobacco product is substantially equivalent within the meaning of section 910 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 387j), tobacco products that are modified by adding or deleting a tobacco additive, or increasing or decreasing the quantity of an existing tobacco additive, if FDA determines that:

(1) Such modification would be a minor modification of a tobacco product that can be sold under the Federal Food, Drug, and Cosmetic Act (a legally marketed tobacco product);

(2) A report under section 905(j)(1) intended to demonstrate substantial equivalence is not necessary to ensure that permitting the tobacco product to be marketed would be appropriate for protection of the public health; and

(3) An exemption is otherwise appropriate.

(b) *Request for an exemption under section 905(j)(3) of the Federal Food, Drug, and Cosmetic Act.* A request for an exemption from the requirement of demonstrating substantial equivalence may be made only by the manufacturer of a legally marketed tobacco product for a minor modification to that tobacco product. To request an exemption, the manufacturer must submit the request and all information supporting the request in an electronic format that FDA can process, review, and archive. If the manufacturer is unable to submit an exemption request in an electronic format, the manufacturer may submit a written request to the Center for Tobacco Products explaining in detail why the manufacturer cannot submit

the request in an electronic format and requesting an alternative format. Such request must include an explanation of why an alternative format is necessary. All submissions, including requests to submit the information in an alternative format, requests for exemptions, and all supporting information must be legible and in the English language. An exemption request must contain:

(1) The manufacturer's address and contact information;

(2) Identification of the tobacco product(s);

(3) A detailed explanation of the purpose of the modification;

(4) A detailed description of the modification, including a statement as to whether the modification involves adding or deleting a tobacco additive, or increasing or decreasing the quantity of an existing tobacco additive;

(5) A detailed explanation of why the modification is a minor modification of a tobacco product that can be sold under the Federal Food, Drug, and Cosmetic Act;

(6) A detailed explanation of why a report under section 905(j)(1) of the Federal Food, Drug, and Cosmetic Act intended to demonstrate substantial equivalence is not necessary to ensure that permitting the tobacco product to be marketed would be appropriate for protection of the public health;

(7) A certification (*i.e.,* a signed statement by a responsible official of the manufacturer) summarizing the supporting evidence and providing the rationale for the official's determination that the modification does not increase the tobacco product's appeal to or use by minors, toxicity, addictiveness, or abuse liability;

(8) Other information justifying an exemption; and

(9) An environmental assessment under part 25 of this chapter prepared in accordance with the requirements of § 25.40 of this chapter.

(c) *Exemption determination.* FDA will review the information submitted and determine whether to grant or deny an exemption request based on whether the criteria in section 905(j)(3) of the Federal Food, Drug, and Cosmetic Act are met. FDA may request additional information if necessary to make a determination. FDA will consider the exemption request withdrawn if the information is not provided within the requested timeframe.

(d) *Rescission of an exemption.* FDA may rescind an exemption if it finds that the exemption is not appropriate for the protection of public health. In general, FDA will rescind an exemption only after notice and opportunity for a hearing under part 16 of this chapter is provided. However, FDA may rescind an exemption prior to notice and opportunity for a hearing under part 16 of this chapter if the continuance of the exemption presents a serious risk to public health. In that case, FDA will provide the manufacturer an opportunity for a hearing as soon as possible after the rescission.

Subpart B—[Reserved]

Dated: June 29, 2011.

Leslie Kux,

Acting Assistant Commissioner for Policy.

[FR Doc. 2011–16766 Filed 7–1–11; 8:45 am]

BILLING CODE 4160–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 201

[Docket No. FDA–1978–N–0018] (formerly Docket No. 1978N–0038)

RIN 0910–AF43

Labeling and Effectiveness Testing; Sunscreen Drug Products for Over-the-Counter Human Use

Correction

In rule document 2011–14766 appearing on pages 35620–35665 in the issue of Friday, June 17, 2011, make the following correction:

§ 201.327 [Corrected]

In § 201.327, on page 35661, in the third column, § 201.327(i)(1)(ii)(A)(*2*) and (*3*) should read as follows:

(*2*) $V_i(\lambda) = 10^{0.094 * (298-\lambda)}$ $(298 < \lambda \leq 328$ nm)

(*3*) $V_i(\lambda) = 10^{0.015 * (140-\lambda)}$ $(328 < \lambda \leq 400$ nm)

[FR Doc. C1–2011–14766 Filed 7–1–11; 8:45 am]

BILLING CODE 1505–01–D

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket No. USCG–2011–0198]

RIN 1625–AA00

Safety Zone; Upper Mississippi River, Mile 856.0 to 855.0, Minneapolis, MN

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a temporary safety zone for all waters of the Upper Mississippi River, from Mile 856.0 to 855.0, Minneapolis, Minnesota, and extending the entire width of the river. This safety zone is needed to protect participants and event personnel during the U.S. Wakeboard Nationals occurring on the Upper Mississippi River. Entry into this zone is prohibited unless specifically authorized by the Captain of the Port Upper Mississippi River or a designated representative during the period of enforcement.

DATES: This rule is effective from 8 a.m. on July 20, 2011 through 6 p.m. CDT on July 24, 2011.

ADDRESSES: Documents indicated in this preamble as being available in the docket are part of docket USCG–2011–0198 and are available online by going to *http://www.regulations.gov,* inserting USCG–2011–0198 in the ''Keyword'' box, and then clicking ''Search.'' They are also available for inspection or copying at the Docket Management Facility (M–30), U.S. Department of Transportation, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue, SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: If you have questions on this temporary rule, call or e-mail Chief Petty Officer Bryan Klostermeyer, Sector Upper Mississippi River Response Department at telephone (314) 269–2566, e-mail *Bryan.K.Klostermeyer@uscg.mil.* If you have questions on viewing the docket, call Renee V. Wright, Program Manager, Docket Operations, telephone 202–366–9826.

SUPPLEMENTARY INFORMATION:

Regulatory Information

The Coast Guard is issuing this temporary final rule without prior notice and opportunity to comment pursuant to authority under section 4(a) of the Administrative Procedure Act (APA) (5 U.S.C. 553(b)). This provision authorizes an agency to issue a rule without prior notice and opportunity to comment when the agency for good cause finds that those procedures are ''impracticable, unnecessary, or contrary to the public interest.''

Under 5 U.S.C. 553(b)(B), the Coast Guard finds that good cause exists for not using the notice of proposed rulemaking (NPRM) process. The Coast Guard received notice of the U.S. Wakeboard Nationals event on May 11, 2011. This short notice did not allow the time needed to publish a NPRM and provide a comment period. Delaying this rule by publishing a NPRM would be impracticable because this rule is

needed to protect vessels and mariners from the safety hazards associated with the scheduled demonstration.

Under 5 U.S.C. 553(d)(3), the Coast Guard finds that good cause exists for making this rule effective less than 30 days after publication in the **Federal Register**. Delaying this rule by providing a full 30 days notice would be impracticable because immediate action is needed to protect vessels and mariners from the safety hazards associated with a wakeboard competition.

Basis and Purpose

From July 20 through July 24, 2011, World Sports and Marketing will sponsor the U.S. Wakeboard Nationals between Mile 856.0 and 855.0 on the Upper Mississippi River in Minneapolis, Minnesota. This event presents safety hazards to the navigation of vessels between Mile 856.0 and 855.0, extending the entire width of the river.

Discussion of Rule

The Coast Guard is establishing a safety zone for all waters of the Upper Mississippi River, Mile 856.0 to 855.0, Minneapolis, Minnesota and extending the entire width of the river. Entry into this zone is prohibited to all vessels and persons except U.S. Wakeboard Nationals participants and those persons and vessels specifically authorized by the Captain of the Port Upper Mississippi River. This rule is effective from 8 a.m. on July 20, 2011 through 6 p.m. on July 24, 2011. This rule will be enforced daily from 9 a.m. until 5:30 p.m. on July 20 through 24, 2011. The Captain of the Port Upper Mississippi River will inform the public through broadcast notice to mariners of all safety zone requirements, changes, and enforcement periods.

Regulatory Analyses

We developed this rule after considering numerous statutes and executive orders related to rulemaking. Below we summarize our analyses based on 13 of these statutes or executive orders.

Regulatory Planning and Review

This rule is not a ''significant regulatory action'' under section 3(f) of Executive Order 12866, Regulatory Planning and Review, and does not require an assessment of potential costs and benefits under section 6(a)(3) of that Order. The Office of Management and Budget has not reviewed it under that Order.

Although this regulation will restrict access to this area, the effect of the rule is not significant because this rule will be in effect for a limited time period and notifications to the marine community will be made through local notice to mariners.

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.

The Coast Guard certifies under 5 U.S.C. 605(b) that this rule will not have a significant economic impact on a substantial number of small entities. This rule will affect the following entities, some of which may be small entities: The owners or operators of vessels intending to transit the Upper Mississippi River, Mile 856.0 to 855.0 after 8 a.m. on July 20, 2011 through 6 p.m. CDT on July 24, 2011. This safety zone will not have a significant economic impact on a substantial number of small entities because this rule will only be in effect for a limited period of time.

If you are a small business entity and are significantly affected by this regulation, please contact Chief Petty Officer Bryan Klostermeyer, Sector Upper Mississippi River at (314) 269–2566.

Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121), we offer to assist small entities in understanding the rule so that they can better evaluate its effects on them and participate in the rulemaking process.

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 businesses. If you wish to comment on actions by employees of the Coast Guard, call 1–888–REG–FAIR (1–888–734–3247). The Coast Guard will not retaliate against small entities that question or complain about this rule or any policy or action of the Coast Guard.

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).

Federalism

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

Unfunded Mandates Reform Act

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

Taking of Private Property

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

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.

Protection of Children

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

Indian Tribal Governments

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

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. The Administrator of the Office of Information and Regulatory Affairs has not designated it as a significant energy action. Therefore, it does not require a Statement of Energy Effects under Executive Order 13211.

Technical Standards

The National Technology Transfer and Advancement Act (NTTAA) (15 U.S.C. 272 note) directs agencies to use voluntary consensus standards in their regulatory activities unless the agency provides Congress, through the Office of Management and Budget, with an explanation of why using these standards would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (e.g., specifications of materials, performance, design, or operation; test methods; sampling procedures; and related management systems practices) that are developed or adopted by voluntary consensus standards bodies. This rule does not use technical standards. Therefore, we did not consider the use of voluntary consensus standards.

Environment

We have analyzed this rule under Department of Homeland Security Management Directive 023–01 and Commandant Instruction M16475.lD, which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321–4370f), and have concluded this action is one of a category of actions which do not individually or cumulatively have a significant effect on the human environment. This rule is categorically excluded, under figure 2–1, paragraph 34(g), of the Instruction. This rule established a temporary safety zone. An environmental analysis checklist and a categorical exclusion determination will be available in the docket where indicated under **ADDRESSES**.

List of Subjects in 33 CFR Part 165

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

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

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

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

Authority: 33 U.S.C. 1226, 1231; 46 U.S.C. Chapter 701, 3306, 3703; 50 U.S.C. 191, 195; 33 CFR 1.05–1, 6.04–1, 6.04–6, and 160.5; Pub. L. 107–295, 116 Stat. 2064; Department of Homeland Security Delegation No. 0170.1.

■ 2. Add § 165.T11–0198 to read as follows:

§ 165.T11–0198 Safety Zone; Upper Mississippi River, Mile 856.0 to 855.0, Minneapolis, MN.

(a) *Location.* The following area is a safety zone: All waters of the Upper Mississippi River, Mile 856.0 to 855.0, Minneapolis, Minnesota, and extending the entire width of the waterway.

(b) *Effective date.* This rule is effective from 8 a.m. on July 20, 2011 through 6 p.m. on July 24, 2011.

(c) *Periods of Enforcement.* This rule will be enforced daily from 9 a.m. until 5:30 p.m. on July 20 through 24, 2011. The Captain of the Port Upper Mississippi River will inform the public of the enforcement periods and any safety zone changes through broadcast notice to mariners.

(d) *Regulations.* (1) In accordance with the general regulations in 33 CFR part 165, subpart C, entry into this zone is prohibited unless authorized by the Captain of the Port Upper Mississippi River or a designated representative.

(2) Persons or vessels requiring entry into or passage through the zone must request permission from the Captain of the Port Upper Mississippi River or a designated representative. The Captain of the Port Upper Mississippi River representative may be contacted at (314) 269–2332.

(3) All persons and vessels shall comply with the instructions of the Captain of the Port Upper Mississippi River or their designated representative. Designated Captain of the Port representatives include United States Coast Guard commissioned, warrant, and petty officers.

Dated: May 25, 2011.

S.L. Hudson,

Captain, U.S. Coast Guard, Captain of the Port Upper Mississippi River.

[FR Doc. 2011–16684 Filed 7–1–11; 8:45 am]

BILLING CODE 9110–04–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R06–OAR–2007–0924; FRL–9323–7]

Approval and Promulgation of Air Quality Implementation Plans, State of Louisiana

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA is finalizing approval of portions of State Implementation Plan (SIP) revisions for the State of Louisiana. The rule revisions, which cover the years 1996–2006, were submitted by the State of Louisiana, and include formatting changes, regulatory wording changes, substantive or content changes, and incorporation by reference (IBR) of Federal rules. The overall intended outcome will make the approved Louisiana SIP consistent with current Federal and State requirements. We are approving the revisions in accordance with 110 of the Clean Air Act (CAA or Act) and EPA's regulations.

DATES: This rule is effective August 4, 2011.

ADDRESSES: EPA has established a docket for this action under Docket No. EPA–R06–OAR–2007–0924. All documents in the docket are listed in the *http://www.regulations.gov* index. Although listed in the index, some information is not publicly available, *e.g.,* Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material will be publicly available only in hard copy.

Publicly available docket materials are available either electronically in *http://www.regulations.gov* or in hard copy at the Air Planning Section (6PD–L), Environmental Protection Agency, 1445 Ross Avenue, Suite 700, Dallas, Texas 75202–2733. The file will be made available by appointment for public inspection in the Region 6 FOIA Review Room between the hours of 8:30 a.m. and 4:30 p.m. weekdays except for legal holidays.

Contact the person listed in the **FOR FURTHER INFORMATION CONTACT** paragraph below to make an appointment. If possible, please make the appointment at least two working days in advance of your visit. There will be a fee of 15 cents per page for making photocopies of documents. On the day of the visit, please check in at the EPA Region 6 reception area at 1445 Ross Avenue, Suite 700, Dallas, Texas 75202–2733.

FOR FURTHER INFORMATION CONTACT: Ms. Sandra Rennie, Air Planning Section (6PD–L), Environmental Protection Agency, Region 6, 1445 Ross Avenue, Suite 700, Dallas, Texas 75202–2733, telephone (214) 665–7367, fax (214) 665–7263, e-mail address *rennie.sandra@epa.gov.*

SUPPLEMENTARY INFORMATION: Throughout this document whenever ''we,'' ''us,'' or ''our'' is used, we mean EPA.

Table of Contents

I. What action is EPA taking?
II. What is being addressed in this document?
III. Why can we approve these revisions?
IV. What are some of the substantive rule changes?
V. What comments did we receive?
VI. Final Action
VII. Statutory and Executive Order Reviews

I. What action is EPA taking?

We are finalizing approval of revisions to the Louisiana SIP, submitted by the LDEQ from 1996–2006. The revisions affect the Louisiana Administrative Code, the official compilation of Agency rules for the State of Louisiana. The revisions apply to LAC 33:III, Chapters 1, 7, 9, 11, 13, 14, 15, 19, 21, 23, 25, 30, 60, and 61. These revisions were submitted for approval during the years 1996–2006. The revisions make corrections or changes that align the SIP with State and Federal regulations.

II. What is being addressed in this document?

The State of Louisiana submitted numerous SIP revisions for EPA approval from the years 1996 to 2006.

The revisions were submitted to EPA according to the schedule in Table 1.

TABLE 1—LOUISIANA RULE REVISIONS TO THE STATE IMPLEMENTATION PLANS (SIP)

Submitted to EPA by the Governor of Louisiana or his designee on	For the rules adopted into the SIP during calendar year	Revisions to LAC 33:III Chapters
April 30, 1997	1996	1, 15, 21, 25, 29, 30, 31, 60, 61, 64.
July 25, 1997	1996 and earlier	1, 2, 5, 7, 9, 11, 13, 21, 23, 25, 30, 31, 60, 64, 65.
June 22, 1998	1997	2, 5, 13, 15, 21, 23, 25.
February 2, 2000	1998	5, 6, 11, 15, 21, 23, 25.
January 27, 2003	1999–2001	2, 5, 6, 11, 19, 21, 61.
June 27, 2003	2002	5.
September 14, 2004	2003	9, 21.
June 3, 2005	2004	2, 21.
May 5, 2006	2005	2, 5, 6, 9, 11, 14, 15, 21, 22, 23.
June 15, 2005	Baton Rouge Severe Area Rule Update	5, 21, 22.
November 9, 2007	2006	1, 5, 7, 9, 23.

These cumulative revisions affect LAC 33:III, Chapters 1, 2, 5, 6, 7, 9, 11, 13, 14, 15, 19, 21, 22, 23, 25, 30, 60, 61, and 65. This action addresses revisions in all but Chapters 2, 5, 6, and 65.

The revisions being approved are comprised of format changes, nonsubstantive regulatory wording changes, content or substantive changes, and incorporations by reference (IBR) of Federal rules. Format changes are revisions that affect the overall structure and arrangement of the LAC. These changes, among other things, involve moving an item from one section to another, repealing and replacing whole chapters, renumbering, repositioning contents. Nonsubstantive regulatory wording changes are revisions that do not dramatically affect the content of the rule but do add clarity. These changes, among other things, may appear in the form of corrections for typographical errors, grammatical errors, minor language changes, updating revisions, and changing reference citations that clarify the current rule. Content or substantive changes are revisions that alter the original meaning of the rule in a noticeable or significant manner. These revisions, among other things, may be in the form of an addition of a compound on an exemption list, modifications to requirements, fee increases, or creation of new requirements. Incorporation by reference revisions make the State's rules consistent with Federal regulations by referring to the Federal requirements that apply.

The revisions being acted upon are described in detail in the Technical Support Document and listed in the Incorporation By Reference (IBR) Table located at the end of this document.

The most notable format changes were made in Chapters 60, 61, and 65. These Chapters were repealed and the contents moved to other existing chapters. Although we proposed to approve the repeal of Chapter 65, we will not be finalizing that repeal in this action. The contents of Chapter 65 were moved to Chapter 2, and we are not acting on Chapter 2 at this time. We will act on the repeal of Chapter 65 when we act on the revisions to Chapter 2. Highlights of certain content or substantive changes are summarized in section V.

Some revisions submitted by the state during the years of 1996–2006 are not being acted upon by the EPA at this time for several reasons: (1) EPA plans to review and act upon several revisions, such as Chapter 2 and Chapter 5, in a separate action; (2) Some submitted revisions did not require further action because they were either superseded by subsequent submittals, made moot by prior approvals, already approved (Chapter 6), replaced by other program rules (sections 1901–1935), or submitted for clarifying purposes; and (3) EPA is not acting on certain revisions in LAC 33:III, sections 927, 1109, 1507, 1509, 2103, 2104, 2107, 2120, 2129, 2133, 2160, 2531, and a resubmittal of 2156–2160 because the State requested that we not act on certain revisions in a letter dated January 25, 2011. In the last case, we find that not acting on these revisions does not affect the approvability of the other revisions under consideration. We are also not acting on LAC 33:III, sections 1901–1935 (vehicle inspection and maintenance) because the program for which these rules were written was never implemented, and we subsequently approved a substitute program in 67 FR 60594, September 26, 2002.

We note that in our proposal (February 25, 2011, 76 FR 10544) we inadvertently included in Table 2 a revision to Section 1507 that had been withdrawn by the State in the above-referenced letter dated January 25, 2011. We stated that this section had been withdrawn by the State in our proposal. Hence, section 1507 does not appear in the IBR Table at the end of this action.

III. Why can we approve these revisions?

The rule revisions submitted were examined for consistency with Federal policy, regulations, and the Clean Air Act. Each rule revision referred to in the IBR Table was reviewed separately and found to be approvable on its own merits. A detailed evaluation of each of the approved rules is contained in the Technical Support Document for this rulemaking.

IV. What are some of the substantive rule changes?

In Chapter 7, ambient air quality standards were updated to reflect Federal standards that were current at the time of the revision.

All of chapter 19 was repealed. This chapter contained vehicle inspection and maintenance (I/M) rules that became obsolete when the I/M program was finally authorized and administered under the existing rules of the state safety inspection program. The I/M rules in chapter 19 had not been submitted for approval into the SIP, so no backsliding is implied by the repeal. In addition, clean fuel fleet rules were repealed from this chapter. Although these rules had been approved into the SIP, stationary source VOC (volatile organic compound) rules were substituted for the clean fuel fleet program, so no backsliding occurred. See 64 FR 38577, July 19, 1999.

There were a number of substantive changes in chapter 21. Under storage of volatile organic compounds (section 2103) LDEQ added (1) VOC requirements for Calcasieu and Pointe Coupee Parishes, (2) other acceptable methods for determining true vapor pressure, (3) additional record keeping requirements to verify compliance, and (4) an allowance for maintaining VOC control equipment. New requirements for crude oil and condensate in section 2104 add VOC control requirements for ''flash gas'' emissions from facilities that produce oil and natural gas, process natural gas, and transmit natural gas, which are consistent with the CAA.

The marine vapor recovery exemption in section 2108 is lowered to 25 tons per year to ensure RACT (Reasonably Available Control Technology) is in place. Similarly, the revisions to the waste gas disposal rules in section 2115 make sure RACT is in place for these vent streams.

The list of compounds exempt from VOC control requirements in section 2117 is expanded to keep the list up to date with the Federal list of exempted compounds. Changes in section 2122, Fugitive Emissions Control for Ozone Nonattainment Areas, improve the rule by making it more consistent with the Federal Leak Detection and Repair Program (LDAR) requirements.

The VOC requirements for vapor degreasers are strengthened in section 2125. Section 2129 concerning perchlorethylene is rescinded because EPA exempted ''perc'' from VOC control. St. Mary Parish is now included in the areas where filling of gasoline storage vessels is controlled in section 2131. A revision to section 2133 lowers the exemption threshold for gasoline bulk plants.

The following sections change the major source threshold from 50 to 25 tons per year (tpy) in the nonattainment parishes and 50 tpy in Pointe Coupee and Calcasieu Parishes: section 2143 pertaining to graphic arts and rotogravure and flexographic processes, 2147 that limits the VOC emissions from SOCMI (synthetic organic chemical manufacturing industry) reactor processes and distillation operations, 2149 that limits the VOC emissions from batch processes, 2151 that limits VOC emissions from cleanup solvent processes, and 2153 that limits VOC emissions from industrial wastewater. By lowering the applicability level, the revisions ensure that RACT is in place on 25 tpy and greater sources as required for severe ozone nonattainment areas.

V. What comments did we receive?

We received comments in support of this rulemaking from the Louisiana Chemical Council. We also received a comment letter from a private citizen that was not relevant to this rulemaking.

Lastly, we received comments from the Environmental Integrity Project (EIP). In general, EIPs comments focus on whether Louisiana has adequate funding to properly implement the proposed SIP revisions and that the state's Title V fees are inadequate. We believe the comments are not relevant to the specific rule revisions being approved here. These rule revisions are in large part administrative type changes and revisions that provide clarity to the state's base rules. They do not address fees or Title V. The EIP also commented that the revisions being approved in this action interfere with applicable requirements of the Clean Air Act. The commenter did not provide specific examples where the revisions interfere with applicable requirements. The Technical Support Document found in the Docket examines in detail each rule revision to determine if the change adversely impacts the SIP. The revisions fall into four categories listed above in section III. A majority of the revisions are format changes, nonsubstantive word changes, or incorporation by reference of Federal rules. The rules that contain substantive revisions are summarized in section V of this document. For details on the substantive rule revisions please see the TSD. Based on the analyses in the TSD, we conclude that these SIP revisions do not interfere with applicable requirements of the Act.

VI. Final Action

We are finalizing approval of rule revisions to LAC 33:III, Chapters 1, 7, 9, 11, 13, 15, 19, 21, 22, 23, 25, 30, 60, and 61 as part of the Louisiana SIP as they appear in the IBR Table below.

VII. Statutory and Executive Order Reviews

Under the Clean Air Act, the Administrator is required to approve a SIP submission that complies with the provisions of the Act and applicable Federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the Clean Air Act. Accordingly, this final 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 final action:

- Is not a ''significant regulatory action'' subject to review by the Office of Management and Budget under Executive Order 12866 (58 FR 51735, October 4, 1993);
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4);
- Does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- Is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement

Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the Clean Air Act; and

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

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

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Carbon monoxide, Hydrocarbons, Incorporation by reference, Intergovernmental relations, Lead, Nitrogen oxides, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides, Volatile organic compounds.

Dated: June 10, 2011.

Al Armendariz,

Regional Administrator, Region 6.

40 CFR part 52 is amended as follows:

PART 52—[AMENDED]

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

Authority: 42 U.S.C. 7402 *et seq.*

Subpart T—Louisiana

■ 2. The table in § 52.970(c) entitled ''EPA Approved Louisiana Regulations in the Louisiana SIP'' is amended as follows:

■ a. Under Chapter 1, General Provisions, by revising entries for Section 111;

■ b. Under Chapter 7, Ambient Air Quality, by revising the entry for Section 701, and 709, and adding an entry for Section 711;

■ c. Under Chapter 9, General Regulations on Control of Emissions and Emission Standards, by removing the entry for Section 907 and by revising the entries for Section 918 and Section 919;

■ d. Under Chapter 11, Control of Emissions From Smoke, by revising the entries for Sections 1101, 1105, 1107 and 1109;

■ g. Under Chapter 13, Emission Standards for Particulate Matter, by revising the entries for Sections 1303, 1311, and Section 1319;

■ h. Under Chapter 14, Conformity, by revising the entry for Section 1410;

■ i. Under Chapter 15, Emission Standards for Sulfur Dioxide, by revising the entries for Section 1503 and Section 1511;

■ i. By removing the title and all entries for Chapter 19, Mobile Sources;

■ j. Under Chapter 21, Control of Emissions of Organic Compounds, by adding section 2104; by removing the heading ''Subchapter E, Perchloroethylene Dry Cleaning Systems''; by removing the entry for Section 2129; and by revising the entries for Sections 2103, 2107, 2108, 2109, 2113, 2115, 2117, 2121, 2122, 2123, 2125, 2131, 2132, 2133, 2135, 2137, 2139, 2143, 2145, 2147, 2149, 2151, 2153, and by adding entries for Sections 2155, 2156, 2157, 2158, 2159, 2160, and 2199;

■ k. Under Chapter 22, Control of Emissions of Nitrogen Oxides (NO_X), by revising the entry for Section 2201;

■ l. Under Chapter 23, Control of Emissions from Specific Industries, by revising the entry for Section 2301, 2303, and 2307;

■ m. By adding entries for Chapter 25, Miscellaneous Incineration Rules, adding Subchapter A, Scope and General Provisions;

■ n. By adding entries for Chapter 30, by adding Chapter 30, Standards of Performance for New Stationary Sources (NSPS;

■ o. Removing the title and all entries for Chapter 60, Test Methods—NSPS Division's Source Test Manual; and Chapter 61, Divisions Source Test Method.

The revised sections read as follows:

§ 52.970 Identification of plan.

* * * * *

(c) * * *

EPA APPROVED REGULATIONS IN LOUISIANA SIP

State citation	Title/subject	State approval date	EPA approval date	Comments
LAC Title 33. Environmental Quality Part III. Air Chapter 1. General Provisions				
* *	*	*	* *	* *
Section 111	Definitions	10/20/1995	7/05/2011 [Insert FR page number where document begins].	Definition of *Undesirable Levels* repealed.
Section 111	Definitions	12/20/1996	7/05/2011 [Insert FR page number where document begins].	*Good Performance Level Particulate Matter Emissions Reference Method.*
Section 111	Definitions	9/20/2006	7/05/2011 [Insert FR page number where document begins].	*Ozone Exceedance.*
* *	*	*	* *	* *
Chapter 7. Ambient Air Quality				
Section 701.C	Purpose	10/20/1995	7/05/2011 [Insert FR page number where document begins].	

EPA APPROVED REGULATIONS IN LOUISIANA SIP—Continued

State citation	Title/subject	State approval date	EPA approval date	Comments
Section 709.A	Measurement of Concentrations—PM_{10}, $PM_{2.5}$, Sulfur Dioxide, Carbon Monoxide, Atmospheric. Oxidants, Nitrogen Oxides, and Lead.	9/20/2006	7/05/2011 [Insert FR page number where document begins].	
Section 711	Tables 1, 1a, 2-Air Quality	9/20/2006	7/05/2011 [Insert FR page number where document begins].	
* *	*	*	* *	*
Chapter 9. General Regulation on Control of Emissions and Emission Standards				
* *	*	*	* *	*
Section 918	Recordkeeping and Annual Reporting.	10/20/2005	7/05/2011 [Insert FR page number where document begins].	
Section 919–919.A.6	Emissions Inventory	2/20/2006	7/05/2011 [Insert FR page number where document begins].	
Section 919.B.1	Types of Inventories	2/20/2006	7/05/2011 [Insert FR page number where document begins].	
Section 919.B.2–919.B.5.g.v	Types of Inventories	12/20/2003	7/05/2011 [Insert FR page number where document begins].	
Section 919.C	Calculations	2/20/2006	7/05/2011 [Insert FR page number where document begins].	
Section 919. D.–F	Reporting Requirements Enforcement Fees.	12/20/2003	7/05/2011 [Insert FR page number where document begins].	
* *	*	*	* *	*
Chapter 11. Control of Emissions of Smoke				
Section 1101.A	Control of Air Pollution from Smoke. Purpose.	10/20/1995	7/05/2011 [Insert FR page number where document begins].	
Section 1105.A	Smoke from Flaring Shall Not Exceed 20 Percent Opacity.	7/20/2005	7/05/2011 [Insert FR page number where document begins].	
Section 1107.A	Exemptions	7/20/2005	7/05/2011 [Insert FR page number where document begins].	
Section 1109.A	Control of Air Pollution from Outdoor Burning.	10/20/1995	7/05/2011 [Insert FR page number where document begins].	
Section 1109.B	Control of Air Pollution from Outdoor Burning.	4/20/1998	7/05/2011 [Insert FR page number where document begins].	
Section 1109.E.–ll09.F	Control of Air Pollution from Outdoor Burning.	4/20/1998	7/05/2011 [Insert FR page number where document begins].	
* *	*	*	* *	*
Chapter 13. Emission Standards for Particulate Matter (Including Standards for Some Specific Facilities) Subchapter A. General				
* *	*	*	* *	*
Section 1303.A	Toxic Substances	10/20/1995	7/05/2011 [Insert FR page number where document begins].	

EPA APPROVED REGULATIONS IN LOUISIANA SIP—Continued

State citation	Title/subject	State approval date	EPA approval date	Comments
Section 1311.C.–1311.D	Emission Limits	6/20/1997	7/05/2011 [Insert FR page number where document begins].	
* *	*	*	* *	*
Subchapter D	Refuse Incinerators	10/20/1994	7/05/2011 [Insert FR page number where document begins].	
* *	*	*	* *	*
Section 1319	Refuse Incinerators	10/20/1994	7/05/2011 [Insert FR page number where document begins].	
* *	*	*	* *	*
Chapter 14. Conformity				
* *	*	*	* *	*
Section 1410.A.5.a.i	Criteria for Determining Conformity of General Federal Actions.	10/20/2005	7/05/2011 [Insert FR page number where document begins].	
* *	*	*	* *	*
Chapter 15. Emission Standards for Sulfur Dioxide				
Section 1503	Emission Standards for Sulfur Dioxide. Emission Limitations.	7/20/1998	7/05/2011 [Insert FR page number where document begins].	
Section 1511.B	Continuous Emission Monitoring.	12/20/1996	7/05/2011 [Insert FR page number where document begins].	
* *	*	*	* *	*
Chapter 21. Control of Emission of Organic Compounds Subchapter A. General				
* *	*	*	* *	*
Section 2103.A–2103.B	Storage of Volatile Organic Compounds.	5/20/1999	7/05/2011 [Insert FR page number where document begins].	
Section 2103.C–2103.D.4	Storage of Volatile Organic Compounds.	6/20/1996	7/05/2011 [Insert FR page number where document begins].	
2103.D.4.a	Storage of Volatile Organic Compounds.	10/20/2005	7/05/2011 [Insert FR page number where document begins].	
Section 2103.D.4.b.–2103.D.4.d.	Storage of Volatile Organic Compounds.	8/20/2002	7/05/2011 [Insert FR page number where document begins].	
Section 2103.G.1–2103.G.2	Storage of Volatile Organic Compounds.	6/20/1996	7/05/2011 [Insert FR page number where document begins].	
Section 2103.G.3–2103.G.5	Storage of Volatile Organic Compounds.	12/20/1998	7/05/2011 [Insert FR page number where document begins].	
Section 2103.H.2.a.–d	Storage of Volatile Organic Compounds.	12/20/1996	7/05/2011 [Insert FR page number where document begins].	
Section 2103.H.3	Storage of Volatile Organic Compounds.	2/20/1998	7/05/2011 [Insert FR page number where document begins].	
Section 2103.I.6	Storage of Volatile Organic Compounds.	12/20/1998	7/05/2011 [Insert FR page number where document begins].	

EPA APPROVED REGULATIONS IN LOUISIANA SIP—Continued

State citation	Title/subject	State approval date	EPA approval date	Comments
Section 2103.I.7	Storage of Volatile Organic Compounds.	8/20/2002	7/05/2011 [Insert FR page number where document begins].	
Section 2104.A	Crude Oil and Condensate	4/20/2004	7/05/2011 [Insert FR page number where document begins].	
Section 2104.B.–2104.C.1	Crude Oil and Condensate	11/20/1997	7/05/2011 [Insert FR page number where document begins].	
Section 2104.C.2.–2104.C.4	Crude Oil and Condensate	4/20/2004	7/05/2011 [Insert FR page number where document begins].	
Section 2104.D	Crude Oil and Condensate	11/20/1997	7/05/2011 [Insert FR page number where document begins].	
Section 2104.E	Crude Oil and Condensate	4/20/2004	7/05/2011 [Insert FR page number where document begins].	
Section 2104.F.–2104.F.2.d	Crude Oil and Condensate	11/20/1997	7/05/2011 [Insert FR page number where document begins].	
Section 2104.G	Crude Oil and Condensate	11/20/1997	7/05/2011 [Insert FR page number where document begins].	
Section 2107.E.1.–2	Volatile Organic Compounds—Loading.	12/20/1996	7/05/2011 [Insert FR page number where document begins].	
Section 2108.A	Marine Vapor Recovery	4/20/2004	7/05/2011 [Insert FR page number where document begins].	
Section 2108.C.2.–2108.C.3	Marine Vapor Recovery	1/20/1998	7/05/2011 [Insert FR page number where document begins].	
Section 2108.D.4	Marine Vapor Recovery	4/20/2004	7/05/2011 [Insert FR page number where document begins].	
Section 2108.E.1.a.i.–ii. and E.1.b.	Marine Vapor Recovery	12/20/1996	7/05/2011 [Insert FR page number where document begins].	
Section 2108.E.2	Marine Vapor Recovery	7/20/1998	7/05/2011 [Insert FR page number where document begins].	
Section 2108.E.3. and E.5	Marine Vapor Recovery	12/20/1996	7/05/2011 [Insert FR page number where document begins].	
Section 2108.F.1	Marine Vapor Recovery	10/20/2005	7/05/2011 [Insert FR page number where document begins].	
Section 2109.C,1–4	Oil/Water—Separation	12/20/1996	7/05/2011 [Insert FR page number where document begins].	
Section 2113.A	Housekeeping	5/20/1999	7/05/2011 [Insert FR page number where document begins].	
Section 2113.A.4	Housekeeping	10/20/2005	7/05/2011 [Insert FR page number where document begins].	
Section 2115	Waste Gas Disposal Introductory paragraph.	4/20/2004	7/05/2011 [Insert FR page number where document begins].	
Section 2115.A.–2115.G	Waste Gas Disposal	2/20/1998	7/05/2011 [Insert FR page number where document begins].	
Section 2115.H.1.a	Waste Gas Disposal	4/20/2004	7/05/2011 [Insert FR page number where document begins].	
Section 2115.H.2.–2115.H.3	Waste Gas Disposal	2/20/1998	7/05/2011 [Insert FR page number where document begins].	

EPA APPROVED REGULATIONS IN LOUISIANA SIP—Continued

State citation	Title/subject	State approval date	EPA approval date	Comments
Section 2115.I.1–4	Waste Gas Disposal	12/20/1996	7/05/2011 [Insert FR page number where document begins].	
Section 2115.J	Waste Gas Disposal	4/20/2004	7/05/2011 [Insert FR page number where document begins].	
Section 2115.K.4	Waste Gas Disposal	2/20/1998	7/05/2011 [Insert FR page number where document begins].	
Section 2115.M	Waste Gas Disposal	2/10/1998	7/05/2011 [Insert FR page number where document begins].	
Section 2117	Exemptions	2/20/1999	7/05/2011 [Insert FR page number where document begins].	
Section 2121.A	Fugitive Emission Control	8/20/2004	7/05/2011 [Insert FR page number where document begins].	
Section 2121.B.1	Fugitive Emission Control	8/20/2004	7/05/2011 [Insert FR page number where document begins].	
Section 2121.C.1.a.ii	Fugitive Emission Control	7/20/2000	7/05/2011 [Insert FR page number where document begins].	
Section 2121.C.3.b.–2121.C.3.c.	Fugitive Emission Control	8/20/2004	7/05/2011 [Insert FR page number where document begins].	
Section 2121.C.4.h.i	Fugitive Emission Control	1/20/1998	7/05/2011 [Insert FR page number where document begins].	
Section 2121.D.1	Fugitive Emission Control	12/20/1995	7/05/2011 [Insert FR page number where document begins].	
Section 2121.F	Fugitive Emission Control	10/20/2005	7/05/2011 [Insert FR page number where document begins].	
Section 2121.G	Fugitive Emission Control	8/20/2004	7/05/2011 [Insert FR page number where document begins].	
Section 2122.A.–2122A.1	Fugitive Emission Control for Ozone Nonattainment Areas.	8/20/2004	7/05/2011 [Insert FR page number where document begins].	
Section 2122.A.2–A.5	Fugitive Emission Control for Ozone Nonattainment Areas.	8/20/2002	7/05/2011 [Insert FR page number where document begins].	
Section 2122A.6–6.d	Fugitive Emission Control for Ozone Nonattainment Areas.	7/20/1998	7/05/2011 [Insert FR page number where document begins].	
Section 2122B	*Fugitive Emission Control for Ozone Nonattainment Areas Definitions.*	*11/20/1996*	7/05/2011 [Insert FR page number where document begins].	*Inaccessible Valve/Connector.*
Section 2122B	*Fugitive Emission Control for Ozone Nonattainment Areas Definitions.*	*12/20/1996*	7/05/2011 [Insert FR page number where document begins].	*Good Performance Level.*
Section 2122B	*Fugitive Emission Control for Ozone Nonattainment Areas Definitions.*	*8/20/2004*	7/05/2011 [Insert FR page number where document begins].	*Instrumentation System.*
Section 2122C.1.a.–2122.C.1.b	Fugitive Emission Control for Ozone Nonattainment Areas.	8/20/2004	7/05/2011 [Insert FR page number where document begins].	
Section 2122.C.1.c	Fugitive Emission Control for Ozone Nonattainment Areas.	11/20/1996	7/05/2011 [Insert FR page number where document begins].	
Section 2122.C.1.d	Fugitive Emission Control for Ozone Nonattainment Areas.	7/20/1998	7/05/2011 [Insert FR page number where document begins].	
Section 2122.C.4	Fugitive Emission Control for Ozone Nonattainment Areas and Specified Parishes.	8/20/2004	7/05/2011 [Insert FR page number where document begins].	

EPA APPROVED REGULATIONS IN LOUISIANA SIP—Continued

State citation	Title/subject	State approval date	EPA approval date	Comments
Section 2122.D.1.a	Fugitive Emission Control for Ozone Nonattainment Areas.	11/20/1996	7/05/2011 [Insert FR page number where document begins].	
Section 2122.D.1.d–f	Fugitive Emission Control for Ozone Nonattainment Areas and Specified Parishes.	8/20/2004	7/05/2011 [Insert FR page number where document begins].	
Section 2122.D.3.b	Fugitive Emission Control for Ozone Nonattainment Areas.	8/20/2004	7/05/2011 [Insert FR page number where document begins].	
Section 2122.D.3.d	Fugitive Emission Control for Ozone Nonattainment Areas.	11/20/1996	7/05/2011 [Insert FR page number where document begins].	
Section 2122.D.3.e	Fugitive Emission Control for Ozone Nonattainment Areas and Specified Parishes.	8/20/2004	7/05/2011 [Insert FR page number where document begins].	
Section 2122.D.4.h	Fugitive Emission Control for Ozone Nonattainment Areas.	1/20/1998	7/05/2011 [Insert FR page number where document begins].	
Section 2122.D.4.k.–1	Fugitive Emission Control for Ozone Nonattainment Areas.	11/20/1996	7/05/2011 [Insert FR page number where document begins].	
Section 2122.E.1.g	Fugitive Emission Control for Ozone Nonattainment Areas and Specified Parishes.	8/20/2004	7/05/2011 [Insert FR page number where document begins].	
Section 2122.E.3.–5	Fugitive Emission Control for Ozone Nonattainment Areas and Specified Parishes.	8/20/2004	7/05/2011 [Insert FR page number where document begins].	
Section 2122.G	Fugitive Emission Control for Ozone Nonattainment Areas and Specified Parishes.	10/20/2005	7/05/2011 [Insert FR page number where document begins].	
	Subchapter B. Organic Solvents			
Section 2123.B.1	Organic Solvents	7/20/1999	7/05/2011 [Insert FR page number where document begins].	
Section 2123.B.2	Organic Solvents	1/20/1998	7/05/2011 [Insert FR page number where document begins].	
Section 2123.C	Organic Solvents	1/20/1998	7/05/2011 [Insert FR page number where document begins].	
Section 2123.C.11	Organic Solvents	5/20/1996	7/05/2011 [Insert FR page number where document begins].	
Section 2123.C.11.b	Organic Solvents	12/20/1997	7/05/2011 [Insert FR page number where document begins].	
Section 2123.D.1	Organic Solvents	10/20/2005	7/05/2011 [Insert FR page number where document begins].	
Section 2123.D.6	Organic Solvents	8/20/2002	7/05/2011 [Insert FR page number where document begins].	
Section 2123.D.7.a	Organic Solvents	4/20/2004	7/05/2011 [Insert FR page number where document begins].	
Section 2123.E.1.–4	Fugitive Emission Control for Ozone Nonattainment Areas and Specified Parishes.	12/20/1996	7/05/2011 [Insert FR page number where document begins].	
Section 2123.E.6	Organic Solvents	7/20/1998	7/05/2011 [Insert FR page number where document begins].	
Section 2123.G	Organic Solvents Definitions	12/20/1997	7/05/2011 [Insert FR page number where document begins].	
Section 2123.G	Organic Solvents Definitions	1/20/1998	7/05/2011 [Insert FR page number where document begins].	

EPA APPROVED REGULATIONS IN LOUISIANA SIP—Continued

State citation	Title/subject	State approval date	EPA approval date	Comments
Section 2123.H	Organic Solvents	4/20/2004	7/05/2011 [Insert FR page number where document begins].	
* *	*	*	*	* *
Subchapter E. Vapor Degreasers				
Section 2125.D	Vapor Degreasers	4/20/2004	7/05/2011 [Insert FR page number where document begins].	
Section 2125.E.1.–4	Vapor Degreasers	12/20/1996	7/05/2011 [Insert FR page number where document begins].	
* *	*	*	*	* *
Subchapter F. Gasoline Handling				
Section 2131.A	Filling of Gasoline Storage Vessels.	12/20/1993	7/05/2011 [Insert FR page number where document begins].	
Section 2131.D.3	Filling of Gasoline Storage Vessels.	2/20/2001	7/05/2011 [Insert FR page number where document begins].	
Section 2131.E.1. and E.3	Filling of Gasoline Storage Vessels.	12/20/1996	7/05/2011 [Insert FR page number where document begins].	
* *	*	*	*	* *
Section 2132. Stage II Vapor Recovery Systems for Control of Vehicle Refueling Emissions at Gasoline Dispensing Facilities				
Section 2132.A	Definitions	12/20/1997	7/05/2011 [Insert FR page number where document begins].	*CARB; Stage II Vapor Recovery System.*
Section 2132.A	Definitions	4/20/2003	7/05/2011 [Insert FR page number where document begins].	*Stage II Vapor Recovery System.*
Section 2132.B	Applicability	1/20/1998	7/05/2011 [Insert FR page number where document begins].	
Section 2132.B.4.a–d	Applicability	12/20/1997	7/05/2011 [Insert FR page number where document begins].	
Section 2132.B.5	Applicability	4/20/2003	7/05/2011 [Insert FR page number where document begins].	
Section 2132.B.6.b	Applicability	12/20/1997	7/05/2011 [Insert FR page number where document begins].	
Section 2132.B.6.c.iii	Applicability	12/20/1997	7/05/2011 [Insert FR page number where document begins].	
Section 2132.D	Testing	12/20/1997	7/05/2011 [Insert FR page number where document begins].	
Section 2132.D.2	Testing	4/20/2003	7/05/2011 [Insert FR page number where document begins].	
Section 2132.E	Labeling	12/20/1997	7/05/2011 [Insert FR page number where document begins].	
Section 2132.F	Inspection	12/20/1997	7/05/2011 [Insert FR page number where document begins].	
Section 2132.G	Recordkeeping	12/20/1997	7/05/2011 [Insert FR page number where document begins].	

EPA APPROVED REGULATIONS IN LOUISIANA SIP—Continued

State citation	Title/subject	State approval date	EPA approval date	Comments
Section 2132.G.5	Recordkeeping	4/20/2003	7/05/2011 [Insert FR page number where document begins].	
Section 2132.H	Enforcement	12/20/1997	7/05/2011 [Insert FR page number where document begins].	
Section H.1.a–b	Enforcement	4/20/2003	7/05/2011 [Insert FR page number where document begins].	
Section 2132.I	Fees	12/20/1997	7/05/2011 [Insert FR page number where document begins].	
Section 2133.A–E	Gasoline Bulk Plants	6/20/1995	7/05/2011 [Insert FR page number where document begins].	
Section 2133.D.2	Gasoline Bulk Plants	12/20/1996	7/05/2011 [Insert FR page number where document begins].	
Section 2135.A	Bulk Gasoline Terminal	1/20/1998	7/05/2011 [Insert FR page number where document begins].	
Section 2135.D.1.–.4	Bulk Gasoline Terminal	12/20/1996	7/05/2011 [Insert FR page number where document begins].	
Section 2137.A.–A.1. and B.1	Gasoline Terminal Vapor-Tight Control Procedure.	12/20/1996	7/05/2011 [Insert FR page number where document begins].	
* *	*	*	* *	*
Subchapter G. Petroleum Refinery Operations				
Section 2139.C	Refinery Vacuum Producing Systems.	5/20/1998	7/05/2011 [Insert FR page number where document begins].	
* *	*	*	* *	*
Subchapter H. Graphic Arts				
Section 2143.A	Graphic Arts (Printing) by Rotogravure and Flexographic Processes. Control Requirements.	4/20/2004	7/05/2011 [Insert FR page number where document begins].	
Section 2143.A.1	Graphic Arts (Printing) by Rotogravure and Flexographic Processes. Control Requirements.	10/20/1999	7/05/2011 [Insert FR page number where document begins].	
Section 2143.B	Applicability Exemption	4/20/2004	7/05/2011 [Insert FR page number where document begins].	
Section 2143.C.1.–3	Compliance	12/20/1996	7/05/2011 [Insert FR page number where document begins].	
Section 2143.E	Timing	4/20/2004	7/05/2011 [Insert FR page number where document begins].	
* *	*	*	* *	*
Subchapter I. Pharmaceutical Manufacturing Facilities				
* *	*	*	* *	*
Section 2145.F.2.–3	Pharmaceutical Manufacturing Facilities.	12/20/1996	7/05/2011 [Insert FR page number where document begins].	
Section 2145.F.4	Pharmaceutical Manufacturing Facilities.	1/20/1998	7/05/2011 [Insert FR page number where document begins].	

EPA APPROVED REGULATIONS IN LOUISIANA SIP—Continued

State citation	Title/subject	State approval date	EPA approval date	Comments
* *	*	*	* *	*
Subchapter J. Limiting Volatile Organic Compound (VOC) Emissions from Reactor Processes and Distillation Operations in the Synthetic Organic Chemical Manufacturing Industry (SOCMI)				
* *	*	*	* *	*
Section 2147.A.1	Applicability	4/20/2004	7/05/2011 [Insert FR page number where document begins].	
Section 2147.B	Definitions	12/20/1996	7/05/2011 [Insert FR page number where document begins].	*Halogenated Vent Stream; Total Organic Compounds.*
Section 2147.B	*Definitions*	*11/20/1997*	7/05/2011 [Insert FR page number where document begins].	*Process Unit.*
Section 2147.D.1.a	Total Effectiveness Determination, Performance Testing, and Exemption Testing.	11/20/1997	7/05/2011 [Insert FR page number where document begins].	
Section 2147.D.3.–2147.D.4	Total Effectiveness Determination, Performance Testing, and Exemption Testing.	7/20/1998	7/05/2011 [Insert FR page number where document begins].	
Section D.5.a., D.5.a.ii.(a)–(b), D.5.b.i. and iii, D.5.c.–f.	Total Effectiveness Determination, Performance Testing, and Exemption Testing.	12/20/1996	7/05/2011 [Insert FR page number where document begins].	
Section 2147.D.7.–2147.D.9	Total Effectiveness Determination, Performance Testing, and Exemption Testing.	11/20/1997	7/05/2011 [Insert FR page number where document begins].	
* *	*	*	* *	*
Subchapter K. Limiting Volatile Organic Compound (VOC) Emissions from Batch Processing				
Section 2149.A.1	Applicability	4/20/2004	7/05/2011 [Insert FR page number where document begins].	
Section 2149.E.2.a.–c.i	Performance Testing	12/20/1996	7/05/2011 [Insert FR page number where document begins].	
* *	*	*	* *	*
Subchapter L. Limiting Volatile Organic Compound Emissions from Cleanup Solvent Processing				
* *	*	*	* *	*
Section 2151.A	Limiting Volatile Organic Compound Emissions from Cleanup Solvent Processing.	4/20/2004	7/05/2011 [Insert FR page number where document begins].	
Section 2151.B., 2151.C., 2151.C.2–C.3., 2151.D.–E.	*Limiting Volatile Organic Compound Emissions from Cleanup Solvent Processing.*	*1/20/1998*	7/05/2011 [Insert FR page number where document begins].	*Closed-Loop Recycling; Cleaning of Parts.*
Section 2151.F	Limiting Volatile Organic Compound Emissions from Cleanup Solvent Processing.	4/20/2004	7/05/2011 [Insert FR page number where document begins].	
* *	*	*	* *	*
Subchapter M. Limiting VOC Emissions from Industrial Wastewater				
* *	*	*	* *	*
Section 2153.A	*Definitions*	*5/20/1999*	7/05/2011 [Insert FR page number where document begins].	*Chemical Manufacturing Process Unit; Plant; Point of Determination; Properly Operated Biotreatment Unit.*
Section 2153.A	*Definitions*	*4/20/2004*	7/05/2011 [Insert FR page number where document begins].	*Affected Source Category.*

EPA APPROVED REGULATIONS IN LOUISIANA SIP—Continued

State citation	Title/subject	State approval date	EPA approval date	Comments
Section 2153.B., 2153.B.1.d.–d.ii., 2153.B.3.–4.b.	Control Requirements	5/20/1999	7/05/2011 [Insert FR page number where document begins].	
Section 2153.D.2.c., 2153.D.3.h.iii.(b)–4.b.	Inspection and Monitoring Requirements.	5/20/1999	7/05/2011 [Insert FR page number where document begins].	
Section 2153.E.1.–5	Approved Test Methods	12/20/1996	7/05/2011 [Insert FR page number where document begins].	
Section 2153.E.7.–10	Approved Test Methods	5/20/1999	7/05/2011 [Insert FR page number where document begins].	
Section 2153.F.5	Recordkeeping Requirements	5/20/1999	7/05/2011 [Insert FR page number where document begins].	
Section 2153.H.1	Determination of Wastewater Characteristics.	5/20/1999	7/05/2011 [Insert FR page number where document begins].	
Section 2153.I	Limiting VOC Emissions From Industrial Wastewater.	4/20/2004	7/05/2011 [Insert FR page number where document begins].	
* *	*	*	* *	*
Subchapter N. Method 43 Capture Efficiency Test Procedures				
* *	*	*	* *	*
Subchapter N	Subchapter N	12/20/1996	7/05/2011 [Insert FR page number where document begins].	
Section 2155	Principle	12/20/1996	7/05/2011 [Insert FR page number where document begins].	
Section 2156.A	*Definitions*	*12/20/1997*	7/05/2011 [Insert FR page number where document begins].	*PTE; TTE.*
Section 2156.A	*Definitions*	*10/20/2003*	7/05/2011 [Insert FR page number where document begins].	*BE.*
Section 2157.A	Applicability	12/20/1997	7/05/2011 [Insert FR page number where document begins].	
Section 2157.B	Applicability	8/20/2001	7/05/2011 [Insert FR page number where document begins].	
Section 2158	Specific Requirements	12/20/1996	7/05/2011 [Insert FR page number where document begins].	
Section 2158.C.1.–4	Specific Requirements	8/20/2001	7/05/2011 [Insert FR page number where document begins].	
Section 2159	Recordkeeping and Reporting	12/20/1996	7/05/2011 [Insert FR page number where document begins].	
Section 2159.D.–E	Recordkeeping and Reporting	8/20/2001	7/05/2011 [Insert FR page number where document begins].	
Section 2160	Procedures	12/20/1996	7/05/2011 [Insert FR page number where document begins].	
Section 2160.A.–2160.B	Procedures	8/20/2001	7/05/2011 [Insert FR page number where document begins].	
Section 2160.C.4.d	Procedures	7/20/1998	7/05/2011 [Insert FR page number where document begins].	
Section 2160.D.4.d	Procedures	7/20/1998	7/05/2011 [Insert FR page number where document begins].	

EPA APPROVED REGULATIONS IN LOUISIANA SIP—Continued

State citation	Title/subject	State approval date	EPA approval date	Comments
Section 2199	Appendix A	11/20/1997	7/05/2011 [Insert FR page number where document begins].	
* *	*	*	* *	*
Chapter 22. Control of Emissions of Nitrogen Oxides (NO_X)				
* *	*	*	* *	*
Section 2201.B	*Definitions*	*4/20/2004*	7/05/2011 [Insert FR page number where document begins].	*Affected Facility; Averaging Capacity; Combined Cycle, Low Ozone Season Capacity Factor Boiler or Process Heater/Furnace; Nitrogen Oxides.*
Section 2201.C.1.–3	Exemptions	4/20/2004	7/05/2011 [Insert FR page number where document begins].	
Section 2201.C.8	Exemptions	4/20/2004	7/05/2011 [Insert FR page number where document begins].	
Section 2201.D.1	Emission Factors	4/20/2004	7/05/2011 [Insert FR page number where document begins].	
Section 2201.D.4	Emission Factors	4/20/2004	7/05/2011 [Insert FR page number where document begins].	
Section 2201.F.1.a	Permits	4/20/2004	7/05/2011 [Insert FR page number where document begins].	
Section 2201.F.5	Permits	4/20/2004	7/05/2011 [Insert FR page number where document begins].	
Section 2201.F.1.c	Permits	4/20/2004	7/05/2011 [Insert FR page number where document begins].	
Section 2201.F.7.a	Permits	10/20/2005	7/05/2011 [Insert FR page number where document begins].	
Section 2201.G.2	Initial Demonstration of Compliance.	4/20/2004	7/05/2011 [Insert FR page number where document begins].	
Section 2201.H1.b.iii	Continuous Demonstration of Compliance.	4/20/2004	7/05/2011 [Insert FR page number where document begins].	
Section 2201.H.2	Continuous Demonstration of Compliance.	4/20/2004	7/05/2011 [Insert FR page number where document begins].	
Section 2201.H.3	Continuous Demonstration of Compliance.	4/20/2004	7/05/2011 [Insert FR page number where document begins].	
* *	*	*	* *	*
Chapter 23. Control of Emissions for Specific Industries Subchapter A. Chemical Woodpulping Industry				
Section 2301.D. and 2301.D.3	Control of Emissions from the Chemical Woodpulping Industry. Emission Limitations.	12/20/1993	7/05/2011 [Insert FR page number where document begins].	
Section 2301.D.4.a	Control of Emissions from the Chemical Woodpulping Industry. Emission Limitations.	10/20/2005	7/05/2011 [Insert FR page number where document begins].	
Section 2301.E	Exemptions	10/20/2006	7/05/2011 [Insert FR page number where document begins].	

EPA APPROVED REGULATIONS IN LOUISIANA SIP—Continued

State citation	Title/subject	State approval date	EPA approval date	Comments
	Subchapter B. Aluminum Plants			
Section 2303.E	Standards for Horizontal Study Doderberg Primary Aluminum Plants and Prebake Primary Aluminum Plants. Monitoring.	10/20/2005	7/05/2011 [Insert FR page number where document begins].	
Section 2303.F.1.d.2	Standards for Horizontal Study Doderberg Primary Aluminum Plants and Prebake Primary Aluminum Plants. Reporting.	10/20/2005	7/05/2011 [Insert FR page number where document begins].	
* *	*	*	* *	*
	Subchapter D. Nitric Acid Industry			
* *	*	*	* *	*
Section 2307.C.1.a	Emission Standards for the Nitric Acid Industry.	10/20/2005	7/05/2011 [Insert FR page number where document begins].	
Section 2307.C.2.a	Emission Standards for the Nitric Acid Industry.	10/20/2005	7/05/2011 [Insert FR page number where document begins].	
* *	*	*	* *	*
	Chapter 25. Miscellaneous Incinerator Rules Subchapter A. Scope and General Provisions			
Section 2501	Scope	10/20/1994	7/05/2011 [Insert FR page number where document begins].	
	Subchapter B. Biomedical Waste Incinerators			
Section 2511	Standards of Performance for Biomedical Waste Incinerators.	10/20/1994	7/05/2011 [Insert FR page number where document begins].	
Section 2511.B	Definitions	7/20/1998	7/05/2011 [Insert FR page number where document begins].	
Section 2511.C	Registration	10/20/2005	7/05/2011 [Insert FR page number where document begins].	
Section 2511.E.5	Restrictions on Emissions	10/20/1995	7/05/2011 [Insert FR page number where document begins].	
Section 2511.E.6.a.–d	Restrictions on Emissions	12/20/1996	7/05/2011 [Insert FR page number where document begins].	
* *	*	*	* *	*
	Subchapter C. Refuse Incinerators			
Section 2521	Refuse Incinerators	10/20/1994	7/05/2011 [Insert FR page number where document begins].	
Section 2521.E. and 2521.F.9.a.–d.	Refuse Incinerators	12/20/1996	7/05/2011 [Insert FR page number where document begins].	
Section 2521.F.10	Refuse Incinerators	10/20/2005	7/05/2011 [Insert FR page number where document begins].	

EPA APPROVED REGULATIONS IN LOUISIANA SIP—Continued

State citation	Title/subject	State approval date	EPA approval date	Comments
* *	*	*	* *	*
Chapter 30. Standards of Performance from New Stationary Sources (NSPS)				
Chapter 30	Standards of Performance from New Stationary Sources (NSPS).	12/20/1996	7/05/2011 [Insert FR page number where document begins].	
Section 3001	Repeal and Renumbering	12/20/1996	7/05/2011 [Insert FR page number where document begins].	
Subchapter A. Incorporation by Reference				
Section 3003	IBR 40 Code of Federal Regulations (CFR) Part 60.	12/20/2006	7/05/2011 [Insert FR page number where document begins].	
* *	*	*	* *	*

[FR Doc. 2011–16634 Filed 7–1–11; 8:45 am]
BILLING CODE 6560–50–P

EVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[PA200–4203; FRL–9314–6]

Approval and Promulgation of Air Quality Implementation Plans; Pennsylvania; Update to Materials Incorporated by Reference

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule; administrative change.

SUMMARY: EPA is updating the materials submitted by Pennsylvania that are incorporated by reference (IBR) into the Pennsylvania State Implementation Plan (SIP). The regulations affected by this update have been previously submitted by the Pennsylvania Department of Environmental Protection (PADEP) and approved by EPA. This update affects the SIP materials that are available for public inspection at the National Archives and Records Administration (NARA), the Air and Radiation Docket and Information Center located at EPA Headquarters in Washington, DC, and the EPA Regional Office.

DATES: *Effective Date:* This action is effective July 5, 2011.

ADDRESSES: SIP materials which are incorporated by reference into 40 CFR part 52 are available for inspection at the following locations: Air Protection Division, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103; the Air and Radiation Docket and Information Center, U.S. Environmental Protection Agency, 1301 Constitution Avenue, NW., Room Number 3334, EPA West Building, Washington, DC 20460; or 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.*

FOR FURTHER INFORMATION CONTACT: Harold A. Frankford, (215) 814–2108 or by e-mail at *frankford.harold@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

The SIP is a living document which the State revises as necessary to address its unique air pollution problems. Therefore, EPA from time to time must take action on SIP revisions containing new and/or revised regulations as being part of the SIP. On May 22, 1997 (62 FR 27968), EPA revised the procedures for incorporating by reference Federally-approved SIPs, as a result of consultations between EPA and the Office of the Federal Register (OFR). The description of the revised SIP document, IBR procedures and ''Identification of plan'' format are discussed in further detail in the May 22, 1997 **Federal Register** document. On February 25, 2005 (70 FR 9450), EPA published a document in the **Federal Register** beginning the new IBR procedure for Pennsylvania, including Philadelphia and Allegheny Counties. On January 3, 2007 (72 FR 200), and March 25, 2009 (74 FR 13014), EPA published updates to the IBR materials for Pennsylvania.

Since the publication of the last IBR update, EPA has approved the following regulatory changes to all sections of the following Pennsylvania and Allegheny County regulations:

A. Paragraph 52.2020(c)(1)—Pennsylvania DEP Regulations

1. Additions of the following regulations in 25 PA Code, article III:

a. Chapter 130 (Standards for Products), subchapter B (Consumer Products), sections 130.217 and 130.338.

b. Chapter 145 (Interstate Pollution Transport Reduction), subchapter A (General Provisions), section 145.8.

c. Chapter 145, subchapter D (CAIR NO_X and SO_2 Trading Programs—General Provisions), sections 145.201 through 145.205, 145.211 through 145.213, and 145.221 through 145.223.

2. Revisions to the following regulations in 25 PA Code, Article III:

a. Chapter 121 (General Provisions), section 121.1 (Definitions).

b. Chapter 129 (Standards for Sources, Additional NO_X requirements), sections 129.201, 129.202, and 129.204.

c. Chapter 130 (Standards for Products), subchapter B (Consumer Products), sections 130.201, 130.202, 130.211, 130.213, 130.214, 130.215, 130.331, 130.332, 130.334, 130.335, 130.371, 130.372, 130.373, 130.411, 130.412, 130.414, 130.452, 130.453, 130.454, 130.455, 130.457, 130.458, 130.460, 130.462, 130.465, 130.471.

d. Chapter 130, subchapter C (Architectural and Industrial Maintenance Coatings), section 130.602.

e. Chapter 145 (Interstate Pollution Transport Reduction), subchapter B (Emissions of NO_X From Stationary Internal Combustion Engines), section 145.113.

f. Chapter 145, subchapter C (Emissions of NO_X From Cement Manufacturing), section 145.143.

B. Paragraph 52.2020(c)(2)—Allegheny County Health Department (ACHD) Regulations

1. Additions of the following regulations in Article XXI:
a. Part A (General), section 2101.20 (definitions added).
b. Part E (Source Emission and Operating Standards), subpart 7 (Miscellaneous VOC Sources), sections 2105.77, 2105.78, and 2105.79.
2. Revisions to the following regulations in Article XXI:
a. Part E (Source Emission and Operating Standards), subpart 1 (VOC Sources), section 2105.10.
b. Part E, subpart 2 (Slag, Coke, and Miscellaneous Sulfur Sources), section 2105.21.
c. Part G (Methods), section 2107.11.
d. Part H (Reporting, Testing & Monitoring), section 2108.03.

II. EPA Action

In this action, EPA is doing the following:

A. Announcing the Update to the IBR Material as of April 1, 2011

B. In Paragraph 40 CFR 52.2020(c)(1)

1. Correcting typographical errors in Title 25, the first entry of Section 123.22 (''Title/subject'' column) and Section 129.93 (''State citation'' column).
2. Correcting typographical errors in Title 67, Section 177.22 (''Title/subject'' column) and the heading entitled ''Registration Recall Procedure for Violation of §§ 177.301–177.305 (Relating To On-Road Testing).''

C. In Paragraph 52.2020(c)(2)

1. Adding text in the ''Additional explanation/§ 52.2063 citation'' columns to help distinguish the four entries for article XXI, part A, section 2101.20 (Definitions).
2. Correcting a typographical error in the title heading for Article XXI, Part E, Subpart 2.
3. Revising the text in the ''Additional explanation/§ 52.2063 citation'' column for Regulation 2105.21.

D. In Paragraph 52.2020(d)(1)

1. Revising the heading in the second column from ''Permit No.'' to ''Permit Number.''
2. Correcting the **Federal Register** citation in the ''EPA approval date'' column for Tarkett, Incorporated and Hacros Pigments, Inc.

E. In Paragraph 52.2020(e)(1)

1. Removing the words ''OFR error'' found in the ''Name of non-regulatory SIP revision'' and ''Applicable geographic area'' columns for the entry ''Continuous Source Testing Manual.''
2. Correcting the date format in the ''EPA approval date'' column for the entry ''Carbon Monoxide Maintenance Plan—Philadelphia County.''
3. Correcting the date format in the ''State submittal date'' column for the entry ''8–Hour Ozone Maintenance Plan and 2002 Base Year Emissions Inventory—Tioga County.''

F. In Paragraph 52.2020(e)(2)

1. Revising the heading in the second column from ''Permit No.'' to ''Permit Number.''
2. Correcting the date format in the ''EPA approval date'' column for the following entries: USX/US Steel Group—Fairless Hills, Rockwell Heavy Vehicle, Inc.—New Castle Forge Plant, and Mercersburg Tanning Co.

EPA has determined that today's rule falls under the ''good cause'' exemption in section 553(b)(3)(B) of the Administrative Procedures Act (APA) which, upon finding ''good cause,'' authorizes agencies to dispense with public participation and section 553(d)(3) which allows an agency to make a rule effective immediately (thereby avoiding the 30-day delayed effective date otherwise provided for in the APA). Today's rule simply codifies provisions which are already in effect as a matter of law in Federal and approved State programs. Under section 553 of the APA, an agency may find good cause where procedures are ''impractical, unnecessary, or contrary to the public interest.'' Public comment is ''unnecessary'' and ''contrary to the public interest'' since the codification only reflects existing law. Immediate notice in the CFR benefits the public by removing outdated citations and incorrect table entries.

III. Statutory and Executive Order Reviews

A. General Requirements

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

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

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

B. Submission to Congress and the Comptroller General

The Congressional Review Act, 5 U.S.C. 801 *et seq.,* as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this 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**. This rule is not a

''major rule'' as defined by 5 U.S.C. 804(2).

C. Petitions for Judicial Review

EPA has also determined that the provisions of section 307(b)(1) of the CAA pertaining to petitions for judicial review are not applicable to this action. Prior EPA rulemaking actions for each individual component of the Pennsylvania SIP compilations had previously afforded interested parties the opportunity to file a petition for judicial review in the United States Court of Appeals for the appropriate circuit within 60 days of such rulemaking action. Thus, EPA sees no need in this action to reopen the 60-day period for filing such petitions for judicial review for this ''Identification of plan'' update action for Pennsylvania.

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Carbon monoxide, Incorporation by reference, Intergovernmental relations, Lead, Nitrogen dioxide, Ozone, Particulate matter, Reporting and record keeping requirements, Sulfur oxides, Volatile organic compounds.

Dated: May 24, 2011.

W. C. Early,

Acting, Regional Administrator, Region III.

40 CFR part 52 is amended as follows:

PART 52—[AMENDED]

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

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

■ 2. Section 52.2020 is amended by:
■ a. Revising paragraph (b).
■ b. In paragraph (c)(1), revising the entries for Sections 123.22 (first entry), 129.93, 177.22, and the heading above §§ 177.301–177.305.
■ c. In paragraph (c)(2), revising the four entries for Article XXI, Section 2101.20 and the entry for Article XXI, Section 2105.21.
■ d. In paragraph (d)(1), revising the title entry for the second column of the table and the entries for Tarkett, Incorporated and Hacros Pigments, Inc.
■ e. In paragraph (e)(1), revising the entries for Carbon Monoxide Maintenance Plan—Philadelphia County, Continuous Source Testing Manual, and 8–Hour Ozone Maintenance Plan and 2002 Base Year Emissions Inventory—Tioga County.
■ f. In paragraph (e)(2), revising the entries for USX Corp./US Steel Group—Fairless Hills. Rockwell Heavy Vehicle, Inc.—New Castle Forge Plant, and Mercersburg Tanning Co.

The amendments read as follows:

Subpart NN—Pennsylvania

§ 52.2020 Identification of plan.

* * * * *

(b) Incorporation by reference.

(1) Material listed as incorporated by reference in paragraphs (c) and (d) of this section was approved for incorporation by reference by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Material is incorporated as it exists on the date of the approval, and notice of any change in the material will be published in the **Federal Register**. Entries in paragraphs (c) and (d) of this section with EPA approval dates on or after April 1, 2011 will be incorporated by reference in the next update to the SIP compilation.

(2)(i) EPA Region III certifies that the following rules and regulations provided by EPA at the addresses in paragraph (b)(3) of this section are an exact duplicate of the officially promulgated State rules/regulations which have been approved as part of the State implementation plan as of April 1, 2011:

(A) Materials in Notebook ''40 CFR 52.2020(c)(1)—1. PA Department of Environmental Protection (PA DEP); 2. PA Department of Transportation (PA DOT).''

(B) Materials in Notebook ''1. 40 CFR 52.2020(c)(2)—Allegheny County Health Department (ACHD); 2. 40 CFR 52.2020(c)(3)—Philadelphia Air Management Services (AMS).''

(ii) EPA Region III certifies that the following source-specific requirements provided by EPA at the addresses in paragraph (b)(3) of this section are an exact duplicate of the officially promulgated State source-specific requirements which have been approved as part of the State implementation plan as of November 1, 2006. No additional revisions were made between November 1, 2006 and April 1, 2011:

(A) [Reserved.]

(B) Materials in Notebook ''40 CFR 52.2020(d)(1)—Source-specific Requirements—Volume 1, Part 1.''

(C) Materials in Notebook ''40 CFR 52.2020(d)(1)—Source-specific Requirements—Volume 1, Part 2.''

(D) Materials in Notebook ''40 CFR 52.2020(d)(1)—Source-specific Requirements—Volume 2, Part 1.''

(E) Materials in Notebook ''40 CFR 52.2020(d)(1)—Source-specific Requirements—Volume 2, Part 2.''

(F) Materials in Notebook ''40 CFR 52.2020(d)(1)—Source-specific Requirements—Volume 3.''

(G) Materials in Notebook ''40 CFR 52.2020(d)(1)—Source-specific Requirements—Volume 4.''

(H) Materials in Notebook ''40 CFR 52.2020(d)(1)—Source-specific Requirements—Volume 5.''

(I) Materials in Notebook ''40 CFR 52.2020(d)(2)–(d)(4)—Source-specific Requirements.''

(iii) EPA Region III certifies that the materials in Notebook ''40 CFR 52.2020(d)(1)—Source-specific Requirements—Volume 6'' provided by EPA at the addresses in paragraph (b)(3) of this section are an exact duplicate of the officially promulgated State source-specific requirements which have been approved as part of the State implementation plan as of November 1, 2008. No additional revisions were made between November 1, 2008 and April 1, 2011:

(3) Copies of the materials incorporated by reference may be inspected at the EPA Region III Office at 1650 Arch Street, Philadelphia, PA 19103. For further information, call (215) 814–2108; the EPA, Air and Radiation Docket and Information Center, Room Number 3334, EPA West Building, 1301 Constitution Avenue, NW., Washington, DC 20460. For further information, call (202) 566–1742; or 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.*

(c) *EPA-Approved Regulations*

(1) * * *

State citation	Title/subject	State effective date	EPA approval date	Additional explanation/ § 52.2063 citation
	Title 25. Environmental Protection Article III. Air Resources			
* *	*	*	* *	*
	Chapter 123. Standards for Contaminants			
* *	*	*	* *	*
Sulfur Compound Emissions				
* *	*	*	* *	*
Section 123.22	Combustion units [General provisions—air basins and non-air basins].	3/20/72	5/31/72, 37 FR 10842	(c)(1).
* *	*	*	* *	*
	Chapter 129. Standards for Sources			
* *	*	*	* *	*
	Stationary Sources of NOX and VOCs			
* *	*	*	* *	*
Section 129.93 [Except for 129.93(c)(6) &(7)].	Presumptive RACT emission limitations.	4/23/94	3/23/98, 63 FR 13789	(c)(129).
* *	*	*	* *	*
	Title 67. Transportation Part I. Department of Transportation Subpart A. Vehicle Code Provisions Article VII. Vehicle Characteristics			
* *	*	*	* *	*
	Chapter 177. Enhanced Emission Inspection Program			
* *	*	*	* *	*
	Subchapter A. General Provisions			
* *	*	*	* *	*
	Implementation of Emission Inspection Program			
Section 177.22	Commencement of inspections.	11/22/03	10/6/05, 70 FR 58313	Retitled and revised.
* *	*	*	* *	*
	Subchapter F. Schedule of Penalties and Hearing Procedure			
* *	*	*	* *	*
	Registration Recall Procedure for Violation of §§ 177.301–177.305 (Relating to On-Road Testing)			
* *	*	*	* *	

(2) * * *

Article XX or XXI citation	Title/subject	State effective date	EPA approval date	Additional explanation/§ 52.2063 citation
		Part A. General		
*	*	*	*	*
2101.20	Definitions	10/20/95	11/14/02, 67 FR 68935.	(c)(192); See Part I of the IBR document.
2101.20	Definitions related to gasoline volatility.	5/15/98, 9/1/99	4/17/01, 66 FR 19724.	(c)(151); See Part I of the IBR document.
2101.20	Definitions	7/10/03	6/24/05, 70 FR 36511.	See Part II of the IBR document.
2101.20	Definitions	5/24/10	12/28/10, 75 FR 81555.	Addition of four new definitions: Exterior panels, interior panels, flat wood panel coating, and tileboard. See Part III of the IBR document.
*	*	*	*	*
		Part E. Source Emission and Operating Standards		
*	*	*	*	*
		Subpart 2. Slag, Coke, and Miscellaneous Sulfur Sources		
2105.21	Coke Ovens and Coke Oven Gas.	4/1/07	7/13/09, 74 FR 33329.	Revision to paragraph 2105.21.f (Combustion Stacks).
*	*	*	*	*

(3) * * *

(d) *EPA-approved source-specific requirements*

(1) * * *

Name of source	Permit No.	County	State effective date	EPA approval date	Additional explanation/§ 52.2063 citation
		For exceptions, see the applicable paragraphs in 40 CFR 52.2063(c)			
*	*	*	*	*	*
Tarkett, Incorporated	OP–39–0002	Lehigh	5/31/95	8/6/03, 68 FR 46484	(c)(208)(i)(B)(*1*).
Hacros Pigments, Inc.	OP–48–0018	Northampton	7/31/96	8/6/03, 68 FR 46484	(c)(208)(i)(B)(*2*).
*	*	*	*	*	*

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(e) *EPA-approved nonregulatory and quasi-regulatory material*

(1) * * *

Name of non-regulatory SIP revision	Applicable geographic area	State submittal date	EPA approval date	Additional explanation
*	*	*	*	*
Carbon Monoxide Maintenance Plan.	Philadelphia County	9/8/95, 10/30/95	1/30/96, 61 FR 2982	52.2063(c)(105).
		9/3/04	4/04/05, 70 FR 16958	Revised Carbon Monoxide Maintenance Plan Base Year Emissions Inventory using MOBILE6.
		3/19/07	10/5/07, 72 FR 56911	Conversion of the Carbon Monoxide Maintenance Plan to a Limited Maintenance Plan Option.
*	*	*	*	*
Continuous Source Testing Manual.	Statewide	11/26/94	7/30/96, 61 FR 39597	52.2063(c)(110) (i)(D); cross-referenced in Section 139.5.

Name of non-regulatory SIP revision	Applicable geographic area	State submittal date	EPA approval date	Additional explanation
* *	*	*	* *	*
8-Hour Ozone Maintenance Plan and 2002 Base Year Emissions Inventory.	Tioga County	9/28/06, 11/14/06	7/6/07, 72 FR 36892	
* *	*	*	* *	*

(2) * * *

Name of source	Permit No.	County	State submittal date	EPA approval date	Additional explanation/§ 52.2063 citation
USX Corp./US Steel Group-Fairless Hills.	09–0006	Bucks	8/11/95, 11/15/95	4/09/96, 61 FR 15709.	52.2036(b); 52.2037(c); source shutdown date is 8/1/91.
* *	*	*	*	*	*
Rockwell Heavy Vehicle, Inc.-New Castle Forge Plant.	37–065	Lawrence	4/8/98	4/16/99, 64 FR 18818.	52.2036(k); source shutdown date is 4/1/93.
* *	*	*	*	*	*
Mercersburg Tanning Co.	28–2008	Franklin	4/26/95	3/12/97, 62 FR 11079.	52.2037(h); 52.2063(c)(114)(i)(A)(3) & (ii)(A).
* *	*	*	*	*	*

[FR Doc. 2011–16636 Filed 7–1–11; 8:45 am]

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R10–OAR–2011–0035; FRL–9425–3]

Approval and Promulgation of Implementation Plans; State of Oregon; Regional Haze State Implementation Plan and Interstate Transport Plan

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA is approving portions of a State Implementation Plan (SIP) revision submitted by the State of Oregon on December 20, 2010, as meeting the requirements of Clean Air Act (CAA) section 110(a)(2)(D)(i)(II) as it applies to visibility for the 1997 8-hour ozone and 1997 particulate matter ($PM_{2.5}$) National Ambient Air Quality Standards (NAAQS). EPA is also approving portions of the revision as meeting certain requirements of the regional haze program, including the requirements for best available retrofit technology (BART).

DATES: *Effective Date:* This final rule is effective August 4, 2011.

ADDRESSES: EPA has established a docket for this action under Docket ID No. EPA–R10–OAR–2010–0035. All documents in the docket are listed on the *http://www.regulations.gov* Web site. Although listed in the index, some information is not publicly available, *e.g.,* 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 *http://www.regulations.gov* or in hard copy at the State and Tribal Air Programs Unit, Office of Air Waste and Toxics, EPA Region 10, 1200 Sixth Avenue, Seattle, WA 98101. EPA requests that if at all possible, you contact the individual listed in the **FOR FURTHER INFORMATION CONTACT** section to view the hard copy of the docket. You may view the hard copy of the docket Monday through Friday, 8 a.m. to 4 p.m., excluding Federal holidays.

FOR FURTHER INFORMATION CONTACT: Keith Rose, EPA Region 10, Suite 900, Office of Air, Waste and Toxics, 1200 Sixth Avenue, Seattle, WA 98101.

SUPPLEMENTARY INFORMATION:

Definitions

For the purpose of this document, we are giving meaning to certain words or initials as follows:

(i) The words or initials *Act, CAA,* or *Clean Air Act* mean or refer to the Clean Air Act, unless the context indicates otherwise.

(ii) The words *EPA, we, us* or *our* mean or refer to the United States Environmental Protection Agency.

(iii) The initials *SIP* mean or refer to State Implementation Plan.

(iv) The words *Oregon* and *State* mean the State of Oregon.

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I. Background Information

On July 18, 1997, EPA promulgated new NAAQS for 8-hour ozone and for fine particulate matter ($PM_{2.5}$). This action is being taken, in part, in response to the promulgation of the 1997 8-hour ozone and $PM_{2.5}$ NAAQS. Section 110(a)(1) of the CAA requires states to submit a SIP revision to address a new or revised NAAQS within 3 years after promulgation of such standards, or within such shorter period as EPA may prescribe. Section 110(a)(2) lists the elements that such new SIPs must address, as applicable, including section 110(a)(2)(D)(i), which pertains to interstate transport of certain emissions.

Section 110(a)(2)(D)(i) of the CAA requires that a SIP must contain adequate provisions prohibiting any source or other type of emissions activity within the state from emitting

any air pollutant in amounts which will: (1) Contribute significantly to nonattainment of the NAAQS in any other state; (2) interfere with maintenance of the NAAQS by any other state; (3) interfere with any other state's required measures to prevent significant deterioration of air quality; or (4) interfere with any other state's required measures to protect visibility. This action addresses the fourth prong, section 110(a)(2)(D)(i)(II).

In the CAA Amendments of 1977, Congress established a program to protect and improve visibility in the national parks and wilderness areas. See CAA section 169(A). Congress amended the visibility provisions in the CAA in 1990 to focus attention on the problem of regional haze. See CAA section 169(B). EPA promulgated regulations in 1999 to implement sections 169A and 169B of the Act. These regulations require states to develop and implement plans to ensure reasonable progress toward improving visibility in mandatory Class I Federal areas [1] (Class I areas). 64 FR 35714 (July 1, 1999); see also 70 FR 39104 (July 6, 2005) and 71 FR 60612 (October 13, 2006).

On December 20, 2010, the State of Oregon submitted to EPA a State Implementation Plan (SIP) revision addressing the interstate transport requirements for visibility for the 1997 ozone and $PM_{2.5}$ NAAQS, *see* CAA § 110(a)(2)(D)(i)(II), and the requirements of the Regional Haze program at 40 CFR 51.308. (Regional Haze SIP submittal).

On March 8, 2011, EPA published a notice in which the Agency proposed to approve the Oregon SIP revision as meeting the requirements of both section 110(a)(2)(D)(i)(II) of the CAA and the Regional Haze requirements set forth in sections 169A and 169B of the Act and in 40 CFR 51.300–308 with the exception of Chapter 11, Oregon Reasonable Progress Goal Demonstration and Chapter 12, Long-Term Strategy. 76 FR 12651. (Notice of Proposed Rulemaking or NPR). For Oregon's Reasonable Progress Goal Determination and Long-Term Strategy, EPA did not propose taking any action.

[1] Areas designated as mandatory Class I Federal areas consist of national parks exceeding 6000 acres, wilderness areas and national memorial parks exceeding 5000 acres, and all international parks that were in existence on August 7, 1977. 42 U.S.C. 7472(a). In accordance with section 169A of the Clean Air Act, EPA, in consultation with the Department of the Interior, promulgated a list of 156 areas where visibility is identified as an important value. 44 FR 69122 (November 30, 1979). The extent of a mandatory Class I area includes subsequent changes in boundaries, such as park expansions. 42 U.S.C. 7472(a). Although states and tribes may designate as Class I additional areas which they consider to have visibility as an important value, the requirements of the visibility program set forth in section 169A of the Clean Air Act apply only to ''mandatory Class I Federal areas.'' Each mandatory Class I Federal area is the responsibility of a ''Federal Land Manager.'' 42 U.S.C. 7602(i). When we use the term ''Class I area'' in this action, we mean a ''mandatory Class I Federal area.''

II. Response to Comments

EPA received a number of comments on the proposed action to approve certain elements of the Regional Haze SIP submittal. Comments in support were received from: The Citizens' Utility Board of Oregon; International Brotherhood of Electrical Workers Local 125; Morrow County; and Portland General Electric Company (PGE). Adverse comments were received by two entities: The National Parks and Conservation Association (NPCA); and Pacific Environmental Advocacy Center (PEAC). The comments submitted by NPCA incorporated multiple comments which were previously submitted to Oregon Department of Environmental Quality (ODEQ) on some of the prior proposals the State was previously considering. Some of these comments related to options, closure timeframes or evaluations which were previously considered by ODEQ but were not included in the final Regional Haze SIP submission. Accordingly, because these now superseded aspects of ODEQ's BART analysis or determination are not before EPA, a response to the comments about those options is not necessary. The following discussion summarizes and responds to the relevant comments received on EPA's proposed SIP action and explains the basis for EPA's final action.

Comment: The Citizens' Utility Board commented that the ODEQ BART rules for the PGE coal-fired electric power plant at Boardman, Oregon (PGE Boardman or Boardman facility) allow for cost effective pollution controls which will reduce air pollution generated by the facility, including air pollutants which contribute to haze in Class 1 areas. The commenter states that the rules also require the Boardman facility to be shut down by December 31, 2020 and the shut down allows the State of Oregon to move forward with its goals to reduce carbon emissions statewide and will protect utility customers from the costs and risks that will be associated with carbon regulation. The commenter further stated that the Best Available Retrofit Technology (BART) rules approved by the ODEQ are the product of several years of work resulting from a collaborative process involving state agencies, environmental organizations, consumer groups, local governments, and other stakeholders. The rules result in significant reductions in air pollution, while allowing Oregon to pursue important state policies targeted towards reducing carbon emissions, and keeping electric rates affordable.

Response: EPA acknowledges the comment and notes that there will be a significant reduction in NO_X and SO_2 from the Boardman facility due to the BART controls for those pollutants, and the further reasonable progress limits for SO_2 in 2018. Also, ceasing to use coal at the Foster-Wheeler boiler by end of 2020, will result in a additional reduction of NO_X, SO_2, and carbon dioxide emissions from the facility and significant cumulative visibility improvement in all impacted Class I areas.

Comment: International Brothers of Electrical Workers Local 125 commented that the Boardman facility is more than an electrical generating plant and that the city of Boardman and county of Morrow are dependent on this a facility for a substantial portion of its revenue. Boardman's citizens and Morrow County's resident recognize that the facility will cease using coal by the end of 2020, but are hopeful that alternative fuel sources will be approved to continue operations beyond 2020.

Response: EPA recognizes the facility's importance to the community. The approved rules do not prevent the facility owners from using alternate fuel or from constructing a new power source. If the Boardman facility is powered with alternative fuels or if a new facility is constructed all applicable CAA requirements, including New Source Performance Requirements (NSPS) and Prevention of Significant Deterioration (PSD) emission control requirements, must be met. The emission netting basis and plant site emission limits (PSELs) used in determining whether a modification to facility must meet PSD requirements, will be reduced to zero when the Foster-Wheeler boiler at the facility permanently ceases to burn coal. OAR 340–223–0030(1)(e).

Comment: Morrow County commented that they support EPA's approval of Oregon's Regional Haze SIP submittal and stated that the 10 year timeframe in the BART rule provides adequate time to put reliable replacement generation in place, protects this region and the state from the economic blow that would result from an earlier closure and is an appropriate balance of environmental and economic interests of Oregon and its citizens. The County further stated that the SIP accomplishes their wish to

have environmental standards in place that will preserve the beauty of the area for future generations by reducing emission of NO_X, SO_2, and mercury, during the plant's remaining lifetime and ending all coal-related emissions from the Boardman facility at least 20 years ahead of schedule.

Response: EPA acknowledges this comment.

Comment: PGE commented that it believes that the ODEQ BART rules for the Boardman facility achieve the proper balance of environmental benefits, the cost to customers and the reliability of the PGE electrical power system. PGE states it found that it is possible to secure greater environmental benefits with a better balance of cost and risk by transitioning the Boardman facility away from coal at least 20 years ahead of schedule. PGE believes that the ODEQ Boardman BART rule includes significant and cost-effective emission control measures to improve visibility and ensure that the Boardman plant will cease coal-firing by December 31, 2020.

Response: EPA believes that the BART controls required for PGE Boardman will result in a significant reduction in haze that impacts Class I areas through 2020. Then, ceasing to burn coal at the facility will result in additional and significant reductions in SO_2 and NO_X emissions from Boardman at that time, and well as substantial reductions in carbon dioxide emissions. Further, ceasing to burn coal by no later than December 31, 2020, will result in cumulative visibility improvements in all 14 impacted Class I areas. See Regional Haze SIP submittal, Appendix D at D–171.

Comment: Comments were submitted claiming an inappropriate double-counting of ''remaining useful life'' by ODEQ to justify lesser pollution control requirements as BART for the Boardman facility.

Response: ODEQ did not double-count the remaining useful life of the plant in the PGE Boardman BART analysis. As ODEQ explained, closure of the plant is not, by itself, considered BART. Rather, the closure date establishes the remaining useful life of the plant which is used to determine the cost effectiveness of the various control technologies. See Regional Haze SIP submittal, Appendix D at D–125. See also Appendix Y to Part 51—Guidelines for BART Determinations Under the Regional Haze Rule (BART Guidelines), Section D. step 4.k.1. (70 FR 39156 (July 6, 2005)). A decision to cease burning coal by 2020 shortens the expected useful life of the coal-burning Foster-Wheeler boiler by 20 years when compared to its expected useful life of 2040. ODEQ documented its method for incorporating remaining useful plant life in determining cost effectiveness of control technologies. See Regional Haze SIP submittal, Appendix D at D–125 and D–131. The BART Guidelines specifically provide that the remaining useful life of a source may affect the annualized costs of retrofit controls and explains that ''where the remaining useful life is less than the time period for amortizing costs, you should use this shorter time period in your cost calculations.'' 70 FR 39169. Thus, ODEQ appropriately applied the BART Guidelines when it considered the remaining useful life of the Foster-Wheeler boiler when evaluating the cost effectiveness of the control technologies. In addition, EPA notes that ODEQ's conclusion regarding cost effectiveness for SO_2 controls, specifically Semi-dry Flue Gas Desulfurization (SDFGD) versus Dry Sorbent Injection (DSI) technologies, varied appropriately depending on the plant closure date. See EPA Assessment of ODEQ Determination of Best Available Retrofit Technology for the PGE Coal Fired Power Plant in Boardman, Oregon (EPA Boardman BART Assessment) January 18, 2011.

Comment: One comment stated that a compilation of BART analyses across the United States reveals that the average cost per deciview (dv) proposed by either a state or a BART source is $14 to $18 million, with a maximum of $51 million per dv proposed by South Dakota at the Big Stone power plant. The commenter noted that ODEQ has chosen $10 million/dv as a cost criterion, which is somewhat below the national average.

Response: ODEQ selected a dollars/dv cost effectiveness threshold of $10 million/dv based on what it considered the most relevant cost effectiveness figures available from similar coal-fired power plants in other parts of the country. See Regional Haze SIP submittal, Appendix D—Table 16 (D–137) for the estimated dollars/dv of the various control technologies. EPA notes that the comment is consistent with EPA's review of dollars/dv cost effectiveness data compiled by the National Park Service (NPS) available for a variety of coal-fired facilities located across the country. The NPS data show that ODEQ's dollar/dv threshold is below the average cost for BART NO_X and SO_2 control technologies selected for other coal-fired power plants in the country. In EPA's view, however, the dollars/dv metric is a difficult one to apply consistently across BART sources given the variability in the number of Class I areas impacted by emissions from a BART source and the number of days of impacts at each area. In assessing the reasonableness of a state's BART determination, EPA does not consider it appropriate to focus on a bright-line threshold such as a dollars/dv cost effectiveness threshold but rather on the full range of relevant factors. In reviewing the BART determination for the Boardman facility, EPA has accordingly taken into account not only ODEQ's analysis of dollars/dv, but also the range of visibility impacts associated with the various control options.

Comment: One comment expressed concern with the way in which the incremental cost analysis is used by ODEQ. It stated that to use incremental costs properly, they must be compared to incremental costs for similar situations.

Response: The Regional Haze SIP submittal shows that that ODEQ estimated the incremental cost and average cost effectiveness of the various control options considered in its cost analysis for determining BART. ODEQ first calculated the average cost effectiveness of each technology, and then calculated the incremental cost of going from the most cost effective technology to each of the more stringent technically feasible control technologies. See Regional Haze SIP submittal, Appendix D—Table 8 at D–132 and Cost effectiveness table on D–168. The approach used by ODEQ to determine average and incremental cost effectiveness is consistent with the procedure outlined in the BART Guidelines. See 70 FR 39167. Given the source-specific nature of a BART determination and the emphasis not only on the costs of control, but other factors such as the degree of visibility improvement resulting from the use of controls and the remaining useful life of the facility, comparisons of incremental costs across sources are often not meaningful in making BART determinations.

Comment: Multiple comments were submitted concerning the cost effectiveness calculations. The comments expressed concern regarding the dismissal of controls that are cost-effective even with the State's $7,300/ton and $10 million/dv thresholds claiming that semi-dry flue gas desulfurization (SDFGD), selective non-catalytic reduction (SNCR), and selective catalytic reduction (SCR) were eliminated from consideration as BART for PGE Boardman through inappropriately inflated costs, inclusion of costs not allowed by EPA's Cost Control Manual, underestimated control effectiveness, and arbitrarily and

shortened equipment life due to excessively long assumed installation times.

Response: As explained in the SIP submittal, ODEQ evaluated and considered the costs, control efficiencies of the various control technologies, and expected equipment life in its BART determination. ODEQ used an independent contractor (ERG) to evaluate PGE's cost estimates for the Boardman facility and concluded that while PGE's estimates were significantly higher than ERG's, PGE's estimates better reflected real world costs, and were appropriate for the PGE Boardman BART analysis. More specifically, ERG concluded that the actual cost of retrofits is, in general, higher than the estimates provided by the EPA's Cost Control Manual. ODEQ explained that difference is due to a dramatic increase is labor and material costs in recent years. See Regional Haze SIP submittal, Attachment 7.2, ODEQ response to comments, I.1.a–c, for more detail.

In reviewing ODEQ's BART determination, EPA recognized that the cost estimates ODEQ relied on included two capital cost line items that are not normally included when using the EPA Cost Control manual. The effect of including these two line items is that the capital costs are likely ''at the high end'' of the capital cost range estimate. See EPA Boardman BART Assessment at 2. To assess the impact of ODEQ's decision to include these items in the cost estimate, EPA further evaluated the cost effectiveness value for SDFGD without including the two capital cost line items, and concluded that the cost effectiveness of SDFGD would drop from $5,535/ton to $4,810/ton. Although EPA considers the $4,810/ton to better reflect the true cost of SDFGD, we conclude that the $725/ton difference between the two estimates would not materially affect ODEQ's evaluation. EPA notes that the incremental visibility improvement between SDFGD and DSI–1 (0.4 lb/mmBtu) would only be 0.4 dv at the most impacted Class I area. Additionally, EPA found that with an SO_2 limit of 0.3 lb/mmBtu in 2018, the incremental visibility improvement between the two control technologies would only be 0.26 dv in the most impacted Class I area. In addition, while SDFGD would achieve a cumulative visibility improvement of 10.6 dv in all impacted Class I areas and DSI–1 [2] would achieve a cumulative visibility improvement of 7.0 dv and DSI–2 [3] would achieve a cumulative improvement of 9.3 dv in 2018, when the facility ceases to burn coal at the end of 2020, the cumulative visibility improvement would be 31.46 dv. See Regional Haze SIP submittal, Appendix D at D–137, 168 and 171. When choosing between the two technologies, it is reasonable for the state to consider the sizable capital cost difference between SDFGD and DSI, and the relatively small incremental visibility improvement between the two technologies in light of the shutdown of the unit in 2020. In EPA's view, ODEQ's final selection of BART would not have changed even if the cost effectiveness had been adjusted to reflect the EPA Cost Manual.

Regarding the comments concerning control effectiveness of SCR, SNCR, and SDFGD technologies, ODEQ determined the control effectiveness of these control options by evaluating actual emissions data from other sources employing similar types controls, taking into consideration that BART limit must be achieved at all times for a retrofit installation at Boardman. ODEQ's evaluation determined that the Boardman facility could not achieve the lower emission rate suggested by the commenter. See Regional Haze SIP submittal, Appendix D at D–14 through D–18, and Attachment 7.2, ODEQ response to comments 1I.1.b.

Comment: A commenter notes that on September 1, 2010, Oregon released a proposed rulemaking for public comment that included BART requirements for PGE Boardman based on a variety of closure dates, including 2020. The comment claims that the September 2010 proposal required installation of SDFGD and SNCR for a 2020 shutdown but that the requirements for a 2020 closure date were relaxed significantly in the plan EPA proposes to approve. The commenter does not believe there is sufficient justification for this relaxation of BART and states the relaxation appears arbitrary.

Response: As mentioned above, EPA's action relates to the BART determinations contained in the Regional Haze Plan that was submitted to EPA on December 20, 2010. EPA explained the basis for its decision to approve ODEQ's BART determination in the notice of proposed rulemaking. 76 FR at 12660–12662. Although ODEQ may have considered establishing more stringent BART emission limits at an earlier point, this does not provide a basis for disapproving its final BART determination.

Comment: A commenter stated that it is unclear whether the current regulatory language proposed by ODEQ would actually result in the ''closure'' of the Boardman facility because each closure option states that it only applies to the ''Foster-Wheeler boiler'' at Boardman. To ensure no other coal-fired boiler could be installed at Boardman the commenter requested ODEQ to strike the commercial name of the boiler from OAR 340–223–0020 through OAR 340–223–0090 and replace it with either ''any coal-fired boiler'' or ''the Boardman coal-fired power plant.''

Response: The State rules are clear in that they apply to the Foster-Wheeler boiler which is the only coal-fired unit at the Boardman facility. The rules do not prevent the plant owners from applying for a permit to construct a new power plant at the facility or to use the existing equipment with different fuel. See Oregon Regional Haze SIP submittal Attachment 1.1 at 8–9. However any new facility or change in the operations would need to be permitted in compliance with the CAA requirements. Further, the rules explain that notwithstanding the definition of netting basis and the process for reducing plant site emission limits (PSEL) in the Oregon rules, the netting basis and the PSEL are reduced to zero on the date which the boiler permanently ceases to burn coal. See OAR 340–223–0030(1)(e). Thus, as ODEQ explained to the Environmental Quality Commission, ''Any new facility or repowering of the existing coal-fired boiler would be permitted as a new facility without relying on the reductions from the existing plant and in compliance with all applicable state and federal requirements, including modern air pollution controls and air quality impact analysis.'' See Regional Haze SIP submittal, Attachment 1.1 at 9.

Comment: Multiple commenters explained that if ODEQ decides that the SO_2 emission limit, based on DSI, is BART for PGE Boardman, it should require PGE to design and install the DSI system to achieve 90% efficiency and require that PGE optimize its effectiveness for the duration of its operation.

Response: ODEQ established SO_2 BART limits for the Boardman facility based on an estimated 35% minimal efficiency of DSI in removing SO_2 from the flue gas. A similar comment regarding DSI efficiency was made to ODEQ during the State public comment period. In response ODEQ stated:

[2] DSI–1 is defined as the initial DSI system performance that would achieve an SO_2 emission limit of 0.4 lbs/mmBtu by July 1, 2014.

[3] DSI–2 is defined as the DSI system performance that would achieve an SO_2 emission limit of 0.3 lbs/mmBtu by July 1, 2018.

''ODEQ is not aware of a DSI system, such as proposed for the PGE Boardman Plant, to have been installed on a similar sized unit. DSI has been used on smaller units that also included fabric filters, which both contribute to improved efficiency of the DSI system. ODEQ's proposal relies on the existing ESP and does not include the installation of a fabric filter, which would cost over $100 million. In addition, the ducts between the air heater and the ESP are much larger at the Boardman Plant. It is more difficult to adequately disperse the sorbent reagent in larger ducts and still maintain enough residence time for the sorbent to react with the SO_2. [A] thirty five percent efficiency is probably a little conservative, but a BART limit should be achievable at all times.'' Regional Haze SIP submittal, Attachment 7.2 response to comment I.6.a.

EPA considers ODEQ's response regarding the uncertainties associated with the use of DSI to be reasonable.

Comment: One comment stated that DSI for PGE Boardman for the shutdown within five years of EPA approval of the SIP may well be an appropriate cost effective technology choice capable of reducing SO_2 emissions in a manner consistent with BART requirements. Similarly, a commenter states that ODEQ should require that PGE install DSI ''as expeditiously as practicable'' and contends it could be installed in a year's time.

Response: As explained above, ODEQ determined that DSI is a cost effective control technology for SO_2. The Oregon BART rule at OAR 340–223–0030 (1)(b)(A) requires that the Boardman facility achieve an SO_2 emission limit of 0.4 lbs/mmBtu by July 1, 2014, about two years ahead of the five-year maximum time allowed by the CAA for the installation of BART. As ODEQ explains, ''The proposed compliance date [of July 1, 2014] allows PGE three years to design the DSI system and conduct the pilot study, which may involve evaluation of several types of sorbent materials and injection locations, along with particulate matter stack testing.'' See Regional Haze SIP submittal, Attachment 7.2, response to comment I.7. Given the uncertainties associated with the use of DSI on a plant such as Boardman, installing DSI in this timeframe satisfies the requirement of ''as expeditiously as practicable'' and is within the timeframe specified in the CAA.

ODEQ determined that the Boardman facility need install any additional emission controls if the Foster-Wheeler boiler is shut down within five years of approval of the SIP. ODEQ did not consider DSI as a required control technology for this scenario. See Regional Haze SIP submittal, Appendix D at D–142. EPA agrees with ODEQ's conclusion that it would be unreasonable to require the installation of DSI for such a short period of operation before shutting down.

Comment: One comment stated that the capital and operating costs of DSI for Boardman were overstated. Some comments explained that although ODEQ has not provided sufficient data on the costs of DSI, it is possible that DSI could also meet ODEQ's cost-effectiveness threshold, even if used for only a few years as in the case were the Boardman facility were to shut down within five years of EPA final approval of the SIP.

Response: ODEQ's analysis for determining the capital and direct annual costs for DSI are described on pages D–130–131 of Appendix D of the Regional Haze SIP submittal. EPA's Boardman BART Assessment acknowledged that PGE's capital cost estimates for various control technologies are ''likely at the high end of the range for capital cost estimates,'' but as discussed above, even if the cost estimates are at the high end, considering the cost differential between DSI and SDFGD, and given the visibility improvements associated with selecting DSI based on an early shut down, the variation in cost estimates was not determinative. Therefore, EPA believes that the methods used by ODEQ to determine effectiveness and cost of DSI, and a determination not to require DSI if the Boardman facility ceases to burn coal within five years of EPA's approval, are reasonable and within the State's discretion. See also the response to comment above.

Comment: One comment stated that DSI is a technically feasible control technology at PGE Boardman. This comment explained that (1) the size of the coal-fired unit is inconsequential as to whether DSI is technically feasible, and (2) while DSI is not in widespread use on larger boilers like the Boardman facility, that is most likely due to availability of sorbents, costs, and SO_2 control effectiveness when compared to other SO_2 control technologies like semi-dry or wet scrubbers, not technical feasibility.

Related comments suggest that it is improper for ODEQ to discard DSI as technically infeasible merely because its installation triggers addition legal obligations under the Clean Air Act (or State law). In the commenter's view, ODEQ cannot conclude that DSI is technically infeasible because it would interfere with PGE's compliance with state mercury reduction goals, or result in adverse impacts to the particulate matter air quality standards. The comment states that as a legal matter PGE must comply with requirements associated with Regional Haze, and those intended to prevent significant deterioration of air quality and any requirements to reduce hazardous pollutants such as mercury. In the commenter's view, even if DSI were genuinely technically infeasible, PGE would not be entitled to the de facto exemption from BART that it requests because the ODEQ has an obligation to identify, and prescribe, a technically feasible BART limit.

Response: As explained above, ODEQ determined that DSI is technically feasible for PGE Boardman. Although ODEQ was not aware of a similar sized unit with a DSI system, this control technology has been used on smaller units that also included fabric filters which contribute to improved efficiency of the DSI system. However, ODEQ's BART determination does not require the installation of a new fabric filter system, which would cost about an additional $100 million, but instead relies on the use of the existing ESP at the Boardman facility. Furthermore, there is additional question regarding DSI performance because of the size of the ducts between the air heater and the ESP. These ducts are much larger at the Boardman Plant than the ducts on smaller power plants where DSI has been demonstrated. This adds to the uncertainty in DSI performance because it is more difficult to adequately disperse the sorbent reagent in larger ducts and still maintain enough residence time for the sorbent to react with the SO_2. Thus, there is some uncertainty as to how well DSI will work on this particular facility. See Regional Haze SIP submittal, Appendix D at D–129, D–169 and D–170 (ODEQ's basis for projected DSI system efficiency).

Although ODEQ concluded that DSI is technically feasible, it also took into consideration that DSI at this size and type of facility may result in unacceptable levels of PM or mercury emissions. This could result in potential additional costs if the levels of these pollutants were high enough to require additional controls. Specifically, ODEQ recognized that a significant increase in PM2.5 emissions was a possible outcome of installing DSI, and that if this occurred, the installation would be subject to the PSD requirements. The resulting BACT or air quality impact analysis would require additional controls which would increase the cost of DSI. Regional Haze SIP submittal, Appendix D at D–142 and D–170. Thus, rather than avoiding other legal requirements, ODEQ considered them in its overall cost effectiveness evaluation

of the technology. ODEQ did not exclude the technology because it might trigger other legal obligation but considered them in the overall evaluation of what was the most reasonable BART for this facility.

Comment: One commenter stated that Oregon did not appropriately consider the lower emission limitation of 0.3 lb/mmBtu (DSI–2) as BART, but instead only considered it to meet reasonable further progress by 2018. The commenter explained that the DSI–2 limitation was not identified as technologically infeasible or cost prohibitive for BART, and that ODEQ has provided no reason why the study of DSI–2 cannot be conducted ''as expeditiously as practicable'' but no later than five years after EPA approves the state SIP.

Response: ODEQ determined that due to uncertainties associated with DSI–1 performance at a large coal fired-facility the size of Boardman without a baghouse, the higher, more conservative limit of 0.40 lb/mmBtu could be achieved with a high degree of certainty in 2014, whereas the lower limit of 0.3 lb/mmBtu would not be achieved with DSI–2 until 2018, when future refinements in the DSI system performance could be achieved, possibly in combination with ultra-low sulfur coal or supplemental fuels, such as biomass. Regional Haze SIP submittal, Appendix D at D–169– D–170; 76 FR 12662. See also response to comment above.

Comment: One commenter stated that loopholes in Oregon's Administrative Rules (OAR 340–223–0010 through 340–223–0080) included provisions that would inappropriately remove the requirement for DSI. In the commenter's view the condition under which DSI would not be required, including a post-BART determination of technical infeasibility or the triggering of additional CAA obligations should not be allowed to preclude the installation of BART, which is by definition technically feasible. The commenter also asks that in approving Oregon's SIP submittal, EPA interpret the conditions contained in OAR 340–223–0030(3) as requiring EPA approval or concurrence with ODEQ's determinations prior to implementation of relaxed standards. Additionally, a commenter questions whether the provision would require or allow any public comment on ODEQ's determination that DSI–1 or DSI–2 is technologically infeasible, would inhibit compliance with Oregon's mercury rules, or would trigger PSD applicability.

Response: As explained above, ODEQ determined that DSI is a technically feasible SO_2 control technology for PGE Boardman and that it can achieve 0.4 lb/mmBtu at a removal efficiency of about 35%. Regional Haze SIP submittal, Appendix D at D–127–128. While ODEQ determined that DSI was technically feasible, it also acknowledged that the technology has only been demonstrated at smaller boilers than the one at the Boardman facility.[4] Thus, the State determined it was appropriate to require additional studies. The rules being approved today provide that technical studies to evaluate the SO_2 limits, and the potential side effects of those limits, must be conducted in accordance with a plan that is preapproved by ODEQ. These studies will fully evaluate and review the effectiveness and use of DSI technology at this facility. See OAR 340–223–0030(2), see also Regional Haze SIP submittal, Attachment 7.2 at 17. The rules first establish a limit of 0.40 lb/mmBtu by July 1, 2014 and 0.30 lb/mmBtu by July 1, 2018. Then the rules describe the specific conditions under which the SO_2 limit of 0.40 lb/mmBtu or 0.30 lb/mmBtu may be exceeded. OAR 340–223–0030(3). Specifically, the rules provide that if upon completion of the specified pilot studies, the results shows that DSI is not capable of achieving the BART limit of 0.4 lb/mmBtu (between July1, 2014 and June 30, 2018) or 0.30 lb/mmBtu (between July 1, 2018 and December 31, 2020), or would prevent compliance with specified mercury limits or cause a significant air quality impact for PM10 or PM2.5, the SO_2 emission limit may be modified up to 0.55lb/mmBtu through a modification to the facility's Title V permit. The rule being approved today is clear as to what conditions must be satisfied in order for the source to exceed the 0.4 lb/mmBtu or 0.3 lb/mmBtu limits. The rule provides, that if applicable, the study may propose a limit that exceeds the 0.4 lb/mmBtu or 0.3 lb/mmBtu limits based on reduction of the sulfur dioxide emission limits to the maximum extent possible through the use of DSI or other SO_2 control system of equal or lower cost, including but not limited to the use of low sulfur coal, provided that the proposed emission limit may not exceed 0.55lb/mmBtu heat input as a 30-day rolling average. The conditions and parameters under which the 0.3 lb/mmBtu or 0.4 lb/mmBtu emission limits may be exceeded, are spelled out in the rule and were considered by EPA in its review of the proposed rule. Those conditions and parameters, including the alternate upper limit of 0.55 lb/mmBtu, are being approved today and additional approval by EPA is not necessary.

Regarding the commenter's concern relating to the opportunity for public input into this potential change in emission limits, the rule allows for the PGE Boardman's Title V operating permit to be modified to include a federally enforceable permit limit based on the performance of DSI demonstrated by the pilot study, as performed according to OAR 340–223–0030(2)(c). Thus, before the 0.4 lb/mmBbtu or 0.3 lb/mmBtu emission limits may be exceeded, the source would need to comply with the conditions in OAR 340–223–0030(3) including submitting a complete application for a Title V permit modification. The permit modification would be considered a significant permit modification under OAR 340–218–0180 and a category 3 permit under Oregon Title V rules. See OAR 340–218–0210(1). A category 3 permit is subject to the procedures in OAR 340–209–0030(3)(c) which include general public notice, opportunity for public comment and EPA review. In addition, the results of the pilot study, the technical basis and the recommended alternative limit would be provided to the public for review and comment during the Title V modification process.

Comment: The commenter also asks EPA to re-evaluate the environmental benefits from Oregon's SIP submittal based on the emission limit and reductions that EPA approval of the SIP would actually require: 0.55 lb/mmBtu, which the Oregon SIP submittal does require to be met, regardless of the results of the pilot studies.

Response: The visibility improvements to Class I areas impacted by PGE Boardman were based on the SO_2 and NO_X BART emission limits to be achieved by 2014, and on further reasonable progress emission limits for SO_2 achieved by 2018. The SO_2 BART limit of 0.40 lb/mmBtu is the applicable limit as of July 1, 2014 unless specific conditions are satisfied and ODEQ approves an alternate limit. See OAR 340–223–0030(2)(c)(E). Additionally, ODEQ explains that an alternate limit must not exceed 0.55 lb/mmBtu in order to achieve at least a 0.5 dv improvement

[4] EPA also recognizes some uncertainty regarding the effectiveness of this control at the Boardman facility. For example, EPA's ''Air Pollution Control Technology Fact Sheet'' states that ''SO_2 removal efficiencies [of DSI] are significantly lower that wet systems, between 50% and 60% for calcium-based sorbents. Sodium- based dry sorbent injection into the duct can achieve up to 80% control efficiencies.'' EPA–452/F–03–034 at 5. EPA realizes that the proposed control limit of 0.4 lb/mmBtu is below the range cited in this fact sheet, but given the larger size of the Boardman boiler and the State's desire not to overload the existing ESP PM control system, EPA believes that the proposed emission limit is reasonable.

in visibility in Mt. Hood Wilderness Area. See Id. and the Regional Haze SIP submittal, Appendix D ''Control Effectiveness'' table at D–168 and text on D–170. Thus, the State considered the visibility improvements associated with a 0.55 lb/mmBtu and the additional analysis requested by the commenter is not necessary.

Comment: One commenter stated that visibility improvements and potential improvements in other non-air quality-related impacts in the region would occur as a result of the installation of SCR at the Boardman facility and should be taken into consideration in determining BART the facility. This commenter further explained that NO_X emissions can contribute to excess nitrogen in ecosystems, which can alter the chemical balance of the soils and waterbodies with serious consequences for plant and animal life. For these reasons, the commenter concluded, ODEQ must require installation of SCR and new low NO_X burners with overfire air as BART for the Boardman facility.

Response: The estimated visibility improvements that could be achieved over current conditions with each combination of technically feasible controls were taken into consideration in determining BART for Boardman. See 76 FR 12611. More specifically, ODEQ determined that LNB and MOFA are BART for NO_X because they are cost effective and provided a 1.45 dv improvement at Mt. Hood Wilderness Area (the most impacted Class I area) and a cumulative visibility improvement of 8.75 dv in all 14 impacted Class I areas. ODEQ determined that DSI is BART for SO_2 because it is cost effective and provides a significant (0.96 dv) improvement at Mt. Hood Wilderness Area and a 7.4 dv improvement in all impacted Class I areas by July 1, 2014. For further comparison of visibility improvement associated with the various control technologies and timeframes see the Regional Haze SIP submittal, Appendix D, at D–169–172. The contribution of the facility's NO_X emissions to excess nitrogen in ecosystems, were not taken into account in the PGE Boardman BART analysis. However, it would be extremely difficult to quantify, or even to qualitatively assess, the impacts of added nitrogen from one source on an ecosystem. The impacts of deposition related effects such as nutrient enrichment and eutrophication vary considerably across ecosystems. EPA does not consider it unreasonable for ODEQ to have not taken these impacts into account in making its BART determination.

Comment: One commenter urged the Department to consider and maintain the 2018 and five year closure options for the Boardman facility. The commenter requested that ODEQ also look at additional cost-benefit and technical analysis for the 2018 option.

Response: ODEQ's final Regional Haze SIP submittal includes rules which allow PGE Boardman to either cease burning coal within five years of EPA's approval of the rules or to cease burning coal by December 31, 2020. PGE must notify ODEQ in writing no later than July 1, 2014 if it chooses to cease coal burning within 5 years of this action. If it chooses that option, one set of emission limits apply; however, if it chooses to continue operating until December 31, 2020, more stringent emission limits apply. A 2018 shutdown option was considered by ODEQ but removed from the final SIP submittal because PGE indicated that it intended to operate the Boardman facility until the end of 2020, and because ODEQ has no authority to require a facility to shut down by a certain date under the BART Rule absent a commitment by the source to do so.

Comment: A commenter stated that the regulation should specify that if PGE continues to operate the Boardman facility as a coal-fired facility after its selected closure deadline the operating permit for the facility shall be deemed void. The commenter also requested that to avoid any uncertainty regarding the availability of relief due to non-compliance, the regulation should explicitly state that the state, EPA and citizens may apply for both injunctive and civil penalty relief.

Response: A violation of a federally enforceable state rule or permit is subject to liability as provided in section 113 of the CAA, 42 USC 7413, and would be addressed as appropriate under applicable state or federal law. Additional language to restate the existing authority is not necessary.

Comment: One commenter requested that EPA correct or remove certain factual statements that were included in the notice of proposed rulemaking. Specifically, the commenter requested changes to state that PGE Boardman is a 617 megawatt (MW) plant instead of 584 MW plant and that it commenced construction on ''December 6, 1979'' instead of in ''1975''.

Response: EPA agrees that the PGE Boardman coal fired power plant is capable of producing about 617 MW of electricity, not 584 MW. According to ODEQ's BART report, construction on the PGE Boardman plant began in 1975. However, the first air contaminant discharge permit from ODEQ to PGE for Boardman was dated December 6, 1979.

Comment: One commenter stated that for the five-year closure option at Boardman, ODEQ should require additional interim controls that would reduce emissions in the remaining five remaining years of operation.

Response: OAR 340–223–0080 provides alternate requirements in the event the owner elects to permanently cease burning coal within five years of EPA's SIP approval. Under this alternative, the NO_X emission limit of 0.23 lb/mmBtu applies beginning July 1, 2011, unless the source satisfies the requirements in OAR 430–223–0080(2)(a) and it is demonstrated by December 31, 2011, that the emission limit of 0.23 lb/mmBtu cannot be achieved with combustion controls, in which case the ODEQ may grant an extension to July 1, 2013. OAR 340–223–080(2)(a).

Comment: One commenter requested that the NO_X, SO_2 and PM emission limits for PGE Boardman include emission limits during startup and shutdown.

Response: The BART rules include do startup and shutdown emission limits for the Boardman facility. See OAR 340–223–0030(1)(d). These limits, which are three-hour rolling averages, are: Sulfur dioxide, 1.20 lb/mmBtu, Nitrogen oxide, 0.70 lb/mmBtu, and particulate matter emissions must be minimized to the extent practicable pursuant to approved startup and shutdown procedures in accordance with OAR 340–214–0310.

Comment: As stated above, NPCA incorporated into their comments a number of comment letters that had previously been submitted to ODEQ. Many of the comments contained in these letters relate to emission limits or comments about technologies associated with the ''no closure'' option provided in prior versions of OAR 340–223–0050, 0060, and 0070, and ODEQ's BART determination based on PGE operating the coal-fired boiler at the Boardman facility until 2040.

Response: The Oregon Regional Haze Plan submitted to EPA included revisions to the State's regional haze rules at OAR 340–223–0010 through 340–223–0080. In this action, EPA is taking final action to approve a revision to the Oregon SIP which incorporates OAR 340–223–0010 through 340–223–0080 and specifically includes OAR 340–223–0030. As provided in OAR 340–223–0050, and as explained in the notice of proposed rulemaking, upon EPA's final approval of OAR 340–223–0030, OAR 340–223–0060 and 340–223–0070 are repealed as a matter of law. 76 FR 12662–12663. Thus, compliance

with the ''no closure option'' or operating until 2040 is no longer an alternative. Therefore, the BART determination associated with that option is no longer relevant and responses to comments regarding it are unnecessary.

III. Final Action

EPA is approving the BART measures in the Oregon Regional Haze plan as meeting the requirements of section 110(a)(2)(D)(i)(II) of the Clean Air Act with respect to the 1997 8-hour ozone and 1997 PM2.5 NAAQS. In addition, EPA is approving portions of the Oregon Regional Haze Plan, submitted on December 20, 2010, as meeting the requirements set forth in section 169A of the Act and in 40 CFR 51.308(e) regarding BART. EPA is also approving the Oregon submittal as meeting the requirements of 40 CFR 51.308(d)(2) and (4)(v) regarding the calculation of baseline and natural conditions for the Mt. Hood Wilderness Area, Mt. Jefferson Wilderness Area, Mt. Washington Wilderness Area, Kalmiopsis Wilderness Area, Mountain Lakes Wilderness Area, Gearhart Mountain Wilderness Area, Crater Lake National Park, Diamond Peak Wilderness Area, Three Sisters Wilderness Area, Strawberry Mountain Wilderness Area, Eagle Cap Wilderness Area, and Hells Canyon Wilderness Area, and the statewide inventory of emissions of pollutants that are reasonably anticipated to cause or contribute to visibility impairment in any mandatory Class I Federal Area.

IV. Oregon Notice Provision

Oregon Revised Statute 468.126, which remains unchanged since EPA last approved Oregon's SIP, prohibits ODEQ from imposing a penalty for violation of an air, water or solid waste permit unless the source has been provided five days' advanced written notice of the violation and has not come into compliance or submitted a compliance schedule within that five-day period. By its terms, the statute does not apply to Oregon's Title V program or to any program if application of the notice provision would disqualify the program from Federal delegation. Oregon has previously confirmed that, because application of the notice provision would preclude EPA approval of the Oregon SIP, no advance notice is required for violation of SIP requirements.

V. Scope of EPA Approval

Oregon has not demonstrated authority to implement and enforce the Oregon Administrative rules within ''Indian Country'' as defined in 18 U.S.C. 1151. ''Indian country'' is defined under 18 U.S.C. 1151 as: (1) All land within the limits of any Indian reservation under the jurisdiction of the United States Government, notwithstanding the issuance of any patent, and including rights-of-way running through the reservation, (2) all dependent Indian communities within the borders of the United States, whether within the original or subsequently acquired territory thereof, and whether within or without the limits of a State, and (3) all Indian allotments, the Indian titles to which have not been extinguished, including rights-of-way running through the same. Under this definition, EPA treats as reservations trust lands validly set aside for the use of a Tribe even if the trust lands have not been formally designated as a reservation. Therefore, this SIP approval does not extend to ''Indian Country'' in Oregon. See CAA sections 110(a)(2)(A) (SIP shall include enforceable emission limits), 110(a)(2)(E)(i) (State must have adequate authority under State law to carry out SIP), and 172(c)(6) (nonattainment SIPs shall include enforceable emission limits).

VI. Statutory and Executive Orders Review

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

In addition, this rule does not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), because the rule neither imposes substantial direct compliance costs on tribal governments, nor preempts tribal law. Therefore, the requirements of section 5(b) and 5(c) of the Executive Order do not apply to this rule. Consistent with EPA policy, EPA nonetheless provided a consultation opportunity to Tribes in Idaho, Oregon and Washington in letters dated January 14, 2011. EPA received one request for consultation, and we have followed-up with that Tribe. This action also does not have Federalism implications because it does not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999). This action merely approves a state rule implementing a Federal standard, and does not alter the relationship or the distribution of power and responsibilities established in the CAA. This rule also is not subject to Executive Order 13045 ''Protection of Children from Environmental Health Risks and Safety Risks'' (62 FR 19885, April 23, 1997), because it approves a state rule implementing a Federal standard.

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

The Congressional Review Act, 5 U.S.C. 801 *et seq.,* as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this 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).

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 6, 2011.* Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 52

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

Dated: June 17, 2011.

Dennis J. McLerran,

Regional Administrator, Region 10.

Part 52, chapter I, title 40 of the Code of Federal Regulations is amended as follows:

PART 52—[AMENDED]

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

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

Subpart MM—Oregon

■ 2. Section 52.1970 is amended by adding and reserving paragraph (c)(150), and adding paragraph (c)(151) to read as follows:

§ 52.1970 Identification of plan.

* * * * *

(c) * * *

(150) [Reserved]

(151) On December 20, 2010, the Oregon Department of Environmental Quality submitted a SIP revision to meet the regional haze requirements of Clean Air Act section 169A and the interstate transport requirements of Clean Air Act section 110(a)(2)(D)(i)(II) as it applies to visibility for the 1997 8-hour ozone NAAQS and 1997 $PM_{2.5}$ NAAQS.

(i) Incorporation by reference.

(A) December 10, 2010, letter from ODEQ to the Oregon Secretary of State requesting filing of permanent rule amendments to OAR 340–223.

(B) December 10, 2010, filed copy of State ''Certificate and Order for Filing'' verifying the effective date of December 10, 2010, for OAR 340–223–0010, OAR 340–223–0020, OAR 340–223–0030, OAR 340–223–0040, OAR 340–223–0050 and OAR 340–223–0080.

(C) The following revised sections of the Oregon Administrative Rules, Chapter 340:

(*1*) 340–223–0010 Purpose of Rules, effective December 10, 2010.

(*2*) 340–223–0020 Definitions, effective December 10, 2010.

(*3*) 340–223–0030 BART and Additional Regional Haze Requirements for the Foster-Wheeler Boiler at the Boardman Coal-Fired Power Plant (Federal Acid Rain Program Facility ORISPL Code 6106), effective December 10, 2010.

(*4*) 340–223–0040 Federally Enforceable Permit Limits, effective December 10, 2010.

(*5*) 340–223–0050 Alternative Regional Haze Requirements for the Foster-Wheeler Boiler at the Boardman Coal-Fired Power Plant (Federal Acid Rain Program Facility ORISPL Code 6106), effective December 10, 2010.

(*6*) 340–223–0080 Alternative Requirements for the Foster-Wheeler Boiler at the Boardman Coal-Fired Power Plant (Federal Acid Rain Program Facility ORISPL code 6106) Based Upon Permanently Ceasing the Burning of Coal Within Five Years of EPA Approval of the Revision to the Oregon Clean Air Act State Implementation Plan Incorporating OAR Chapter 340, Division 223, effective December 10, 2010.

(ii) Additional material.

(A) The portion of the SIP revision relating to statewide inventory of emissions of pollutants that are reasonably anticipated to cause or contribute to visibility impairment in any mandatory Class I Federal Area and the calculation of baseline and natural visibility conditions in Oregon Class I areas, and determination of current and 2018 visibility conditions in Oregon Class I areas.

(B) [Reserved]

■ 3. Section 52.1973 is amended by adding paragraph (g) to read as follows:

§ 52.1973 Approval of plans.

* * * * *

(g) *Visibility protection.* (1) EPA approves portions of a Regional Haze SIP revision submitted by the Oregon Department of Environmental Quality on December 20, 2010, and adopted by the Oregon Department of Environmental Quality Commission on December 9, 2010, as meeting the requirements of Clean Air Act section 169A and 40 CFR 51.308(e) regarding Best Available Retrofit Technology. The SIP revision also meets the requirements of 40 CFR 51.308(d)(2) and (d)(4)(v) regarding the calculation of baseline and natural conditions for the Mt. Hood Wilderness Area, Mt. Jefferson Wilderness Area, Mt Washington Wilderness Area, Kalmiopsis Wilderness Area, Mountain Lakes Wilderness Area, Gearhart Mountain Wilderness Area, Crater Lake National Park, Diamond Peak Wilderness Area, Three Sisters Wilderness Area, Strawberry Mountain Wilderness Area, Eagle Cap Wilderness Area, and Hells Canyon Wilderness Area, and the statewide inventory of emissions of pollutants that are reasonably anticipated to cause or contribute to visibility impairment in any mandatory Class I Federal Area. The SIP revision also meets the requirements of Clean Air Act section 110(a)(2)(D)(i)(II) as it applies to visibility for the 1997 8-hour ozone NAAQS and 1997 $PM_{2.5}$ NAAQS.

(2) [Reserved]

■ 4. Section 52.1989 is amended by adding paragraph (b) to read as follows:

§ 52.1989 Interstate Transport for the 1997 8-hour ozone NAAQS and 1997 $PM_{2.5}$ NAAQS.

* * * * *

(b) On December 20, 2010, the Oregon Department of Environmental Quality submitted a Regional Haze SIP revision, adopted by the Oregon Environmental Quality Commission on December 9, 2010. EPA approves the portion of this submittal relating to section 110(a)(2)(D)(i)(II) as it applies to visibility for the 1997 8-hour ozone NAAQS and 1997 $PM_{2.5}$ NAAQS. The SIP revision also meets the requirements of Clean Air Act section 169A and 40 CFR 51.308(e) regarding Best Available Retrofit Technology and the requirements of 40 CFR 51.308(d)(2) and (d)(4)(v) regarding the calculation of baseline and natural conditions for the Mt. Hood Wilderness Area, Mt. Jefferson Wilderness Area, Mt Washington Wilderness Area, Kalmiopsis Wilderness Area, Mountain Lakes Wilderness Area, Gearhart Mountain Wilderness Area, Crater Lake National Park, Diamond Peak Wilderness Area, Three Sisters Wilderness Area, Strawberry Mountain Wilderness Area, Eagle Cap Wilderness Area, and Hells Canyon Wilderness Area, and the statewide inventory of emissions of pollutants that are reasonably anticipated to cause or contribute to visibility impairment in any mandatory Class I Federal Area.

[FR Doc. 2011–16635 Filed 7–1–11; 8:45 am]

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DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

42 CFR Parts 422 and 480

[CMS–3239–CN]

RIN 0938–AQ55

Medicare Program; Hospital Inpatient Value-Based Purchasing Program; Correction

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

ACTION: Correction of final rule.

SUMMARY: This document corrects technical errors that appeared in the final rule published in the **Federal Register** on May 6, 2011 (76 FR 26490) entitled ''Medicare Program; Hospital Inpatient Value-Based Purchasing Program.''

DATES: *Effective Date:* These corrections are effective on July 1, 2011.

FOR FURTHER INFORMATION CONTACT: Ernessa Brawley, (410) 786–2075.

SUPPLEMENTARY INFORMATION:

I. Background

In FR Doc. 2011–10568 of May 6, 2011 (76 FR 26490), there were a number of technical errors that are identified and corrected in the ''Correction of Errors'' section below. The provisions in this correction notice are effective as if they had been included in the document published May 6, 2011. Accordingly, the corrections are effective on July 1, 2011.

II. Summary of Errors

On page 26490, we made several typographical errors in the ''Table of Contents'' section, and on pages 26493 through 26539, we made typographical errors to the corresponding section headings under section ''II. Provisions of the Final Rule and Responses to Comments.'' In the final rule preamble language, we combined section ''II.A'' and section ''II.B'' to remove redundancy in the language and titled the new combined section ''II. A Overview of the January 7, 2011 Hospital Inpatient VBP Program Proposed Rule.'' We inadvertently failed to reflect this combination in the table of contents and corresponding headings in the preamble language. Therefore, in section III. of this correction notice, we correct these errors.

On pages 26513 and 26516, we made technical and typographical errors with the numerical values expressed in Tables 5 and 7, respectively. In these tables, we are adjusting the ''n'' value used to calculate the achievement threshold and benchmark values listed in the tables, which properly reflects the performance standards we have finalized for the hospital value-based purchasing program. Therefore, in section III. 6. and 7. of this notice, we are correcting these errors in the tables.

III. Correction of Errors

In FR Doc. 2011–10568 of May 6, 2011 (76 FR 26490), make the following corrections:

1. On page 26490, the ''Table of Contents'' section is corrected to read as follows:

Table of Contents

I. Background
A. Overview
B. Hospital Inpatient Quality Data Reporting Under Section 501(b) of Public Law 108–173
C. Hospital Inpatient Quality Reporting Under Section 5001(a) of Public Law 109–171
D. 2007 Report to Congress: Plan To Implement a Medicare Hospital Value-Based Purchasing Program
E. Provisions of the Affordable Care Act
II. Provisions of the Final Rule and Response to Comments
A. Overview of the January 7, 2011 Hospital Inpatient VBP Program Proposed Rule
B. Performance Period
C. Measures
D. Performance Standards
E. Methodology for Calculating the Total Performance Score
F. Applicability of the Value-Based Purchasing Program to Hospitals
G. The Exchange Function
H. Hospital Notification and Review Procedures
I. Reconsideration and Appeal Procedures
J. FY 2013 Validation Requirements for Hospital Value-Based Purchasing
K. Additional Information
L. QIO Quality Data Access
III. Collection of Information Requirements
IV. Economic Analyses
A. Regulatory Impact Analysis
B. Regulatory Flexibility Act Analysis
C. Unfunded Mandates Reform Act Analysis
V. Federalism Analysis

2. On page 26494, in the third column; the section heading ''C. Performance Period'' is corrected to read ''B. Performance Period''.

3. On page 26495, in the third column; the section heading ''D. Measures'' is corrected to read ''C. Measures''.

4. On page 26511, in the first column; the section heading ''E. Performance Standards'' is corrected to read ''D. Performance Standards''.

5. On page 26513, in the first column; the section heading ''F. Methodology for Calculating the Total Performance Score'' is corrected to read ''E. Methodology for Calculating the Total Performance Score''.

6. On page 26513, Table 5 is corrected to read as follows:

TABLE 5—ACHIEVEMENT THRESHOLDS FOR THE FY 2014 HOSPITAL VBP PROGRAM MORTALITY OUTCOME MEASURES

[Displayed as survival rates]

Measure ID	Measure description	Performance standard (achievement threshold)
	Mortality Outcome Measures	
MORT–30–AMI	Acute Myocardial Infarction (AMI) 30-Day Mortality Rate	.8477
MORT–30–HF	Heart Failure (HF) 30-Day Mortality Rate	.8861
MORT–30 PN	Pneumonia (PN) 30-Day Mortality Rate	.8818

7. On page 26516, Table 7 is corrected to read as follows:

TABLE 7—FINAL BENCHMARKS FOR THE FY 2014 HOSPITAL VBP PROGRAM MORTALITY OUTCOME MEASURES

[Displayed as survival rates]

Measure ID	Measure description	Benchmark
	Mortality Outcome Measures	
MORT–30–AMI	Acute Myocardial Infarction (AMI) 30-Day Mortality Rate	.8673
MORT–30–HF	Heart Failure (HF) 30-Day Mortality Rate	.9042
MORT–30 PN	Pneumonia (PN) 30-Day Mortality Rate	.9021

8. On page 26527, in the first column; the section heading ''G. Applicability of the Value-Based Purchasing Program'' Hospitals is corrected to read ''F. Applicability of the Value-Based Purchasing Program to Hospitals''.

9. On page 26531, in the first column; the section heading ''H. Exchange Function'' is corrected to read ''G. The Exchange Function''.

10. On page 26534, in the second column; the section heading ''I. Hospital Notification and Review Procedures'' is corrected to read ''H. Hospital Notification and Review Procedures''.

11. On page 26536, in the third column; the section heading ''J. Reconsideration and Appeal Procedures'' is corrected to read ''I. Reconsideration and Appeal Procedures''.

12. On page 26537, in the first column; the section heading ''K. FY 2013 Validation Requirements for Hospital Value-Based Purchasing'' is corrected to read ''J. FY 2013 Validation Requirements for Hospital Value-Based Purchasing''.

13. On page 26538, in the first column; the section heading ''L. Additional Information'' is corrected to read ''K. Additional Information''.

14. On page 26539, in the second column; the section heading ''M. QIO Quality Data Access'' is corrected to read ''L. QIO Quality Data Access''.

IV. Waiver of Proposed Rulemaking

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 notice merely corrects technical and typographic errors in the Hospital Inpatient Value-Based Purchasing Program final rule that was published on May 6, 2011 and becomes effective on July 1, 2011. The changes are not substantive changes to the policies or payment methodologies. Therefore, we believe that undertaking further notice and comment procedures to incorporate these corrections and delaying the effective date of 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 the dissemination of it. For the reasons stated above, 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.

(Catalog of Federal Domestic Assistance Program No. 93.773, Medicare—Hospital Insurance; and Program No. 93.774, Medicare—Supplementary Medical Insurance Program)

Dated: June 28, 2011.

Dawn L. Smalls,

Executive Secretary to the Department.

[FR Doc. 2011–16763 Filed 7–1–11; 8:45 am]

BILLING CODE 4120–01–P

DEPARTMENT OF THE INTERIOR

Office of the Secretary of the Interior

43 CFR Part 10

RIN 1024–AD98

Native American Graves Protection and Repatriation Act Regulations—Definition of ''Indian Tribe''

AGENCY: Office of the Secretary, Interior.

ACTION: Interim final rule with request for comments.

SUMMARY: This amendment to the Department's regulations implementing the Native American Graves Protection and Repatriation Act (NAGPRA) removes the definition of ''Indian tribe,'' because it is inconsistent with the statutory definition of that term.

DATES: This rule is effective July 5, 2011. Comments must be received by September 6, 2011.

ADDRESSES: You may submit comments, identified by the Regulation Identifier Number (RIN) 1024–AD98, by any of the following methods:

—*Federal rulemaking portal: http://www.regulations.gov.* Follow the instructions for submitting comments.

—*Mail to:* Dr. Sherry Hutt, Manager, National NAGPRA Program, National Park Service, 1201 Eye Street, NW., (2253), Washington, DC 20005.

—*Hand deliver to:* Dr. Sherry Hutt, 1201 Eye Street, NW., 8th floor, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Dr. Sherry Hutt, Manager, National NAGPRA Program, National Park Service, 1201 Eye Street, NW., 8th floor, Washington, DC 20005, telephone (202) 354–1479, facsimile (202) 371–5197.

SUPPLEMENTARY INFORMATION:

Authority

The Secretary is responsible for implementation of the Native American Graves Protection and Repatriation Act, including the issuance of appropriate regulations implementing and interpreting its provisions. See 25 U.S.C. 3001 *et seq.*

Background

The Native American Graves Protection and Repatriation Act (NAGPRA) addresses the rights of lineal descendants, Indian Tribes, and Native Hawaiian organizations to certain Native American human remains, funerary objects, sacred objects, and objects of cultural patrimony. NAGPRA defines ''Indian tribe'' as ''any tribe, band, nation, or other organized group or community of Indians, including any Alaska Native village (as defined in, or established pursuant to, the Alaska Native Claims Settlement Act) (43

U.S.C. 1601 *et seq.*), which is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians'' (25 U.S.C. 3001(7)).

The Department of the Interior (Department) published the initial rules to implement NAGPRA on December 4, 1995 (60 FR 62158). These rules defined ''Indian tribe'' to include, in addition to any Alaska Native village, any Alaska Native corporation (43 CFR 10.2(b)(2)).

From July 2009 to July 2010, at the request of Congress, the Government Accountability Office (GAO) conducted a performance audit to address the status of NAGPRA implementation among Federal agencies. In its report, Native American Graves Protection and Repatriation Act: After Almost 20 Years, Key Federal Agencies Still Have Not Fully Complied with the Act (Report no. GAO–10–768 (July 2010); GAO Report), the GAO recommended, among other things, that the National NAGPRA Program, in conjunction with the Department's Office of the Solicitor, reassess whether any Alaska Native corporations should be considered as ''eligible entities for purposes of carrying out NAGPRA. * * *'' (GAO Report, at 55).

The recommendation and analysis in the GAO report have engendered significant uncertainty on the part of museums and Federal agencies concerning the status of Alaska Native corporations under NAGPRA. The Department has received a number of questions including whether Alaska Native corporations may assert claims for human remains and other cultural items; whether the NAGPRA requirements for consultation with Indian Tribes apply to Alaska Native corporations; whether Alaska Native corporations are authorized under the law to bring matters to the NAGPRA Review Committee; and whether Alaska Native corporations can be recipients of grants authorized by NAGPRA.

To address these questions, and as recommended by GAO, the Department's Office of the Solicitor examined the legal basis for the existing regulatory provision that included Alaska Native corporations as Indian Tribes under the Act. The opinion of the Solicitor's Office is posted on the National NAGPRA Program's Web site at *http://www.nps.gov/history/nagpra/DOCUMENTS/Solicitors_Memo_ANCSA_03182011.pdf.* The Solicitor's Office found that Congress did not import the definition of ''Indian tribe'' into NAGPRA verbatim from the Indian Self Determination and Education Assistance Act (25 U.S.C. 450b; ISDEAA). Whereas the ISDEAA definition includes Alaska Native corporations, the NAGPRA definition does not. According to the legislative history of NAGPRA, the definition of ''Indian tribe'' in the Act was deliberately changed from that in the ISDEAA in order to ''delete[ ] land owned by any Alaska Native Corporation from being considered as 'tribal land' '' (136 Cong. Rec. 36,815 (1990)). The Solicitor's Office ''therefore strongly recommend[ed] that the regulatory definition of 'Indian tribe' be changed as soon as feasible to conform to the statutory definition.'' This interim final rule implements that recommendation by deleting the regulatory definition of ''Indian tribe.'' The effect of the removal of the definition from the regulations is that we will now use only the statutory definition of ''Indian tribe'' in implementing NAGPRA.

Compliance With Other Laws and Executive Orders

Regulatory Planning and Review (Executive Order 12866)

This document is not a significant rule and has not been reviewed by the Office of Management and Budget under Executive Order 12866.

(1) This rule will not have an effect of $100 million or more on the economy. It will not adversely affect in a material way the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or Tribal governments or communities.

(2) This rule will not create a serious inconsistency or otherwise interfere with an action taken or planned by another agency.

(3) This rule does not materially alter the budgetary impact of entitlements, grants, user fees, or loan programs, or the rights or obligations of their recipients.

(4) This rule does not raise novel legal or policy issues.

Regulatory Flexibility Act (RFA)

The Department of the Interior certifies that this rule will not have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*).

Small Business Regulatory Enforcement Fairness Act (SBREFA)

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

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

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

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

Unfunded Mandates Reform Act (UMRA)

This rule does not impose an unfunded mandate on State, local, or Tribal governments or the private sector of more than $100 million per year. The rule does not have a significant or unique effect on State, local or Tribal governments, or the private sector. A statement containing the information required by the Unfunded Mandates Reform Act (2 U.S.C. 1531 *et seq.*) is not required.

Takings (Executive Order 12630)

Under the criteria in Executive Order 12630, this rule does not have significant takings implications. A takings implication assessment is not required. No taking of personal property will occur as a result of this rule.

Federalism (Executive Order 13132)

Under the criteria in Executive Order 13132, this rule does not have sufficient Federalism implications to warrant the preparation of a Federalism summary impact statement. A Federalism summary impact statement is not required.

Consultation With Indian Tribes (Executive Order 13175)

Under the criteria in Executive Order 13175 we have evaluated this rule and determined that it has no potential effects on Federally recognized Indian Tribes.

Paperwork Reduction Act (PRA)

This regulation does not contain information collection requirements, and a submission under the PRA is not required.

National Environmental Policy Act (NEPA)

This rule does not constitute a major Federal action significantly affecting the quality of the human environment. A detailed statement under NEPA is not required because the rule is covered by a categorical exclusion under 43 CFR 46.210(i), ''Policies, directives, regulations, and guidelines: that are of an administrative, financial, legal, technical, or procedural nature; or whose environmental effects are too

broad, speculative, or conjectural to lend themselves to meaningful analysis and will later be subject to the NEPA process, either collectively or case-by-case.'' We have also determined that the rule does not involve any of the extraordinary circumstances listed in 43 CFR 46.215 that would require further analysis under NEPA.

Information Quality Act (IQA)

In developing this rule, we did not conduct or use a study, experiment, or survey requiring peer review under the Information Quality Act (Pub. L. 105–554).

Effects on the Energy Supply (Executive Order 13211)

The rule is not a significant energy action under the definition in Executive Order 13211. A statement of Energy Effects is not required.

Determination To Issue an Interim Final Rule With Immediate Effective Date

The Department is publishing this rule as an interim final rule with request for comment, but without prior notice and opportunity for comment, as allowed by the Administrative Procedure Act (5 U.S.C. 553(b)(3)(B)). Under this provision, an agency may issue a regulatory action without notice and an opportunity for comment when the agency, for good cause, finds that the notice and comment procedures are ''impracticable, unnecessary or contrary to the public interest.'' The Department for good cause finds that prior notice and comment are unnecessary because this rule amends the existing rule to conform with the Act. See, *e.g., Komjathy* v. *National Transp. Safety Bd.,* 832 F.2d 1294, 1296–1297 (DC Cir. 1987), and *Gray Panthers Advocacy Committee, et al.* v. *Sullivan,* 936 F.2d 1284 (DC Cir. 1991). Under 5 U.S.C. 553(d)(3), the Department for good cause finds that this rule should be made effective upon publication in the **Federal Register**, rather than after the usual 30-day period. This finding is based on the uncertainty caused by the GAO report described above and the need to ensure compliance with the requirements of the Act.

The Department is requesting comments on this interim final rule. The Department will review any comments received and anticipates responses to comments in either a new final rule or in a future proposed rulemaking also addressing other substantive changes to the regulations found at 43 CFR part 10.

Drafting Information

This interim final rule was prepared by staff of the National NAGPRA Program and of the Office of the Solicitor, Divisions of Parks and Wildlife and Indian Affairs.

Public Participation

It is the policy of the Department of the Interior, whenever practicable, to afford the public an opportunity to participate in the rulemaking process. Accordingly, interested persons may submit written comments regarding this interim final rule to the address noted at the beginning of this rulemaking.

Public Availability of Comments

Before including your address, phone number, e-mail 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.

List of Subjects in 43 CFR Part 10

Administrative practice and procedure, Graves, Hawaiian Natives, Historic preservation, Indians—claims, Museums, Reporting and recordkeeping requirements, Repatriation.

In consideration of the foregoing, the Department of the Interior amends 43 CFR part 10 as follows:

PART 10—NATIVE AMERICAN GRAVES PROTECTION AND REPATRIATION REGULATIONS

■ 1. The authority for part 10 continues to read as follows:

Authority: 25 U.S.C. 3001 *et seq.*

§ 10.2 [Removed and Reserved]

■ 2. In § 10.2, remove and reserve paragraph (b)(2).

Dated: June 7, 2011.

Rachel Jacobson,

Acting Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 2011–16788 Filed 7–1–11; 8:45 am]

BILLING CODE 4312–50–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

44 CFR Part 65

[Docket ID FEMA–2011–0002]

Changes in Flood Elevation Determinations

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Final rule.

SUMMARY: Modified Base (1% annual-chance) Flood Elevations (BFEs) are finalized for the communities listed below. These modified BFEs will be used to calculate flood insurance premium rates for new buildings and their contents.

DATES: The effective dates for these modified BFEs are indicated on the following table and revise the Flood Insurance Rate Maps (FIRMs) in effect for the listed communities prior to this date.

ADDRESSES: The modified BFEs for each community are available for inspection at the office of the Chief Executive Officer of each community. The respective addresses are listed in the table below.

FOR FURTHER INFORMATION CONTACT: Luis Rodriguez, Chief, Engineering Management Branch, Federal Insurance and Mitigation Administration, Federal Emergency Management Agency, 500 C Street, SW., Washington, DC 20472, (202) 646–4064, or (e-mail) *luis.rodriguez1@dhs.gov.*

SUPPLEMENTARY INFORMATION: The Federal Emergency Management Agency (FEMA) makes the final determinations listed below of the modified BFEs for each community listed. These modified BFEs have been published in newspapers of local circulation and ninety (90) days have elapsed since that publication. The Deputy Federal Insurance and Mitigation Administrator has resolved any appeals resulting from this notification.

The modified BFEs are not listed for each community in this notice. However, this final rule includes the address of the Chief Executive Officer of the community where the modified BFE determinations are available for inspection.

The modified BFEs are made pursuant to section 206 of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4105, and are in accordance with the National Flood Insurance Act of 1968, 42 U.S.C. 4001 *et seq.,* and with 44 CFR part 65.

For rating purposes, the currently effective community number is shown and must be used for all new policies and renewals.

The modified BFEs are the basis for the floodplain management measures that the community is required either to adopt or to show evidence of being already in effect in order to qualify or to remain qualified for participation in the National Flood Insurance Program (NFIP).

These modified BFEs, together with the floodplain management criteria required by 44 CFR 60.3, are the minimum that are required. They should not be construed to mean that the community must change any existing ordinances that are more stringent in their floodplain management requirements. The community may at any time enact stricter requirements of its own or pursuant to policies established by other Federal, State, or regional entities.

These modified BFEs are used to meet the floodplain management requirements of the NFIP and also are used to calculate the appropriate flood insurance premium rates for new buildings built after these elevations are made final, and for the contents in those buildings. The changes in BFEs are in accordance with 44 CFR 65.4.

National Environmental Policy Act. This final rule is categorically excluded from the requirements of 44 CFR part 10, Environmental Consideration. An environmental impact assessment has not been prepared.

Regulatory Flexibility Act. As flood elevation determinations are not within the scope of the Regulatory Flexibility Act, 5 U.S.C. 601–612, a regulatory flexibility analysis is not required.

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

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

List of Subjects in 44 CFR Part 65

Flood insurance, Floodplains, Reporting and recordkeeping requirements.

Accordingly, 44 CFR part 65 is amended to read as follows:

PART 65—[AMENDED]

■ 1. The authority citation for part 65 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.

§ 65.4 [Amended]

■ 2. The tables published under the authority of § 65.4 are amended as follows:

State and county	Location and case No.	Date and name of newspaper where notice was published	Chief executive officer of community	Effective date of modification	Community No.
Alabama: Tuscaloosa (FEMA Docket No.: B–1186).	City of Tuscaloosa (10–04–7227P).	January 10, 2011; January 17, 2011; *The Tuscaloosa News.*	The Honorable Walter Maddox, Mayor, City of Tuscaloosa, P.O. Box 2089, Tuscaloosa, AL 35401.	December 31, 2010	010203
California: Riverside, (FEMA Docket No.: B–1186).	City of Hemet (10–09–2521P).	December 24, 2010; December 31, 2010; *The Press-Enterprise.*	The Honorable Jerry Franchville, Mayor, City of Hemet, 445 East Florida Avenue, Hemet, CA 92543.	December 17, 2010	060253
Colorado:					
El Paso, (FEMA Docket No.: B–1191).	City of Colorado Springs (10–08–0471P).	January 5, 2011; January 12, 2011; *The El Paso County Advertiser and News.*	The Honorable Lionel Rivera, Mayor, City of Colorado Springs, P.O. Box 1575, Colorado Springs, CO 80901.	December 29, 2010	080060
El Paso, (FEMA Docket No.: B–1177).	Unincorporated areas of El Paso County (10–08–0838P).	December 22, 2010; December 29, 2010; *The El Paso County Advertiser and News.*	The Honorable Amy Lathen, Chair, El Paso County Board of Commissioners, 27 East Vermijo Avenue, Colorado Springs, CO 80903.	April 28, 2011	080059
Florida:					
Lee, (FEMA Docket No.: B–1177).	City of Sanibel (10–04–5333P).	December 29, 2010; January 5, 2011; *The News-Press.*	The Honorable Kevin Ruane, Mayor, City of Sanibel, 800 Dunlop Road, Sanibel, FL 33957.	December 21, 2010	120402
Lee, (FEMA Docket No.: B–1191).	Unincorporated areas of Lee County (10–04–7794P).	November 3, 2010; November 10, 2010; *The News-Press.*	The Honorable Frank Mann, Chair, Lee County Board of Commissioners, 2120 Main Street, Fort Myers, FL 33901.	October 27, 2010	125124
Volusia, (FEMA Docket No.: B–1177).	City of Daytona Beach (10–04–6547P).	December 27, 2010; January 3, 2011; *The Daytona Beach News-Journal.*	The Honorable Glenn Ritchey, Mayor, City of Daytona Beach, 301 South Ridgewood Avenue, Daytona Beach, FL 32114.	December 20, 2010	125099
Georgia: Coweta, (FEMA Docket No.: B–1177).	City of Senoia (11–04–0184P).	December 16, 2010; December 23, 2010; *The Times-Herald.*	The Honorable Robert K. Belisle, Mayor, City of Senoia, P.O. Box 310, Senoia, GA 30276.	April 22, 2011	130301
Nevada:					
Washoe, (FEMA Docket No.: B–1186).	City of Reno (10–09–3236P).	January 4, 2011; January 11, 2011; *The Reno Gazette-Journal.*	The Honorable Bob Cashell, Mayor, City of Reno, P.O. Box 1900, Reno, NV 89505.	December 28, 2010	320020
Washoe, (FEMA Docket No.: B–1186).	City of Sparks (10–09–3236P).	January 4, 2011; January 11, 2011; *The Reno Gazette-Journal.*	The Honorable Geno Martini, Mayor, City of Sparks, 431 Prater Way, Sparks, NV 89431.	December 28, 2010	320021
North Carolina:					
Catawba, (FEMA Docket No.: B–1150).	City of Conover (10–04–2641P).	July 7, 2010; July 14, 2010; *The Observer News Enterprise.*	The Honorable Lee E. Moritz, Jr., Mayor, City of Conover, P.O. Box 549, Conover, NC 28613.	July 30, 2010	370053
Catawba, (FEMA Docket No.: B–1150).	City of Newton (10–04–2641P).	July 7, 2010; July 14, 2010; *The Observer News Enterprise.*	The Honorable Robert A. Mullinax, Mayor, City of Newton, 401 North Main Avenue, Newton, NC 28658.	July 30, 2010	370057

State and county	Location and case No.	Date and name of newspaper where notice was published	Chief executive officer of community	Effective date of modification	Community No.
Chatham, (FEMA Docket No.: B–1160).	Unincorporated areas of Chatham County (10–04–0659P).	September 9, 2010; September 16, 2010; *The Chatham News*.	Mr. Charlie Horne, Chatham County Manager, P.O. Box 1809, 12 East Street, Pittsboro, NC 27312.	January 14, 2011	370299
Dare, (FEMA Docket No.: B–1191).	Town of Kill Devil Hills (10–04–3184P).	November 9, 2010; November 16, 2010; *The Coastland Times*.	The Honorable Raymond Sturza, Mayor, Town of Kill Devil Hills, P.O. Box 1719, Kill Devil Hills, NC 27948.	October 29, 2010	375353
Ohio:					
Lake, (FEMA Docket No.: B–1186).	City of Painesville (10–05–6522P).	January 3, 2011; January 10, 2011; *The News-Herald*.	The Honorable Joseph Hada, Jr., President, Painesville City Council, P.O. Box 601, 7 Richmond Street, Painesville, OH 44077.	January 24, 2011	390319
Lake, (FEMA Docket No.: B–1186).	Unincorporated areas of Lake County (10–05–6522P).	January 3, 2011; January 10, 2011; *The News-Herald*.	The Honorable Raymond E. Sines, President, Lake County Board of Commissioners, P.O. Box 490, 105 Main Street, Painesville, OH 44077.	January 24, 2011	390771
Pennsylvania:					
Adams, (FEMA Docket No.: B–1177).	Township of Latimore (10–03–2196P).	December 23, 2010; December 30, 2010; *The Gettysburg Times*.	Mr. Dan Worley, Chairman, Township of Latimore Board of Supervisors, 559 Old U.S. Route 15, York Springs, PA 17372.	December 15, 2010	421162
Adams, (FEMA Docket No.: B–1177).	Township of Reading (10–03–2196P).	December 23, 2010; December 30, 2010; *The Gettysburg Times*.	Mr. Bob Zangueneh, Chairman, Township of Reading Board of Supervisors, 50 Church Road, East Berlin, PA 17316.	December 15, 2010	420004
Texas: Collin, (FEMA Docket No.: B–1177).	City of Plano (10–06–1746P).	December 9, 2010; December 16, 2010; *The Plano Star-Courier*.	The Honorable Phil Dyer, Mayor, City of Plano, 1520 Avenue K, Plano, TX 75074.	April 15, 2011	480140
Utah: Salt Lake, (FEMA Docket No.: B–1177).	City of West Jordan (10–08–0678P).	December 16, 2010; December 23, 2010; *The Salt Lake Tribune*.	The Honorable Melissa K. Johnson, Mayor, City of West Jordan, 8000 South Redwood Road, West Jordan, UT 84088.	April 22, 2011	490108
Wyoming:					
Laramie, (FEMA Docket No.: B–1177).	City of Cheyenne (10–08–0553P).	December 8, 2010; December 15, 2010; *The Wyoming Tribune-Eagle*.	The Honorable Richard Kaysen, Mayor, City of Cheyenne, 2101 O'Neil Avenue, Room 310, Cheyenne, WY 82001.	April 14, 2011	560030
Laramie, (FEMA Docket No.: B–1177).	Unincorporated areas of Laramie County (10–08–0553P).	December 8, 2010; December 15, 2010; *The Wyoming Tribune-Eagle*.	The Honorable Jeff Ketchman, Chairman, Laramie County Board of Commissioners, 310 West 19th Street, Suite 300, Cheyenne, WY 82001.	April 14, 2011	560029
Uinta, (FEMA Docket No.: B–1191).	Unincorporated areas of Uinta County (10–08–0740P).	December 17, 2010; December 24, 2010; *The Uinta County Herald*.	The Honorable Bob Stoddard, Chairman, Uinta County Board of Commissioners, 225 9th Street, Evanston, WY 82930.	April 25, 2011	560053

(Catalog of Federal Domestic Assistance No. 97.022, ''Flood Insurance.'')

Dated: June 23, 2011.

Sandra K. Knight,

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

[FR Doc. 2011–16779 Filed 7–1–11; 8:45 am]

BILLING CODE 9110–12–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

44 CFR Part 67

[Docket ID FEMA–2011–0002]

Final Flood Elevation Determinations

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Final rule.

SUMMARY: Base (1% annual-chance) Flood Elevations (BFEs) and modified BFEs are made final for the communities listed below. The BFEs and modified BFEs are the basis for the floodplain management measures that each community is required either to adopt or to show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The date of issuance of the Flood Insurance Rate Map (FIRM) showing BFEs and modified BFEs for each community. This date may be obtained by contacting the office where the maps are available for inspection as indicated in the table below.

ADDRESSES: The final BFEs for each community are available for inspection at the office of the Chief Executive Officer of each community. The respective addresses are listed in the table below.

FOR FURTHER INFORMATION CONTACT: Luis Rodriguez, Chief, Engineering Management Branch, Federal Insurance and Mitigation Administration, Federal Emergency Management Agency, 500 C Street SW., Washington, DC 20472, (202) 646–4064, or (e-mail) *luis.rodriguez1@dhs.gov.*

SUPPLEMENTARY INFORMATION: The Federal Emergency Management Agency (FEMA) makes the final determinations listed below for the modified BFEs for each community listed. These modified elevations have been published in newspapers of local circulation and ninety (90) days have elapsed since that publication. The Deputy Federal Insurance and Mitigation Administrator has resolved any appeals resulting from this notification.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4104, and 44 CFR part 67. FEMA has developed criteria for floodplain management in floodprone areas in accordance with 44 CFR part 60.

Interested lessees and owners of real property are encouraged to review the proof Flood Insurance Study and FIRM available at the address cited below for each community. The BFEs and modified BFEs are made final in the communities listed below. Elevations at

selected locations in each community are shown.

National Environmental Policy Act. This final rule is categorically excluded from the requirements of 44 CFR part 10, Environmental Consideration. An environmental impact assessment has not been prepared.

Regulatory Flexibility Act. As flood elevation determinations are not within the scope of the Regulatory Flexibility Act, 5 U.S.C. 601–612, a regulatory flexibility analysis is not required.

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 final rule involves no policies that have federalism implications under Executive Order 13132.

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

List of Subjects in 44 CFR Part 67

Administrative practice and procedure, Flood insurance, Reporting and recordkeeping requirements.

Accordingly, 44 CFR part 67 is amended as follows:

PART 67—[AMENDED]

■ 1. The authority citation for part 67 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.

§ 67.11 [Amended]

■ 2. The tables published under the authority of § 67.11 are amended as follows:

Flooding source(s)	Location of referenced elevation	* Elevation in feet (NGVD) + Elevation in feet (NAVD) # Depth in feet above ground ∧ Elevation in meters (MSL) Modified	Communities affected
Rio Grande County, Colorado, and Incorporated Areas Docket No.: FEMA–B–1097			
Willow Creek	At the confluence with the Rio Grande, approximately 400 feet north of U.S. Route 160.	+8154	Unincorporated Areas of Rio Grande County.
	Approximately 1.1 miles south of East Lake Court	+8766	

* National Geodetic Vertical Datum.
+ North American Vertical Datum.
# Depth in feet above ground.
∧ Mean Sea Level, rounded to the nearest 0.1 meter.

ADDRESSES

Unincorporated Areas of Rio Grande County

Maps are available for inspection at 925 6th Street, Del Norte, CO 81132.

Clay County, Indiana, and Incorporated Areas Docket No.: FEMA–B–1115			
Birch Creek-Pouges Run	Approximately 720 feet downstream of White Rock Road	+624	City of Brazil, Unincorporated Areas of Clay County.
	Approximately 1.29 miles upstream of White Rock Road	+652	

* National Geodetic Vertical Datum.
+ North American Vertical Datum.
# Depth in feet above ground.
∧ Mean Sea Level, rounded to the nearest 0.1 meter.

ADDRESSES

City of Brazil

Maps are available for inspection at City Hall, 203 East National Avenue, Brazil, IN 47834.

Unincorporated Areas of Clay County

Maps are available for inspection at the Clay County Emergency Management Agency, Clay County Justice Center, 611 East Jackson Street, Brazil, IN 47834.

Wyandotte County, Kansas, and Incorporated Areas Docket No.: FEMA B–1098			
Marshall Creek	At the confluence with Wyandotte County Lake	+833	City of Kansas City.
	Approximately 80 feet downstream of North 99th Street	+928	
Marshall Creek Tributary	At the confluence with Marshall Creek	+842	City of Kansas City.
	Approximately 2,000 feet upstream of Parallel Avenue	+916	
Missouri River	Approximately 3,500 feet downstream of Fairfax Bridge	+756	City of Kansas City.
	Just upstream of I–635	+758	
	At the confluence with Connor Creek	+764	
Spring Creek	Approximately 700 feet upstream of 2nd Street	+787	City of Bonner Springs.
	Just upstream of Lakewood Drive	+857	
Wolf Creek	Approximately 1,500 feet downstream of Woodend Road	+777	City of Bonner Springs.

Flooding source(s)	Location of referenced elevation	* Elevation in feet (NGVD) + Elevation in feet (NAVD) # Depth in feet above ground ^ Elevation in meters (MSL) Modified	Communities affected
	Approximately 3,100 feet upstream of Kump Avenue	+794	

* National Geodetic Vertical Datum.
+ North American Vertical Datum.
# Depth in feet above ground.
^ Mean Sea Level, rounded to the nearest 0.1 meter.

ADDRESSES

City of Bonner Springs
Maps are available for inspection at 205 East 2nd Street, Bonner Springs, KS 66012.

City of Kansas City
Maps are available for inspection at City Hall, 701 North 7th Street, Kansas City, KS 66101.

Franklin Parish, Louisiana, and Incorporated Areas
Docket No.: FEMA–B–1109

Ash Slough	Just upstream of Riser Road	+69	Unincorporated Areas of Franklin Parish.
	Approximately 700 feet downstream of Wyman Road	+70	
Batey Bayou	Just downstream of Kansas Street	+65	Town of Wisner, Unincorporated Areas of Franklin Parish.
	Approximately 800 feet upstream of State Highway 15	+72	
Cypress Slough	Just upstream of Kansas Street	+65	Unincorporated Areas of Franklin Parish.
	Just downstream of Maple Street	+73	
Turkey Creek	Approximately 500 feet upstream of Highway 3201	+64	Unincorporated Areas of Franklin Parish.
	Approximately 0.5 mile upstream of Alice Shaw Road	+69	

* National Geodetic Vertical Datum.
+ North American Vertical Datum.
# Depth in feet above ground.
^ Mean Sea Level, rounded to the nearest 0.1 meter.

ADDRESSES

Town of Wisner
Maps are available for inspection at the Town Hall, 9530 Natchez Street, Wisner, LA 71378.

Unincorporated Areas of Franklin Parish
Maps are available for inspection at the Franklin Parish Police Jury, 6558 Main Street, Winnsboro, LA 71295.

Simpson County, Mississippi, and Incorporated Areas
Docket No.: FEMA–B–1098

Pearl River	Approximately 1.2 miles downstream of U.S. Route 28	+229	Unincorporated Areas of Simpson County.
	Approximately 1.0 mile upstream of U.S. Route 28	+233	

* National Geodetic Vertical Datum.
+ North American Vertical Datum.
# Depth in feet above ground.
^ Mean Sea Level, rounded to the nearest 0.1 meter.

ADDRESSES

Unincorporated Areas of Simpson County
Maps are available for inspection at 100 Court Street, Room 2, Mendenhall, MS 39114.

Gallatin County, Montana, and Incorporated Areas
Docket No.: FEMA–B–1109

Bridger Creek	Approximately 1.0 mile downstream of Story Mill Road	+4688	City of Bozeman.
	Just downstream of Story Mill Road	+4731	
Buster Gulch	Approximately 0.9 mile upstream of Airport Road	+4480	Unincorporated Areas of Gallatin County.
	Approximately 4.2 miles upstream of Airport Road	+4568	
East Gallatin River	Just downstream of Airport Road	+4463	City of Bozeman, Unincorporated Areas of Gallatin County.
	Approximately 2.1 miles downstream of Story Hill Road ...	+4791	

Flooding source(s)	Location of referenced elevation	* Elevation in feet (NGVD) + Elevation in feet (NAVD) # Depth in feet above ground ∧ Elevation in meters (MSL) Modified	Communities affected
East Gallatin River Golf Course Reach.	Just upstream of the confluence with the East Gallatin River Springhill Reach.	+4604	City of Bozeman.
	Approximately 0.5 mile upstream of the confluence with the East Gallatin River Springhill Reach.	+4617	
East Gallatin River Overflow Reach.	Approximately 1,300 feet downstream of Springhill Road ..	+4596	City of Bozeman, Unincorporated Areas of Gallatin County.
	Approximately 2.6 miles upstream of Springhill Road	+4674	
East Gallatin River Spillway Reach.	Just upstream of the confluence with the East Gallatin River Overflow Reach.	+4591	City of Bozeman.
	Approximately 0.5 mile upstream of the confluence with the East Gallatin River Overflow Reach.	+4603	
East Gallatin River Springhill Reach.	Just upstream of the confluence with the East Gallatin River.	+4594	City of Bozeman.
	Just downstream of the confluence with the East Gallatin River Golf Course Reach.	+4604	
Jefferson River	Approximately 0.6 mile downstream of Old Town Road	+4061	Unincorporated Areas of Gallatin County.
	Approximately 120 feet upstream of Frontage Road	+4090	
Madison River	Approximately 0.8 mile downstream of Frontage Road	+4058	Unincorporated Areas of Gallatin County.
	Approximately 1.2 miles upstream of I-90	+4083	

* National Geodetic Vertical Datum.
+ North American Vertical Datum.
# Depth in feet above ground.
∧ Mean Sea Level, rounded to the nearest 0.1 meter.

ADDRESSES

City of Bozeman
Maps are available for inspection at 411 East Main Street, Bozeman, MT 59771.

Unincorporated Areas of Gallatin County
Maps are available for inspection at 311 West Main Street, Bozeman, MT 59771.

Wood County, Ohio, and Incorporated Areas
Docket No.: FEMA–B–1122

Crane Creek	Approximately 0.5 mile downstream of State Highway 51	+609	Unincorporated Areas of Wood County.
	At State Highway 51	+609	
Maumee River	At the Lucas County boundary	+579	City of Rossford, Village of Grand Rapids.
	At the Henry County boundary	+649	
North Branch Portage River	Approximately 1,000 feet downstream of State Highway 6	+668	City of Bowling Green, Unincorporated Areas of Wood County.
	Approximately 1,650 feet upstream of State Highway 25 ..	+678	
Rock Ford Creek Tributary	Approximately 130 feet downstream of North Baltimore Road.	+725	Village of North Baltimore.
	Approximately 400 feet upstream of North Baltimore Road	+726	

* National Geodetic Vertical Datum.
+ North American Vertical Datum.
# Depth in feet above ground.
∧ Mean Sea Level, rounded to the nearest 0.1 meter.

ADDRESSES

City of Bowling Green
Maps are available for inspection at City Hall, 304 North Church Street, Bowling Green, OH 43402.

City of Rossford
Maps are available for inspection at City Hall, 133 Osborn Street, Rossford, OH 43460.

Unincorporated Areas of Wood County
Maps are available for inspection at the Wood County Office Building, 1 Courthouse Square, Bowling Green, OH 43402.

Village of Grand Rapids
Maps are available for inspection at the Village Hall, 17460 Sycamore Road, Grand Rapids, OH 43522.

Village of North Baltimore

Flooding source(s)	Location of referenced elevation	* Elevation in feet (NGVD) + Elevation in feet (NAVD) # Depth in feet above ground ∧ Elevation in meters (MSL) Modified	Communities affected
Maps are available for inspection at the Village Hall, 205 North Main Street, North Baltimore, OH 45872.			
Grant County, Wisconsin, and Incorporated Areas Docket No.: FEMA–B–1089			
Mississippi River	Approximately 2.4 miles downstream of Lock and Dam No. 11.	+610	Unincorporated Areas of Grant County, Village of Potosi.
	Approximately 10.8 miles upstream of Lock and Dam No. 11.	+613	
	Approximately 7.4 miles upstream of Lock and Dam No. 10.	+625	Village of Bagley.
	Approximately 8.0 miles upstream of Lock and Dam No. 10.	+625	

* National Geodetic Vertical Datum.
+ North American Vertical Datum.
# Depth in feet above ground.
∧ Mean Sea Level, rounded to the nearest 0.1 meter.

ADDRESSES

Unincorporated Areas of Grant County

Maps are available for inspection at 111 South Jefferson Street, Lancaster, WI 53813.

Village of Bagley

Maps are available for inspection at 400 South Jackley Lane, Bagley, WI 53801.

Village of Potosi

Maps are available for inspection at 105 North Main Street, Potosi, WI 53820.

(Catalog of Federal Domestic Assistance No. 97.022, ''Flood Insurance.'')

Dated: June 23, 2011.

Sandra K. Knight,

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

[FR Doc. 2011–16654 Filed 7–1–11; 8:45 am]

BILLING CODE 9110–12–P

ENVIRONMENTAL PROTECTION AGENCY

48 CFR Part 1509, 1542 and 1552

[EPA–HQ–OARM–2010–1032; FRL–9428–6]

Contractor Performance Information

AGENCY: Environmental Protection Agency (EPA),

ACTION: Direct final rule.

SUMMARY: The Environmental Protection Agency is issuing a final rule to amend the Environmental Protection Agency Acquisition Regulation (EPAAR) to establish new procedures for recording and maintaining contractor performance information. EPA is issuing a final rule because the changes are procedural in nature, and we do not anticipate any adverse comments.

DATES: This rule is effective October 3, 2011 without further action, unless adverse comment is received by August 4, 2011. If adverse comment is received, the EPA will publish a timely withdrawal of the rule in the **Federal Register**.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–HQ–OARM–2010–1032, by one of the following methods:

- *http://www.regulations.gov:* Follow the on-line instructions for submitting comments.
- *E-mail: docket.oei@epa.gov.*
- *Fax:* (202) 566–1753.
- *Mail:* EPA–HQ–OARM–2010–1032, OEI Docket, Environmental Protection Agency, 2822T, 1200 Pennsylvania Ave., NW., Washington, DC 20460. Please include a total of three (3) copies.
- *Hand Delivery:* EPA Docket Center-Attention OEI Docket, EPA West, Room B102, 1301 Constitution Ave., NW., Washington, DC 20004. Such deliveries are only accepted during the Docket's normal hours of operation, and special arrangements should be made for deliveries of boxed information.

Instructions: Direct your comments to Docket ID No. EPA–HQ–OARM–2010–1032. 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 e-mail. The *http://www.regulations.gov* Web site is an ''anonymous access'' system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through *http://www.regulations.gov,* your e-mail address will be automatically captured and included as part of the comment that is placed in the public docket, and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment, and with any disk or CD–ROM you submit. If EPA cannot read your comment due to technical difficulties, and cannot contact you for clarification, EPA may not be able to consider your comment.

Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses. For additional information about EPA's public docket, visit the EPA Docket Center homepage at *http://www.epa.gov/epahome/dockets.htm.*

Docket: All documents in the docket are listed in the *http://www.regulations.gov* index. Although listed in the index, some information is not publicly available, e.g., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, will be publicly available only in hard copy. Publicly available docket materials are available either electronically in *http://www.regulations.gov,* or in hard copy at the Government Property-Contract Property Administration Docket, EPA/DC, EPA West, Room 3334, 1301 Constitution Ave., NW., Washington, DC. The Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566–1744, and the telephone number for the EPA Docket Center is (202) 566–1752. This Docket Facility is open from 8:30 a.m. to 4:30 p.m. Monday through Friday, excluding legal holidays.

FOR FURTHER INFORMATION CONTACT: Staci Ramrakha, Policy, Training, and Oversight Division, Acquisition Policy and Training Service Center (3802R), Environmental Protection Agency, 1200 Pennsylvania Avenue, NW., Washington DC 20460; *telephone number:* (202) 564–2017; *e-mail address: ramrakha.staci@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. General Information

1. *Submitting Classified Business Information (CBI).* Do not submit this information to EPA through *http://www.regulations.gov* or e-mail. Clearly mark the part or all of the information that you claim to be CBI. For CBI information in a disk or CD–ROM that you mail to EPA, mark the outside of the disk or CD–ROM as CBI, and then identify electronically within the disk or CD–ROM the specific information that is claimed as CBI. In addition to one complete version of the comment that includes information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public docket.

Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2.

2. *Tips for Preparing Your Comments.* When submitting comments, remember to:

- Identify the rulemaking by docket number and other identifying information (subject heading, **Federal Register** date and page number).
- Follow directions—The agency may ask you to respond to specific questions or organize comments by referencing a Code of Federal Regulations (CFR) part or section number.
- Explain why you agree or disagree, suggest alternatives, and substitute language for your requested changes.
- Describe any assumptions and provide any technical information and/or data that you used.
- If you estimate potential costs or burdens, explain how you arrived at your estimate in sufficient detail to allow for it to be reproduced.
- Provide specific examples to illustrate your concerns, and suggest alternatives.
- Explain your views as clearly as possible, avoiding the use of profanity or personal threats.
- Make sure to submit your comments by the comment period deadline identified.

II. Background

The EPA recently transitioned from the National Institutes of Health's Contractor Performance System (CPS) to the Department of Defense's Contractor Performance Assessment Reporting System (CPARS). As a result, the requirement to use CPS is being removed from the EPAAR and applicable CPARs instructions are being added. In addition, all past performance requirements are being moved from subpart 1509 to 1542 in order to align with past performance information in the FAR.

III. Final Rule

This final rule makes the following changes: (1) Remove EPAAR 1509–170, Contractor Performance Evaluations; (2) Remove EPAAR clause 1552.209–76, Contractor Performance Evaluations; (3) Add EPAAR 1542.15, Contractor Performance Information; (4) Add EPAAR 1552.242–71, Contractor Performance Evaluations.

IV. Statutory and Executive Order Reviews

A. Executive Order 12866: Regulatory Planning and Review

This action is not a ''significant regulatory action'' under the terms of Executive Order (EO) 12866 (58 FR 51735, October 4, 1993) and is therefore not subject to review under the EO.

B. 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).

C. Regulatory Flexibility Act (RFA), as Amended by the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA), 5 U.S.C. 601 et seq.

The 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 impact of today's proposed rule on small entities, ''small entity'' is defined as: (1) A small business that meets the definition of a small business found in the Small Business Act and codified 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; or (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 proposed rule on small entities, I certify that this action will not have a significant economic impact on a substantial number of small entities. In determining whether a rule has a significant economic impact on a substantial number of small entities, the impact of concern is any significant adverse economic impact on small entities, because the primary purpose of the regulatory flexibility analyses is to identify and address regulatory alternatives ''which minimize any significant economic impact of the proposed rule on small entities'' 5 U.S.C. 603 and 604. Thus, an agency may certify that a rule will not have a significant economic impact on a substantial number of small entities if the rule relieves regulatory burden, or otherwise has a positive economic effect on all of the small entities subject to the rule. Since documenting past performance is applicable to large and small entities, this rule will not have a significant economic impact on small entities. We continue to be interested in the potential impacts of the proposed rule on small entities and welcome

comments on issues related to such impacts.

D. Unfunded Mandates Reform Act

This rule does not contain a Federal mandate that may result in expenditures of $100 million or more for State, local, and tribal governments, in the aggregate, or the private sector in any one year. Any private sector costs for this action relate to paperwork requirements and associated expenditures that are far below the level established for UMRA applicability. Thus, this rule is not subject to the requirements of sections 202 or 205 of UMRA. This 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.

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. Thus, Executive Order 13132 does not apply to this action. In the spirit of Executive Order 13132, and consistent with EPA policy to promote communications between EPA and State and local governments, EPA specifically solicits comment on this proposed action from State and local officials.

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

This action does not have tribal implications, as specified in Executive Order 13175 (65 FR 67249, November 9, 2000). Thus, Executive Order 13175 does not apply to this action. In the spirit of Executive Order 13175, and consistent with EPA policy to promote communication between EPA and Tribal governments, EPA specifically solicits additional comment on this proposed rule from Tribal officials.

G. 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.

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 of 1995

Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (''NTTAA''), Public Law 104–113, section 12(d) (15 U.S.C. 272 note) directs 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 proposed rulemaking does not involve technical standards. Therefore, EPA is not considering the use of any voluntary consensus standards.

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

Executive Order 12898 (59 FR 7629 (Feb. 16, 1994)) establishes federal executive policy on environmental justice. Its main provision directs federal agencies, to the greatest extent practicable and permitted by law, to make environmental justice part of their mission by identifying and addressing, as appropriate, disproportionately high and adverse human health or environmental effects of their programs, policies, and activities on minority populations and low-income populations in the United States.

EPA has determined that this proposed rule will not have disproportionately high and adverse human health or environmental effects on minority or low-income populations because it does not affect the level of protection provided to human health or the environment.

K. Congressional Review

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. Section 804 exempts from section 801 the following types of rules (1) rules of particular applicability; (2) rules relating to agency management or personnel; and (3) rules of agency organization, procedure, or practice that do not substantially affect the rights or obligations of non-agency parties. 5 U.S.C. 804(3). EPA is not required to submit a rule report regarding today's action under section 801 because this is a rule of agency organization, procedure, or practice that does not substantially affect the rights or obligations of non-agency parties.

List of Subjects in 48 CFR Parts 1509, 1542 and 1552

Environmental protection, Contractor performance information, Describing agency needs.

Dated: June 27, 2011.

John R. Bashista,

Director, Office of Acquisition Management.

Therefore, 48 CFR Chapter 15 is amended as set forth below:

■ 1. The authority citation for 48 CFR parts 1509, 1542 and 1552 continues to read as follows:

5 U.S.C. 301; Sec. 205(c), 63 Stat. 390, as amended, 40 U.S.C. 486(c); and 41 U.S.C. 418b

PART 1509—CONTRACTOR QUALIFICATIONS

Subpart 1509.170 [Removed]

■ 2. Remove subpart 1509.170, consisting of 1509.170–1 through 1509.170–8.

PART 1542—CONTRACT ADMINISTRATION

■ 3. Add subpart 1542.15, consisting of 1542.1500 and 1542.1502 through 1542.1504, to read as follows:

Subpart 1542.15—Contractor Performance Information

Sec.

1542.1500 Scope of subpart.
1542.1502 Policy.
1542.1503 Procedures.
1542.1504 Clauses.

Subpart 1542.15—Contractor Performance Information

§ 1542.1500 Scope of subpart.

This subpart provides EPA policies and establishes responsibilities for recording and maintaining contractor performance information.

§ 1542.1502 Policy.

EPA contracting officers shall prepare an evaluation of contractor performance for all applicable contracts and orders with a total estimated value greater than the simplified acquisition threshold in accordance with FAR 42.1502. For acquisitions involving options, the total estimated value of the acquisition shall include the estimated base amount plus the option(s) amount(s). Evaluations shall be completed no later than 120 days after the end of the evaluation period.

§ 1542.1503 Procedures.

(a) *Past Performance Database.* EPA contracting officers shall use the Contractor Performance Assessment Reporting System (CPARS) which has connectivity with the Past Performance Information Retrieval System (PPIRS).

(b) *Frequency and Types of Report.* CPARS includes four types of reports: Initial, Intermediate, Final and Out-of-Cycle.

(1) An initial report is required for new contracts/orders meeting the thresholds in FAR 42.15 with a period of performance greater than 365 days. The initial CPAR must reflect evaluation of at least the first 180 days of performance and may include up to the first 365 days of performance.

(2) Intermediate reports are due every 12 months throughout the entire period of the contract after the initial report and up to the final report. While formal reports are only required every 12 months, contracting officers should discuss past performance with contractors on an ongoing basis.

(3) A final report shall be prepared upon contract completion. Contracts/orders with less than 365 days performance only require a final report. For contracts longer than 365 days, the final report is not cumulative and covers only the period of performance following the last intermediate report. Final past performance reports must be completed prior to contract closeout.

(4) An out-of-cycle report may be prepared when there is a significant change of performance that alters the assessment in one or more evaluation areas. The contractor may request an Out-of-cycle report be prepared; however, the decision of whether or not to do so is at the discretion of the contracting officer. An out-of-cycle report does not alter the annual intermediate reporting requirement.

(c) *Preparing the Evaluation.* The contracting officer's representative shall initiate all reviews and forward to the contracting officer for approval. The content of the evaluations shall be based on objective data supportable by program and contract management records. Remarks should be tailored to the contract type, size, content, and complexity. Contracting officers should provide their own input on the evaluation as applicable and obtain input from the program office, administrative contracting office, end users of the product or service, and any other technical or business advisor, as appropriate.

(d) *Small Business Subcontracting Plan.* Evaluations shall include an assessment of contractor performance against and efforts to achieve the goals identified in the small business subcontracting plan when the contract includes the clause at FAR 52.219–9, Small Business Subcontracting Plan.

(e) *Novation Agreements/Name Changes.* In cases of novations involving successors-in-interest, a final evaluation of the predecessor contractor's performance must be accomplished. The predecessor contractor's final past performance report shall cover the last 12 months (or less) of contract or order performance. In cases of change-of-name agreements, the system shall be changed to reflect the new contractor's name.

(f) *File Documentation.* Copies of the evaluation, contractor response, and review comments (if any) shall be retained as part of the evaluation, and hard copies shall be contained in contract files.

§ 1542.1504 Clauses.

EPA contracting officers shall insert the contract clause at 1552.242–71 in all solicitations, contracts, and orders requiring past performance reports in accordance with FAR Subpart 42.1502. For acquisitions involving options, the total estimated value of the acquisition shall include the estimated base amount plus the option(s) amount(s).

PART 1552—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

§ 1552.209–76 [Removed]

■ 4. Remove 1552.209–76.

■ 5. Add 1552.242–71 to read as follows:

§ 1552.242–71 Contractor performance evaluations.

As prescribed in section 1542.1504, insert the following clause in all applicable solicitations and contracts.

Contractor Performance Evaluations

In accordance with Federal Acquisition Regulation (FAR) Subpart 42.15 and EPAAR 1542.15, the EPA will prepare and submit past performance evaluations to the Past Performance Information Retrieval System (PPIRS). Evaluation reports will be documented not later than 120 days after the end of an evaluation period by using the Contractor Performance Assessment Reporting System (CPARS) which has connectivity with PPIRS. Contractors must register in CPARS in order to view/comment on their past performance reports.

[FR Doc. 2011–16632 Filed 7–1–11; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

49 CFR Parts 383 and 384

[Docket No. FMCSA–2007–27659]

RIN 2126–AB02

Commercial Driver's License Testing and Commercial Learner's Permit Standards; Corrections

AGENCY: Federal Motor Carrier Safety Administration (FMCSA), DOT.

ACTION: Final rule; correction.

SUMMARY: FMCSA published a final rule in the **Federal Register** on Monday, May 9, 2011, that will be effective on July 8, 2011. This final rule amends the commercial driver's license (CDL) knowledge and skills testing standards and establishes new minimum Federal standards for States to issue the commercial learner's permit (CLP). Since the final rule was published, FMCSA identified minor discrepancies regarding section references in the regulatory text of the final rule. This document corrects those section references.

DATES: Effective July 8, 2011.

FOR FURTHER INFORMATION CONTACT: Robert Redmond, Office of Safety Programs, Commercial Driver's License Division, telephone (202) 366–5014 or e-mail *robert.redmond@dot.gov.* Office hours are from 8 a.m. to 4:30 p.m.

SUPPLEMENTARY INFORMATION:

Corrections

In the final rule published on May 9, 2011 (FR Doc. 2011–10510, 76 FR 26854), the following corrections are made:

■ a. On page 26893, in the third column, redesignate paragraphs (f) and (g) of § 383.153 as paragraphs (g) and (h); and

■ b. On page 26896, in the third column, correct amendatory instruction number 52 and its regulatory text to read:

■ 52. Amend § 384.301 by adding a new paragraph (f) to read as follows:

§ 384.301 Substantial compliance—general requirements.

* * * * *

(f) A State must come into substantial compliance with the requirements of subpart B of this part in effect as of July 8, 2011, as soon as practical but, unless otherwise specifically provided in this part, not later than July 8, 2014.

Issued on: June 27, 2011.

William Bronrott,

Deputy Administrator.

[FR Doc. 2011–16683 Filed 7–1–11; 8:45 am]

BILLING CODE 4910–EX–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 635

[Docket No. 110210132–1275–02]

RIN 0648–BA65

Atlantic Highly Migratory Species; Atlantic Bluefin Tuna Quotas and Atlantic Tuna Fisheries Management Measures

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

ACTION: Final rule.

SUMMARY: NMFS is modifying Atlantic bluefin tuna (BFT) base quotas for all domestic fishing categories; establishing BFT quota specifications for the 2011 fishing year; reinstating pelagic longline target catch requirements for retaining BFT in the Northeast Distant Gear Restricted Area (NED); amending the Atlantic tunas possession-at-sea and landing regulations to allow removal of Atlantic tunas tail lobes; and clarifying the transfer-at-sea regulations for Atlantic tunas. This action is necessary to implement recommendations of the International Commission for the Conservation of Atlantic Tunas (ICCAT), as required by the Atlantic Tunas Convention Act (ATCA), and to achieve domestic management objectives under the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act).

DATES: The amendments to § 635.27 are effective July 5, 2011. The 2011 quota specifications are effective July 5, 2011 through December 31, 2011. The amendments to §§ 635.23, 635.29, and 635.30 are effective August 4, 2011.

ADDRESSES: Supporting documents, including the Environmental Assessment, Regulatory Impact Review, and Final Regulatory Flexibility Analysis (EA/RIR/FRFA), are available from Sarah McLaughlin, Highly Migratory Species (HMS) Management Division, Office of Sustainable Fisheries (F/SF1), NMFS, 55 Great Republic Drive, Gloucester, MA 01930. These documents and others, such as the Fishery Management Plans described below, also may be downloaded from the HMS Web site at *http://www.nmfs.noaa.gov/sfa/hms/.*

FOR FURTHER INFORMATION CONTACT: Sarah McLaughlin or Brad McHale, 978–281–9260.

SUPPLEMENTARY INFORMATION: Atlantic bluefin tuna, bigeye tuna, albacore tuna, yellowfin tuna, and skipjack tuna (hereafter referred to as ''Atlantic tunas'') are managed under the dual authority of the Magnuson-Stevens Act and ATCA. ATCA authorizes the Secretary of Commerce (Secretary) to promulgate regulations, as may be necessary and appropriate, to implement ICCAT recommendations. The authority to issue regulations under the Magnuson-Stevens Act and ATCA has been delegated from the Secretary to the Assistant Administrator for Fisheries, NMFS.

Background

Background information about the need for modification of the BFT base quotas for all domestic fishing categories, the 2011 BFT quota specifications, and amendment of the Atlantic tuna fisheries management measures was provided in the preamble to the proposed rule (76 FR 13583, March 14, 2011) and is not repeated here.

Changes From the Proposed Rule

The total amount of available annual quota is determined by the ICCAT-recommended U.S. baseline BFT quota after consideration of overharvest/underharvest from the previous fishing year and any accounting for estimated dead discards of BFT. At the time the proposed rule was prepared, NMFS used the 2009 estimate of 160 mt as a proxy for potential 2011 dead discards because the BFT dead discard estimate for 2010 was not yet available. The 2010 dead discard estimate, 122.3 mt, became available from the NMFS Southeast Fisheries Science Center during the comment period. Estimates of dead discards are only available for the Longline category at this time. Estimates from other BFT gear types and fishing sectors that are not observed at sufficient levels for estimation and that do not report via a logbook are not included in this calculation. Use of the 2010 estimate as a proxy for estimated 2011 dead discards in the final rule is appropriate because it is the best available and most complete information NMFS currently has regarding dead discards.

In the proposed rule, under each baseline quota alternative, NMFS also set out its calculation of ''available'' annual quota and its proposed allocation of that available quota among the commercial and recreational domestic fishing categories (*i.e.,* quota specifications), and its proposed methodology for handling dead discards. NMFS proposed a calculation and allocation methodology consistent with the 2006 Consolidated HMS FMP and implementing regulations, but different than the methodology used for the past 4 years. NMFS received comments on the proposed allocation methodology both at public hearings and in writing during the public comment period. NMFS considered the comments (summarized in the Response to Comments section below) and the updated (2010) dead discard estimate, and after public discussion and input has decided to account for dead discards in a different manner to establish the 2011 BFT quota specifications as described below. Note that these considerations are for the 2011 quota specifications only.

To set the final 2011 BFT quota specifications, NMFS has decided to account up front (*i.e.,* at the beginning of the fishing year) for half of the estimated dead discards, using the recent 2010 estimate rather than the 2009 estimate used at the proposed rule stage. In the proposed rule, NMFS had proposed to subtract from the overall quota all of the estimated dead discards up front and then allocate the remaining quota among the fishery categories, even though the United States is not required by ICCAT or current regulations to account for the total amount of dead discards until the end of the fishing season. In the final rule, NMFS is accounting for half of the estimated pelagic longline dead discards up front and deducting that portion of expected longline discards directly from the Longline category quota. Accounting for dead discards in the Longline category in this way may provide some incentive for pelagic longline fishermen to reduce those interactions that may result in dead discards. Also in response to public comment, NMFS is applying half of the 94.9 mt of 2010 underharvest that is allowed to be carried forward to 2011 to the Longline category and maintaining the other half in the Reserve category. NMFS intends to maintain this underharvest in the

Reserve category as needed until later in the fishing year for maximum flexibility in accounting for 2011 landings and dead discards.

NMFS took into consideration a broad range of public comment on the quota specification methodology and allocations in designing this final action. NMFS considers this action to be a transitional approach from the method used over the past 4 fishing years. Current regulations provide that the dead discard estimate may, but is not required to be, subtracted from the annual U.S. quota, and NMFS previously opted to deduct that estimate at the beginning of the year when the quota specifications were established. These final specifications are consistent with HMS regulations, are a logical outgrowth of the originally proposed calculation methodology, and would not affect the base quotas analyzed in Alternatives A1 and A2 of the EA/RIR/FRFA. For the directed fishing categories, this final rule maintains the directed categories at their baseline quotas, which reflect application of the allocation scheme established in the Consolidated Atlantic Highly Migratory Species Fishery Management Plan (Consolidated HMS FMP) to the 2011 baseline U.S. BFT quota (923.7 mt). All landings and dead discards will be accounted for and reported to ICCAT, and NMFS will make any ICCAT-required adjustments to future U.S. BFT quotas, as necessary.

Specifically, to set the final 2011 BFT quota specifications, NMFS first applies the percentages in the Consolidated HMS FMP allocation scheme to the overall U.S. quota of 923.7 mt to obtain the baseline category quotas for the different categories (*i.e.,* the General, Harpoon, Purse Seine, Angling, Longline, Trap, and Reserve categories). NMFS then deducts half of the 2010 dead discard estimate of 122.3 mt (*i.e.,* 61.2 mt) from the 2011 baseline Longline category quota of 74.8 mt and applies half of the 94.9 mt allowed to be carried forward to 2011 to the Longline category, *i.e.,* 74.8 − 61.2 + 47.5 = 61.1 mt adjusted Longline subquota (not including the 25-mt allocation set aside by ICCAT for the NED). NMFS will add the remainder of the 2010 underharvest that can be carried forward to 2011 (47.4 mt) to the Reserve category's baseline allocation of 23.1 mt, for an adjusted Reserve category quota of 70.5 mt. For the directed fishing categories, NMFS is not making any adjustments to the allocations that result from applying the scheme established in the Consolidated HMS FMP to the 2011 baseline U.S. BFT quota. Quota specifications for 2012 would be addressed in a separate, future action using information on 2011 BFT landings and the best available dead discard estimate at that time.

Regarding the Atlantic tunas transfer-at-sea regulations, and in response to public comment, NMFS adds the words ''or other gear'' to further clarify that ''transfer'' includes moving a tuna from fishing gear or other gear in the water from one vessel to another.

2011 Quota Specifications

NMFS establishes final 2011 quota specifications as follows (and as shown in Table 1): General category—435.1 mt; Harpoon category—36 mt; Purse Seine category—171.8 mt; Angling category—182 mt; Longline category—61.1 mt; and Trap category—0.9 mt. The amount allocated to the Reserve category for inseason adjustments, and potential quota transfers, scientific research collection, and accounting for potential overharvest in any category except the Purse Seine category, would be 70.5 mt.

The General category quota of 435.1 mt would be divided further into the time-period allocations established in the Consolidated HMS FMP. Thus, 23.1 mt (5.3 percent) would be allocated to the General Category for the period beginning January 1, 2011, and ending January 31, 2011; 217.6 mt (50 percent) for the period beginning June 1, 2011, and ending August 31, 2011; 115.3 mt (26.5 percent) for the period beginning September 1, 2011, and ending September 30, 2011; 56.6 mt (13 percent) for the period beginning October 1, 2011, and ending November 30, 2011; and 22.6 mt (5.2 percent) for the period beginning December 1, 2011, and ending December 31, 2011.

The Angling category quota of 182 mt would be further divided, pursuant to the area subquota allocations established in the Consolidated HMS FMP, as follows: School BFT—94.9 mt, with 36.5 mt to the northern area (north of 39°18′ N. latitude), 40.8 mt to the southern area (south of 39°18′ N. latitude), plus 17.6 mt held in reserve; large school/small medium BFT—82.9 mt, with 39.1 mt to the northern area and 43.8 mt to the southern area; and large medium/giant BFT—4.2 mt, with 1.4 mt to the northern area and 2.8 mt to the southern area.

The Longline category would be further divided in accordance with the North/South allocation percentages (*i.e.,* no more than 60 percent to the south of 31° N. latitude) in the Consolidated HMS FMP. Thus, the Longline category quota of 61.1 mt would be subdivided as follows: 24.4 mt to pelagic longline vessels landing BFT north of 31° N. latitude, and 36.7 mt to pelagic longline vessels landing BFT south of 31° N. latitude. NMFS would account for landings under the 25-mt NED allocation separately from other Longline category landings.

TABLE 1—ATLANTIC BLUEFIN TUNA QUOTAS AND QUOTA SPECIFICATIONS (IN METRIC TONS) FOR THE 2011 FISHING YEAR (JANUARY 1–DECEMBER 31, 2011)

Category (% share of baseline quota)	Baseline allocation for 2011 and 2012 (per 2010 ICCAT recommendation and consolidated HMS FMP allocations)	2011 Quota specifications		
		Dead discard deduction (½ of 2010 proxy of 122.3 mt)	2010 Under-harvest to carry forward to 2011 (94.9 mt total)	Adjusted 2011 fishing year quota
Total (100)	923.7			957.4
Angling (19.7)	182.0 SUBQUOTAS: School 94.9 Reserve 17.6 North 36.5 South 40.8 LS/SM 82.9 North 39.1 South 43.8 Trophy 4.2			182.0 SUBQUOTAS: School 94.9 Reserve 17.6 North 36.5 South 40.8 LS/SM 82.9 North 39.1 South 43.8 Trophy 4.2

TABLE 1—ATLANTIC BLUEFIN TUNA QUOTAS AND QUOTA SPECIFICATIONS (IN METRIC TONS) FOR THE 2011 FISHING YEAR (JANUARY 1–DECEMBER 31, 2011)—Continued

Category (% share of baseline quota)	Baseline allocation for 2011 and 2012 (per 2010 ICCAT recommendation and consolidated HMS FMP allocations)	2011 Quota specifications		
		Dead discard deduction (½ of 2010 proxy of 122.3 mt)	2010 Under-harvest to carry forward to 2011 (94.9 mt total)	Adjusted 2011 fishing year quota
	North 1.4 South 2.8	....	....	North 1.4 South 2.8
General (47.1)	435.1 SUBQUOTAS: Jan 23.1 Jun–Aug 217.6 Sept 115.3 Oct–Nov 56.6 Dec 22.6			435.1 SUBQUOTAS: Jan 23.1 Jun–Aug 217.6 Sept 115.3 Oct–Nov 56.6 Dec 22.6
Harpoon (3.9)	36.0	.....	.....	36.0
Purse Seine (18.6)	171.8	.....	.....	171.8
Longline (8.1)	74.8 SUBQUOTAS: North (-NED) 29.9 NED 25.0 * South 44.9	−61.2	+47.5	61.1 SUBQUOTAS: North (-NED) 24.4 NED 25.0 * South 36.7
Trap (0.1)	0.9	.....	.....	0.9
Reserve (2.5)	23.1	.....	+47.4	70.5

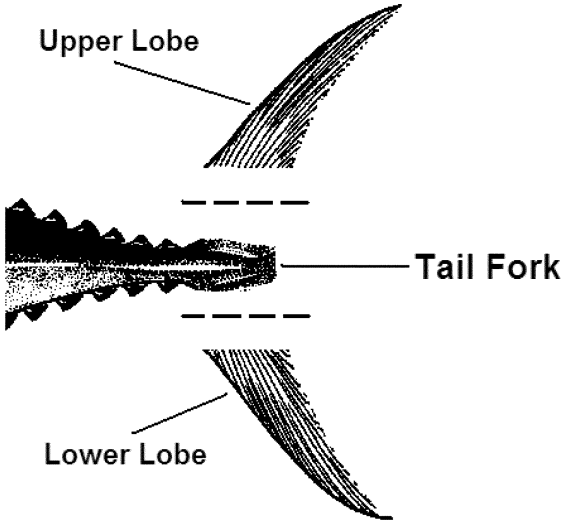
*25-mT ICCAT set-aside to account for bycatch of BFT in pelagic longline fisheries in the NED. Not included in totals at top of table.

Reinstatement of NED Target Catch Requirements

NMFS reinstates target catch requirements for pelagic longline vessels fishing in the NED. This action removes the exemption from target catch requirements that effectively has applied in the NED since November 2003. NMFS is removing the provision that allows unlimited retention of commercial-sized BFT taken incidental to fishing for other species in the NED up to the amount allocated for the NED (currently 25 mt). Instead, the same target catch limits apply in all areas (*i.e.,* both inside and outside of the NED) as follows: One large medium or giant BFT (*i.e.,* measuring 73 inches (185 cm) or greater) per vessel per trip may be landed, provided that at least 2,000 lb of species other than BFT are legally caught, retained, and offloaded from the same trip and are recorded on the dealer weighout slip as sold; two large medium or giant BFT may be landed incidentally to at least 6,000 lb of species other than BFT; and three large medium or giant BFT may be landed incidentally to at least 30,000 lb of species other than BFT.

Atlantic Tunas Possession at Sea and Landing Form

NMFS clarifies the regulations regarding Atlantic tunas possession at sea and landing to specify that as long as the fork of the tail remains intact, the upper and lower lobes of the tail may be removed (as shown in Figure 1). This change balances the need for maintaining a standardized method of measuring Atlantic tunas with the request to allow Atlantic tunas to be stored at sea in a more efficient manner. This rulemaking does not affect the measurement methodology or requirements for species other than Atlantic tunas.



Atlantic Tunas Transfer at Sea

NMFS clarifies the intent of the Atlantic tunas transfer-at-sea regulations and prohibitions by adding a sentence to the regulatory text regarding transfer at sea of Atlantic tunas that would read: ''Notwithstanding the definition of 'harvest' at § 600.10, for the purposes of this part, 'transfer' includes, but is not limited to, moving or attempting to move an Atlantic tuna that is on fishing or other gear in the water from one vessel to another vessel.'' In the future, NMFS may make similar clarifications regarding transfer at sea for other Atlantic highly migratory species via separate actions pertaining to those species.

Comments and Responses

NMFS received approximately 2,000 written comments representing approximately 4,000 individuals or organizations, and oral comments were received from the approximately 400 participants who attended the six public hearings (in Barnegat, NJ; Manteo, NC; Gloucester, MA; Silver Spring, MD; Portland, ME; and Fairhaven, MA). The majority of the comments received opposed the 2011 BFT quota specifications as proposed. Below, NMFS summarizes and responds to all comments made specifically on the proposed rule. In addition, NMFS received comments on issues that were not part of this rulemaking. These comments are summarized under ''Other Issues'' below.

A. BFT Base Quota

Comment 1: NMFS should implement the ICCAT-recommended U.S. quota.

Response: NMFS agrees. Implementing the ICCAT-recommended baseline U.S. BFT quota is necessary for the United States to be in compliance with the current ICCAT western BFT Recommendation, consistent with ATCA. The western Atlantic BFT Total Allowable Catch (TAC), which includes the U.S. quota, is expected to allow for continued BFT stock growth under the both the low and high stock recruitment scenarios considered by ICCAT's Standing Committee on Research and Statistics (SCRS).

Comment 2: It is arbitrary and capricious for NMFS to adopt quotas relying on the ICCAT western BFT recommendation. A 2008 independent review found ICCAT ineffective at controlling catch and that ICCAT management objectives have not been met. By relying entirely on ICCAT recommendations to set quotas, NMFS has ''spurned its legal obligations under the Magnuson-Stevens Act,'' specifically violating National Standard 1, which requires that conservation and management measures shall prevent overfishing while achieving, on a continuing basis, the optimum yield from each fishery, and National Standard 2, which requires that conservation and management measures shall be based upon the best scientific information available. NMFS should not rely solely on ICCAT stock assessments.

Response: NMFS disagrees that adoption of the ICCAT-recommended quota for western BFT is arbitrary and capricious or violates National Standards 1 and 2. NMFS considers the information considered by SCRS in the BFT stock assessments to constitute the best information currently available on which to make BFT fishery management decisions.

The United States is working with other ICCAT Contracting Parties to prevent BFT overfishing and overfished conditions for both stocks while providing reasonable opportunities to fish. At its 2010 annual meeting, ICCAT adopted TACs and other conservation and management measures that are within the range of scientific advice that SCRS provided to ICCAT for both the western and eastern Atlantic stocks. Over the past several years, ICCAT has taken steps to strengthen its control of the eastern Atlantic bluefin tuna fishery, including a shorter fishing season, further reductions in fishing capacity, and stronger monitoring and compliance measures. ICCAT's 2010 assessment of the eastern BFT stock indicated that maintaining catches at the current TAC will likely allow biomass to increase if compliance with the current management measures continues. The latest stock assessment concluded that the current western Atlantic TAC should allow spawning stock biomass to increase under both high and low productivity scenarios. The western Atlantic fishery has also had a long history of compliance. In addition, the current ICCAT BFT recommendations for both the western and eastern stocks have a provision that would suspend all bluefin fisheries if SCRS detects a serious threat of stock collapse.

Further, NMFS manages BFT under the dual authority of the Magnuson-Stevens Act and ATCA. ATCA mandates that no regulation promulgated may have the effect of increasing or decreasing any allocation or quota of fish to which the United States agreed pursuant to an ICCAT recommendation.

Comment 3: NMFS should reduce significantly, or eliminate, quotas for fisheries targeting BFT and take immediate measures to reduce incidental mortality.

Response: NMFS is required under the Magnuson-Stevens Act and ATCA to

provide U.S. fishing vessels with a reasonable opportunity to harvest the ICCAT-recommended quota. NMFS allocates the U.S. quota among categories to ensure that available fishing opportunities are distributed over as wide a range as possible with regard to time of year, geographic area, and type of participation while maintaining consistency with BFT conservation and management measures. Both the recent action to require the use of weak hooks by pelagic longline vessels fishing for HMS in the Gulf of Mexico and the action in this final rule to reinstate target catch requirements in the NED are consistent with the agency's efforts to address bycatch issues and manage BFT catch and landings within available quotas.

Comment 4: NMFS must consider the scientific information presented in the petition to list BFT as endangered or threatened under the Endangered Species Act (ESA), and CBD's comments on the 90-day finding, before issuing final conservation and management measures, including quotas, for BFT.

Response: Much of the information that was considered in the BFT listing petition status review was also considered by ICCAT and by NMFS in setting the BFT TAC and category quotas, respectively. NMFS proposed and is finalizing these management measures to be effective for June 2011, when ICCAT Recommendation 10–03 enters into force. Although the two efforts were conducted in parallel, the agency's fishery management obligations, including establishing the 2011 quota specifications, continued under ATCA and the Magnuson-Stevens Act during the status review process.

On May 27, 2011, NOAA announced that listing BFT as endangered or threatened is not warranted at this time (76 FR 31556, June 1, 2011). NOAA has committed to revisit this decision by early 2013, when more information will be available about the effects of the Deepwater Horizon BP oil spill, the 2012 SCRS BFT stock assessment, and the 2012 ICCAT BFT recommendations. NOAA also announced on May 27, 2011, that it is formally designating both the western Atlantic and eastern Atlantic and Mediterranean stocks of BFT as ''species of concern'' under the ESA. This places the species on a watch list for concerns about its status and threats to the species.

B. 2011 BFT Quota Specifications

Comment 5: NMFS should not deduct the dead discard estimate from the base quota. To account for pelagic longline BFT dead discards off the U.S. base quota is unfair as it would result in reduced quotas for the more selective, directed fishing categories, and be a de facto reallocation of quota shares from those established in the Consolidated HMS FMP. It would also be economically damaging to the directed fisheries and support industries, and likely would result in shorter seasons and lower retention limits. NMFS is not managing for optimum yield when it allows the Longline category's landings and dead discards to total approximately 28 percent of the U.S. quota.

Response: The United States must account for dead discards, regardless of which fishery they occur in, to comply with ICCAT recommendations. The only dead discard data currently available comes from the longline fishery. Existing BFT quota regulations state that NMFS may subtract dead discards from the U.S. quota and make the remainder available to vessels subject to U.S. jurisdiction. This is an allowable methodology under existing regulations, and was not a new proposal in this rulemaking.

However, as described above, following consideration of public comment and the availability of updated dead discard estimates, NMFS has decided to account for one half of the dead discard estimate up front and directly off the Longline category quota, which will mitigate potential economic impacts commenters associated with adjusting the baseline quota for dead discards. For the directed fishing categories, NMFS is applying the allocation scheme established in the Consolidated HMS FMP to the 2011 baseline U.S. BFT quota with no further adjustments.

It is important to consider that the BFT quota allocations in the Consolidated HMS FMP were based on historic landings and were established initially in 1992. Baseline quotas were modified in 1995 and 1997 but have remained the same since implementation of the 1999 FMP when a separate discard allowance was provided for in the ICCAT BFT recommendation. Following ICCAT's elimination of the dead discard allowance and change to include dead discards within TACs in 2006, NMFS has not modified the allocation scheme to include dead discards into the baseline quotas. The United States has accounted for this mortality as part of the domestic specification calculation process for the last several years and reports dead discard estimates to ICCAT annually. This is one of many issues the agency intends to consider in its review of BFT management in the near future. Regarding the concern about this accounting method creating shorter fishing seasons and lower retention limits, specifically for the recreational BFT fishery in 2011, the inseason actions implemented in April (*i.e.,* retention limit adjustment and closure of the southern area BFT trophy fishery) were based on recent changes in the fishery and size of bluefin tuna available to fishermen, not the proposed quota specifications. Finally, NMFS would like to clarify that accounting for dead discards as proposed or as finalized does not alter the Longline category's allocation of the U.S. quota. As proposed and finalized, the Longline category's allocation per the Consolidated HMS FMP is 8.1 percent to allow for landings of BFT, not dead discards. The pelagic longline fleet does not benefit economically from the BFT they must discard dead.

Comment 6: NMFS should not deduct the dead discard estimate from the overall quota (*i.e.,* ''off the top'') because it would provide no incentive for the pelagic longline fishery to reduce BFT interactions and dead discards. NMFS should account for these dead discards within the Longline category quota, and, generally, should hold each category accountable for its overharvests.

Response: As discussed above, in these final quota specifications, NMFS is accounting for half of the estimated dead discards within the Longline category up front. This action may provide some incentive for pelagic longline fishermen to reduce BFT interactions that may result in dead discards. Reinstating target catch requirements in the NED also may serve as a disincentive to fish in areas where BFT interactions could be high.

As discussed below, the pelagic longline fishery is currently the only fishery for which sufficient data is collected to estimate dead discards. However, an unknown level of dead discards occurs in directed BFT fishing fisheries as well and NMFS will consider how best to modify data collection programs to provide dead discard estimates in the future.

Comment 7: NMFS should consider implementing a 25-percent to 50-percent reduction of the allocated quota to the Longline category for one or more years. The longliners know there need to be some changes, although it would not be appropriate to cut out the pelagic longline fishery entirely.

Response: NMFS does not eliminate the quota for the Longline category in the final rule, although some of the approaches recommended in the comments on the proposed rulemaking would have had that effect. As discussed above, NMFS is accounting

for half of the estimated pelagic longline dead discards up front and deducting that portion of expected longline discards directly from the Longline category quota. Accounting for dead discards in the Longline category in this way may provide some incentive for pelagic longline fishermen to reduce those interactions that may result in dead discards. Reinstating pelagic longline target catch requirements for retaining BFT in the NED may also have a similar effect.

Comment 8: The proposed quota specifications are not consistent with the ICCAT provision that Contracting Parties shall minimize dead discards to the extent practicable. Allocating a disproportionate share of the BFT quota to the sector (pelagic longline) that causes the most discards is inconsistent with ICCAT mandates. The proposed quota specifications also ignore the obligations of the 1982 United Nations Convention on the Law of the Sea, the 1995 United Nations Fish Stocks Agreement, and the 1995 Food and Agriculture Organization Code of Conduct, which call for minimizing catch of non-target species.

Response: The U.S. quota finalized in this action is consistent with ICCAT Recommendation 10–03, the Magnuson-Stevens Act, and ATCA. The U.S. pelagic longline fleet fishes directly for swordfish and Atlantic tunas such as yellowfin tuna and catches BFT incidentally. Dead discards are the result of domestic and international restrictions on the size of BFT that may be retained and requirements that certain amounts of target species (*e.g.,* swordfish and other tunas) be landed in order to keep any BFT. If small BFT are caught, or if insufficient target species have been caught, BFT must be discarded, and some are discarded dead. The agency has historically implemented a series of management measures designed to regulate the incidental catch of BFT in non-directed Atlantic fisheries. Additionally, NMFS currently imposes a time and area closure for the month of June to prevent BFT longline interactions off the mid-Atlantic coast. As discussed above, NMFS recently finalized a rule requiring the use of weak hooks in the Gulf of Mexico pelagic longline fishery to minimize BFT interactions, is reinstating target catch requirements in the NED through this action, and also will consider options for further regulatory changes to reduce dead discards in the future. Regarding the 1982 United Nations Convention on the Law of the Sea, the 1995 United Nations Fish Stocks Agreement, and the 1995 Food and Agriculture Organization Code of Conduct for Responsible Fisheries, NMFS does not consider this action to be inconsistent with those instruments.

Comment 9: Under ATCA, NMFS is authorized to adopt regulations necessary and appropriate to carry out the purposes and objectives of ICCAT. NMFS has been violating ATCA by allowing a de facto ''incidental catch'' fishery in the Gulf of Mexico, in violation of the ICCAT recommendation to prohibit directed fishing targeting BFT in that area.

Response: NMFS prohibits directed fishing for BFT in the Gulf of Mexico. However, some level of BFT catch is unavoidable during directed fishing for yellowfin tuna and swordfish. NMFS has historically implemented a series of management measures designed to regulate and limit the incidental catch of BFT in non-directed Atlantic fisheries.

Comment 10: Allocating a disproportionate portion of the BFT quota to the Longline category, which catches BFT only as bycatch, violates National Standard 4, which prohibits discrimination in the allocation of fishing privileges.

Response: National Standard 4 includes provisions that measures shall not discriminate between residents of different states and that allocations shall be fair and equitable to all fishermen. NMFS is allocating the baseline U.S. BFT quota consistent with the Consolidated HMS FMP allocation scheme. The action does not discriminate between residents of different states in the allocation of fishing privileges. It is important to note that the directed fishing categories currently do not have the same monitoring requirements as the pelagic longline fleet (*e.g.,* for logbooks and observers) and that improvements in directed fishery data collection could result in changes to the dead discard estimate and to the future management of those fisheries.

In the proposed 2011 quota specifications, NMFS' goal was to balance the objectives of accounting for dead discards proactively, distributing fishing opportunities in a manner consistent with the Consolidated HMS FMP allocation scheme, and allowing continued operation of commercially valuable fisheries for swordfish and other tunas while controlling the landings of the incidental BFT catches. Through the final action, as described above, NMFS has used an approach that accounts for a portion of the dead discard estimate up front, holds a portion of the unharvested 2010 BFT quota that is allowed to be carried forward to 2011 in the Reserve category for maximum flexibility for end-of-year accounting, and maintains directed fishing categories at their baseline quotas, which reflect application of the allocation scheme established in the Consolidated HMS FMP to the 2011 baseline U.S. BFT quota.

Comment 11: Perpetuating BFT dead discards does not serve the primary values of the BFT resource—food production and recreational opportunities—and thus violates National Standard 5, which requires that conservation and management measures consider efficiency in the utilization of fishery resources.

Response: NMFS considers efficiency in the utilization of the BFT resource across user groups, consistent with National Standard 5. To meet the multiple goals for the BFT fishery, NMFS considers the importance of all of the national standards when making fishery management decisions, including those intended to provide reasonable fishing opportunities to a wide range of users and gear types, coastwide, throughout the calendar year. Due to restrictions on size and retention limits, some amount of discards is inevitable and some amount of the BFT released are already dead or do not survive.

Comment 12: Because the proposed rule did not propose that bycatch be avoided or reduced, it violates National Standard 9, which requires that conservation and management measures minimize bycatch.

Response: The main purpose of the proposed rule was to implement the 2010–ICCAT recommended baseline U.S. BFT quota. The quota specifications were proposed to account for underharvest allowed to be carried forward to 2011 and to account for dead discards. The Consolidated HMS FMP and its implementing regulations minimize bycatch and bycatch mortality to the extent practicable in several ways. Most recently, on April 5, 2011, NMFS published a final rule to require weak hook use in the Gulf of Mexico pelagic longline fishery (76 FR 18653). That action and the action in this final rule to reinstate target catch requirements in the NED are part of the agency's efforts to address bycatch issues and manage BFT catch and landings within available quotas. In addition, the accounting for half of the anticipated dead discards up front from the Longline category in this action may provide some incentive for pelagic longline fishermen to reduce those interactions that may result in dead discards. NMFS may identify additional measures to be taken in the

future resulting from further management review.

Comment 13: NMFS should account for dead discards as proposed. This approach is consistent with the method used for the last several years and would allow continued participation in the fishery by all user groups. The 8.1-percent Longline category allocation established in the FMP was based only on historical landings, not catch (*i.e.,* landings and discards). NMFS should continue to explore ways to convert dead discards to landings. Furthermore, NMFS should refer to dead discards as ''regulatory discards'' since it is domestic regulations that force pelagic longline fishermen to waste BFT bycatch.

Response: From 2007 through 2010, NMFS deducted the estimate of dead discards up front, but directly from the Longline category. In those years, NMFS was able to follow this approach while also providing a landings quota for the Longline category because of large underharvests and the fact that ICCAT allowed an amount equal to half of the U.S. quota to be carried forward to the following year. At the time the proposed rule was prepared, NMFS determined that the same approach would be impracticable given the change in the amount of underharvest that could be carried forward to 2011 (*i.e.,* from 50 percent of the U.S. quota to 10 percent, or from approximately 475 mt to 95 mt). NMFS considers the approach used for these final 2011 quota specifications to be a transitional approach from the method used over the past four fishing years. NMFS acknowledges the implications of the change in the ICCAT western BFT recommendation in 2006 for the pelagic longline fishery, and is attempting to balance the needs of the pelagic longline fleet to continue operations for the directed swordfish and Atlantic tunas fisheries with the needs of directed BFT fishery participants.

Comment 14: The pelagic longline fleet is critical in providing domestic swordfish and Atlantic tunas product and catch data used in highly migratory species stock assessments, and has contributed to scientific sampling efforts. Curtailing longline effort based on BFT bycatch could result in the loss of U.S. swordfish quota (if not used) to other ICCAT Contracting Parties that do not use safe handling and release practices, consequently having negative impacts to sea turtles and mammals, as well as billfish.

Response: NMFS acknowledges the role of the pelagic longline fishery in providing domestic fish products and important data for HMS stock assessments, such as indices of abundance on the high seas. NMFS recognizes the conservation efforts of the U.S. longline fleet as well as the concerns about potential loss of quota to countries with less protective measures for protected species. Through these final specifications, NMFS is accounting for half of the estimated dead discards against the Longline category up front but also is providing half of the available underharvest to the Longline category to balance the need for continued directed longline operations for swordfish and Atlantic tunas with the need to account for dead discards within the U.S. BFT quota.

Comment 15: Use of the 2009 pelagic longline dead discard estimate as a proxy for 2011 dead discards is inappropriate, in part because the estimate is nearly two years old, and in part because 2009 may have been an anomalous year for pelagic longline BFT catches.

Response: Since the proposed rule was published, NMFS has received and is now using the 2010 dead discard estimate. NMFS considers the 2010 dead discard estimate to be the best information available. By maintaining a portion of the 2010 BFT underharvest (allowed to be carried to 2011) in the Reserve category rather than allocating that amount now, NMFS is maximizing its flexibility regarding accounting for total 2011 landings and dead discards. As the season progresses, NMFS will have more 2011 information to use in making inseason transfer decisions as well as more data on pelagic longline BFT interactions, including dead discards.

Comment 16: In considering a proxy for the 2011 estimate, NMFS should calculate the anticipated reduction in dead discards from required use of weak hooks in the Gulf of Mexico.

Response: NMFS agrees that the recent implementation of the weak hook requirement for pelagic longline vessels in the Gulf of Mexico should reduce BFT bycatch and dead discards in the Gulf of Mexico. However, because the weak hook requirement was not effective until May 5, 2011, mid-way through the BFT spawning season (April through June), NMFS currently lacks the data appropriate to make such calculations. This, combined with uncertainties regarding post-release mortality, makes it difficult to quantify now the effect of the weak hook requirement on incidental BFT catch in the Gulf of Mexico. Therefore, the 2010 dead discards estimate is the best available proxy at this time. NMFS will continue to examine this issue and take appropriate action to account for any reductions in dead discards that result from the weak hook rule implementation.

Comment 17: The dead discard estimation methodology is unclear, and there are concerns that the extrapolation method may be amplifying the level of discards.

Response: The United States applies the SCRS-approved methodology to calculate and report dead discards for both stock assessment purposes and quota compliance purposes. The amount of dead discards is generated by estimating discard rates from data collected by NMFS' Pelagic Observer Program and extrapolating these estimates using the effort (number of hooks) reported in the Pelagic Logbooks. This methodology is applied within each time/area stratum (*e.g.,* catch rates from the Gulf of Mexico are used to estimate discards from the Gulf of Mexico, not the NED). Estimates of dead discards from other gear types and fishing sectors that do not use the pelagic longline vessel logbook are unavailable at this time and thus are not included in this calculation. Changes to the approved method likely would require consideration and approval by the SCRS prior to U.S. implementation.

Comment 18: It is not mandatory for NMFS to project and account for U.S. dead discards at the start of year. ICCAT requires accounting for 2011 landings and dead discards in 2012.

Response: The ICCAT requirement is for countries to report total annual catch (landings and dead discards) in the year following the subject fishing year, *i.e.,* report in the summer of 2012 the 2011 total. Since the change in the ICCAT recommendation to eliminate the dead discard allowance, NMFS has taken a precautionary approach in proactively deducting the estimate of dead discards up front when establishing the final quota specifications for each year. NMFS must also balance its obligation to provide reasonable opportunity to harvest the U.S. quota with the fact that the ICCAT western BFT recommendation includes a provision for reduction of a Contracting Party's quota by 100 percent of the amount in excess of the quota and by 125 percent if overharvest occurs for a second year. As described above, in this final action, NMFS is taking the proactive measure of accounting for half of the estimated pelagic longline dead discards up front and deducting that portion of expected longline discards directly from the Longline category quota. Regardless of the specifications details in the final rule, the total 2011 U.S. BFT landings and pelagic longline dead discards will be accounted for and reported to ICCAT,

and NMFS would make any ICCAT-required adjustments to future U.S. BFT quotas, if necessary.

Comment 19: NMFS should find a way to account for at least some portion of the dead discard estimate using the 285 mt of 2010 underharvest that the United States is unable to carry forward under the current ICCAT BFT Recommendation.

Response: In the 2010 BFT final quota specifications, NMFS deducted 172.8 mt (the 2008 dead discard estimate, used as a proxy for estimated 2010 dead discards) up front from the 2010 Longline category baseline quota. It would be inappropriate and inconsistent with the ICCAT BFT Recommendation to account for 2011 estimated dead discards with the amount of 2010 adjusted BFT quota that was unharvested and cannot be carried forward to 2011.

Comment 20: The Massachusetts Division of Marine Fisheries commented that the proposed quota allocation (*i.e.,* providing each quota category its FMP-based share of a quota that has been adjusted up front to account for anticipated dead discards in the pelagic longline fishery) attempts to maintain traditional FMP-based allocations without accounting for the changing nature of the BFT fisheries. The Purse Seine category, which has been allocated 18.6-percent of the U.S. quota, has not landed its full quota since 2003 and has had virtually no landings since 2005. Therefore, strict adherence to allocations based on the FMP-based allocations makes little sense, in the short-term, given the unlikelihood that this category will land its quota share. NMFS should use inseason management authority to temporarily reallocate unused quota to address discards.

Response: Under the current quota regulations, NMFS is obligated, regardless of their recent inactivity, to make equal allocations of the available Purse Seine category BFT subquota among the Purse Seine category vessels that have requested their 2011 allocations. However, within a fishing year, NMFS may transfer quotas among categories using determination criteria based on consideration of the regulatory determination criteria regarding inseason adjustments and other relevant factors provided under § 635.27(a)(8), such as: The catches of the particular category quota to date and the likelihood of closure of that segment of the fishery if no adjustment is made; review of dealer reports, daily landing trends, and the availability of the BFT on the fishing grounds; the projected ability of the vessels fishing under the particular category quota to harvest the additional amount of BFT before the end of the fishing year; and the effects of the adjustment on accomplishing the objectives of the fishery management plan. Thus, if the Purse Seine subquota is not used, NMFS has the option to transfer that quota allocation to other categories, if appropriate.

Comment 21: The directed BFT fishery participants have successfully avoided dead discards and should not be adversely affected, through reduced quotas and fishing opportunities, in the process of accounting for dead discards for the incidental pelagic longline fishery.

Response: Although NMFS recognizes that commercial fishermen and recreational anglers generally attempt to avoid discarding BFT, some amount of discards is inevitable due to restrictions on size and retention limits, and some amount of the BFT released are already dead or do not survive. As discussed above, the pelagic longline fishery is currently the only fishery for which sufficient data is collected to estimate dead discards. Data collection programs may need to be modified to provide more accurate dead discard estimates in the future. The topic of post-release mortality received substantial attention at the 2010 ICCAT meeting and NMFS anticipates that the issue will be a focus at the 2012 ICCAT meeting when the western BFT Recommendation is renegotiated. Regarding the potential impact of the proposed action on inseason BFT management, see response to Comment 5.

Comment 22: All user groups have discards, some of which are dead, and NMFS should initiate or expand studies to examine dead discard and release mortality rates in the all fishing categories. We should have our own national estimates rather than becoming subject to estimates from other BFT fisheries that may not be comparable to U.S. BFT fisheries.

Response: NMFS agrees that examination of dead discard and release mortality estimates rates in all fishing categories is warranted and will explore methods to account for this mortality in the near future.

Comment 23: Transfers of U.S. quota to other ICCAT Contracting Parties should be out of the question, particularly since the United States may be quota limited in 2011. Transferring quota would decrease opportunities to U.S. fishermen and may have negative impacts on protected species.

Response: The United States has not received any request for transfer of BFT quota from another ICCAT Contracting Party. At this point, NMFS is allocating fully the U.S. baseline and adjusted quotas, including to the Reserve category, for domestic management purposes. Although no transfers are anticipated at this time, if NMFS were later to consider a transfer of U.S. quota to another ICCAT Contracting Party, NMFS would publish a separate action in the **Federal Register**, which would provide the details of the proposed transaction, including factors such as the amount of quota to be transferred, the projected ability of U.S. vessels to harvest the total U.S. BFT quota before the end of the fishing year, the potential benefits of the transfer to U.S. fishing participants (such as access to the EEZ of the receiving Contracting Party for the harvest of a designated amount of BFT), potential ecological impacts, and the Contracting Party's ICCAT compliance status. Additional NEPA analysis would be prepared, as appropriate, to analyze any additional action.

C. Reinstatement of Target Catch Requirements in the NED

Comment 24: NMFS should implement target catch requirements for pelagic longline vessels fishing in the NED. Limiting the number of BFT that may be retained and landed would serve as a disincentive to target BFT or to fish in areas where interactions could be high.

Response: NMFS agrees and is reinstating target catch requirements in the NED in this final rule.

Comment 25: NMFS should not implement the target catch requirements that apply coastwide for pelagic longline vessels within the NED. The 25-mt quota that ICCAT allocated for bycatch during pelagic longline fishing in the vicinity of the management area boundary was intended to be managed and accounted for distinctly from the U.S. share of the western BFT TAC. Pelagic longline vessels do not target BFT; there are sets on swordfish where the bycatch of BFT cannot be avoided. Furthermore, 2009 was an anomaly with regard to BFT landings in the NED, which generally have been under 10 mt annually. Implementing the target catch requirements that apply coastwide could have the unintended result of increasing BFT dead discards. NMFS should instead consider multi-year accounting for NED landings or a higher trip limit, such as 10 fish.

Response: NMFS must implement ICCAT management measures as they are presented in the formal ICCAT recommendations, including the western BFT recommendation. NMFS acknowledges that the 2009 level of BFT interactions in the NED may have been abnormally high and that the pelagic longline fleet is not targeting BFT.

Nonetheless, NMFS maintains that reinstating target catch requirements in the NED may serve as a disincentive for a vessel owner or operator to fish in areas where BFT interactions could be high, or to extend a fishing trip in order to retain additional BFT. NMFS expects that implementing the same target catch requirements in all areas will decrease the likelihood that the Longline category quota is harvested prematurely, which could have economic impacts particularly on those vessels that do not fish in the NED. It also would be consistent with ongoing agency efforts to better align pelagic longline catch with Consolidated HMS FMP objectives and quota allocations.

D. Allowing Removal of Atlantic Tunas Tail Lobes

Comment 26: Allowing for Atlantic tuna tails to be trimmed as NMFS proposed is an easy, common-sense measure that will make handling and storage of tunas in fish holds more efficient.

Response: NMFS' proposal to allow removal of the upper and lower lobes of the tail was intended to balance the need to preserve the sole method for measuring Atlantic tunas, *i.e.,* Curved Fork Length, which is taken by measuring to the fork of the tail, with the need for both commercial and recreational participants to store these fish as efficiently as possible. Therefore, NMFS is finalizing the measure as proposed.

Comment 27: It is important that vessels be able to properly store the fish to preserve fish quality, and trimming the lobes would not help for giant BFT that may not fit in the hold. NMFS should allow the tail to be cut but require that the skin be left intact. The tail could then be folded for slushing purposes but be folded back to allow for a proper measurement.

Response: NMFS acknowledges the importance to properly store fish to preserve their quality and also recognizes that allowing the removal of the upper and lower tail lobes may not assist storage in all instances, especially for giant BFT. However, to facilitate enforcement of size limits and to preserve the sole method for measuring Atlantic tunas, NMFS has opted not to allow the tail to be cut prior to being offloaded at this point in time.

E. Clarification of Atlantic Tunas Transfer at Sea

Comment 28: The proposed clarification is necessary to close a regulatory loophole. NMFS should further clarify that transfer includes moving a tuna from fishing or other gear in the water from one vessel to another.

Response: NMFS agrees with this comment and has clarified the regulatory text accordingly. The intent of this clarification is to ensure that fishermen are informed that transferring Atlantic tunas at sea, either by transferring the actual fish, or by transferring fish that remain in water, is prohibited. This also includes moving an Atlantic tuna using some sort of other gear, *e.g.,* using a poly ball to transfer a fish.

Comment 29: NMFS should not overburden itself with further regulations like this that are very difficult to enforce.

Response: NMFS acknowledges that some regulations may be more difficult to enforce than others. However, this change in the regulations is intended to clarify, and enhance the enforceability of, existing regulations controlling effort, including daily retention limits. These effort controls are vital to ensuring all fishery participants have a reasonable opportunity to harvest Atlantic tunas regardless of their geographic or temporal engagement with the fishery. This clarification is also intended to preserve the allocation percentages, both within and across the various quota categories, by constraining landings to individual category quotas. As this change does not impose a new requirement, but merely clarifies and enhances the enforceability of existing regulations, NMFS does not consider it overly burdensome.

F. Other Issues

NMFS received comments on the issues outlined under the eight subheadings below. These suggestions are beyond the scope of this rulemaking. However, in light of the issues involving U.S. quotas and domestic allocations, pelagic longline dead discards, the need to account for dead discards that result from fishing with other gears, and bycatch reduction objectives, as well as public comment, NMFS intends to undertake a comprehensive review of BFT management in the near future to determine whether existing management measures need to be adjusted to meet the multiple goals for the BFT fishery.

(1) Bycatch of BFT

NMFS received comments requesting implementation of various actions to address pelagic longline BFT bycatch, including: establish bycatch caps or other incentives to reduce bycatch, such as those based on U.S. northeast species management (*e.g.,* closure of directed fishery when a ''choke species'' limit is met) or Canadian highly migratory species management (*e.g.,* exclusion zones and quota transfers); establish time/area closures in the Gulf of Mexico; implement dynamic area management; expand the weak hook requirement beyond the Gulf of Mexico (although many expressed this step would not be effective or appropriate); require the fleet to use buoy gear or greensticks in the Gulf of Mexico; increase observer coverage and/or real-time monitoring of landings and dead discards, including via VMS; prohibit retention of BFT for sale by pelagic longline vessels; change the FMP allocation to reflect both landings and dead discards; change the allocation scheme to one that promotes fishing with selective fishing gears; adjust the minimum size for BFT retention and implement other regulatory changes that would allow conversion of BFT dead discards to landings, including in the NED. The Massachusetts Division of Marine Fisheries commented that allocation schemes that result in the failure of U.S. fishermen to land the U.S. quota while discarding dead BFT will negatively impact domestic interests in the future. Several commenters recognize the challenge of maximizing swordfish quota utilization with minimizing BFT discards. Many commenters expressed concern that without a bycatch cap and with expected BFT stock growth, pelagic longline BFT interactions would increase. Dead discards could grow without limit, potentially representing a majority of the U.S quota, thereby compromising the directed fisheries.

(2) Permit Issues

NMFS received comment that, as the BFT quota is small, NMFS should change all BFT permits from open access to limited access. Regarding swordfish revitalization, NMFS received comment that implementation of an HMS handgear permit would help increase swordfish quota utilization by gears more selective than pelagic longline, thus reducing potential BFT bycatch and dead discards.

(3) Inseason Quota Transfers

NMFS received numerous comments that it should use ''inseason quota transfers'' that were actually recommendations to reallocate quota in a matter inconsistent with the Consolidated HMS FMP.

(4) Recreational Fishery Monitoring

NMFS received comments that recreational landings must be tracked in a more timely fashion. Programs like the Massachusetts landing census pilot

program, currently under development, should be implemented in all states as soon as possible.

(5) ICCAT Negotiations

NMFS received comments that the U.S. delegation should further consider domestic BFT fishery needs (for all HMS fisheries) when setting the U.S. position at ICCAT, that the U.S. delegation should renegotiate the BFT Recommendation, including quotas and the amount of underharvest allowed to be carried forward from one year to the next, should pursue two-year balancing periods for the base quota and NED allocation, and, wherever possible, maximize its ability to fully use the quota over a given period.

(6) Consideration of Petition to List BFT as Threatened or Endangered

NMFS received comments that the current management system, which allows a substantial portion of the U.S. quota to be discarded dead, contradicts agency consideration of the petition to list BFT as threatened or endangered under the Endangered Species Act.

(7) BFT Boycott

NMFS received a petition from the Center for Biological Diversity, with the names of more than 22,000 people who have pledged not to eat Atlantic and Southern BFT (fished around Australia) and to boycott restaurants with BFT on the menu in order to reduce consumer demand for and conserve both species. The Center for Biological Diversity launched the boycott following the November 2010 ICCAT meeting.

(8) November 2009 BFT Regulatory Amendment

The North Carolina Division of Marine Fisheries encourages NMFS to (1) implement the 2009 proposed BFT management measure that would allow the General category season to extend past January 31 if January General category subquota remains available, and (2) establish a separate subquota for the months of February and March, potentially assigning unused prior year quota to that period. This would allow for greater utilization of available U.S. BFT quota.

Classification

The Assistant Administrator for Fisheries, NMFS, has determined that this final action is consistent with the Magnuson-Stevens Act, ATCA, and other applicable law, and is necessary to achieve domestic management objectives under the Consolidated HMS FMP.

There is good cause under 5 U.S.C. 553(d)(3) to waive the 30-day delay in effective date for the BFT quotas and 2011 BFT quota specifications in this action, because delaying this rule's effectiveness is both impracticable and unnecessary. ICCAT Recommendation 10–03 entered into force on June 14, 2011, and the United States at the November 2010 meeting of ICCAT agreed to establish the baseline annual U.S. quota of 923.7 mt by that date. Because the recommended effective date has already passed, it is critical that the quota be implemented immediately upon publication of the final rule, in order that NMFS and the United States comply with our international obligations. Furthermore, without the waiver for the 30-day delayed effectiveness period, the codified baseline annual U.S. BFT quota of 952.4 mt and related subquotas (allocated per quota allocations established in the Consolidated HMS FMP) would remain in effect, and thus the required reduction in quota would not be implemented for BFT, which has recently been listed as a species of concern. Delaying the effective date is also unnecessary. This rule does not add or modify any regulatory requirements for the affected entities. Because the entities affected by this rule need not undertake any modifications to their property or practices in order to come into compliance with this rule, it is unnecessary to delay this rule's effectiveness to allow entities to modify their practices to come into compliance with the rule.

This final rule has been determined to be not significant for purposes of Executive Order 12866.

In compliance with section 604 of the Regulatory Flexibility Act (RFA), a Final Regulatory Flexibility Analysis (FRFA) was prepared for this rule. The FRFA incorporates the Initial Regulatory Flexibility Analysis (IRFA), a summary of the significant issues raised by the public comments in response to the IRFA, and NMFS responses to those comments, and a summary of the analyses completed to support the action. The full FRFA and analysis of economic and ecological impacts are available from NMFS (see **ADDRESSES**). A summary of the FRFA follows.

In compliance with section 604(a)(1) of the RFA, the purpose of this rulemaking, consistent with the Consolidated HMS FMP objectives, the Magnuson-Stevens Act, and other applicable law, is to implement and allocate the ICCAT-recommended U.S. quota for 2011 and 2012; adjust the 2011 U.S. quota and subquotas to account for unharvested 2010 quota allowed by ICCAT to be carried forward to 2011, and to account for a portion of the estimated 2011 dead discards up front; reinstate pelagic longline target catch requirements for retaining BFT in the Northeast Distant Gear Restricted Area; amend the Atlantic tunas possession-at-sea and landing regulations to allow removal of tail lobes; and clarify the transfer-at-sea regulations for Atlantic tunas.

Section 604(a)(2) of the RFA requires agencies to summarize significant issues raised by the public in response to the IRFA, the agency's assessment of such issues, and a statement of any changes made as a result of the comments.

NMFS received numerous comments on the proposed rule (75 FR 13582, March 14, 2011) during the comment period. A summary of these comments and NMFS' responses are included in Chapter 14 of the EA/RIR/FRFA and are included above. Although NMFS did not receive comment specifically on the IRFA, NMFS received some comments expressing concern about the economic impact of the 2011 BFT quota specifications, as proposed.

Several commenters stated that the proposed deduction of the dead discard estimate from the U.S. BFT baseline quota would result in a de facto reallocation of quota shares from those established in the Consolidated HMS FMP, which would be economically damaging to the directed fisheries. As described above, following consideration of public comment and the availability of updated (2010) dead discard estimates, NMFS has decided to account for one half of the dead discard estimate up front and directly against the Longline category quota, through the specifications process, which will mitigate some of the economic impacts associated with adjusting the baseline quota for dead discards. For the final 2011 quota specifications, this rule maintains the directed categories at their baseline quotas, which reflect application of the allocation scheme established in the Consolidated HMS FMP to the 2011 baseline U.S. BFT quota. For the Longline category, NMFS deducts half of the 2010 dead discard estimate of 122.3 mt from the 2011 baseline Longline quota and applies half of the underharvest allowed to be carried forward to 2011 (*i.e.,* 74.8 − 61.2 + 47.5 = 61.1 mt). This resulting 61.1 mt quota for the Longline category does not include the 25-mt allocation for the NED. NMFS holds the remainder of the 2010 underharvest allowed to be carried forward to 2011 (47.4 mt) within the Reserve category, for an adjusted Reserve category quota of 70.5 mt. NMFS intends to maintain this

underharvest in the Reserve category until later in the fishing year for maximum flexibility in accounting for 2011 landings and dead discards.

Section 604(a)(3) of the RFA requires agencies to provide an estimate of the number of small entities to which the rule would apply. The implementation of the ICCAT-recommended baseline annual U.S. BFT quota would apply to all participants in the Atlantic BFT fisheries, all of which are considered small entities by the Small Business Administration, because they either had average annual receipts less than $4.0 million for fish-harvesting, average annual receipts less than $6.5 million for charter/party boats, 100 or fewer employees for wholesale dealers, or 500 or fewer employees for seafood processors. As shown in Table 5, there are over 32,000 vessels that held an Atlantic HMS Charter/Headboat, Atlantic HMS Angling, or an Atlantic tunas permit as of October 2010. These permitted vessels consist of commercial, recreational, and charter vessels as well as headboats.

Reinstatement of target catch requirements in the NED would affect those Longline category permitted vessels that fish in the NED. As shown in Table 9, over the last 5 years, an annual total ranging from 6 to 10 vessels have reported trips in the NED and an annual total ranging from 4 to 8 vessels have landed BFT from the NED. However, to the extent that this action could avoid the need for fishery interruption due to insufficient BFT quota availability, it could affect all 248 Longline category permitted vessels.

Clarification of the Atlantic tunas landing-form and transfer-at-sea regulations would be informative to owners and operators of Atlantic-tunas permitted vessels and Atlantic HMS-permitted vessels fishing for tunas, although material impacts are not expected to occur from the related changes in this action.

Under section 604(a)(4) of the RFA, agencies are required to describe any new reporting, record-keeping and other compliance requirements. The action does not contain any new collection of information, reporting, record keeping, or other compliance requirements.

Under section 604(a)(5) of the RFA, agencies are required to describe any alternatives to the rule which accomplish the stated objectives and which minimize any significant economic impacts. These impacts are discussed below and in Chapters 4 and 6 of the EA/RIR/FRFA. Additionally, the RFA (5 U.S.C. 603(c)(1)–(4)) lists four general categories of ''significant'' alternatives that would assist an agency in the development of significant alternatives. These categories of alternatives are: (1) Establishment of differing compliance or reporting requirements or timetables that take into account the resources available to small entities; (2) clarification, consolidation, or simplification of compliance and reporting requirements under the rule for such small entities; (3) use of performance rather than design standards; and (4) exemptions from coverage of the rule for small entities.

In order to meet the objectives of this rule, consistent with the Magnuson-Stevens Act, ATCA, and the ESA, NMFS cannot establish differing compliance requirements for small entities or exempt small entities from compliance requirements. Thus, there are no alternatives discussed that fall under the first and fourth categories described above. NMFS does not know of any performance or design standards that would satisfy the aforementioned objectives of this rulemaking while, concurrently, complying with the Magnuson-Stevens Act. As described below, NMFS analyzed several different alternatives in this rulemaking and provides rationale for identifying the preferred alternatives to achieve the desired objective. The FRFA assumes that each vessel within a category will have similar catch and gross revenues to show the relative impact of the action on vessels.

NMFS has estimated the average impact that the alternative to establish the 2011 and 2012 BFT quota for all domestic fishing categories would have on individual categories and the vessels within those categories. As mentioned above, the 2010 ICCAT recommendation reduced the U.S. baseline BFT quota for 2011 and 2012 to 923.7 mt and provides 25 mt for incidental catch of BFT related to directed longline fisheries in the NED. This action would distribute the baseline quota of 923.7 mt to the domestic fishing categories based on the allocation percentages established in the Consolidated HMS FMP.

In 2010, the annual gross revenues from the commercial BFT fishery were approximately $8.9 million. As of October 2010, there were 8,311 vessels permitted to land and sell BFT under four commercial BFT quota categories (including HMS Charter/Headboat vessels). The commercial categories and their 2010 gross revenues are General ($7.8 million), Harpoon ($202,643), Purse Seine ($0), and Longline ($878,908).

For the allocation of BFT quota among domestic fishing categories, NMFS analyzed a no action alternative and Alternative A2 (preferred alternative) which would implement the 2010 ICCAT recommendation. NMFS considered a third alternative (A3) that would have allocated the 2010 ICCAT recommendation in a manner other than that designated in the Consolidated HMS FMP. Alternative A3 would result in quota reallocation among categories. The Consolidated HMS FMP addressed several aspects of the changing BFT fishery and included modification to time period subquotas and authorized gear for use in BFT fisheries, among other things. Further consideration of the information provided by the 2010 BFT stock assessment, international deliberations during and after the 2010 ICCAT meeting, and observed changes in the fishery (*e.g.,* relative year class strength and fish availability) may provide further insight into the larger fishery issues raised by this alternative, and could result in future regulatory or FMP amendments. For the purpose of this analysis, modifications to domestic management of BFT outside the limitations of the Consolidated HMS FMP and current ICCAT recommendations do not satisfy the purpose and need for the action. Additionally, preparation of an FMP amendment would not be possible in the brief period of time between receipt of the ICCAT recommendation, which occurred in late November 2010, and the start of the 2011 fishing year, the bulk of which begins in June.

Therefore, Alternative A3 was considered but not analyzed. But, if an FMP amendment were feasible, positive economic impacts would be expected to result on average for vessels in any permit categories that would receive a greater share than established currently in the FMP, and negative economic impacts would be expected to result on average for vessels in permit categories that would receive a lesser share than established in the FMP. Impacts per vessel would depend on the temporal and spatial availability of BFT to participants.

As noted above, Alternative A2 would implement the 2010 ICCAT recommendation in accordance with the Consolidated HMS FMP and consistent with ATCA, under which the United States is obligated to implement ICCAT-approved quota recommendations, as necessary and appropriate. The preferred alternative would implement this quota and have slightly positive impacts for fishermen. The no action alternative would keep the quota at pre-2010 ICCAT recommendation levels (approximately 29 mt more) and would not be consistent with the purpose and need for this action, the Consolidated HMS FMP, and ATCA. The economic

impacts to the United States and to local economies would be similar in distribution and scale to 2010 (*e.g.,* annual commercial gross revenues of approximately $8.9 million, as described above), or recent prior years, and would provide fishermen additional fishing opportunities, subject to the availability of BFT to the fishery, in the short term. In the long term, however, stock growth may be hindered and negative impacts would result.

It is difficult to estimate average potential ex-vessel revenues to commercial participants, largely because revenues depend heavily on the availability of large medium and giant BFT to the fishery. Section 6 of the EA/RIR/FRFA describes potential revenue losses per commercial quota category based on each category's baseline quota reduction and price-per-pound information from 2010 (*i.e.,* $206,251 for the General category, $13,944 for the Harpoon category, $25,150 for the Longline category, and $1,093 for the Trap category); although the Purse Seine category had no BFT landings in 2010, potential revenue losses of $69,639 were estimated. As described in Section 4 of the EA/RIR/FRFA, because the directed commercial categories have underharvested their subquotas in recent years, particularly 2004–2008, the potential decreases in ex-vessel revenues above overestimate the likely actual economic impacts to those categories relative to recent conditions. Additionally, there has been substantial interannual variability in ex-vessel revenues per category in recent years due to recent changes in BFT availability and other factors. Generally, the interannual differences in ex-vessel revenues per category have been larger than the potential impacts described above.

Data on net revenues of individual fishermen are lacking, so the economic impact of the alternatives is averaged across each category. This is an appropriate approach for BFT fisheries, in particular because available landings data (weight and ex-vessel value of the fish in price-per-pound) allow NMFS to calculate the gross revenue earned by a fishery participant on a successful trip. The available data do not, however, allow NMFS to calculate the effort and cost associated with each successful trip (*e.g.,* the cost of gas, bait, ice, *etc.*) so net revenue for each participant cannot be calculated. As a result, NMFS analyzes the average impact of the alternatives among all participants in each category.

Success rates vary widely across participants in each category (due to extent of vessel effort and availability of commercial-sized BFT to participants where they fish) but for the sake of estimating potential revenue loss per vessel, category-wide revenue losses can be divided by the number of permitted vessels in each category (see Table 5). Because HMS Charter/Headboat vessels may fish commercially under the General category quota and retention limits, Charter/Headboat permitted vessels are considered along with General category vessels when estimating potential General category ex-vessel revenue changes. Potential ex-vessel revenue losses (per vessel) as a result of this rule's implementation are estimated as follows: General category (including HMS Charter/Headboat vessels): $26; Harpoon category: $480; Longline category (incidental): $101; Trap category (incidental): $182; and Purse Seine category: $13,928. Section 6 describes potential revenue losses per commercial quota category based on each category not having access to quota that would be available through the carrying forward of 2010 underharvest, were it not for the ICCAT recommendation that limits the amount of underharvest that may be carried forward to 10 percent of a Contracting Party's total quota beginning effective for 2011. Potential ex-vessel revenue losses (per vessel) resulting from this change are estimated as follows: General category (including HMS Charter/Headboat vessels): $107; Harpoon category: $4,808; Longline category (incidental): $1,014; Trap category (incidental): $519; and Purse Seine category: $139,278. These values likely overestimate potential revenue losses for vessels that actively fish and are successful in landing at least one BFT.

The reinstatement of target catch requirements for pelagic longline vessels in the NED could, as described in Section 6.6.2, would result in a potential loss to the Longline category fishery of $341,228. If this reduction is calculated for the universe of vessels participating in the NED over the last 5 years (range of 6–10 vessels), it would represent average potential ex-vessel reductions of $34,123–$56,871 per vessel. If the reduction is calculated across Longline category vessels, it would be $1,376 per vessel. In Section 6.6.2, acknowledging that the 2009 number of BFT taken in the NED in 2009 may have been anomalous, NMFS also provided a figure for potential revenue loss of $42,408. This would represent average potential ex-vessel reductions of $4,241–$7,068 per vessel. If the reduction is calculated across Longline category vessels, it would be $171 per vessel.

However, the preferred alternative is expected to result in the most positive short and long-term economic impacts for the majority of BFT fishery participants, including Longline category participants, as it would increase the likelihood that the Longline category quota will be available through the end of the year, without interruption, and decrease the potential need for reallocation from directed quota categories or quota reductions in subsequent years to cover Longline category excesses.

The other considered alternative was a no action alternative (maintaining the de facto exemption from target catch requirements for pelagic longline vessels fishing in the NED). The no action alternative risks exceeding the available Longline category quota, particularly in years where availability of commercial-sized BFT is high in the NED during directed pelagic longline activity for target species.

The modifications to the regulations concerning Atlantic tunas possession at sea and landing and Atlantic tunas transfer at sea are intended to facilitate Atlantic tunas storage and provide clarification, respectively. While these changes would apply to all vessels holding Atlantic tunas, HMS Charter/Headboat, and HMS Angling category permits (totaling approximately 33,000 vessels), they are not expected to have significant economic impacts. Therefore, NMFS has not analyzed alternatives beyond the preferred alternatives and no action. Specific estimates of economic impacts of these preferred alternatives are not quantifiable.

Section 212 of the Small Business Regulatory Enforcement Fairness Act of 1996 states that, for each rule or group of related rules for which an agency is required to prepare a FRFA, the agency shall publish one or more guides to assist small entities in complying with the rule, and shall designate such publications as ''small entity compliance guides.'' The agency shall explain the actions a small entity is required to take to comply with a rule or group of rules. As part of this rulemaking process, NMFS has prepared a brochure summarizing fishery information and regulations for Atlantic tuna fisheries for 2011. This brochure also serves as the small entity compliance guide. Copies of the compliance guide are available from NMFS (see **ADDRESSES**).

List of Subjects in 50 CFR Part 635

Fisheries, Fishing, Fishing vessels, Foreign relations, Imports, Penalties, Reporting and recordkeeping requirements, Treaties.

Dated: June 29, 2011.

John Oliver,

Deputy Assistant Administrator for Operations, National Marine Fisheries Service.

For the reasons set out in the preamble, 50 CFR part 635 is amended as follows:

PART 635—ATLANTIC HIGHLY MIGRATORY SPECIES

■ 1. The authority citation for part 635 continues to read as follows:

Authority: 16 U.S.C. 971 *et seq.;* 16 U.S.C. 1801 *et seq.*

§ 635.23 [Amended]

■ 2. In § 635.23, remove paragraph (f)(3).

■ 3. In § 635.27, paragraphs (a) introductory text, (a)(1)(i), (a)(2), (a)(3), (a)(4)(i), (a)(5), (a)(7)(i), and (a)(7)(ii) are revised to read as follows:

§ 635.27 Quotas.

(a) *BFT.* Consistent with ICCAT recommendations, and with paragraph (a)(10)(iv) of this section, NMFS may subtract the most recent, complete, and available estimate of dead discards from the annual U.S. BFT quota, and make the remainder available to be retained, possessed, or landed by persons and vessels subject to U.S. jurisdiction. The remaining baseline annual U.S. BFT quota will be allocated among the General, Angling, Harpoon, Purse Seine, Longline, Trap, and Reserve categories. BFT may be taken by persons aboard vessels issued Atlantic Tunas permits, HMS Angling permits, or HMS Charter/Headboat permits. The baseline annual U.S. BFT quota is 923.7 mt, not including an additional annual 25 mt allocation provided in paragraph (a)(3) of this section. The baseline annual U.S. BFT quota is divided among the categories as follows: General—47.1 percent (435.1 mt); Angling—19.7 percent (182.0 mt), which includes the school BFT held in reserve as described under paragraph (a)(7)(ii) of this section; Harpoon—3.9 percent (36.0 mt); Purse Seine—18.6 percent (171.8 mt); Longline—8.1 percent (74.8 mt), which does not include the additional annual 25 mt allocation provided in paragraph (a)(3) of this section; and Trap—0.1 percent (0.9 mt). The remaining 2.5 percent (23.1 mt) of the baseline annual U.S. BFT quota will be held in reserve for inseason or annual adjustments based on the criteria in paragraph (a)(8) of this section. NMFS may apportion a quota allocated to any category to specified fishing periods or to geographic areas and will make annual adjustments to quotas, as specified in paragraph (a)(10) of this section. BFT quotas are specified in whole weight.

(1) * * *

(i) Catches from vessels for which General category Atlantic Tunas permits have been issued and certain catches from vessels for which an HMS Charter/Headboat permit has been issued are counted against the General category quota in accordance with § 635.23(c)(3). The amount of large medium and giant BFT that may be caught, retained, possessed, landed, or sold under the General category quota is 47.1 percent (435.1 mt) of the baseline annual U.S. BFT quota, and is apportioned as follows:

(A) January 1 through January 31—5.3 percent (23.1 mt);

(B) June 1 through August 31—50 percent (217.6 mt);

(C) September 1 through September 30—26.5 percent (115.3 mt);

(D) October 1 through November 30—13 percent (56.6 mt); and

(E) December 1 through December 31—5.2 percent (22.6 mt).

* * * * *

(2) *Angling category quota.* In accordance with the framework procedures of the Consolidated HMS FMP, prior to each fishing year, or as early as feasible, NMFS will establish the Angling category daily retention limits. The total amount of BFT that may be caught, retained, possessed, and landed by anglers aboard vessels for which an HMS Angling permit or an HMS Charter/Headboat permit has been issued is 19.7 percent (182 mt) of the baseline annual U.S. BFT quota. No more than 2.3 percent (4.2 mt) of the annual Angling category quota may be large medium or giant BFT. In addition, over each 2-consecutive-year period (starting in 2011, inclusive), no more than 10 percent of the annual U.S. BFT quota, inclusive of the allocation specified in paragraph (a)(3) of this section, may be school BFT. The Angling category quota includes the amount of school BFT held in reserve under paragraph (a)(7)(ii) of this section. The size class subquotas for BFT are further subdivided as follows:

(i) After adjustment for the school BFT quota held in reserve (under paragraph (a)(7)(ii) of this section), 52.8 percent (40.8 mt) of the school BFT Angling category quota may be caught, retained, possessed, or landed south of 39°18′ N. lat. The remaining school BFT Angling category quota (36.5 mt) may be caught, retained, possessed or landed north of 39°18′ N. lat.

(ii) An amount equal to 52.8 percent (43.8 mt) of the large school/small medium BFT Angling category quota may be caught, retained, possessed, or landed south of 39°18′ N. lat. The remaining large school/small medium BFT Angling category quota (39.1 mt) may be caught, retained, possessed or landed north of 39°18′ N. lat.

(iii) An amount equal to 66.7 percent (2.8 mt) of the large medium and giant BFT Angling category quota may be caught, retained, possessed, or landed south of 39°18′ N. lat. The remaining large medium and giant BFT Angling category quota (1.4 mt) may be caught, retained, possessed or landed north of 39°18′ N. lat.

(3) *Longline category quota.* The total amount of large medium and giant BFT that may be caught incidentally and retained, possessed, or landed by vessels that possess Longline category Atlantic Tunas permits is 8.1 percent (74.8 mt) of the baseline annual U.S. BFT quota. No more than 60.0 percent (44.9 mt) of the Longline category quota may be allocated for landing in the area south of 31°00′ N. lat. In addition, 25 mt shall be allocated for incidental catch by pelagic longline vessels fishing in the Northeast Distant gear restricted area.

(4) * * *

(i) The total amount of large medium and giant BFT that may be caught, retained, possessed, or landed by vessels that possess Purse Seine category Atlantic Tunas permits is 18.6 percent (171.8 mt) of the baseline annual U.S. BFT quota. The directed purse seine fishery for BFT commences on July 15 of each year unless NMFS takes action to delay the season start date. Based on cumulative and projected landings in other commercial fishing categories, and the potential for gear conflicts on the fishing grounds or market impacts due to oversupply, NMFS may delay the BFT purse seine season start date from July 15 to no later than August 15 by filing an adjustment with the Office of the **Federal Register** prior to July 1. The Purse Seine category fishery closes on December 31 of each year.

* * * * *

(5) *Harpoon category quota.* The total amount of large medium and giant BFT that may be caught, retained, possessed, landed, or sold by vessels that possess Harpoon category Atlantic Tunas permits is 3.9 percent (36.0 mt) of the baseline annual U.S. BFT quota. The Harpoon category fishery commences on June 1 of each year, and closes on November 15 of each year.

* * * * *

(7) * * *

(i) The total amount of BFT that is held in reserve for inseason or annual adjustments and fishery-independent

research using quotas or subquotas is 2.5 percent (23.1 mt) of the baseline annual U.S. BFT quota. Consistent with paragraph (a)(8) of this section, NMFS may allocate any portion of this reserve for inseason or annual adjustments to any category quota in the fishery.

(ii) The total amount of school BFT that is held in reserve for inseason or annual adjustments and fishery-independent research is 18.5 percent (17.6 mt) of the total school BFT Angling category quota as described under paragraph (a)(2) of this section. This amount is in addition to the amounts specified in paragraph (a)(7)(i) of this section. Consistent with paragraph (a)(8) of this section, NMFS may allocate any portion of the school BFT Angling category quota held in reserve for inseason or annual adjustments to the Angling category.

* * * * *

■ 4. In § 635.29, paragraph (a) is revised to read as follows:

§ 635.29 Transfer at sea.

(a) Persons may not transfer an Atlantic tuna, blue marlin, white marlin, roundscale spearfish, or swordfish at sea in the Atlantic Ocean, regardless of where the fish was harvested. Notwithstanding the definition of ''harvest'' at § 600.10, for the purposes of this part, transfer includes, but is not limited to, moving or attempting to move an Atlantic tuna that is on fishing or other gear in the water from one vessel to another vessel. However, an owner or operator of a vessel for which a Purse Seine category Atlantic Tunas category permit has been issued under § 635.4 may transfer large medium and giant BFT at sea from the net of the catching vessel to another vessel for which a Purse Seine category Atlantic Tunas permit has been issued, provided the amount transferred does not cause the receiving vessel to exceed its currently authorized vessel allocation, including incidental catch limits.

* * * * *

■ 5. In § 635.30, paragraph (a) is revised to read as follows:

§ 635.30 Possession at sea and landing.

(a) *Atlantic tunas.* Persons that own or operate a fishing vessel that possesses an Atlantic tuna in the Atlantic Ocean or that lands an Atlantic tuna in an Atlantic coastal port must maintain such Atlantic tuna through offloading either in round form or eviscerated with the head and fins removed, provided one pectoral fin and the tail remain attached. The upper and lower lobes of the tuna tail may be removed for storage purposes as long as the fork of the tail remains intact.

* * * * *

[FR Doc. 2011–16769 Filed 6–30–11; 11:15 am]

BILLING CODE 3510–22–P

Proposed Rules

Federal Register
Vol. 76, No. 128
Tuesday, July 5, 2011

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2011–0684; Directorate Identifier 2010–NE–27–AD]

RIN 2120–AA64

Airworthiness Directives; Rolls-Royce Deutschland Ltd & Co KG (RRD) BR700–710 Series Turbofan Engines

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: We propose to adopt a new airworthiness directive (AD) for the products listed above. This proposed AD results from mandatory continuing airworthiness information (MCAI) issued by an aviation authority of another country to identify and correct an unsafe condition on an aviation product. The MCAI describes the unsafe condition as:

Analysis of service data carried out by Rolls-Royce Deutschland has shown that the effect of touch-and-go and overshoot on life cycle counting is higher than anticipated. Therefore, the life cycle counting method for touch-and-go and overshoot as defined by the Time Limits Manual needs to be changed to reflect this higher effect on life.

We are proposing this AD to prevent failure of high-energy, life-limited parts, uncontained engine failure, and damage to the airplane.

DATES: We must receive comments on this proposed AD by August 19, 2011.

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

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov* and follow the instructions for sending your comments electronically.
- *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:* Deliver to Mail address above between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.
- *Fax:* (202) 493–2251.

Contact Rolls-Royce Deutschland Ltd & Co KG, Eschenweg 11, Dahlewitz, 15827 Blankenfelde-Mahlow, Germany; *telephone:* 49 0 33–7086–1883; *fax:* 49 0 33–7086–3276, for the service information identified in this proposed AD.

Examining the AD Docket

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

FOR FURTHER INFORMATION CONTACT: Mark Riley, Aerospace Engineer, Engine Certification Office, FAA, Engine & Propeller Directorate, 12 New England Executive Park, Burlington, MA 01803; *e-mail: mark.riley@faa.gov; phone:* (781) 238–7758; *fax:* (781) 238–7199.

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–2011–0684; Directorate Identifier 2010–NE–27–AD'' at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of this proposed AD. We will consider all comments received by the closing date and may amend this proposed AD based on those comments.

We will post all comments we receive, without change, to *http://www.regulations.gov,* including any personal information you provide. We will also post a report summarizing each substantive verbal contact with FAA personnel concerning this proposed AD. Using the search function of the Web site, anyone can find and read the comments in any of our dockets, including, if provided, the name of the individual who sent the comment (or signed the comment on behalf of an association, business, labor union, etc.). You may review the DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (65 FR 19477–78).

Discussion

The European Aviation Safety Agency (EASA), which is the Technical Agent for the Member States of the European Community, has issued EASA Airworthiness Directive 2010–0077, dated April 20, 2010 (referred to after this as ''the MCAI''), to correct an unsafe condition for the specified products. The MCAI states:

Analysis of service data carried out by Rolls-Royce Deutschland has shown that the effect of touch-and-go and overshoot on life cycle counting is higher than anticipated. Therefore, the life cycle counting method for touch-and-go and overshoot as defined by the Time Limits Manual needs to be changed to reflect this higher effect on life.

This AD requires a change of the life cycle counting method for touch-and-go and overshoot for all critical parts and the Low Pressure (LP) compressor blades as specified in the Rolls-Royce Deutschland Alert NMSB–BR700–72–A900504 Revision 1. The chapter 05–00–01 and 05–00–02 of the applicable Time Limits Manuals will be revised accordingly.

You may obtain further information by examining the MCAI in the AD docket.

Relevant Service Information

Rolls-Royce Deutschland Ltd & Co KG has issued Alert Service Bulletin SB–BR700–72–A900504, Revision 1, dated February 19, 2010. The actions described in this service information are intended to correct the unsafe condition identified in the MCAI.

FAA's Determination and Requirements of This Proposed AD

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

Differences Between This AD and the MCAI or Service Information

The MCAI requires operators to:

• Within 4 months after the effective date of that AD, the calculation of lives for every touch-and-go and overshoot for all critical parts and LP compressor blades must be done in accordance with Rolls-Royce Deutschland Alert NMSB–BR700–72–A900504 Revision 1, paragraph 3.A.

• Within 4 months after the effective date of that AD, determine the number of touch-and-go's and overshoots that each individual critical part (except the fan shaft and LP turbine rotor shaft) has experienced since entry into service in accordance with Rolls-Royce Deutschland Alert NMSB–BR700–72–A900504 Revision 1, paragraph 3.B.

This proposed AD would require operators to:

• Revise their airworthiness limitation section (ALS) of their approved maintenance program (Time Limits Manual (TLM), chapters 05–00–01 and 05–00–02 of the applicable engine manuals (EMs)) within 30 days to remove the requirement for operators to record each touch-and-go and overshoot as ⅕ flight cycle (FC) on engines installed on airplanes used for pilot training.

• Revise their ALS of their approved maintenance program (TLM chapters 05–00–01 and 05–00–02 of the applicable EMs) within 30 days to add a requirement to record each touch-and-go and overshoot as 1 FC on all engines affected by this proposed AD.

• Review their engine maintenance records since entry into service to determine the total number of touch-and-go's and overshoots that have occurred during Pilot Training.

• To adjust the number of flight cycles used on the critical parts if the total number of touch-and-go's and overshoots experienced during pilot training is one percent or more of the total number of flight cycles.

Costs of Compliance

Based on the service information, we estimate that this proposed AD would affect about 1,052 products of U.S. registry. We also estimate that it would take about 1 work-hour per product to comply with this proposed AD. The average labor rate is $85 per work-hour. Based on these figures, we estimate the cost of the proposed AD on U.S. operators to be $89,420.

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); and

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

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

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, 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 AD:

Rolls-Royce Deutschland Ltd & Co KG (Formerly Rolls-Royce Deutschland GmbH, formerly BMW Rolls-Royce GmbH): Docket No. FAA–2011–0684; Directorate Identifier 2010–NE–27–AD.

Comments Due Date

(a) We must receive comments by August 19, 2011.

Affected Airworthiness Directives (ADs)

(b) None.

Applicability

(c) This AD applies to all RRD BR700–710A1–10 and BR700–710A2–20 turbofan engines, all BR700–710C4–11 model engines that have hardware configuration standard 710C4–11 engraved on the engine data plate (Service Bulletin SB–BR700–72–101466 standard not incorporated), and all BR700–710C4–11 model engines that have hardware configuration standard 710C4–11/10 engraved on the engine data plate (Service Bulletin SB–BR700–72–101466 standard incorporated). These engines are installed on, but not limited to, Bombardier BD–700–1A10 and BD–700–1A11 airplanes and Gulfstream GV (G500) and GV–SP (G550) airplanes.

Reason

(d) This AD results from:

Analysis of service data carried out by Rolls-Royce Deutschland has shown that the effect of touch-and-go and overshoot on life cycle counting is higher than anticipated. Therefore, the life cycle counting method for touch-and-go and overshoot as defined by the Time Limits Manual needs to be changed to reflect this higher effect on life.

We are issuing this AD to prevent failure of high-energy, life-limited parts, uncontained engine failure, and damage to the airplane.

Actions and Compliance

(e) Unless already done, do the following actions.

(1) Within 30 days after the effective date of this AD, revise the airworthiness limitations section (ALS) of the operators approved maintenance program (reference the Time Limits Manual (TLM), chapters 05–00–01 and 05–00–02 of the applicable engine manuals (EMs) to remove the requirement to record each touch-and-go or overshoot as ⅕ of a flight cycle (FC) on an engine installed on an airplane used for Pilot Training.

(2) Within 30 days after the effective date of this AD, revise the ALS of the operators approved maintenance program (reference the TLM, chapters 05–00–01 and 05–00–02 of the TLM of the applicable EMs) to add a requirement to record each touch-and-go or overshoot as 1 FC to the life of all critical parts and the fan blades.

(3) Within 120 days after the effective date of this AD, determine the number of touch-and-go's and overshoots that each individual critical part except the fan shaft and LP turbine rotor shaft has experienced since entry into service for Pilot Training.

(i) If the number of touch-and-go's and overshoots on an individual critical part is less than one percent of the total number of flight cycles (FC) on the critical part, no further action is required by this AD.

(ii) If the number of touch-and-go's and overshoots on an individual critical part is one percent or more of the total number of FC on the critical part, disregard the previous calculations of life on that individual critical part and retrospectively re-calculate the accumulated FC of that individual critical part by the addition of one FC for every touch-and-go and overshoot to the total number of FC.

Definitions

(f) A touch-and-go is a phase of a flight where a landing approach of an airplane is continued to the touch-down point and the airplane immediately takes off again without stopping.

(g) An overshoot is a phase of a flight where a landing approach of an airplane is not continued to the touchdown point. This includes missed approaches due to safety reasons, weather minimums, airplane engine configurations, runway incursions, and any other undetermined causes.

FAA AD Differences

(h) This AD differs from the Mandatory Continuing Airworthiness Information (MCAI) and or service information as follows:

(1) This AD requires within 30 days after the effective date of this AD, revising the ALS of the operators approved maintenance program (reference the TLM chapters 05–00–01 and 05–00–02 of the applicable EMs) to remove the requirement to record each touch-and-go or overshoot as 1/5 of a FC on an engine installed on an airplane used for Pilot Training, and adding a requirement to record each touch-and-go or overshoot as 1 FC to the life of all critical parts and the fan blades. The MCAI requires that the revised method of life counting for each touch-and-go and overshoot be accomplished within 4 months.

(2) The MCAI requires determining the total number of touch-and-go's and overshoots that each individual critical part (except the fan shaft and LP turbine rotor shaft) has experienced since entry into service. This AD only requires determining those numbers for touch-and-go's and overshoots that had occurred during Pilot Training.

Other FAA AD Provisions

(i) *Alternative Methods of Compliance (AMOCs):* The Manager, Engine Certification Office, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19.

Related Information

(j) Refer to MCAI European Aviation Safety Agency Airworthiness Directive 2010–0077, dated April 20, 2010, and Rolls-Royce Deutschland Ltd & Co KG Alert Service Bulletin SB–BR700–72–A900504, Revision 1, dated February 19, 2010, for related information. Contact Rolls-Royce Deutschland Ltd & Co KG, Eschenweg 11, Dahlewitz, 15827 Blankenfelde-Mahlow, Germany; *telephone:* 49 0 33–7086–1883; *fax:* 49 0 33–7086–3276, for a copy of this service information.

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

Issued in Burlington, Massachusetts, on June 27, 2011.

Peter A. White,

Acting Manager, Engine and Propeller Directorate, Aircraft Certification Service.

[FR Doc. 2011–16709 Filed 7–1–11; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2011–0650; Directorate Identifier 2010–NM–257–AD]

RIN 2120–AA64

Airworthiness Directives; Airbus Model A310 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: We propose to adopt a new airworthiness directive (AD) for the products listed above. This proposed AD results from mandatory continuing airworthiness information (MCAI) originated by an aviation authority of another country to identify and correct an unsafe condition on an aviation product. The MCAI describes the unsafe condition as:

[T]he FAA has published SFAR 88 (Special Federal Aviation Regulation 88).

In their letters referenced 04/00/02/07/01–L296, dated March 4th, 2002, and 04/00/02/07/03–L024, dated February 3rd, 2003, the [Joint Aviation Authorities] JAA recommended the application of a similar regulation to the National Aviation Authorities (NAA).

Under this regulation, all holders of type certificates for passenger transport aircraft with either a passenger capacity of 30 or more, or a payload capacity of 3,402 kg (7,500 lb) or more which have received their certification since January 1st, 1958, are required to conduct a design review against explosion risks.

* * * * *

The unsafe condition is insufficient electrical bonding of the over-wing refueling cap adapter, which could result in a possible fuel ignition source in the fuel tanks. The proposed AD would require actions that are intended to address the unsafe condition described in the MCAI.

DATES: We must receive comments on this proposed AD by August 19, 2011.

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

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov.* Follow the instructions for submitting comments.
- *Fax:* (202) 493–2251.
- *Mail:* U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue, SE., Washington, DC 20590.
- *Hand Delivery:* U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–40, 1200 New Jersey Avenue, SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

For service information identified in this proposed AD, contact Airbus SAS–EAW (Airworthiness Office), 1 Rond Point Maurice Bellonte, 31707 Blagnac Cedex, France; telephone: +33 5 61 93 36 96; fax: +33 5 61 93 44 51; e-mail: *account.airworth-eas@airbus.com;* Internet: *http://www.airbus.com.* You may review copies of the referenced service information at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington. For information on the availability of this material at the FAA, call 425–227–1221.

Examining the AD Docket

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

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

SUPPLEMENTARY INFORMATION:

Comments Invited

We invite you to send any written relevant data, views, or arguments about this proposed AD. Send your comments to an address listed under the **ADDRESSES** section. Include ''Docket No. FAA–2011–0650; Directorate Identifier 2010–NM–257–AD'' at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy

aspects of this proposed AD. We will consider all comments received by the closing date and may amend this proposed AD based on those comments.

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

Discussion

The European Aviation Safety Agency (EASA), which is the Technical Agent for the Member States of the European Community, has issued EASA Airworthiness Directive 2010–0199, dated September 30, 2010 (referred to after this as ''the MCAI''), to correct an unsafe condition for the specified products. The MCAI states:

> [T]he FAA has published SFAR 88 (Special Federal Aviation Regulation 88).
>
> In their letters referenced 04/00/02/07/01–L296, dated March 4th, 2002, and 04/00/02/07/03–L024, dated February 3rd, 2003, the JAA recommended the application of a similar regulation to the National Aviation Authorities (NAA).
>
> Under this regulation, all holders of type certificates for passenger transport aircraft with either a passenger capacity of 30 or more, or a payload capacity of 3,402 kg (7,500 lb) or more which have received their certification since January 1st, 1958, are required to conduct a design review against explosion risks.
>
> * * * * *
>
> * * * [This AD] requires the additional work introduced by Airbus SB A310–28–2142 at revision 3.

The unsafe condition is insufficient electrical bonding of the over-wing refueling cap adapter, which could result in a possible fuel ignition source in the fuel tanks.

The additional work for airplanes on which Airbus Service Bulletin A310–28–2142, dated August 26, 2005; Revision 01, dated July 17, 2006; or Revision 02, dated September 3, 2007; has been done consists of doing electrical bonding resistance tests (for configuration 05 airplanes) of the inboard and outboard over-wing refueling cap mounts and, for configuration 06 airplanes, doing electrical bonding resistance tests of the outboard over-wing refueling cap mounts, and corrective actions, if necessary. Corrective actions include installing and bonding new refueling cap adapter nuts. You may obtain further information by examining the MCAI in the AD docket.

The FAA has examined the underlying safety issues involved in fuel tank explosions on several large transport airplanes, including the adequacy of existing regulations, the service history of airplanes subject to those regulations, and existing maintenance practices for fuel tank systems. As a result of those findings, we issued a regulation titled ''Transport Airplane Fuel Tank System Design Review, Flammability Reduction and Maintenance and Inspection Requirements'' (66 FR 23086, May 7, 2001). In addition to new airworthiness standards for transport airplanes and new maintenance requirements, this rule included Special Federal Aviation Regulation No. 88 (''SFAR 88,'' Amendment 21–78, and subsequent Amendments 21–82 and 21–83).

Among other actions, SFAR 88 requires certain type design (*i.e.,* type certificate (TC) and supplemental type certificate (STC)) holders to substantiate that their fuel tank systems can prevent ignition sources in the fuel tanks. This requirement applies to type design holders for large turbine-powered transport airplanes and for subsequent modifications to those airplanes. It requires them to perform design reviews and to develop design changes and maintenance procedures if their designs do not meet the new fuel tank safety standards. As explained in the preamble to the rule, we intended to adopt airworthiness directives to mandate any changes found necessary to address unsafe conditions identified as a result of these reviews.

In evaluating these design reviews, we have established four criteria intended to define the unsafe conditions associated with fuel tank systems that require corrective actions. The percentage of operating time during which fuel tanks are exposed to flammable conditions is one of these criteria. The other three criteria address the failure types under evaluation: single failures, single failures in combination with a latent condition(s), and in-service failure experience. For all four criteria, the evaluations included consideration of previous actions taken that may mitigate the need for further action.

The Joint Aviation Authorities (JAA) has issued a regulation that is similar to SFAR 88. (The JAA is an associated body of the European Civil Aviation Conference (ECAC) representing the civil aviation regulatory authorities of a number of European States who have agreed to co-operate in developing and implementing common safety regulatory standards and procedures.) Under this regulation, the JAA stated that all members of the ECAC that hold type certificates for transport category airplanes are required to conduct a design review against explosion risks.

Relevant Service Information

Airbus has issued Mandatory Service Bulletin A310–28–2142, Revision 03, dated November 18, 2009. The actions described in this service information are intended to correct the unsafe condition identified in the MCAI.

FAA's Determination and Requirements of This Proposed AD

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

Differences Between This AD and the MCAI or Service Information

We have reviewed the MCAI and related service information and, in general, agree with their substance. But we might have found it necessary to use different words from those in the MCAI to ensure the AD is clear for U.S. operators and is enforceable. In making these changes, we do not intend to differ substantively from the information provided in the MCAI and related service information.

We might also have proposed different actions in this AD from those in the MCAI in order to follow FAA policies. Any such differences are highlighted in a NOTE within the proposed AD.

Costs of Compliance

Based on the service information, we estimate that this proposed AD would affect about 66 products of U.S. registry. We also estimate that it would take about 4 work-hours per product to comply with the basic requirements of this proposed AD. The average labor rate is $85 per work-hour. Required parts would cost about $200 per product. Where the service information lists required parts costs that are covered under warranty, we have assumed that there will be no charge for these parts. As we do not control warranty coverage for affected parties, some parties may incur costs higher than estimated here. Based on these figures, we estimate the cost of the proposed AD on U.S. operators to be $35,640, or $540 per product.

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); and

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

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

List of Subjects in 14 CFR Part 39

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

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

Airbus: Docket No. FAA–2011–0650; Directorate Identifier 2010–NM–257–AD.

Comments Due Date

(a) We must receive comments by August 19, 2011.

Affected ADs

(b) None.

Applicability

(c) This AD applies to airplanes identified in paragraphs (c)(1) and (c)(2) of this AD.

(1) Airbus Model A310–203, A310–204, A310–221 and A310–222 airplanes (without trim tank), all serial numbers, except airplanes on which Airbus Mandatory Service Bulletin A310–28–2143, dated July 20, 2005; and Airbus Mandatory Service Bulletin A310–28–2142, Revision 03, dated November 18, 2009; have been done; certificated in any category.

(2) Model A310–304, A310–322, A310–324, and A310–325 airplanes (fitted with trim tank), all serial numbers, except airplanes on which Airbus Mandatory Service Bulletins A310–28–2143, and A310–28–2153, both dated July 20, 2005; and Airbus Mandatory Service Bulletin A310–28–2142, Revision 03, dated November 18, 2009; have been done; certificated in any category.

Subject

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

Reason

(e) The mandatory continuing airworthiness information (MCAI) states:

[T]he FAA has published SFAR 88 (Special Federal Aviation Regulation 88).

In their letters referenced 04/00/02/07/01–L296, dated March 4th, 2002, and 04/00/02/07/03–L024, dated February 3rd, 2003, the [Joint Aviation Authorities] JAA recommended the application of a similar regulation to the National Aviation Authorities (NAA).

Under this regulation, all holders of type certificates for passenger transport aircraft with either a passenger capacity of 30 or more, or a payload capacity of 3,402 kg (7,500 lb) or more which have received their certification since January 1st, 1958, are required to conduct a design review against explosion risks.

* * * * *

The unsafe condition is insufficient electrical bonding of the over-wing refueling cap adapter, which could result in a possible fuel ignition source in the fuel tanks.

Compliance

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

Resistance Measurement

(g) For configuration 05 and 06 airplanes, as identified in Airbus Mandatory Service Bulletin A310–28–2142, Revision 03, dated November 18, 2009, on which any Airbus service bulletin identified in table 1 of this AD has been done: Within 3 months after the effective date of this AD, do the actions in paragraph (g)(1) or (g)(2) of this AD, as applicable.

TABLE 1—PREVIOUSLY ACCOMPLISHED AIRBUS SERVICE BULLETINS

Airbus Service Bulletin	Revision	Date
Airbus Service Bulletin A310–28–2142	Original	August 26, 2005.
Airbus Service Bulletin A310–28–2142	01	July 17, 2006.
Airbus Service Bulletin A310–28–2142	02	September 3, 2007.

(1) For configuration 05 airplanes: Do a resistance check of the inboard and outboard over-wing refuel cap mounts between the flange face of the refuel insert and the wing, in accordance with the Accomplishment Instructions of Airbus Mandatory Service Bulletin A310–28–2142, Revision 03, dated November 18, 2009.

(2) For configuration 06 airplanes: Do a resistance check of the outboard over-wing refuel cap mounts between the flange face of the refuel insert and the wing, in accordance with the Accomplishment Instructions of Airbus Mandatory Service Bulletin A310–28–2142, Revision 03, dated November 18, 2009.

Corrective Action

(h) If during any resistance measurement required by paragraph (g)(1) or (g)(2) of this AD, a resistance of 10 mohm or greater is found: Before further flight, do all applicable corrective actions, in accordance with the Accomplishment Instructions of Airbus Mandatory Service Bulletin A310–28–2142, Revision 03, dated November 18, 2009.

FAA AD Differences

Note 1: This AD differs from the MCAI and/or service information as follows:

(1) Airbus Mandatory Service Bulletin A310–28–2142, Revision 03, dated November 18, 2009, specifies that if any resistance measurement is more than 10 mohm, corrective actions must be done. This AD specifies that if any resistance measurement

is 10 mohm or greater, corrective actions must be done.

(2) Paragraphs (1), (2), and (4) of European Aviation Safety Agency (EASA) Airworthiness Directive 2010–0199, dated September 30, 2010, include actions that are not required in this AD. These actions are required by AD 2007–20–04, Amendment 39–15214 (72 FR 56258, October 3, 2007).

Other FAA AD Provisions

(i) The following provisions also apply to this AD:

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

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

Related Information

(j) Refer to MCAI EASA Airworthiness Directive 2010–0199, dated September 30, 2010; and Airbus Mandatory Service Bulletin A310–28–2142, Revision 03, dated November 18, 2009.

Issued in Renton, Washington, on June 27, 2011.

Jeffrey E. Duven,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2011–16778 Filed 7–1–11; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2011–0558; Airspace Docket No. 11–AEA–13]

Proposed Establishment of Class E Airspace; Lebanon, PA

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This action proposes to establish Class E Airspace at Lebanon, PA, to accommodate new Standard Instrument Approach Procedures at Keller Brothers Airport. This action would enhance the safety and airspace management of Instrument Flight Rules (IFR) operations at the airport.

DATES: Comments must be received on or before August 19, 2011.

ADDRESSES: Send comments on this rule to: U.S. Department of Transportation, Docket Operations, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue, SE., Washington, DC 20590–0001; *Telephone:* 1–800–647–5527; *Fax:* 202–493–2251. You must identify the Docket Number FAA–2011–0558; Airspace Docket No. 11–AEA–13, at the beginning of your comments. You may also submit and review received comments through the Internet at *http://www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: John Fornito, Operations Support Group, Eastern Service Center, Federal Aviation Administration, P.O. Box 20636, Atlanta, Georgia 30320; telephone (404) 305–6364.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to comment on this proposed rule by submitting such written data, views, or arguments, as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy-related aspects of the proposal.

Communications should identify both docket numbers (FAA Docket No. FAA–2011–0558; Airspace Docket No. 11–AEA–13) and be submitted in triplicate to the Docket Management System (see **ADDRESSES** section for address and phone number). You may also submit comments through the Internet at *http://www.regulations.gov.*

Annotators wishing the FAA to acknowledge receipt of their comments on this action must submit with those comments a self-addressed stamped postcard on which the following statement is made: ''Comments to Docket No. FAA–2011–0558; Airspace Docket No. 11–AEA–13.'' The postcard will be date/time stamped and returned to the commenter.

All communications received before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in light of the comments received. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRMs

An electronic copy of this document may be downloaded from and comments submitted through *http://www.regulations.gov.* Recently published rulemaking documents can also be accessed through the FAA's Web page at *http://www.faa.gov/airports_airtraffic/air_traffic/publications/airspace_amendments/.*

You may review the public docket containing the proposal, any comments received and any final disposition in person in the Dockets Office (see the **ADDRESSES** section for address and phone number) between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. An informal docket may also be examined during normal business hours at the office of the Eastern Service Center, Federal Aviation Administration, Room 210, 1701 Columbia Avenue, College Park, Georgia 30337.

Persons interested in being placed on a mailing list for future NPRM's should contact the FAA's Office of Rulemaking, (202) 267–9677, to request a copy of Advisory Circular No. 11–2A, Notice of Proposed Rulemaking Distribution System, which describes the application procedure.

The Proposal

The FAA is considering an amendment to Title 14, Code of Federal Regulations (14 CFR) part 71 to establish Class E airspace at Lebanon, PA, providing the controlled airspace required to support the new RNAV GPS standard instrument approach procedures for Keller Brothers Airport. Controlled airspace extending upward from 700 feet above the surface would be established for the safety and management of IFR operations at the airport.

Class E airspace designations are published in Paragraph 6005 of FAA order 7400.9U, dated August 18, 2010, and effective September 15, 2010, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designation listed in this document will be published subsequently in the Order.

The FAA has determined that this proposed regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to

keep them operationally current. It, therefore, (1) Is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a Regulatory Evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this proposed rule, when promulgated, would not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

The FAA's authority to issue rules regarding aviation safety is found in Title 49 of the United States Code. Subtitle I, section 106 describes the authority of the FAA Administrator. Subtitle VII, Aviation Programs, describes in more detail the scope of the agency's authority. This proposed rulemaking is promulgated under the authority described in subtitle VII, part, A, subpart I, section 40103. Under that section, the FAA is charged with prescribing regulations to assign the use of airspace necessary to ensure the safety of aircraft and the efficient use of airspace. This proposed regulation is within the scope of that authority as it would establish Class E airspace at Keller Brothers Airport, Lebanon, PA.

Lists of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

The Proposed Amendment

In consideration of the foregoing, the Federal Aviation Administration proposes to amend 14 CFR part 71 as follows:

PART 71—DESIGNATION OF CLASS A, B, C, D, AND E AIRSPACE AREAS; AIR TRAFFIC SERVICE ROUTES; AND REPORTING POINTS

1. The authority citation for part 71 continues to read as follows:

Authority: 49 U.S.C. 106(g); 40103, 40113, 40120; E.O. 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389.

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of Federal Aviation Administration Order 7400.9U, Airspace Designations and Reporting Points, dated August 18, 2010, effective September 15, 2010, is amended as follows:

Paragraph 6005 Class E airspace areas extending upward from 700 feet or more above the surface of the earth.

* * * * *

AEA PA E5 Lebanon, PA [New]

Keller Brothers Airport
(Lat. 40°917′30″ N., long. 76°19′43″ W.)

That airspace extending upward from 700 feet above the surface within a 10-mile radius of the Keller Brothers Airport.

Issued in College Park, Georgia, on June 23, 2011.

Mark D. Ward,

Manager, Operations Support Group, Eastern Service Center, Air Traffic Organization.

[FR Doc. 2011–16660 Filed 7–1–11; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

21 CFR Part 1308

[Docket No. DEA–342P]

RIN 1117–AB33

Establishment of a New Drug Code for Marihuana Extract

AGENCY: Drug Enforcement Administration, Department of Justice.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Drug Enforcement Administration (DEA) is proposing to create a new Administration Controlled Substances Code Number (''Code Number'' or ''drug code'') under 21 CFR 1308.11 for ''Marihuana Extract.'' This Code Number will allow DEA and DEA-registered entities to track quantities of this material separately from quantities of marihuana. This in turn will aid in complying with relevant treaty provisions.

Under international drug control treaties (administered by the United Nations), some differences exist between the regulatory controls pertaining to marihuana extract versus those for marihuana and tetrahydrocannabinols. DEA has established separate Code Numbers for marihuana and for tetrahydrocannabinols, but not for marihuana extract. To better track these materials and better comply with treaty provisions, DEA is proposing to create a separate Code Number for marihuana extract under 21 CFR 1308.11(d)(36): ''Marihuana Extract meaning extracts that have been derived from any plant of the genus cannabis and which contain cannabinols and cannabidiols.'' Such extracts of marihuana would continue to be treated as schedule I controlled substances.

DATES: Electronic comments must be submitted and written comments must be postmarked on or before September 6, 2011. 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–342'' on all electronic and written correspondence. DEA encourages all comments be submitted electronically through *http://www.regulations.gov* using the electronic comment form provided on that site. An electronic copy of this document and supplemental information to this proposed rule are also available at the *http://www.regulations.gov* Web site for easy reference. Paper comments that duplicate the electronic submission are not necessary as all comments submitted to *http://www.regulations.gov* will be posted for public review and are part of the official docket record. Should you, however, wish to submit written comments via regular or express mail, they should be sent to the Drug Enforcement Administration, Attention: DEA Federal Register Representative/ODL, 8701 Morrissette Drive, Springfield, VA 22152.

FOR FURTHER INFORMATION CONTACT: Imelda L. Paredes, Office of Diversion Control, Drug Enforcement Administration, 8701 Morrissette Drive, Springfield, Virginia 22152; Telephone (202) 307–7165.

SUPPLEMENTARY INFORMATION:

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

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 posted online or made available in the public docket, 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 posted online or made available in the public docket in the first paragraph of your comment and identify what information you want redacted.

If you want to submit confidential business information as part of your comment, but do not want it to be

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

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

Background

As provided in 21 CFR 1308.03, each controlled substance or basic class thereof is assigned a four digit Code Number that is used to track quantities of the controlled substance imported and exported to and from the United States. Additionally, DEA uses these Code Numbers in establishing aggregate production quotas for basic classes of controlled substances listed in schedules I and II as required by 21 U.S.C. 826.

Consistent with the Controlled Substances Act (CSA), the schedules contained in the DEA regulations include marihuana (drug code 7360) in schedule I. 21 CFR 1308.11(d)(23). This listing includes (unless specifically excepted or unless listed in another schedule) any material, compound, mixture, or preparation, which contains any quantity of the substance, or which contains any of its salts, isomers, and salts of isomers that are possible within the specific chemical designation. Because the definition of marihuana in 21 U.S.C. 802(16) includes both derivatives and preparations of marihuana, DEA until now has used drug code 7360 for extracts of marihuana as well. In this proposed rule, DEA is proposing that the new drug code 7350 be used for extracts of marihuana.

Why a New Code Number Is Needed

The United Nations Conventions on international drug control treat extracts from the cannabis plant differently than marihuana or tetrahydrocannabinols. The creation of a new drug code in DEA regulations for marihuana extracts will allow for more appropriate accounting of such materials consistent with treaty provisions.

The Single Convention on Narcotic Drugs, 1961 (''Single Convention'') and the 1971 Convention on Psychotropic Substances (''Psychotropic Convention'') provide for the international control of marihuana constituents. Many of the CSA's provisions were drafted to comply with these Conventions. The CSA includes schemes of drug scheduling and procedures for adding, removing, and transferring drugs among the schedules that are similar, in some ways, to those in the Single Convention. With respect to those drugs that are subject to control under the Single Convention, the CSA mandates that DEA control such drugs at least as strictly as required by the Single Convention. 21 U.S.C. 811(d).

Somewhat similar to the CSA, the Single Convention controls substances through four schedules. However, under the Single Convention, the drugs that are subject to the most stringent controls are in schedule IV. Another difference between the CSA and the Single Convention is that, under the latter, a drug can be listed in more than one schedule. Cannabis and cannabis resin are listed in both schedule IV and schedule I of the Single Convention. Schedule I controls under the Single Convention include requirements for import and export authorization, licensing of manufacturers/distributors, recordkeeping requirements, requirement for prescriptions for medical use, annual estimate of needs, quotas, annual statistical reporting, and a requirement that use be limited to medical and scientific purposes. Schedule II of the Single Convention is similar in controls to schedule I with a few exceptions, and schedule III is less restrictive. All substances listed in schedule IV are also listed in schedule I. The placing of a drug into both schedule I and schedule IV therefore imposes the most stringent controls under the Single Convention. Although cannabis and cannabis resin are listed in Schedules I and IV of the Single Convention, cannabis extracts are listed only in Schedule I.

Proposed Actions

DEA therefore proposes to update 21 CFR 1308.11(d) to include new subparagraph (36) which would create a new Code Number in schedule I as follows:

''(36) Marihuana Extract	7350

Meaning extracts that have been derived from any plant of the genus cannabis and which contain cannabinols and cannabidiols.''

The creation of a new drug code in DEA regulations for marihuana extracts would allow for more appropriate accounting of such materials consistent with treaty provisions. Such marihuana extracts remain in schedule I. Firms registered to handle marihuana (under drug code 7360) that also handle marihuana extracts, will need to apply to add the new drug code 7350 to their existing DEA registrations and procure quotas specifically for drug code 7350 each year.

Regulatory Compliance Analyses

Regulatory Flexibility Act

In accordance with the Regulatory Flexibility Act (5 U.S.C. 601–612), the Administrator has reviewed this regulation and by approving it certifies that this regulation will not have a significant economic impact upon a substantial number of small entities. This rule proposes the establishment of a new drug code for marihuana extracts. DEA already registers persons handling marihuana extracts, but within another already-established drug code. Thus, persons who handle these marihuana extracts have already met DEA's registration, security, and other statutory and regulatory requirements. The only direct effect to registrants who handle marihuana extracts would be the requirement to add the new drug code to their registration once the code is established.

Executive Orders 12866 and 13563

This regulation has been drafted and reviewed in accordance with the principles of Executive Orders 12866 and 13563. Although this rule is not a ''significant regulatory action'' under Executive Order 12866 Section 3(f), it was submitted to the Office of Management and Budget (OMB) and subsequently approved.

Executive Order 12988

This proposed regulation meets the applicable standards set forth in Sections 3(a) and 3(b)(2) of Executive Order 12988 Civil Justice Reform to eliminate ambiguity, minimize litigation, establish clear legal standards and reduce burden.

Executive Order 13132

This rulemaking does not preempt or modify any provision of state law; nor does it impose enforcement responsibilities on any state; nor does it diminish the power of any state to enforce its own laws. Accordingly, this rulemaking does not have federalism

implications warranting the application of Executive Order 13132.

Unfunded Mandates Reform Act of 1995

This rule will not result in the expenditure by state, local, and Tribal governments, in the aggregate, or by the private sector, of $136,000,000 or more (adjusted for inflation) in any one year, and will not significantly or uniquely affect small governments. Therefore, no actions were deemed necessary under the provisions of the Unfunded Mandates Reform Act of 1995.

Paperwork Reduction Act of 1995

This action does not impose a collection of information requirement under the Paperwork Reduction Act of 1995, 44 U.S.C. 3501–3521.

Executive Order 13175

This rule is not a policy that has Tribal implications under Executive Order 13175. It will 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.

List of Subjects in 21 CFR Part 1308

Drug traffic control, Controlled substances.

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

PART 1308—SCHEDULES OF CONTROLLED SUBSTANCES

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

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

2. Section 1308.11 is amended by adding new paragraph (d)(36) to read as follows:

§ 1308.11 Schedule I.

* * * * *

(d) * * *

(36) Marihuana Extract 7350

Meaning extracts that have been derived from any plant of the genus cannabis and which contain cannabinols and cannabidiols.

* * * * *

Dated: June 14, 2011.

Michele M. Leonhart,

Administrator.

[FR Doc. 2011–16800 Filed 7–1–11; 8:45 am]

BILLING CODE 4410–09–P

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

29 CFR Part 1910

RIN 1218–AC46

Infectious Diseases

AGENCY: Occupational Safety and Health Administration (OSHA), Labor.

ACTION: Notice of stakeholder meetings.

SUMMARY: OSHA invites interested parties to participate in informal stakeholder meetings concerning occupational exposure to infectious diseases. OSHA plans to use the information gathered at these meetings to explore the possible development of a proposed rule to protect workers from occupational exposure to infectious agents in settings, either where workers provide direct patient care or where workers perform tasks other than direct patient care that also have occupational exposure. These other work tasks include: Providing patient support services (*e.g.,* housekeeping, facility maintenance); handling, transporting, receiving or processing infectious items or wastes (*e.g.,* transporting medical specimens, disposing of medical waste); conducting autopsies or performing mortuary services; and performing tasks in laboratories.

DATES: Dates and locations for the stakeholder meetings are:

July 29, 2011, 9 a.m.–noon in Washington, DC.

July 29, 2011, 1:30 p.m.–4:30 p.m. in Washington, DC.

The deadline for confirmed registration at the meeting is: July 22, 2011. However, if space remains after this deadline, OSHA may accept additional participants until the meetings are full. Those who submit their registration after July 22, 2011 may not receive confirmation of their attendance from OSHA.

ADDRESSES:

Registration: Submit your notice of intent to participate in a stakeholder meeting through one of the methods below. Specify which meeting (morning or afternoon) you would like to attend.

Electronic: Register at: *https://www2.ergweb.com/projects/conferences/osha/register-osha-stakeholder.htm* (follow the instructions online).

Facsimile: Fax your request to: (781) 674–7200, and label it ''*Attention:* OSHA Infectious Diseases Stakeholder Meeting Registration.''

Regular mail, express delivery, hand (courier) delivery, and messenger service: Send your request to: OSHA Infectious Diseases Stakeholder Meeting Registration, *Attention:* Thomas Nerad, OSHA, Room N–3718, 200 Constitution Avenue, NW., Washington, DC 20210.

Meetings: The July 29, 2011 meetings will be held in the Francis Perkins Building, Room N–4437 at 200 Constitution Avenue, NW., Washington, DC 20210.

FOR FURTHER INFORMATION CONTACT: Information regarding this notice is available from the following sources:

Press inquiries: Contact Frank Meilinger, Acting Director, OSHA Office of Communications, Room N–3647, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, DC 20210; *telephone:* (202) 693–1999.

General and technical information: Contact Andrew Levinson, Director, Office of Biological Hazards, OSHA Directorate of Standards and Guidance, Room N–3718, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, DC 20210; *telephone:* (202) 693–2048.

Copies of this ***Federal Register*** *notice:* Electronic copies are available at *http://www.regulations.gov*. This **Federal Register** notice, as well as news releases and other relevant information, also are available on the OSHA Web page at *http://www.osha.gov*.

SUPPLEMENTARY INFORMATION:

I. Background

On May 6, 2010, OSHA published a Request for Information, entitled ''Infectious Diseases'' (Docket Number: OSHA–2010–0003). The Agency was interested in more accurately characterizing the nature and extent of occupationally-acquired infectious diseases and the strategies that are currently being used to mitigate the risk of occupational exposure to infectious agents. More than 200 comments were received in response to the RFI. Based upon these responses and an ongoing review of current literature on this subject, OSHA is considering what action, if any, the Agency should take to limit the spread of occupationally-acquired infectious diseases.

One action the Agency is considering is the development of a program standard to control workers' exposure to infectious agents in settings, either where workers provide direct patient care or where workers perform tasks other than direct patient care which also have occupational exposure. These other tasks might include such tasks as: Providing patient support services (*e.g.,* housekeeping, food delivery, facility maintenance); handling, transporting, receiving or processing infectious items

or wastes (*e.g.,* laundering healthcare linens, transporting medical specimens, disposing of medical waste, reprocessing medical equipment); maintaining, servicing or repairing medical equipment that is contaminated with infectious agents; conducting autopsies (*e.g.,* in medical examiners' offices); performing mortuary services; and performing tasks in laboratories (*e.g.,* clinical, biomedical research, production laboratories) that result in occupational exposure.

A typical OSHA program standard affords employers substantial flexibility in determining the best way to tailor protective measures to their workplaces. Program standards generally involve: A hazard assessment; a written exposure control plan; methods of compliance (*e.g.,* engineering controls, work practice controls, administrative controls, and personal protective equipment); medical surveillance; worker training; signage and labeling; and recordkeeping. A program standard to control occupational exposure to infectious diseases would likely incorporate all these elements.

The Agency has determined that informal discussion with stakeholders would be beneficial to its further deliberations on how to proceed with respect to occupational exposure to infectious diseases. To this end, OSHA will conduct stakeholder meetings, as announced in this notice.

II. Stakeholder Meetings

The stakeholder meetings announced in this notice will be conducted as group discussions on views, concerns, and issues surrounding the hazards of occupational exposure to infectious agents and how best to control them. To facilitate as much group interaction as possible, formal presentations by stakeholders will not be permitted. The stakeholder meeting discussions will center on such major issues as:

- Whether and to what extent an OSHA standard on occupational exposure to infectious diseases should apply in settings where workers provide direct patient care, as well as, settings where workers have occupational exposure even though they don't provide direct patient care. Whether and to what extent there are any other settings where an OSHA standard should apply.
- The advantages and disadvantages of using a program standard to limit occupational exposure to infectious diseases, and the advantages and disadvantages of taking other approaches to organizing a prospective standard.
- Whether and to what extent an OSHA standard should require each employer to develop a written worker infection control plan (WICP) that documents how the employer will implement the infection control measures it will use to protect the workers in its facility. Some of the elements that might be appropriate to include in such a worker infection control plan are: Designation of the plan administrator responsible for WICP implementation and oversight; designation of the individual(s) responsible for conducting infectious agent hazard analyses in the work setting; and written standard operating procedures (SOPs) to minimize or prevent exposure to infectious agents (*e.g.,* SOPs for early identification of potentially infectious individuals and for implementation of standard and transmission-based precautions).
- Whether and to what extent SOP development should be based upon consideration of applicable regulations/guidance issued by the Centers for Disease Control and Prevention, the National Institutes of Health, and other authoritative agencies/organizations.
- Whether and to what extent an OSHA standard should require each employer to implement its WICP through a section addressing methods of compliance. OSHA envisions that this section would require, among other control measures, that an employer conduct an infectious agent hazard analysis, follow appropriate SOPs, institute appropriate engineering, work practice, and administrative controls, provide and ensure the use of appropriate personal protective equipment, clean and decontaminate the worksite, and conduct prompt exposure investigations.
- Whether and to what extent an OSHA standard should require each employer to make available routine medical screening and surveillance, vaccinations to prevent infection, and post-exposure evaluation and follow-up to all workers who have been exposed to a suspected or confirmed source of an infectious agent(s) without the benefit of appropriate infection control measures.
- Whether and to what extent an OSHA standard should contain signage, labeling, and worker training requirements to ensure the effectiveness of infection control measures.
- Whether and to what extent an OSHA standard should require the employer to establish and maintain medical records, exposure incident records, and records of reviews of its worker infection control program, and whether and to what extent an OSHA standard should contain other recordkeeping requirements.
- The economic impacts of a prospective standard.
- Whether and to what extent OSHA should take alternative approaches to rulemaking to improve adherence to current infection control guidelines issued by the Centers for Disease Control and Prevention, the National Institutes of Health, and other authoritative agencies/organizations.
- Additional topics as time permits.

III. Public Participation

Approximately 30 participants will be accommodated in each meeting, and three hours will be allotted for each meeting. Members of the general public may observe, but not participate in, the meetings as space permits. The morning and afternoon meetings will cover identical information and participants may attend only one session to allow greater stakeholder participation. OSHA staff will be present to take part in the discussions. Eastern Research Group (ERG), Inc., (110 Hartwell Avenue, Lexington, MA 02421) will manage logistics for the meetings, provide a facilitator, and compile notes summarizing the discussion; these notes will not identify individual speakers. ERG also will make an audio recording of each session to ensure that the summary notes are accurate; these recordings will not be transcribed. The summary notes will be posted on the docket for the Infectious Diseases Request for Information, Docket ID: OSHA–2010–0003, available at the Web site *http://www.regulations.gov*.

To participate in one of the July 29, 2011 stakeholder meetings, or be a nonparticipating observer, you must submit a notice of intent electronically, by facsimile, or by hard copy. OSHA will confirm participants, as necessary, to ensure a fair representation of interests and to facilitate gathering diverse viewpoints. To receive a confirmation of your participation as soon as possible before the meeting, register by the date listed in the **DATES** section of this notice. However, registration will remain open until the meetings are full. Additional nonparticipating observers that do not register for the meetings will be accommodated as space permits. See the **ADDRESSES** section of this notice for the registration Web site, facsimile number, and address. To register electronically, follow the instructions provided on the Web site. To register by mail or facsimile, please indicate the following:

Name, address, phone, fax, and e-mail.

First and second preferences of meeting time.

Organization for which you work.

Organization you will represent (if different).

Stakeholder category: Government, industry, union, trade association, insurance, manufacturers, consultants, or other (if other, please specify).

Electronic copies of this **Federal Register** notice, as well as news releases and other relevant documents, are available on the OSHA Web page at: *http://www.osha.gov*.

Authority and Signature

This document was prepared under the direction of David Michaels, PhD, MPH, Assistant Secretary of Labor for Occupational Safety and Health, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, DC 20210. This action is taken pursuant to sections 4, 6, and 8, Public Law 91–596, 84 STAT. 1590 (29 U.S.C. 653, 655, 657), Secretary of Labor's Order No. 4–2010 (75 FR 55355 (Sept. 10, 2010)), and 29 CFR part 1911.

Signed at Washington, DC, on June 29, 2011.

David Michaels,

Assistant Secretary of Labor for Occupational Safety and Health.

[FR Doc. 2011–16742 Filed 7–1–11; 8:45 am]

BILLING CODE 4510–26–P

DEPARTMENT OF DEFENSE

Office of the Secretary

32 CFR Part 199

[Docket ID DoD–2010–HA–0072; RIN 0720–AB41]

TRICARE; Reimbursement of Sole Community Hospitals and Adjustment to Reimbursement of Critical Access Hospitals

AGENCY: Office of the Secretary, Department of Defense (DoD).

ACTION: Proposed rule.

SUMMARY: This proposed rule is to implement the statutory provision at 10 United States Code (U.S.C.) 1079(j)(2) that TRICARE payment methods for institutional care be determined, to the extent practicable, in accordance with the same reimbursement rules as those that apply to payments to providers of services of the same type under Medicare. This proposed rule implements a reimbursement methodology similar to that furnished to Medicare beneficiaries for inpatient services provided by Sole Community Hospitals (SCHs). It will be phased in over a several-year period.

DATES: Written comments received at the address indicated below by September 6, 2011 will be accepted.

ADDRESSES: You may submit comments, identified by docket number or Regulatory Information Number (RIN) and title, by either of the following methods:

The Web site: http://www.regulations.gov. Follow the instructions for submitting comments.

Mail: Federal Docket Management System Office, Room 3C843, 1160 Defense Pentagon, Washington, DC 20301–1160.

Instructions: All submissions received must include the agency name and docket number or RIN for this **Federal Register** document. The general policy for comments and other submissions from members of the public is to make these submissions available for public viewing on the Internet at *http://www.regulations.gov* as they are received without change, including any personal identifiers or contact information.

FOR FURTHER INFORMATION CONTACT: Ms. Martha M. Maxey, TRICARE Management Activity (TMA), Medical Benefits and Reimbursement Branch, telephone (303) 676–3627.

SUPPLEMENTARY INFORMATION:

I. Introduction and Background

Hospitals are authorized TRICARE institutional providers under 10 U.S.C. 1079(j)(2) and (4). Under 10 U.S.C. 1079(j)(2), the amount to be paid to hospitals, skilled nursing facilities, and other institutional providers under TRICARE, ''shall be determined to the extent practicable in accordance with the same reimbursement rules as apply to payments to providers of services of the same type under Medicare.'' Medicare reimburses SCHs for inpatient care the greatest of these aggregate amounts:

1. What the SCH would have been paid under the Medicare Diagnosis-Related Group (DRG) method for all of that hospital's Medicare discharges.

2. The amount that would have been paid if the SCH were paid the average ''cost'' per discharge at that hospital in Fiscal Year (FY) 1982, 1987, 1996, or 2006, updated to the current year, for all its Medicare discharges.

TRICARE currently pays SCHs for inpatient care in one of two ways:

Network Hospitals: Payment is an amount equal to billed charges less a negotiated discount. The discounted reimbursement is usually substantially greater than what would be paid using the Diagnosis-Related Group (DRG) method.

Non-network Hospitals: Payment is equal to billed charges.

TRICARE's current method results in reimbursing SCHs substantially more than Medicare does for equivalent inpatient care. A change is needed to conform to the statute.

Under 32 CFR 199.14(a)(1)(ii)(D)(*6*), SCHs are exempt from the TRICARE DRG-based payment system. Based on the above statutory mandate, TRICARE is proposing to use an approach that approximates The Centers for Medicare and Medicaid Services' (CMS) method for SCHs.

II. SCH Reimbursement Methodology

Establishing a TRICARE SCH inpatient reimbursement method exactly matching that of Medicare is not practicable. While TRICARE can calculate the aggregate DRG reimbursement for all TRICARE discharges by a SCH during a year, using the Medicare cost per discharge would not be appropriate for TRICARE. Differences in the TRICARE and Medicare beneficiary case mix render the Medicare average cost per discharge not directly applicable for TRICARE purposes.

In addition, basing SCH reimbursement on annual updates to a TRICARE base-year average cost per discharge could result in inappropriate payments to some SCHs. At many SCHs, the number of TRICARE discharges per year is very low. Approximately half of the SCHs had fewer than 20 TRICARE discharges annually. The TRICARE average cost per discharge in 1 year may not be a good predictor of the average cost per discharge in a future year due to significant change in the case mix that can occur between two small sets of patients.

Alternatively, TRICARE could make payments equal to the SCH's specific cost-to-charge ratio (CCR) multiplied by the hospital's billed charges for services. This would avoid making payments unrelated to case mix and would be consistent with the Medicare principle of relating payments for SCHs to cost of services. This is the approach adopted in the proposed rule.

III. TRICARE's SCH Phase-in Period

In introducing its current SCH reimbursement method, Medicare used a 3-year phase-in period to provide the hospitals time for making business and clinical process adjustments. TRICARE is proposing a phase-in period with a maximum 15 percent per-year reduction from the starting point in TRICARE-allowed amounts for non-network

hospitals and a 10 percent-per-year reduction for network hospitals. This involves calculating a hospital's ratio of TRICARE-allowed to billed charges and reducing that by 15 percentage points each year for non-network hospitals and 10 percentage points each year for network hospitals until it reaches the hospital's CCR. For example, if a non-network hospital currently had a TRICARE-allowed to billed ratio of 100 percent, it would be paid 85 percent of billed charges in year one, 70 percent in year 2, 55 percent in year 3, and 40 percent in year 4. For a network hospital that had a TRICARE-allowed to billed ratio of 98 percent, it would be paid 88 percent in year 1, 78 percent in year two, 68 percent in year 3, and 58 percent in year 4. It should be noted that in no year could the TRICARE payment fall below costs (most hospitals have costs equal to 30 to 50 percent of billed charges). This transition method would approximately follow the CHAMPUS Maximum Allowable Charge physician payment system reform precedent and limit reductions to no more than 15 percent per year during the phase-in period. It also provides an incentive for hospitals to remain in the network by allowing a 5 percent difference in payment reductions per year. Finally, it will buffer the revenue reductions experienced upon initial implementation of TRICARE's SCH payment reform while allowing hospitals sufficient time to adjust and budget for these reductions.

TRICARE will pay a SCH for inpatient services it provides during a FY the greater of two aggregate amounts: (1) What the SCH would have been paid under the DRG method for all of that hospital's TRICARE discharges; or (2) An amount equal to the SCH's specific CCR multiplied by the hospital's billed charges for the TRICARE services. This will be accomplished through a year-end adjustment to the reimbursements provided during the year.

IV. New SCHs and SCHs With No Inpatient Claims

TRICARE will pay a new SCH using the average CCR for all SCHs calculated in the most recent year until it files a Medicare cost report. For SCHs that had no inpatient claims from TRICARE prior to implementation of the SCH payment reform but do have a claim, TRICARE will pay them based on their Medicare CCR.

V. SCH General Temporary Military Contingency Payment Adjustment

In addition to the SCH phase-in period outlined in paragraph III. above, the agency is proposing a SCH Temporary Military Contingency Payment Adjustment (TMCPA) for TRICARE network hospitals located within Military Treatment Facility (MTF) Prime Service Areas (PSAs) and deemed essential for military readiness and support during contingency operations. The TMA Director, or designee, may approve a SCH General TMCPA for hospitals that serve a disproportionate share of Active Duty Service members (ADSMs) and Active Duty dependents (ADDs). Procedures for requesting a SCH TMCPA will be outlined in the SCH section of the TRICARE Reimbursement Manual.

VI. Critical Access Hospital General Temporary Military Contingency Payment Adjustment

On August 31, 2009, we published a final rule (74 FR 44752), which implemented a reimbursement methodology similar to that furnished to Medicare beneficiaries for services provided by critical access hospitals (CAHs), i.e., reimbursing them 101 percent of reasonable costs. It has come to our attention that there may be some CAHs located in MTF PSAs that are deemed essential for military readiness and support during contingency operations. Thus, the agency also is proposing a CAH TMCPA for TRICARE network hospitals located within MTF PSAs and deemed essential for military readiness and support during contingency operations. The TMA Director may approve a CAH TMCPA for hospitals that serve a disproportionate share of ADSMs and ADDs. Procedures for requesting a CAH General TMCPA will be outlined in the CAH section of the TRICARE Reimbursement Manual.

VII. Regulatory Impact Analysis

A. Overall Impact

The Department of Defense has examined the impacts of this proposed rule as required by Executive Orders (E.O.s) 12866 (September 1993, Regulatory Planning and Review) and 13563 (January 18, 2011, Improving Regulation and Regulatory Review), the Regulatory Flexibility Act (RFA) (September 19, 1980, Pub. L. 96–354), the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4), and the Congressional Review Act (5 U.S.C. 804(2)).

1. Executive Order 12866 and Executive Order 13563

EOs 12866 and 13563 direct agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). E.O. 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. A regulatory impact analysis (RIA) must be prepared for major rules with economically significant effects ($100 million or more in any one year).

We estimate that the effects of the SCH provisions that would be implemented by this rule would result in SCH revenue reductions exceeding $100 million in any one year. We estimate the total reduction (from the proposed changes in this rule) in hospital revenues under the SCH reform for its first year of implementation (assumed for purposes of this RIA to be FY2012), compared to expenditures in that same period without the proposed SCH changes, to be approximately $211 million. However, as discussed below, the proposed transitions will reduce this amount considerably. When the transitions are taken into account, the first year impact will be a reduction in allowed amounts of $31 million.

We estimate that this rulemaking is ''economically significant'' as measured by the $100 million threshold and, hence, also a major rule under the Congressional Review Act. Accordingly, we have prepared a regulatory impact analysis that, to the best of our ability, presents the costs and benefits of the rulemaking.

2. Congressional Review Act. 5 U.S.C. 801

Under the Congressional Review Act, a major rule may not take effect until at least 60 days after submission to Congress of a report regarding the rule. A major rule is one that would have an annual effect on the economy of $100 million or more or have certain other impacts. This Notice of Proposed Rule Making (NPRM) is a major rule under the Congressional Review Act.

3. Regulatory Flexibility Act

The RFA requires agencies to analyze options for regulatory relief of small businesses if a rule has a significant impact on a substantial number of small entities. For purposes of the RFA, small entities include small businesses, nonprofit organizations, and small governmental jurisdictions. Most hospitals are considered to be small entities, either by being nonprofit organizations or by meeting the Small Business Administration (SBA) definition of a small business (having revenues of $34.5 million or less in any

one year). For purposes of the RFA, we have determined that all SCHs would be considered small entities according to the SBA size standards. Individuals and States are not included in the definition of a small entity. Therefore, the Secretary has determined that this proposed rule would have a significant impact on a substantial number of small entities. We generally prepare a regulatory flexibility analysis that is consistent with the RFA (5 U.S.C. section 604), unless we certify that the rule would not have a significant impact on a substantial number of small entities. The Regulatory Impact Analysis, as well as the contents contained in the preamble, is meant to serve as the Proposed Regulatory Flexibility Analysis.

4. Unfunded Mandates

Section 202 of the Unfunded Mandates Reform Act of 1995 also requires that agencies assess anticipated costs and benefits before issuing any rule whose mandates require spending in any one year of $100 million in 1995 dollars, updated annually for inflation. That threshold level is currently approximately $140 million. This proposed rule will not mandate any requirements for State, local, or tribal governments or the private sector.

5. Public Law 96–511, ''Paperwork Reduction Act'' (44 U.S.C. Chapter 35)

This rule will not impose significant additional information collection requirements on the public under the Paperwork Reduction Act of 1995 (44 U.S.C. 3502–3511). Existing information collection requirements of the TRICARE and Medicare programs will be utilized. We do not anticipate any increased costs to hospitals because of paperwork, billing, or software requirements since we are keeping TRICARE's billing/coding requirements; i.e., hospitals will be coding and filing claims in the same manner as they currently are with TRICARE.

6. Executive Order 13132, ''Federalism''

This rule has been examined for its impact under E.O. 13132, and it does not contain policies that have federalism implications that would have substantial direct effects on the States, on the relationship between the national Government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, consultation with State and local officials is not required.

B. Hospitals Included In and Excluded From the SCH Reforms

The SCH reform encompasses all SCHs as defined by Medicare that participate in the TRICARE program that have inpatient stays for TRICARE patients. It will also include SCHs classified by CMS as Essential Access Community Hospitals (EACH) hospitals. However, Maryland hospitals that are paid by Medicare and TRICARE under a cost containment waiver are excluded from the SCH Reform.

C. Analysis of the Impact of Policy Changes on Payment Under SCH Reform Alternatives Considered

Alternatives that we considered, the proposed changes that we will make, and the reasons that we have chosen each option are discussed below.

1. Alternatives Considered for Addressing Reduction in SCH Payments

Analysis of the effects of paying SCHs using the computation of either the greater of what the SCH would have been paid under the DRG method for all of that hospital's TRICARE discharges or an amount equal to the SCH's specific CCR multiplied by the hospital's billed charges for the TRICARE services approach would reduce the TRICARE payments to these SCHs by an average of over 50 percent. This approach would pay each SCH the greater of two aggregate amounts: (1) The sum of the TRICARE-allowed amounts if all the TRICARE inpatient admissions over a 12-month period were paid using the TRICARE DRG method; or (2) the TRICARE-allowed amounts if all the TRICARE inpatient admissions over a 12-month period were paid using the CCR approach (in which the TRICARE-allowed amount for each admission is equal to the billed charge for that admission multiplied by the hospital's historical CCR). Table 1 provides our estimate of the impact of this approach without any transitions. We found that there would be large reductions in payments for all types of SCHs (see Table 3).

Because the impact of moving from a charge-based reimbursement to a cost-based reimbursement similar to Medicare's would produce large reductions in the TRICARE-allowed amounts for all types of SCHs, we considered a phase-in of this approach over a 4-year period. Under this option, the CCR portion of the approach would be modified so that the hospital's billed charge on each claim would not be multiplied by the hospital's CCR until the fourth year (when the transition was complete). In the first 3 years, the billed charges for each claim would be multiplied by a ratio so that there was an equal reduction in the ratio used each year over the 4-year transition. For example, if the hospital were receiving 100 percent of its billed charges prior to implementation of the SCH reform and it had a CCR of 0.32, then its billed charges would be multiplied by factors of 0.83, 0.66, and 0.49 in the first 3 years respectively so that each year the payment ratio declined by an equal amount (in this case by a factor of 0.17). In each year, the aggregate level of allowed amounts produced using the CCR approach at each SCH would be compared with the aggregate level of DRG-allowed amounts at the SCH, and the SCH would be paid the greater of the two aggregate amounts. This 4-year transition would allow hospitals to have a phased transition to the cost-based rates. Although this option would provide a multi-year period for SCHs to transition to the cost-based rates, we did not choose this option because it would still result in large reductions for some SCHs over a relatively short period of time.

A second option we considered was to have a transition based on a reduction of 15 percentage points per year in the allowed amounts for each SCH. Under this option, the CCR portion in this approach would be modified. During the transition period, the billed charges on each claim at an SCH would be multiplied by a factor so that the ratio decreased by 15 percentage points each year from the level in the previous year. For example, if the SCH were receiving 100 percent of its billed charges prior to SCH reform and it had a CCR of 0.32, then its billed charges would be multiplied by factors of 0.85, 0.70, 0.55, and 0.40 in the first 4 years respectively, so that each year the ratio declined by 15 percentage points. In the fifth year, the ratio would be set at 0.32, the hospital's CCR. (The actual number of years of transition will depend on the hospital's CCR and could be more or less than the 4 years in this example as the ratio will never be less than the CCR.) In each year, the aggregate level of allowed amounts produced using the CCR approach at each SCH would be compared with the aggregate level of DRG-allowed amounts at the SCH and the SCH would be paid the greater of the two aggregate amounts. This type of transition ensures that there is a manageable reduction in the level of payments each year for each hospital. We selected this option.

2. Alternatives Considered for SCHs in the TRICARE Network

We were concerned there might be access problems at some hospitals with a high concentration of TRICARE patients if their payments were decreased significantly. In particular, we were concerned that some hospitals might leave the TRICARE network if payments were reduced too quickly. This was a particular concern because 24 of the 25 SCHs with the highest levels of TRICARE-allowed amounts in the first 6 months of CY 2010 were in the TRICARE network. Thus, the SCHs that would face the largest reductions in the level of TRICARE-allowed amounts from TRICARE's SCH reform would be network hospitals.

An option we considered, and the one we are proposing in this rule, is to provide a 10 percent-per-year reduction in the allowed amounts for SCHs in the TRICARE network. This option would modify the CCR portion of the approach. During the transition period, the billed charges on each claim at an SCH in the TRICARE network would be multiplied by a factor so that the ratio decreased by 10 percentage points each year from the starting point (in contrast to 15 percentage points for non-network hospitals). For example, if a TRICARE network SCH had allowed amounts equal to 92 percent of its billed charges prior to SCH reform, and it had a CCR of 0.35, then its billed charges would be multiplied by factors of 0.82, 0.72, 0.62, 0.52, and 0.42 in the first 5 years, respectively, to calculate the allowed amounts. Under this approach, each year the ratio for network SCHs would decline by ten percentage points. In the sixth year, the ratio would be set at 0.35, the hospital's CCR (assuming that the hospital's CCR had remained at 0.35). In each year, the aggregate level of allowed amounts produced using the CCR approach at each SCH would be compared with the aggregate level of DRG-allowed amounts at the SCH, and the SCH would be paid the greater of the two aggregate amounts. This type of transition ensures that there is a manageable reduction in the level of payments each year for each hospital. We selected this option. Table 1 shows the results of this option.

D. Effects on Sole Community Hospitals

Table 1 shows the impact of revised SCH inpatient reimbursement during FY 2012. Table 2 shows projected TRICARE reduction in reimbursement for top 20 hospitals. Table 3 shows full amount of reduction without a phase-in period and transitional payments.

TABLE 1—ESTIMATED IMPACT OF SCH REFORMS ON TRICARE-ALLOWED AMOUNTS AT SOLE COMMUNITY HOSPITALS DURING THE FY 2012—FIRST YEAR OF PHASE-IN (WITH TRANSITION PAYMENTS)

[In $ millions]

Estimated allowed amount under current policy	Allowed amounts under SCH reform	Reduction in allowed amounts	SCH Reform allowed amounts as a percentage of current policy allowed amounts
$326	$295	$31	90

Notes:

(1) This table presents the impact as modified by the transition mechanisms proposed in this NPRM (the 15 percent-per-year reduction for non-network hospitals and the 10 percent-per-year reduction for TRICARE network SCHs). This table includes the impact of transition payments to SCHs.

(2) Maryland hospitals are excluded.

TABLE 2—IMPACT ($M) OF FIRST YEAR FOR TOP 20 SOLE COMMUNITY HOSPITALS

Hospital name	City	State	Reduction ($M) in FY2010 if phase-in started in FY2010
Fairbanks Memorial Hospital	Fairbanks	AK	0.4
FLagstaff Medical Center	Flagstaff	AZ	0.5
Sierra Vista Regional Health Center	Sierra Vista	AZ	1.2
Yuma Regional Medical Center	Yuma	AZ	1.3
North Colorado Medical Center	Greeley	CO	0.3
Southeast Georgia Health System Bru	Brunswick	GA	0.3
Camden Medical Center	Saint Marys	GA	0.4
Munson Medical Center	Traverse City	MI	0.3
Phelps Co Reg Med Ctr	Rolla	MO	0.5
Western Missouri Medical Center	Warrensburg	MO	0.5
Benefis Healthcare	Great Falls	MT	1.1
Onslow Memorial Hospital Inc	Jacksonville	NC	1.6
Carolinaeast Health System	New Bern	NC	1.4
Altru Health System, dba Altru Hospital	Grand Forks	ND	0.5
Trinity Hospitals	Minot	ND	0.9
Gerald Champion Regional Medical Center	Alamogordo	NM	0.6
Jackson County Memorial Hospital	Altus	OK	0.3
Beaufort Memorial Hospital	Beaufort	SC	1.5
Rapid City Regional Hospital—Hospital	Rapid City	SD	1.2
Cheyenne Regional Medical Center	Cheyenne	WY	1.3

Note 1: Top 20 SCHs based on total amount reimbursed during FY2007–FY2010 where TRICARE was primary payer.

Note 2: Impact of reduction calculated using FY2010 reimbursed amount.

Note 3: Applied reduction of 10% for FY2010 if network provider; 15% for FY2010 if non-network provider until the hospital reaches their cost-to-charge ratio.

Note 4: Samaritan Medical Center, Watertown, NY gained SCH status in FY2011. Based on preliminary data, Samaritan Medical Center would most likely be included in the top 20 SCH list.

Note 5: Mary Washington Hospital, Fredericksburg, VA lost SCH status in January 2011.

Note 6: This data includes all claims received through February 2, 2011 for dates of care beginning in FY2010 and not estimated to completion.

Note 7: CMS currently reviewing SCH status of North Colorado Medical Center, Greeley, CO.

TABLE 3—ESTIMATED IMPACT OF COST-BASED REIMBURSEMENT ON TRICARE-ALLOWED AMOUNTS AT SOLE COMMUNITY HOSPITALS WITHOUT TRANSITION PAYMENTS

[In $ millions]

Current policy	Cost-based reimbursement	Reduction in TRICARE-allowed amounts	Allowed amounts under cost-based reimbursement as a percent of current policy-allowed amounts
$369	$158	$211	43

Notes:
(1) This table does not include any transition payments to SCHs.
(2) Maryland hospitals are excluded.

List of Subjects in 32 CFR Part 199

Claims, Dental health, Health care, Health insurance, Individuals with disabilities, Military personnel.

Accordingly, 32 CFR part 199 is proposed to be amended as follows:

PART 199—[AMENDED]

1. The authority citation for part 199 continues to read as follows:

Authority: 5 U.S.C. 301; 10 U.S.C. Chapter 55.

2. In § 199.2, paragraph (b) is amended by adding a definition for ''Sole Community Hospitals'' in alphabetical order to read as follows:

§ 199.2 Definitions.

* * * * *

(b) * * *

Sole community hospitals (SCHs). Urban or rural hospitals that are the sole source of care in their community and meet the applicable requirements established by § 199.6 (b)(4)(xvii).

* * * * *

3. Section 199.6 is amended by adding new paragraph (b)(4)(xvii) to read as follows:

§ 199.6 TRICARE—authorized providers.

* * * * *

(b) * * *

(4) * * *

(xvii) *Sole community hospitals (SCHs).* SCHs must meet all the criteria for classification as a SCH under 42 CFR 412.92 in order to be considered a SCH under the TRICARE program.

* * * * *

4. Section 199.14 is amended by:

a. Revising paragraph (a)(1)(ii)(D)(*6*), paragraph (a)(2)(viii)(D), paragraph (a)(3), the first sentence of paragraph (a)(4), and the first sentence of paragraph (a)(6); and

b. Adding new paragraph (a)(7).

The revisions and additions read as follows:

§ 199.14 Provider reimbursement methods.

(a) * * *

(1) * * *

(ii) * * *

(D) * * *

(*6*) *Sole community hospitals.* Prior to Fiscal Year 2012, any hospital that has qualified for special treatment under the Medicare prospective payment system as a SCH (see subpart G of 42 CFR part 412) and has not given up that classification is exempt from the CHAMPUS DRG-based payment system.

* * * * *

(2) * * *

(viii) * * *

(D) *Sole community hospitals.* Prior to Fiscal Year 2012, any hospital that has qualified for special treatment under the Medicare prospective payment system as a SCH and has not given up that classification is exempt.

* * * * *

(3) *Reimbursement for inpatient services provided by a CAH.* (i) For admissions on or after December 1, 2009, inpatient services provided by a CAH, other than services provided in psychiatric and rehabilitation distinct part units, shall be reimbursed at 101 percent of reasonable cost. This does not include any costs of physician services or other professional services provided to CAH inpatients. Inpatient services provided in psychiatric distinct part units would be subject to the CHAMPUS mental health payment system. Inpatient services provided in rehabilitation distinct part units would be subject to billed charges.

(ii) The percentage amount stated in paragraph (a)(3)(i) of this section is subject to possible upward adjustment based on a temporary military contingency payment adjustment (TMCPA) for TRICARE network hospitals located within Military Treatment Facility Prime Service Areas and deemed essential for military readiness and support during contingency operations. The TMA Director may approve a CAH TMCPA for hospitals that serve a disproportionate share of active duty service members (ADSMs) and active duty dependents (ADDs). A TMCPA may be approved by the Director, TMA for a specified period based on a showing that without the TMCPA, DoD's ability to meet military contingency mission requirements will be significantly compromised.

(4) *Billed charges and set rates.* The allowable costs for authorized care in all hospitals not subject to the CHAMPUS DRG-based payment system, the CHAMPUS mental health per-diem system, the reasonable cost method for CAHs, or the reimbursement rules for SCHs shall be determined on the basis of billed charges or set rates. * * *

* * * * *

(6) *Hospital outpatient services.* This paragraph (a)(6) identifies and clarifies payment methods for certain outpatient services, including emergency services, provided by hospitals. * * *

(7) *Reimbursement for inpatient services provided by a SCH.* (i) In accordance with 10 U.S.C. 1079(j)(2), TRICARE payment methods for institutional care shall be determined, to the extent practicable, in accordance with the same reimbursement rules as those that apply to payments to providers of services of the same type under Medicare. TRICARE's SCH reimbursements approximate Medicare's for SCHs. Inpatient services provided by a SCH, other than services provided in psychiatric and rehabilitation distinct part units, shall be reimbursed through a two-step process, with an initial payment as step one, and a year-end adjustment as step two.

(ii) The initial payment for a SCH referred to in paragraph (a)(7)(i) of this section will be based on the applicable percentage of the TRICARE-allowed amount. The TRICARE-allowed amount is the lesser of billed charges or the negotiated amount accepted by a network SCH. The applicable percentage is the greater of the SCH's specific historical cost-to-charge ratio (as calculated by CMS), or the following percentage:

(A) In FY 2012, 90 percent for network SCHs or 85 percent for non-network SCHs.

(B) In FY 2013, 80 percent for network SCHs or 70 percent for non-network SCHs.

(C) In FY 2014, 70 percent for network SCHs or 55 percent for non-network SCHs.

(D) In FY 2015, 60 percent for network SCHs or 40 percent for non-network SCHs.

(E) In FY 2016, 50 percent for network SCHs or 25 percent for non-network SCHs.

(F) In FY 2017, 40 percent for network SCHs or 10 percent for non-network SCHs.

(G) In FY 2018, 30 percent for network SCHs or 0 percent for non-network SCHs.

(H) In FY 2019, 20 percent for network SCHs or 0 percent for non-network SCHs.

(I) In FY 2020, 10 percent for network SCHs or 0 percent for non-network SCHs.

(J) In FY 2021, 0 percent for network SCHs or 0 percent for non-network SCHs.

(iii) The second step referred to in paragraph (a)(7)(i) of this section is a year-end adjustment. The year-end adjustment will compare the aggregate amount paid over a 12-month period under paragraph (a)(7)(ii) of this section to the aggregate amount that would have been paid for the same care using the TRICARE DRG-method (under paragraph (a)(1) of this section). In the event that the DRG method amount is the greater, the year-end adjustment will be the amount by which it exceeds the aggregate amount paid. In addition, the year-end adjustment also may incorporate a possible upward adjustment based on a TMCPA for TRICARE network hospitals located within MTF PSAs and deemed essential for military readiness and support during contingency operations. The TMA Director, or designee, may approve a SCH TMCPA for hospitals that serve a disproportionate share of ADSMs and ADDs. A TMCPA may be approved by the Director, TMA, for a specified period based on a showing that, without the TMCPA, DoD's ability to meet military contingency mission requirements will be significantly compromised.

(iv) The SCH reimbursement provisions of paragraphs (a)(7)(i) through (iii) do not apply to any costs of physician services or other professional services provided to SCH inpatients (which are subject to individual provider payment provisions of this section), inpatient services provided in psychiatric distinct part units (which are subject to the CHAMPUS mental health per-diem payment system), or inpatient services provided in rehabilitation distinct part units (which are reimbursed on the basis of billed charges or set rates).

* * * * *

Dated: June 23, 2011.

Patricia L. Toppings,

OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 2011–16629 Filed 7–1–11; 8:45 am]

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DEPARTMENT OF THE INTERIOR

National Park Service

36 CFR Part 7

RIN 1024–AD92

Special Regulations; Areas of the National Park System, Yellowstone National Park

AGENCY: National Park Service, Interior.

ACTION: Proposed rule.

SUMMARY: The National Park Service (NPS) is proposing this rule to establish a management framework that allows the public to experience the unique winter resources and values at Yellowstone National Park. The proposed rule would provide a variety of use levels and experiences for visitors by establishing maximum numbers of snowmobiles and snowcoaches permitted in the park on a given day. It also would require that most snowmobiles and snowcoaches operating in the park meet air and sound requirements and be accompanied or operated by a commercial guide.

DATES: Comments must be received by September 6, 2011.

ADDRESSES: You may submit your comments, identified by Regulation Identifier Number (RIN) 1024–AD92, by any of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.
- *Mail:* Yellowstone National Park, Winter Use Proposed Rule, P.O. Box 168, Yellowstone NP, WY 82190
- *Hand Deliver to:* Management Assistant's Office, Headquarters Building, Mammoth Hot Springs, Yellowstone National Park, Wyoming.

All submissions received must include the agency name and RIN. For additional information see ''Public Participation'' under **SUPPLEMENTARY INFORMATION** below.

FOR FURTHER INFORMATION CONTACT: Wade Vagias, Management Assistant's Office, Headquarters Building, Yellowstone National Park, 307–344–2019 or at the address listed in the **ADDRESSES** section.

SUPPLEMENTARY INFORMATION:

Background

The NPS has been managing winter use in Yellowstone National Park for several decades. A detailed history of the winter use issue, past planning efforts, and litigation is provided in the background section of the 2011 Draft Environmental Impact Statement (DEIS). The park has most recently operated under the 2009 interim plan, which was in effect for the past two winter seasons and expired by its own terms on March 15, 2011. With publication of this proposed rule, and the DEIS, the NPS is soliciting public comment on a long-term direction for winter use in Yellowstone National Park.

Additional information, including the DEIS, is available online at: *http://www.nps.gov/yell/parkmgmt/participate.htm.*

Park Resource Issues

The DEIS analyzes the issues and environmental impacts of seven alternatives for the management of winter use in the park. Major issues analyzed in the DEIS include social and economic issues, human health and safety, wildlife, air quality, natural soundscapes, visitor use and experience, and visitor accessibility. Impacts associated with each of the alternatives are detailed in the DEIS, which is available at the following site: *http://parkplanning.nps.gov.*

Description of the Proposed Rule

Snowmobile and snowcoach use at Yellowstone National Park is referred to as oversnow vehicle (OSV) use. The proposed regulations are similar in many respects to plans and rules that have been in effect for the last six winter seasons. Thus, many of the regulations regarding operating conditions, designated routes, and restricted hours of operation have been enforced by the NPS for several years. One notable difference, however, is a new proposal in this rule to provide a variety of use levels and experiences for visitors by establishing varying maximum numbers of OSVs permitted in the park for different days throughout the winter season. This would be accomplished by implementing different use levels for OSV use that would vary day-by-day, on a pre-set annual schedule, rather than being fixed for the entire winter season. Authorized snowmobile use would

range from 110 to 330 vehicles per day while snowcoach use would range from 30 to 80 vehicles per day. The varying use levels would provide for high and low OSV use days, allowing for a variety of motorized and non-motorized visitor experiences throughout the winter season. Accordingly, certain segments of the park's snow roads would be closed to visitor OSV use and would be available for skiing and snowshoeing during certain times of the season.

A one-season transition period to prepare for the implementation of the new winter use plan would be in place for the 2011–2012 winter season. During this transition period, provisions of the 2009 interim plan would be re-instituted, allowing for up to 318 snowmobiles and 38 snowcoaches per day for the first year of the new plan only.

Monitoring

As part of the park's adaptive management program for winter use, scientific studies and monitoring of winter visitor use and park resources would continue under this proposal. Selected areas of the park, including sections of roads, would be closed to visitor use if the studies and monitoring indicate that human presence or activities have a substantial effect on wildlife or other park resources that cannot be mitigated. The NPS would provide a one-year notice before any such closure would be implemented, unless an immediate closure is necessary. The Superintendent would continue to have the authority under either this regulation or 36 CFR 1.5 to take emergency actions to protect park resources or values.

Air Emission Requirements

Snowmobiles

The proposed rule retains the requirement from previous winter use plans that all recreational snowmobiles comply with air emissions restrictions. The emission requirements for snowmobiles (and the implementation of those requirements for snowcoaches) would ensure air pollution levels remain low in the park in the winter, as evidenced by the past seven years of air quality monitoring that has indicated very good air quality.

During the late 1990s, when an average of 795 snowmobiles entered the park each day, high levels of carbon monoxide (CO), particulate matter (PM), and hydrocarbons (HC) were detected. To mitigate these emissions, the NPS implemented snowmobile air emission requirements beginning in 2004 that called for emission levels no greater than 120 grams per kilowatt hour (g/kW-hr) of CO and 15 g/kW-hr for HC. The NPS proposes to continue these emission requirements.

The requirements in place since 2004 have significantly reduced CO, PM, and HC emissions. As compared to EPA's baseline emissions assumptions for conventional two-stroke snowmobiles, NPS air emission requirements have achieved a 70% reduction in CO and a 90% reduction in HC. Improvements to air quality have also been assisted by daily use limits and commercial guiding (which helps assure use of NPS-certified snowmobiles and keeps idling to a minimum). Use of four-stroke snowmobiles to meet these emission requirements has resulted in a substantial reduction in CO and PM; however, an increase in nitrogen oxide (NO_X) has been noted with this type of engine. NPS expects that implementation of air emission requirements for snowcoaches beginning in the winter of 2014–2015 will lead to a reduction in NO_X inside the park, and will continue to monitor NO_X. If no reduction in NO_X levels is seen after implementation of air emission requirements for snowcoaches, NPS may act in the future to establish NO_X emission limits for snowmobiles.

The NPS will continue the requirement that all snowmobile manufacturers use the EPA-approved 5-mode test method and Family Emission Limit (FEL) procedure under 40 CFR parts 1051 and 1065 to certify that a snowmobile meets the NPS requirements. The FEL allows a single engine type to be certified for use in a number of different snowmobile models, or an engine ''family.'' Snowmobile manufacturers may demonstrate that snowmobiles meet NPS air-emissions requirements by submitting to the NPS a copy of their EPA application (which includes the engine's FEL) used to demonstrate compliance with EPA's snowmobile emission regulation. The NPS would accept the application and information from a manufacturer, while review and certification by EPA is pending, in support of NPS conditionally certifying a snowmobile as meeting NPS emission requirements. Should EPA certify the snowmobile at a level that would no longer meet NPS requirements, this snowmobile would no longer be considered to be NPS-compliant and its use in the park would be prohibited or phased out according to a schedule determined by the NPS.

A snowmobile that has been modified from the manufactured design may increase emissions of HC and CO greater than the proposed emission restrictions and therefore would not be allowed to enter the park. It would be the responsibility of the end user and guide to ensure that a snowmobile complies with all applicable restrictions.

Snowmobiles being operated on the Cave Falls road, which extends approximately one mile into the park from the adjacent national forest, would continue to be exempt from the air-emission requirements. The Cave Falls road does not connect to other park roads and snowmobile use of this road is independent of the other park oversnow routes.

Snowcoaches

Under concessions contracts issued in 2003, 78 snowcoaches are authorized to operate in the park. Approximately 29 of these snowcoaches, referred to as ''historic snowcoaches'' in this rule, were manufactured by Bombardier before 1983 and designed specifically for oversnow travel. All other snowcoaches are passenger vans or light or medium buses that have been converted for oversnow travel using tracks and/or skis.

During the first three years of this plan (through 2013–2014), historic snowcoaches would not be required to meet air emission requirements. However, all non-historic snowcoaches must meet the EPA air emissions standards in effect when the vehicle was manufactured. This would be implemented by ensuring that all emission-related exhaust components are installed and functioning properly. Malfunctioning emissions-related components must be replaced with the original equipment manufacturer (OEM) components where possible. If OEM parts are not available, aftermarket parts may be used. Catalysts that have exceeded their useful life must be replaced unless the operator can demonstrate that the catalyst is functioning properly. Operating a snow coach that has its original pollution control equipment modified or disabled would be prohibited. A snowcoach may be subject to periodic inspections to determine compliance with emission requirements.

In 2004, EPA began phasing in new and cleaner emissions standards for light-duty vehicles, light-duty trucks, and medium-duty passenger vehicles and in 2008 for heavy duty spark and compression ignition vehicles (the vehicle classes most converted snowcoaches meet). These standards are called Tier 2 (for lighter-duty vehicles) or ''engine configuration certified'' (for heavier duty, diesel vehicles). Implementation of these standards was completed in 2010.

As of the 2014–2015 winter, the proposed rule would require that all snowcoach engines meet EPA model year 2010 emission requirements, except that diesel-fueled snowcoaches with a gross vehicle weight rating (GVWR) of 8,500 pounds or more would need to comply with EPA model year 2010 ''engine configuration certified'' diesel air emission standards. Alternatively, and achieving better emission results, diesel snowcoaches with a GVWR between 8,500 and 10,000 pounds may meet the EPA light-duty Tier 2 standards. The NPS recognizes that some snowcoaches will likely need to be retrofitted in order to comply.

In February 2005 and 2006, the University of Denver collected emissions data from various snowcoaches. Results indicated that snowcoaches could be modernized to reduce CO and HC emissions. These studies found that newer coaches are cleaner than older models and have emission controls that will function more of the time. By implementing an air emission requirement for snowcoaches that calls for newer engine and emission controls, the NPS expects continued improvements in the park's air quality.

Sound Emission Requirements

Snowmobiles

Sound restrictions continue to require a snowmobile to operate at or below 73 decibels measured using the A scale (dB(A)) while at full throttle, according to Society of Automotive Engineers J192 test procedures (revised 1985) (SAE J192). Beginning with the 2014–2015 winter season, the NPS would use the most current (as of November 2012) version of SAE J192 to determine compliance with this requirement.

The NPS recognizes that the SAE updated these test procedures in 2003; however, the changes between the 2003 and 1985 test procedures could alter the measurement results. The NPS sound emission requirement was initially established using 1985 test procedures (in addition to information provided by industry and modeling). Therefore, to be consistent with our requirements, we would continue to use the 1985 test. The NPS also understands that an update to the 2003 J192 procedures may be underway. This rule proposes to transition to the newer J192 test procedures for the 2014–2015 winter season. By specifying November 2012 for the revised procedure, the NPS and industry would have sufficient time to test snowmobiles that are in development and production well ahead of the 2014–2015 winter season. This rule also proposes that the NPS will periodically update testing to conform to future changes in SAE J192 standards and procedures.

In past rules, the NPS has allowed a barometric pressure variance from SAE J192 procedures to determine if a snowmobile meets sound emission requirements. This is because the original testing occurred in Yellowstone at a barometric pressure lower than what is allowed under SAE J192. With the adoption of an updated SAE J192, the NPS believes it is the appropriate time to bring all aspects of testing into conformance with the SAE J192 procedures.

For the first three winters of implementation of this rule (through 2013–2014), snowmobiles may be tested at any barometric pressure equal to or above 23.4 inches Hg uncorrected (as measured at or near the test site). This exception to the SAE J192 test procedures maintains consistency with the testing conditions previously used to determine the sound emissions requirement. The reduced barometric pressure allowance was necessary since snowmobiles were tested at the high elevation of the park where atmospheric pressure is lower than the SAE J192's requirements. Testing data indicate that snowmobiles test quieter at higher elevations, and therefore may be able to pass this test at higher elevations but fail when tests are conducted near sea level. Beginning in 2014–2015, the NPS would require manufacturers to meet the requirements of the revised SAE J192 with no barometric pressure (high altitude) exception.

For sound emissions, snowmobile manufacturers may submit their existing Snowmobile Safety and Certification Committee (SSCC) sound level certification form. Under the SSCC machine safety standards program, snowmobile models are certified by an independent testing company as complying with all SSCC safety standards, including sound standards. The proposed rule would not require the SSCC form specifically, as there could be other acceptable documentation in the future. The NPS intends to work cooperatively with the snowmobile manufacturers on appropriate documentation. Other test methods could be approved by NPS on a case-by-case basis.

Individual snowmobiles that have been modified and therefore may increase sound emissions beyond the proposed emission restrictions would be denied entry to the park. It would be the responsibility of the end user and guide to ensure that their snowmobile complies with all applicable restrictions.

The NPS requirement for sound was established by reviewing individual machine results from side-by-side testing performed by the NPS contractor, Harris Miller Miller & Hanson Inc. (HMMH) and the State of Wyoming's contractor, Jackson Hole Scientific Investigations (JHSI). Six four-stroke snowmobiles were tested for sound emissions. These emission reports independently concluded that all the snowmobiles tested between 69.6 and 77.0 dB(A) using the SAE J192 protocol. On average, the HMMH and JHSI studies measured four-strokes at 73.1 and 72.8 dB(A) at full throttle, respectively. The SAE J192 test allows for a tolerance of 2 dB(A) over the sound limit to account for variations in weather, snow conditions, and other factors.

Snowmobiles being operated on the Cave Falls road would continue to be exempt from the sound emission requirements.

Snowcoaches

The NPS would require that new and retrofitted snowcoaches not exceed 73 dB(A) when measured by operating the coach at or near full throttle for the test cycle. The NPS would require the same parameters found in the current (as of November 2012) SAE J192 sound test, except that snowcoaches would be operated at a steady speed at or near full throttle. Due to their size and weight and the challenge of testing a snowcoach at lower barometric pressure, snowcoaches may be sound tested at higher elevations near and in the park, so long as the barometric pressure is at or above 23.4 inches Hg uncorrected (as measured at or near the test site).

Both the updated snowmobile and new snowcoach sound emission requirements should reduce the impacts of oversnow vehicles on the park's soundscapes.

NPS Approved Snowmobiles and Snowcoaches

The Superintendent would maintain and annually publish a list of approved snowmobiles by make, model, and year of manufacture that meet NPS requirements. For the winter of 2010–2011, the NPS certified 65 different snowmobile models (from model years 2005–2011, and various manufacturers) as meeting the requirements. When certifying a new snowmobile as meeting NPS requirements, the NPS would also publish how long the certification applies. Generally, each snowmobile model certification would apply for six

consecutive winter seasons following its manufacture. Based on NPS experience, six years represents the typical useful life of a snowmobile, and thus provides a purchaser with a reasonable length of time when operation may be allowed within the park.

The NPS would also maintain a list of approved snowcoaches that meet the air and sound emissions requirements for coaches. Since many snowcoaches are aftermarket adaptations of wheeled vehicles, the list would consist of the individual vehicles that have been approved for use. Once approved, a snowcoach may operate in the park for no more than 10 consecutive winter seasons. To continue to operate in the park, a snowcoach must then be retrofitted to meet evolving emission requirements and re-certified for sound. For example, a model year 2010 snowcoach would cease to be allowed to operate in the park as of March 15, 2020, if it is not retrofitted and re-tested. Because of the large investment in individual snowcoaches, the NPS believes that a longer duration for the certification period is appropriate, while maintaining park resource values.

Use of Commercial Guides

To mitigate impacts to wildlife, air quality, natural soundscapes, and visitor and employee safety, the NPS is proposing to continue that all recreational OSVs operating in the park be accompanied by a commercial guide, except for those operating on the segment of the Cave Falls road that extends one mile into the park from the adjacent national forest. Since the winter of 2004–2005, all snowmobilers and snowcoaches have been led by commercial guides. Commercial guides are employed by local private businesses, not by the NPS. Commercial guides have proven effective at keeping groups adhering to speed limits, staying on the groomed road surfaces, reducing conflicts with wildlife, and ensuring other behaviors that are appropriate for visitors to safely and responsibly visit the park. Commercial guides are trained in basic first aid and CPR and often carry satellite or cellular telephones, radios, and other equipment for emergency use. Since implementation of the commercial guiding requirements, Yellowstone has observed a pronounced reduction in the number of law enforcement incidents and accidents associated with the use of OSVs, even when accounting for the reduced number of snowmobilers relative to pre-guided use levels.

No more than eleven snowmobiles would be permitted in a group, including that of the guide. A snowmobile may not be operated separately from a group within the park. Except in emergency situations, guided parties must travel together and remain within one-third mile of the first snowmobile in the group. This would ensure that guided parties do not become separated. One-third mile would allow for sufficient and safe spacing between individual snowmobiles within the guided party, allow the guide(s) to maintain control over the group and minimize impacts.

NPS does not consider a minimum group size requirement necessary. As a practical matter, in recent winters group size has averaged seven snowmobiles per group.

Designated Routes

A number of changes are proposed in routes designated for OSV use based on analyses in the 2011 DEIS and experience with the management of winter use over the past six winters. All main road segments would generally remain open for OSV use, but certain side roads would be reserved for ski and snowshoe use only, and certain main road segments would be closed to all OSV travel during parts of the winter. This would provide a wider variety of motorized and non-motorized experiences for visitors.

Daily Snowmobile and Snowcoach Limits

The number of OSVs that could operate in the park at any one time would continue to be limited under this rule. However, based on observing actual use over the past six winters and combined with the goal of providing a wider range of experiences for visitors, daily limits on snowmobiles and snowcoaches would be variable at preset levels for each type of vehicle. A schedule would be established one full year ahead of the forthcoming winter season (for example, by December 1, 2012 for the 2013–2014 winter). These limits are also intended to mitigate impacts to air quality, employee and visitor health and safety, natural soundscapes, wildlife, and visitor experience. The daily entry limits for snowmobiles and snowcoaches are identified in Table 1. These limits would be based on four different use levels, as described in the table. Use limits identified in Table 1 include guides since commercial guides are counted towards the daily limits. Approximately one-half of the days would be at use level A; approximately one-third of the days would be at use level B; and approximately one-sixth of the days would be at use levels C or D. The Superintendent may vary the schedule annually based on factors including visitor use and experience and adaptive management considerations. Daily entrance allocations not able to be used due to resource or weather concerns or closures will be lost, and will not be rolled into other days.

The proposed rule specifically identifies limits for Old Faithful since a park concessioner provides snowmobile rentals and commercial guiding services originating there. For example, some visitors choose to enter the park on a snowcoach tour, spend two or more nights at the Old Faithful Snow Lodge, and go on a commercially guided snowmobile tour of the park.

TABLE 1—YELLOWSTONE DAILY SNOWMOBILE AND SNOWCOACH ENTRY LIMITS *

Park entrance/location	Level A		Level B		Level C		Level D	
	Commercially guided snowmobiles	Commercially guided snowcoaches	Commercially guided snowmobiles	Commercially guided snowcoaches	Commercially guided snowmobiles	Commercially guided snowcoaches	Commercially guided snowmobiles	Commercially guided snowcoaches
(i) North Entrance †	11	12	0–11	8	0–11	6	0–11	12
(ii) West Entrance	176	36	110	22	66	12	66	36
(iii) South Entrance **	110	14	66	8	44	6	44	14
(iv) East Entrance †	22	2	0–22	0–2	0–11	0	0–11	2
(v) Old Faithful ***	11	16	11	10	0–11	6	0–11	16
(vi) Cave Falls ****	50	0	50	0	50	0	50	0

TABLE 1—YELLOWSTONE DAILY SNOWMOBILE AND SNOWCOACH ENTRY LIMITS *—Continued

Park entrance/location	Level A		Level B		Level C		Level D	
	Commercially guided snowmobiles	Commercially guided snowcoaches	Commercially guided snowmobiles	Commercially guided snowcoaches	Commercially guided snowmobiles	Commercially guided snowcoaches	Commercially guided snowmobiles	Commercially guided snowcoaches
Totals (without Cave Falls)	330	80	187–220	48–50	110–143	30	110–143	80

* For the winter of 2011–2012 only, the following snowmobile allocations are in effect: West Entrance, 160; South Entrance, 114; East Entrance, 20; North Entrance, 12; and Old Faithful, 12. The following snowcoach allocations will apply in 2011–2012 only: West Entrance, 34; South Entrance, 13; East Entrance, 2; North Entrance, 13; and Old Faithful, 16.

** Includes portion of the John D. Rockefeller, Jr. Memorial Parkway between Flagg Ranch and South Entrance.

*** Under use levels C&D, it is anticipated that there are some days that no snowmobile entries would be allocated to Old Faithful.

**** This use occurs on a short (approximately 1-mile) segment of road and is incidental to other snowmobiling activities in the Caribou-Targhee National Forest. These users do not have to be accompanied by a guide.

† A daily entry allocation of 0 is included within ranges for the North and East entrances to reflect an early season closure for plowing at the North Entrance, and seasonal closures of the East Entrance from December 15–21 and March 2–15.

Flexible Allocations

Snowmobile and snowcoach entries may be cooperatively shared among commercial guides and among entrances. For example, a guide from West Entrance who has additional allocations available may share those allocations with a South Entrance guide. This sharing would allow as much flexibility as possible while ensuring that the numbers of snowmobiles and snowcoaches operating in the park do not exceed the total number authorized for that day at any one time. NPS envisions that a system for sharing allocations would be created and controlled by those guides and outfitters who receive entrance allocations under this plan, and could require notification when allocations are shared.

Avalanche Management—Sylvan Pass

Sylvan Pass would be open under the proposed rule for oversnow travel (both motorized and non-motorized) for a limited core season, from December 22 through March 1 each year, subject to weather-related closures, and NPS fiscal, staff, infrastructural, equipment, and other safety-related capacities. A combination of avalanche mitigation techniques may be used, including risk assessment analyses as well as forecasting and helicopter and howitzer-dispensed explosives. Area staff may use whichever tool is the safest and most appropriate for a given situation, with the full understanding that safety of employees and visitors comes first. Employees in the field make the operational determination when safety criteria have been met, and operations can be conducted with acceptable levels of risk. When safety criteria have been met, the pass may be opened; when they have not been met, the pass will remain closed. As with past winters, extended closures of the pass may occur.

Avalanche control at Sylvan Pass has long represented a safety concern to the NPS. The 2000 FEIS, 2003 SEIS, 2004 EA, 2007 FEIS and the 2008 EA all clearly identify the significant avalanche danger on Sylvan Pass. Approximately 20 avalanche paths cross the road at Sylvan Pass, thus putting travelers at risk of being caught in an avalanche. NPS employees must cross several uncontrolled avalanche paths to reach the howitzer used for discharging avalanches. The howitzer is at the base of a cliff prone to both rock-fall and additional avalanche activity (the howitzer cannot be moved without compromising its ability to reach all avalanche zones). Artillery shells sometimes fail to explode on impact, and unexploded rounds remain on the slopes, presenting year-round hazards to both employees and visitors, both in the park and the Shoshone National Forest. Natural avalanches can and do occur, both before and after howitzer use. Using a helicopter instead of a howitzer also is a high-risk activity because of other risks a helicopter contractor would have to incur. Safety evaluations of Sylvan Pass by the Occupational Health and Safety Administration (OSHA) and an Operational Risk Management Assessment (ORMA) have been reviewed and updated and included in the analysis of impacts in the 2011 DEIS.

This approach, which implements a 2008 agreement, both addresses the concerns of the communities and the NPS. The City of Cody, Wyoming, as well as Park County, Wyoming, and the State of Wyoming have expressed their belief in the importance of this route to the community and have described the historical relationship between Cody and the park's East Entrance. The state, county, and city believe that businesses near the East Entrance have been negatively impacted in recent years by the changing patterns of winter visitation and have expressed their concern that these businesses would continue to be adversely affected if the pass is closed to oversnow vehicle travel in the winter. The community and businesses have also stated the value they place on the certainty of the road being open in the winter and the importance of that certainty to their businesses and guests. NPS acknowledges those values and concerns and has carefully weighed those considerations.

From March 2 to March 15, the NPS would maintain a road segment, not prone to avalanche danger, from the East Entrance to a point approximately four miles west of the entrance station, to provide for opportunities for cross-country skiing and snowshoeing. Limited snowcoach use would be allowed in order to provide drop-offs for such purposes.

Section-by-Section Analysis

Section 7.13(l)(1) What is the scope of this regulation?

The regulations apply to the use of recreational snowcoaches and snowmobiles. Except where indicated, the regulations do not apply to non-administrative oversnow vehicle use by NPS employees, contractors, concessioner employees, or other non-recreational users authorized by the Superintendent.

Section 7.13(l)(2) What terms do I need to know?

The NPS has included definitions for a variety of terms, including oversnow vehicle, designated oversnow route, and commercial guides. For snowmobiles, NPS is continuing to use the definition found at 36 CFR 1.4, but has also included language that makes it clear that all-terrain vehicles (ATVs) and utility-type vehicles (UTVs) are not snowmobiles, even if they have been adapted for use on snow with track and ski systems. These vehicles were not originally designed to operate oversnow and may not meet NPS air and sound emission requirements.

Yellowstone's oversnow routes remain entirely on roads used by motor vehicles during other seasons and thus are consistent with the requirements in

36 CFR 2.18. Earlier regulations also referred only to snowmobiles or snowcoaches. Since there is a strong likelihood that new forms of oversnow motorized vehicles will be developed in the future that can travel on snow, a definition for ''oversnow vehicle'' was developed to ensure that any such new technology is subject to this regulation. When a particular requirement or restriction only applies to a certain type of oversnow vehicle, the specific vehicle is stated and the restriction only applies to that type of vehicle, not all oversnow vehicles. However, oversnow vehicles that do not meet the strict definition of a snowcoach (*i.e.,* both weight and passenger capacity) would be subject to the same requirements as snowmobiles. These definitions may be clarified in future rulemakings based on changes in technology.

In earlier regulations, NPS specified a size and weight limit for snowcoaches. As the number of larger and heavier snowcoaches has increased, the NPS has observed serious rutting of the groomed road surface caused by heavier coaches. Rutting creates safety issues for other coaches and snowmobiles using the oversnow routes. To address this issue, the proposed rule would also establish a pounds-per-square-inch limit for coaches.

Section 7.13(l)(3) May I operate a snowmobile in Yellowstone National Park?

The proposed rule would continue to authorize operation of a snowmobile within the park, subject to use limits, commercial guiding requirements, operating hours and dates, equipment requirements, and operating conditions established in this section. Snowmobile and snowcoach use between Flagg Ranch and the South Entrance of Yellowstone occurs in the John D. Rockefeller, Jr. Memorial Parkway, and is addressed in regulations pertaining to that unit of the national park system, 36 CFR 7.21(a), except that the daily entry limits for that use are addressed by this rule. Once any such OSVs enter Yellowstone, they are also subject to the other terms and conditions of this proposed rule.

Section 7.13(l)(4) May I operate a snowcoach in Yellowstone National Park?

This proposed rule would continue the authorized operation of snowcoaches in the park. It would require that they be commercially operated under a concessions contract, and that they are subject to the applicable air and sound emission technology requirements for snowcoach operations. Through March 15, 2014, the NPS also proposes to continue the requirement that all non-historic snowcoaches meet the applicable EPA air emissions standards that were in effect at the time the vehicle was manufactured. As of December 15, 2014, all snowcoaches must meet the then applicable NPS air and sound emission requirements.

Section 7.13(l)(5) Must I operate a certain model of snowmobile?

The proposed rule would continue the requirement that only commercially available snowmobiles that meet NPS air and sound emissions requirements may be operated in the park.

Section 7.13(l)(6) How will the Superintendent approve snowmobile makes, models, and year of manufacture for use in the park?

Snowmobiles must be certified under 40 CFR 1051 to a FEL no greater than a total of 15 g/kW-hr for HC and a FEL of no greater than 120 g/kW-hr for CO.

Section 7.13(l)(7) Where may I operate a snowmobile in Yellowstone National Park?

Specific routes are listed where snowmobiles may be operated, but the proposed rule also provides latitude for the Superintendent to close and re-open routes when necessary. When determining what routes are available for use, the Superintendent would use the criteria in 36 CFR 2.18(c), and may also take other issues into consideration including weather and snow conditions, public safety, protection of park resources, and other factors.

Section 7.13(l)(8) What routes are designated for snowcoach use?

Snowcoaches may be operated on the specific routes open to snowmobile use. In addition, rubber-tracked snowcoaches may be operated in the Mammoth developed area. This proposed rule also provides latitude for the Superintendent to close and re-open routes when necessary. When determining what routes are available for use, the Superintendent would use the criteria in 36 CFR 2.18(c), and may also take other issues into consideration, including weather and snow conditions, public safety, protection of park resources, and other factors.

Section 7.13(l)(9) Must I travel with a commercial guide while snowmobiling in Yellowstone and what other guiding requirements apply?

The proposed rule retains the existing requirement that all recreational snowmobile operators be accompanied by a commercial guide. As in the interim regulations, parties must travel in groups of no more than eleven snowmobiles including that of the guide. The proposed rule adds the requirement that guided parties must travel together and not be separated by more than one third of mile from the first snowmobile in the group in order to ensure groups stay together.

Section 7.13(l)(10) Are there limits established for the numbers of snowmobiles and snowcoaches permitted to operate in the park each day?

The proposed rule allows varying numbers of snowmobiles and snowcoaches in the park each day over the course of the winter use season. There are four different levels of use (all limits indicate the maximum number of oversnow vehicles that could operate in the park at any one time): Level A, up to 330 snowmobiles and up to 80 snowcoaches; Level B, between 187 and 220 snowmobiles and between 48 and 50 snowcoaches; Level C, between 110 and 143 snowmobiles and 30 snowcoaches; and Level D, between 110 to 143 snowmobiles and 80 snowcoaches. Approximately one-half of the days would be at use level A; approximately one-third of the days would be at use level B; and approximately one-sixth of the days would be at use levels C or D. The levels of use to be allowed for each day of the winter use season would be according to a pre-set schedule that would be issued by the Superintendent one full winter in advance (for example, by December 1, 2012 for the 2013–2014 winter season). The Superintendent may vary the schedule annually based on factors including visitor use and experience and adaptive management considerations. The NPS expects to issue new concessions contracts for combined snowmobile and snowcoach guiding to facilitate the implementation of this section. For those limits that are set as ranges, flexibility is provided to accommodate different opening and closing dates of entrances.

Section 7.13(l)(11) How will I know when I can operate a snowmobile or snowcoach in the park?

The proposed rule would not change the methods the Superintendent would use to determine operating hours and dates. In the past the, the Superintendent has set the opening and closing hours at 7 a.m. and 9 p.m. respectively. Early and late entries were granted on a case-by-case basis. The proposed rule allows the Superintendent to manage operating

hours, dates and use levels with public notice provided through one or more methods listed in 36 CFR 1.7(a). These methods could include signs, maps, public notices, or other publications. Except for emergency situations, any changes to operating hours, dates and use levels will be made on an annual basis. Initially the Superintendent intends to set the operating hours as 6 a.m. to 9 p.m. with no early entries or late exits allowed except for emergencies. In addition, all OSVs would be required to enter the park by 10:30 a.m. This will assist in meeting soundscape goals to provide longer periods free of oversnow vehicle sounds.

Section 7.13(l)(12) What other conditions apply to the operation of oversnow vehicles?

The proposed rule includes requirements regarding the operation of oversnow vehicles in the park, such as driver's license and registration requirements, operating procedures, requirements for headlights, brakes and other safety equipment, length of idling time, towing of sleds, and other requirements related to safety and resource impacts. No changes are being proposed from the previous regulations.

Section 7.13(l)(13) What conditions apply to alcohol use while operating an oversnow vehicle?

The proposed rule does not change the conditions applicable to the use of alcohol while operating oversnow vehicles. Although the regulations in 36 CFR 4.23 apply to oversnow vehicles, a provision was included in the 2004 regulations to address the issues of under-age drinking while operating a snowmobile and snowcoach operators or snowmobile guides operating under the influence while performing services for others. Many states have adopted similar alcohol standards for under-age operators and commercial drivers, and the NPS feels it is necessary to specifically include these regulations to help mitigate potential safety concerns.

The alcohol level for minors (anyone under the age of 21) is set at .02 Blood Alcohol Content (BAC). Although the NPS endorses ''zero tolerance,'' a very low BAC is established to avoid a chance of a false reading. Mothers Against Drunk Driving and many other organizations have endorsed such a general enforcement posture and the NPS agrees that under-age drinking and driving, particularly in a harsh winter environment, should not be allowed.

In the case of snowcoach operators or snowmobile guides, a low BAC limit is also necessary. Persons operating a snowcoach are likely to be carrying 8 or more passengers in a vehicle with tracks or skis that is more challenging to operate than a wheeled vehicle, and on oversnow routes that can present significant hazards, especially if the driver has impaired judgment. Similarly, persons guiding others on a snowmobile have put themselves in a position of responsibility for the safety of other visitors and for minimizing impacts to park wildlife and other resources. Should the guide's judgment be impaired, hazards such as wildlife on the road or snow-obscured features could endanger all members of the group in an unforgiving climate. For these reasons, the proposed rule would continue to require that all guides be held to a stricter than normal standard for alcohol consumption. Therefore, the proposed rule continues a BAC limit of .04 for snowcoach operators and snowmobile guides. This is consistent with federal and state rules pertaining to BAC thresholds for someone with a commercial driver's license.

Section 7.13(l)(14) Do other NPS regulations apply to the use of oversnow vehicles?

The proposed rule does not change the applicability of other NPS regulations concerning oversnow vehicle use. Relevant portions of 36 CFR 2.18, including § 2.18(c), have been incorporated within these proposed regulations. Some portions of 36 CFR 2.18 and 2.19 are superseded by these proposed regulations, which govern maximum operating decibels, operating hours, and operator age in this park only. In addition, 36 CFR 2.18(b) would not apply in Yellowstone. The proposed rule also supersedes 36 CFR 2.19(b) in that it prohibits the towing of persons on skis, sleds, or other sliding devices by motor vehicle or snowmobile, except in emergency situations. Towing people, especially children, is a potential safety hazard and health risk due to road conditions, traffic volumes, and direct exposure to snowmobile emissions. This rule does not affect supply sleds attached by a rigid device or hitch pulled directly behind snowmobiles or other oversnow vehicles as long as no person or animal is hauled on them. Other provisions of 36 CFR Chapter I continue to apply to the operation of oversnow vehicles unless specifically excluded here.

Section 7.13(l)(15) Are there any forms of non-motorized oversnow transportation allowed in the park?

Non-motorized travel consisting of skiing, skating, snowshoeing, and walking is generally permitted. The park has specifically prohibited dog sledding and ski-joring (the practice of a skier being pulled by dogs, a horse, or a vehicle) to prevent disturbance or harassment to wildlife and for visitor safety. These restrictions have been in place for several years and would be reaffirmed under these regulations. In addition, the park has carefully reviewed new proposals to allow use of ''snowbikes'' (bicycles that have been modified to allow travel on packed snow routes). In past winter plans and regulations, the NPS has prohibited snowbikes. In earlier reviews, the NPS believed the addition of snowbikes on the groomed oversnow routes had the potential to create conflicts with snowmobile and snowcoach groups, as well as with crosscountry skiers, snowshoers and walkers who are currently allowed on the oversnow routes. The NPS concluded that safety issues could develop with this type of use. For example, snowbikes depend on packed, groomed surfaces. Heavy snow falls and rapidly warming conditions have the potential to create conditions in which travel by snowbikes is impossible after they have already travelled miles into the park. In this planning process, new requests were made to authorize snowbikes. The NPS has reviewed these requests and past analysis, and this proposed rule would continue the ban on use of snowbikes.

Section 7.13(l)(16) May I operate a snowplane in Yellowstone National Park?

Snowplanes are not allowed to be used in Yellowstone National Park.

Section 7.13(l)(17) Is violating any of the provisions of this section prohibited?

Violating any of the terms, conditions or requirements of paragraphs (l)(1) through (l)(16) of this section is prohibited.

Summary of Economic Analysis

Introduction

The NPS conducted an economic analysis of the different regulatory alternatives for a winter use plan in Yellowstone National Park (see RTI International, ''Economic Analysis of Winter Use Regulations in Yellowstone National Park,'' 2011). That analysis is summarized here. In that analysis, the definition of ''baseline'' is critical since all costs and benefits associated with the different alternatives are calculated incrementally from the baseline. According to OMB Circular A–4, baseline describes the conditions that would exist if the proposed regulatory action is not implemented. Alternative 1

represents those baseline conditions. This is referred to as ''Baseline 1'' in the economic analysis report. The 2009 interim regulation expired in March 2011 at the close of the 2010/2011 winter season. Therefore, no regulation is currently in place to permit OSV use by visitors. If no action is taken, administrative OSV use will continue as needed, as described under Alternative 1, but there would be no commercial or visitor use of snowmobiles or snowcoaches. Under this definition of baseline, the analysis presents the incremental costs and benefits of Alternatives 2 though 7 as compared to Baseline 1. However, since this definition of baseline reflects a situation that has never actually occurred, another definition of baseline that reflects the recent conditions actually experienced by the public might be useful to understand the impacts of the alternatives. Alternative 2 represents this other baseline. This is referred to as Baseline 2 in the economic analysis report. Under Baseline 2, OSV use would continue at levels described in the 2009 interim regulation—up to 318 snowmobiles and up to 78 snowcoaches per day. Therefore, under this definition of baseline, the analysis presents the incremental costs and benefits of Alternatives 1 and 3 through 7 as compared to the Baseline 2.

The other alternatives include Alternatives 3 through 7. Under Alternative 3, permitted OSV use would return to the 2004 plan limits—up to 720 snowmobiles and 78 snowcoaches per day. Under Alternative 4, no more than 100 commercial wheeled vehicles such as buses (North and West Entrances), 110 snowmobiles and 30 snowcoaches (South Entrance) would have access to the park. The East Entrance would be closed to through travel for OSVs, but remain open for non-motorized use. Under Alternative 5, access to the park would eventually be by Best Available Technology (BAT) snowcoaches only. This would be accomplished by phasing out snowmobiles beginning in the 2014/2015 winter season. Snowcoaches would replace snowmobiles within a five-year period (at the park's discretion or depending on coach user demand). Under Alternative 6, OSV levels would vary by creating times and places for higher and lower levels of use, with 32,000 snowmobiles and 4,600 snowcoaches permitted each winter season. Daily snowmobile entries could vary between none and 540, and snowcoaches could vary between none and 78. Snowmobile trips would be mostly guided, with up to 25 percent of snowmobile use unguided or non-commercially guided. Finally, under Alternative 7, which is the preferred alternative, four different daily limits for OSV use would be established. Snowmobile limits would range from 110 to 330 per day for a maximum of 23,122 for the season. Snowcoach limits would range from 30 to 80 per day for a maximum of 5,730 for the season. These alternatives are more fully described in the DEIS, available at *http://parkplanning.nps.gov/yell.*

The purpose for estimating these benefits and costs is to examine the extent to which each action alternative addresses the need for the proposed regulation. This regulation is needed to correct certain ''market failures'' associated with winter use in the park. A market failure occurs when park resources and uses are not allocated in an economically efficient manner. For winter use in the park, market failures can occur as a result of ''externalities.'' An externality exists when the actions of some individuals impose uncompensated impacts on others. For example, snowmobile users, and to a lesser extent, snowcoach users, impose costs on other park visitors in the form of noise, air pollution, congestion, and health and safety risks. Because these costs are not compensated, both types of users have little or no incentive to adjust their behavior accordingly. The proposed regulation is needed to correct this situation.

The quantitative results of this analysis are summarized below. It is important to note that this analysis could not account for all costs or benefits due to limitations in available data. For example, the costs associated with adverse impacts to park resources such as wildlife, and with law enforcement incidents are not reflected in the quantified net benefits presented in this summary. It is also important to note that this analysis addresses the economic efficiency implications of the different action alternatives and not their distributive equity (i.e., it does not identify the sectors or groups on which the majority of impacts fall). Therefore, additional explanation is required when interpreting the quantitative results of this analysis. An explanation of the selection of the preferred alternative is presented following the summary of quantified benefits and costs.

Quantified Benefits and Costs Under Baseline 1

This section summarizes the economic analysis relative to Baseline 1. Costs refer to costs to society (or losses in social welfare) while benefits refer to benefits for society (or gains in social welfare). The analysis of costs and benefits critically depends on estimates of visitation for the different user groups. While significant information is available from past visitation records and visitor surveys, a degree of uncertainty exists about how these visitation levels might change in the future under the six action alternatives. In this analysis, a modeling approach was used to characterize uncertainty and to estimate expected levels of visitation. That approach involves specifying probability distributions of key visitation parameters, and then sampling from those distributions in order to estimate visitation levels. By taking multiple samples, measures of central tendency for visitation can be calculated that reflect the uncertainty in the available data. This analysis used 1,000 samples, which were adequate to calculate expected levels of visitation. Those expected visitation levels were then used to estimate the benefits and costs described below for the six action alternatives.

Alternative 4 has the highest level of quantified net benefits (benefits minus costs). That is because this alternative would result in the largest increase in overall visitation due to its inclusion of commercial bus trips. That increased visitation would primarily benefit visitors that access the parks by wheeled vehicles such as buses, and the businesses that serve them, including restaurants, gas stations, and hotels.

The next highest net benefits are for Alternatives 5 and 7. The largest benefits under Alternative 5 start in the 2018/2019 winter season, when the transition to snowcoach-only is expected to be complete—other visitors gain high benefits from being in the park without snowmobiles. Alternative 7 allows guided snowmobile tours and imposes varying daily caps on snowmobiles and snowcoaches throughout the season to create days when crowding will be very low. Alternative 6 has the lowest net benefits, in part because higher crowding lowers the value of all trips. These net benefit levels over the ten-year analysis period for winter seasons 2011/2012 through 2020/2021 are presented in Table 1 for all action alternatives. Table 2 presents quantified net benefits per year for the same analysis period.

TABLE 1—TOTAL PRESENT VALUE OF QUANTIFIED NET BENEFITS RELATIVE TO BASELINE 1, YELLOWSTONE NATIONAL PARK, 2011/2012 THROUGH 2020/2021

	Total present value of quantified net benefits [a]
Alternative 2:	
Discounted at 3% [b]	$50,188,000
Discounted at 7% [b]	41,451,000
Alternative 3:	
Discounted at 3% [b]	55,466,000
Discounted at 7% [b]	45,468,000
Alternative 4:	
Discounted at 3% [b]	184,377,000
Discounted at 7% [b]	151,569,000
Alternative 5:	
Discounted at 3% [b]	107,975,000
Discounted at 7% [b]	85,015,000
Alternative 6:	
Discounted at 3% [b]	−874,000
Discounted at 7% [b]	−451,000
Alternative 7:	
Discounted at 3% [b]	78,132,000
Discounted at 7% [b]	64,531,000

[a] Expressed in 2010 dollars.
[b] Office of Management and Budget Circular A–4 recommends a 7% discount rate in general, and a 3% discount rate when analyzing impacts to private consumption.
Source: Table 3–12, RTI International (2011).

TABLE 2—QUANTIFIED NET BENEFITS PER YEAR RELATIVE TO BASELINE 1, YELLOWSTONE NATIONAL PARK, 2011/2012 THROUGH 2020/2021

	Quantified net benefits per year [a]
Alternative 2:	
Discounted at 3% [b]	$5,884,000
Discounted at 7% [b]	5,902,000
Alternative 3:	
Discounted at 3% [b]	6,502,000
Discounted at 7% [b]	6,474,000
Alternative 4:	
Discounted at 3% [b]	21,615,000
Discounted at 7% [b]	21,580,000
Alternative 5:	
Discounted at 3% [b]	12,658,000
Discounted at 7% [b]	12,104,000
Alternative 6:	
Discounted at 3% [b]	−102,000
Discounted at 7% [b]	−64,000
Alternative 7:	
Discounted at 3% [b]	9,159,000
Discounted at 7% [b]	9,188,000

[a] This is the total present value of quantified net benefits reported in Table 1 amortized over the ten-year analysis timeframe at the indicated discount rate.
[b] Office of Management and Budget Circular A–4 recommends a 7% discount rate in general, and a 3% discount rate when analyzing impacts to private consumption.
Source: Table 3–13, RTI International (2011).

Not included in these quantified net benefit estimates are the costs of meeting EPA model year 2010 air emission requirements. These requirements could involve replacing engine and/or emission control systems so that the vehicles are in compliance, or purchasing 2010 or newer model year vehicles. Snowcoaches would also need to meet a sound emission requirement that is similar to the snowmobile sound emission requirement. Under all action alternatives except Alternative 4, between 78 and 80 snowcoaches per day would be allowed to operate in the park. Given the composition of the existing snowcoach fleet, NPS estimated that the cost to bring 80 snowcoaches into compliance with these requirements would be approximately $5,090,000. This cost would be less for Alternative 4 since only 30 snowcoaches per day would be allowed into the park.

Quantified Benefits and Costs Under Baseline 2

This section summarizes the economic analysis relative to Baseline 2. Costs and benefits in this analysis are calculated using the same methods described for the analysis using Baseline 1. However in this analysis, the incremental costs and benefits of Alternatives 1 and 3 through 7 are calculated relative to Baseline 2.

Under this scenario, Alternative 4 generates the highest quantified net benefits. Alternative 5 generates the second highest net benefits, due in large part to the gains to snowcoach passengers and other visitors starting in the 2018/2019 winter season when the transition to snowcoach-only is expected to be complete. Alternative 7 generates the third highest level of quantified net benefits. These net benefit levels over the ten-year analysis period for winter seasons 2011/2012 through 2020/2021 are presented in Table 3 for all action alternatives. Table 4 presents quantified net benefits per year for the same analysis period.

TABLE 3—TOTAL PRESENT VALUE OF QUANTIFIED NET BENEFITS RELATIVE TO BASELINE 2, YELLOWSTONE NATIONAL PARK, 2011/2012 THROUGH 2020/2021

	Total present value of quantified net benefits [a]
Alternative 1:	
Discounted at 3% [b]	−$50,188,000
Discounted at 7% [b]	−41,451,000
Alternative 3:	
Discounted at 3% [b]	5,278,000
Discounted at 7% [b]	4,017,000
Alternative 4:	
Discounted at 3% [b]	134,190,000
Discounted at 7% [b]	110,118,000
Alternative 5:	
Discounted at 3% [b]	57,787,000
Discounted at 7% [b]	43,564,000
Alternative 6:	
Discounted at 3% [b]	−51,062,000
Discounted at 7% [b]	−41,902,000
Alternative 7:	
Discounted at 3% [b]	27,945,000
Discounted at 7% [b]	23,080,000

[a] Expressed in 2010 dollars.
[b] Office of Management and Budget Circular A–4 recommends a 7% discount rate in general, and a 3% discount rate when analyzing impacts to private consumption.
Source: Table 4–2, RTI International (2011).

TABLE 4—QUANTIFIED NET BENEFITS PER YEAR RELATIVE TO BASELINE 2, YELLOWSTONE NATIONAL PARK, 2011/2012 THROUGH 2020/2021

	Quantified net benefits per year [a]
Alternative 1:	
Discounted at 3% [b]	−$5,884,000
Discounted at 7% [b]	−5,902,000
Alternative 3:	
Discounted at 3% [b]	619,000
Discounted at 7% [b]	572,000
Alternative 4:	
Discounted at 3% [b]	15,731,000
Discounted at 7% [b]	15,678,000
Alternative 5:	
Discounted at 3% [b]	6,774,000
Discounted at 7% [b]	6,203,000
Alternative 6:	
Discounted at 3% [b]	−5,986,000
Discounted at 7% [b]	−5,966,000
Alternative 7:	
Discounted at 3% [b]	3,276,000
Discounted at 7% [b]	3,286,000

[a] This is the total present value of quantified net benefits reported in Table 1 amortized over the ten-year analysis timeframe at the indicated discount rate.
[b] Office of Management and Budget Circular A–4 recommends a 7% discount rate in general, and a 3% discount rate when analyzing impacts to private consumption.
Source: Table 4–3, RTI International (2011).

Not included in these quantified net benefit estimates are the costs of meeting EPA model year 2010 air emission requirements. These requirements could involve replacing engine and/or emission control systems so that the vehicles are in compliance, or purchasing 2010 or newer model year

vehicles. Snowcoaches would also need to meet a sound emission requirement that is similar to the snowmobile sound emission requirement. Under all action alternatives except Alternatives 1 and 4, between 78 and 80 snowcoaches per day would be allowed to operate in the park. Given the composition of the existing snowcoach fleet, NPS estimated that the cost to bring 80 snowcoaches into compliance with these requirements would be approximately $5,090,000. This cost would be less for Alternative 4 since only 30 snowcoaches per day would be allowed into the park. This cost would be zero for Alternative 1 since snowcoach use would not be permitted in the park.

Interpretation of Quantified Benefits and Costs

Comparing Table 1 with Table 3, the ranking of Alternatives 3 through 7 by the magnitude of quantified net benefits is identical between the analyses using either baseline. NPS selected Alternative 7 as the preferred alternative; however, Alternatives 4 and 5 each have higher levels of quantified net benefits in each analysis. Additional factors that are relevant in the selection of the preferred alternative include costs and benefits that could not be quantified and distributive equity concerns. With respect to costs that could not be quantified, Alternative 4 involves road plowing operations and moderate, adverse visibility impacts due to road sanding operations, neither of which were quantified in terms of monetized costs. While those costs would be offset somewhat by the reduced cost to bring snowcoaches into compliance with air and sound emission requirements compared to the other alternatives that permit snowcoach use in the park, the road plowing operations would likely reduce the quantified net benefits of Alternative 4 relative to those of Alternative 7. With respect to distributive equity concerns, Alternative 7 better balances the visitor experiences of all visitor groups compared with Alternatives 4 and 5. The costs and benefits accruing to the different visitor groups are more evenly distributed in Alternative 7 than in Alternatives 4 and 5. The benefits of Alternative 5 are disproportionately associated with snowcoach riders. The benefits to snowmobile riders in Alternative 4 will be concentrated on riders who have access to the South Entrance. Finally, the lack of any historical precedent for plowing roads and allowing commercial bus tours during the winter leads to large uncertainties as to the magnitude of the benefits associated with Alternative 4. For these reasons, NPS selected Alternative 7 as the preferred alternative.

Explanation of Preferred Alternative

The preferred alternative in the 2011 DEIS provides for winter use while protecting park resources. The preferred alternative demonstrates the NPS commitment to monitor winter use and to use the results to adjust the winter use program. The results of the monitoring program, including data obtained regarding air quality, wildlife, soundscapes, and health and safety, were used in formulating the alternatives in the 2011 DEIS. The preferred alternative applies the lessons of the last several winters about commercial guiding, which demonstrate, among other things, that 100% commercial guiding has been very successful and offers the best opportunity for achieving goals of protecting park resources and allowing balanced use of the park. Law enforcement incidents have been reduced well below historic numbers, even after taking into account reduced visitation. That reduction is attributed to the quality of the guided program.

The preferred alternative uses strictly limited oversnow vehicle numbers, combined with air and sound emission requirements and 100% commercial guiding, to help ensure that the purpose and need for the DEIS is met.

The preferred alternative also supports the communities and businesses both near and far from the park and would encourage them to have an economically sustainable winter recreation program that relies on a variety of modes for access to the park in the winter. Peak snowmobile numbers allowed under the preferred alternative are well below the historic averages, but the snowmobile and snowcoach limits should provide a viable program for winter access to the park.

Compliance With Other Laws and Executive Orders

Regulatory Planning and Review (Executive Order 12866)

This document is a significant rule and the Office of Management and Budget has reviewed this rule under Executive Order 12866.

(1) This rule will not have an effect of $100 million or more on the economy. It will not adversely affect in a material way the economy, productivity, competition, jobs, the environment, public health or safety, or state, local, or tribal governments or communities. These conclusions are based on the report ''Economic Analysis of Winter Use Regulations in Yellowstone National Park'' (RTI International, 2011).

(2) This rule will not create a serious inconsistency or otherwise interfere with an action taken or planned by another agency. Implementing actions under this rule will not interfere with plans by other agencies or local government plans, policies, or controls since this is an agency specific change.

(3) This rule does not alter the budgetary effects of entitlements, grants, user fees, or loan programs or the rights or obligations of their recipients. It only affects the use of oversnow vehicles within Yellowstone National Park. No grants or other forms of monetary supplement are involved.

(4) This rule may raise novel legal or policy issues. The issue has generated local as well as national interest on the subject in the area surrounding Yellowstone National Park. NPS has been the subject of numerous lawsuits regarding winter use management in the park. See Winter use in Yellowstone: A Timeline, available at *http://www.nps.gov/yell/parkmgmt/timeline.htm.*

Regulatory Flexibility Act (RFA)

From the analysis of costs and benefits using Baseline 1, NPS concludes that the action alternatives would mitigate the impacts on most small businesses relative to the impacts under Baseline 1. In cases where the action alternatives cause reduced revenues for a few specific firms compared to Baseline 1, NPS expects that the declines would be very small. From the analysis using Baseline 2, NPS concludes:

- Relative to Baseline 2, Alternatives 3, 5, and 6 are estimated to result in increased profits for the snowmobile rental and snowcoach sectors.
- Alternative 1 has the potential to generate significant losses for small businesses.
- Alternative 4 also has the potential to generate significant losses, but if the same companies run commercial bus tours revenue should grow rather than shrink.
- Alternative 7 may impose significant losses on very small businesses earning $250,000 or less, although the impacts are close to the threshold for significance. The calculations assume that the impacts are equally spread across all businesses.

An initial regulatory flexibility analysis is included in the report titled ''Economic Analysis of Winter Use Regulations in Yellowstone National Park'' (RTI International, 2011).

Small Business Regulatory Enforcement Fairness Act (SBREFA)

This rule is not a major rule under 5 U.S.C. 804(2), the SBREFA. This rule:

(a) Does not have an annual effect on the economy of $100 million or more.

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

(c) Does not have significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of U.S.-based enterprises to compete with foreign-based enterprises. This rulemaking has no effect on methods of manufacturing or production and specifically affects the Greater Yellowstone Area, not national or U.S.-based enterprises.

Unfunded Mandates Reform Act (UMRA)

This rule does not impose an unfunded mandate on State, local, or tribal governments or the private sector of more than $100 million per year. The rule does not have a significant or unique effect on State, local or tribal governments or the private sector. It addresses public use of national park lands, and imposes no requirements on other agencies or governments.

Takings (Executive Order 12630)

Under the criteria in Executive Order 12630, the rule does not have significant takings implications. Access to private property located adjacent to the park will be afforded the same access during winter as before this rule. No other property is affected. A takings implication assessment is not required.

Federalism (Executive Order 13132)

In accordance with Executive Order 13132, the rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment. It addresses public use of national park lands, and imposes no requirements on other agencies or governments.

Civil Justice Reform (Executive Order 12988)

This rule complies with the requirements of Executive Order 12988. Specifically, this rule:

(a) Meets the criteria of section 3(a) requiring that all regulations be reviewed to eliminate errors and ambiguity and be written to minimize litigation; and

(b) Meets the criteria of section 3(b)(2) requiring that all regulations be written in clear language and contain clear legal standards.

Consultation With Indian Tribes (Executive Order 13175)

Under the criteria in Executive Order 13175 we have evaluated this rule and determined that it has no potential effects on federally recognized Indian tribes. Numerous tribes in the area were consulted in the development of the previous winter use planning documents.

Paperwork Reduction Act (PRA)

This rule does not contain information collection requirements and a submission under the PRA is not required.

National Environmental Policy Act (NEPA)

This winter use plan and rule constitute a major Federal action significantly affecting the quality of the human environment. We have prepared a DEIS under the NEPA. The DEIS is available for review by contacting the Yellowstone National Park Management Assistant's Offices, at *http://parkplanning.nps.gov* or at *http://www.nps.gov/yell/planyourvisit/winteruse.htm.* Comments are being solicited separately for the DEIS and this proposed rule. See the Public Participation section for more information on how to comment on the DEIS.

Information Quality Act (IQA)

In developing this rule we did not conduct or use a study, experiment, or survey requiring peer review under the IQA (Pub. L. 106–554, section 15).

Effects on the Energy Supply (Executive Order 13211)

This rule is not a significant energy action under the definition in Executive Order 13211. A statement of Energy Effects is not required.

Clarity of This Regulation

We are required by Executive Orders 12866 and 12988 and by the Presidential Memorandum of June 1, 1998, to write all rules in plain language. This means that each rule we publish must:

(a) Be logically organized;

(b) Use the active voice to address readers directly;

(c) Use clear language rather than jargon;

(d) Be divided into short sections and sentences; and

(e) Use lists and tables wherever possible.

If you believe we have not met these requirements, send us comments by one of the methods listed in the **ADDRESSES** section. To better help us revise the rule, your comments should be as specific as possible. For example, you should tell us the numbers of the sections or paragraphs that you find unclear, which sections or sentences are too long, the sections where you believe lists or tables would be useful, etc.

Drafting Information

The primary authors of this regulation are David Jacob, Environmental Protection Specialist, National Park Service, Environmental Quality Division, John Sacklin, Management Assistant, National Park Service, Yellowstone National Park, and Russel J. Wilson, Chief Regulations and Special Park Uses, National Park Service, Washington, DC.

Public Participation

If you wish to comment on this rule, you may submit your comments by any one of the following methods.

- *Docket:* For access to the electronic docket to read the proposed rule, or e-mail comments received go to the Federal eRulemaking Portal: *http://www.regulations.gov.* Follow the instructions for submitting comments.
- *Mail:* Yellowstone National Park, Winter Use Proposed Rule, P.O. Box 168, Yellowstone NP, WY 82190.
- *Hand Deliver to:* Management Assistant's Office, Headquarters Building, Mammoth Hot Springs, Yellowstone National Park, Wyoming.

All comments must be received by midnight of the close of the comment period. Bulk comments in any format (hard copy or electronic) submitted on behalf of others will not be accepted.

As noted previously, a DEIS is also available for public comment. Those wishing to comment on both this proposed rule and the DEIS should submit separate comments for each. Comments regarding the DEIS may be submitted online via the NPS Planning, Environment, and Public Comment Web site at *http://parkplanning.nps.gov/,* or they may be addressed to: Winter Use Plan DEIS, P.O. Box 168, Yellowstone National Park, WY 82190. Additional information about the DEIS is available online at: *http://www.nps.gov/yell/planyourvisit/winteruse.htm.*

Public Availability of Comments

Before including your address, phone number, e-mail 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.

List of Subjects in 36 CFR Part 7

National parks, Reporting and recordkeeping requirements.

In consideration of the foregoing, the National Park Service proposes to amend 36 CFR part 7 as follows:

PART 7—SPECIAL REGULATIONS, AREAS OF THE NATIONAL PARK SYSTEM

1. The authority for part 7 continues to read as follows:

Authority: 16 U.S.C. 1, 3, 9a, 460(q), 462(k); Sec. 7.96 also issued under 36 U.S.C. 501–511, D.C. Code 10–137 (2001) and D.C. Code 50–2201.07 (2001).

2. In § 7.13 revise paragraph (l) to read as follows:

§ 7.13 Yellowstone National Park.

* * * * *

(l)(1) *What is the scope of this regulation?* The regulations contained in paragraphs (l)(2) through (1)(16) of this section apply to the use of snowcoaches and recreational snowmobiles. Except where indicated, paragraphs (1)(2) through (l)(16) do not apply to non-administrative oversnow vehicle use by NPS employees, contractors, concessioner employees, or other non-recreational users authorized by the Superintendent.

(2) *What terms do I need to know?* The definitions in this paragraph (l)(2) also apply to non-administrative oversnow vehicle use by NPS employees, contractors, concessioner employees, or other non-recreational users authorized by the Superintendent.

Commercial guide means a person who operates as a snowmobile or snowcoach guide for a fee or compensation and is authorized to operate in the park under a concession contract or a commercial use authorization. In this section, ''guide'' also means ''commercial guide.''

Historic snowcoach means a Bombardier snowcoach manufactured in 1983 or earlier. Any other snowcoach is considered a non-historic snowcoach.

Oversnow route means that portion of the unplowed roadway located between the road shoulders and designated by snow poles or other poles, ropes, fencing, or signs erected to regulate oversnow activity. Oversnow routes include pullouts or parking areas that are groomed or marked similarly to roadways and are adjacent to designated oversnow routes. An oversnow route may also be distinguished by the interior boundaries of the berm created by the packing and grooming of the unplowed roadway. The only motorized vehicles permitted on oversnow routes are oversnow vehicles.

Oversnow vehicle means a snowmobile, snowcoach, or other motorized vehicle that is intended for travel primarily on snow and has been authorized by the Superintendent to operate in the park. An oversnow vehicle that does not meet the definition of a snowcoach must comply with all requirements applicable to snowmobiles.

Snowcoach means a self-propelled mass transit vehicle intended for travel on snow, having a curb weight of over 1,000 pounds (450 kilograms), driven by a track or tracks and steered by skis or tracks, and having a capacity of at least 8 passengers. A snowcoach has a maximum size of 102 inches wide, plus tracks (not to exceed 110 inches overall); a maximum length of 35 feet; and a GVWR not exceeding 25,000 pounds. A snowcoach may not be operated if the GVWR limit of the vehicle is exceeded (including track systems). As of December 14, 2014, a snowcoach may not be operated if it exerts a ground-surface pressure (calculated by dividing the GVWR (including track weight) by the number of square inches of track in contact with the snow surface) exceeding 4.5 pounds per square inch.

Snowmobile means a self-propelled vehicle intended for travel on snow, with a curb weight of not more than 1,000 pounds (450 kg), driven by a track or tracks in contact with the snow, and which may be steered by a ski or skis in contact with the snow. All-terrain vehicles (ATVs) and utility-type vehicles (UTVs) are not considered to be snowmobiles, even if they have been adapted for use on snow with track and ski systems.

Snowplane means a self-propelled vehicle intended for oversnow travel and driven by an air-displacing propeller.

(3) *May I operate a snowmobile in Yellowstone National Park?* You may operate a snowmobile in Yellowstone National Park in compliance with use limits, guiding requirements, operating hours and dates, equipment, and operating conditions established under this section. The Superintendent may establish additional operating conditions after providing notice of those conditions in accordance with one or more methods listed in 36 CFR 1.7(a).

(4) *May I operate a snowcoach in Yellowstone National Park?* (i) A snowcoach may only be operated in Yellowstone National Park under a concessions contract. Snowcoach operation is subject to the conditions stated in the concessions contract and all other conditions identified in this section.

(ii) As of December 15, 2014, a diesel-fueled snowcoach must meet EPA model year 2010 air emission requirements. A diesel snowcoach with a GVWR greater than 8,500 pounds must meet EPA model year 2010 ''engine configuration certified'' diesel air emission requirements, whether new or retrofitted. A diesel snowcoach with a GVWR less than 10,000 pounds may instead meet EPA model year 2010 light duty Tier 2 standards, whether new or retrofitted.

(iii) As of December 15, 2014, a gasoline-fueled snowcoach must meet EPA model year 2010 air emission requirements, whether new or retrofitted.

(iv) As of December 15, 2014, a snowcoach may not exceed a sound level of 73 dBA when measured by operating the coach at or near full throttle for the test cycle. In accordance with Society of Automotive Engineers test procedures, a variance of up to 2 dBA is allowed.

A snowcoach may be tested at any barometric pressure equal to or above 23.4 inches Hg uncorrected.

(v) Through March 15, 2014, a non-historic snowcoach must meet NPS air emissions requirements, which mean the applicable EPA emissions standards for the vehicle that were in effect at the time it was manufactured.

(vi) All emission-related exhaust components (as listed in 40 CFR 86.004–25(b)(3)(iii) through (v)) must be functioning properly. Such emissions-related components may only be replaced with the original equipment manufacturer (OEM) component, where possible. Where OEM parts are not available, aftermarket parts may be used if they are certified not to worsen emission and sound characteristics.

(vii) Operating a snowcoach with the original pollution control equipment disabled or modified is prohibited.

(viii) A snowcoach meeting the requirements for air and sound emissions may be operated in the park for a period not exceeding 10 years from the date upon it was first certified by the Superintendent.

(ix) A snowcoach may be subject to periodic inspections to determine compliance with the requirements of paragraphs (l)(4)(ii) through (l)(4)(viii) of this section.

(5) *Must I operate a certain model of snowmobile?* Only commercially available snowmobiles that meet NPS air and sound emissions requirements as set forth in this section may be operated in the park. The

Superintendent will approve snowmobile makes, models, and years of manufacture that meet those requirements. Any snowmobile model not approved by the Superintendent may not be operated in the park.

(6) *How will the Superintendent approve snowmobile makes, models, and years of manufacture for use in the park?* (i) Through March 15, 2014, all snowmobiles must be certified under 40 CFR part 1051, to a Family Emission Limit no greater than 15 g/kW-hr for hydrocarbons and to a Family Emission Limit no greater than 120 g/kW-hr for carbon monoxide. As of December 15, 2014, all snowmobiles must be certified under 40 CFR part 1051, to a Family Emission Limit no greater than 15 g/kW-hr for the sum of nitrogen oxides and hydrocarbons and to a Family Emission Limit no greater than 120 g/kW-hr for carbon monoxide.

(ii) The snowmobile test procedures specified by EPA (40 CFR Parts 1051 and 1065) must be used to measure air emissions from model year 2005 and later snowmobiles.

(iii) For sound emissions, through March 15, 2014, snowmobiles must operate at or below 73 dB(A) as measured at full throttle according to Society of Automotive Engineers J192 test procedures (revised 1985). Snowmobiles may be tested at any barometric pressure equal to or above 23.4 inches Hg uncorrected. As of December 15, 2014, snowmobiles must operate at or below 73 dB(A) as measured at full throttle in accordance with the applicable (as of November 1, 2012) Society of Automotive J192 test procedures. The test must be accomplished within the barometric pressure limits of the test procedure; there will be no allowance for elevation. The Superintendent may revise these testing procedures based on new information and/or updates to the SAE J192 testing procedures.

(iv) A snowmobile meeting the requirements for air and sound emissions may be operated in the park for a period not exceeding 6 years from the date upon which it was first certified by the Superintendent.

(v) The Superintendent may prohibit entry into the park of any snowmobile that has been modified in a manner that may adversely affect air or sound emissions.

(vi) These air and sound emissions requirements do not apply to a snowmobile being operated on the Cave Falls Road in Yellowstone.

(7) *Where may I operate a snowmobile in Yellowstone National Park?* (i) You may operate a snowmobile only upon designated oversnow routes established within the park in accordance with 36 CFR 2.18(c). The following oversnow routes are so designated:

(A) The Grand Loop Road from its junction with Upper Terrace Drive to Norris Junction.

(B) Norris Junction to Canyon Junction.

(C) The Grand Loop Road from Norris Junction to Madison Junction.

(D) The West Entrance Road from the park boundary at West Yellowstone to Madison Junction.

(E) The Grand Loop Road from Madison Junction to West Thumb.

(F) The South Entrance Road from the South Entrance to West Thumb.

(G) The Grand Loop Road from West Thumb to its junction with the East Entrance Road.

(H) The East Entrance Road from Fishing Bridge Junction to the East Entrance.

(I) The Grand Loop Road from its junction with the East Entrance Road to Canyon Junction.

(J) The South Canyon Rim Drive.

(K) Lake Butte Road.

(L) In the developed areas of Madison Junction, Old Faithful, Grant Village, West Thumb, Lake, Fishing Bridge, Canyon, Indian Creek, and Norris.

(M) Cave Falls Road.

(N) For the winter of 2011–2012 only, snowmobiles may be used on the following routes between noon and 9 p.m. each day: Firehole Canyon Drive, North Canyon Rim Drive, and Riverside Drive.

(ii) The Superintendent may open or close these routes, or portions thereof, for snowmobile travel after taking into consideration the location of wintering wildlife, appropriate snow cover, public safety, avalanche conditions, and other factors. Notice of such opening or closing will be provided by one or more of the methods listed in 36 CFR 1.7(a).

(iii) This paragraph (l)(7) also applies to non-administrative oversnow vehicle use by NPS employees, contractors, or concessioner employees, or other non-recreational users authorized by the Superintendent.

(iv) Maps detailing the designated oversnow routes will be available from Park Headquarters.

(8) *What routes are designated for snowcoach use?* (i) Authorized snowcoaches may be operated on the routes designated for snowmobile use in paragraphs (l)(7)(i)(A) through (l)(7)(i)(L) of this section. Snowcoaches may also be operated on the following additional oversnow route:

(A) For rubber-tracked snowcoaches only, the Grand Loop Road from Upper Terrace Drive to the junction of the Grand Loop Road and North Entrance Road, and within the Mammoth Hot Springs developed area.

(B) For the winter of 2011–2012 only, snowcoaches may be used on the following routes: Firehole Canyon Drive, North Canyon Rim Drive, Riverside Drive, Fountain Flat Road, and the Grand Loop Road from Canyon Junction to Washburn Hot Springs overlook.

(ii) The Superintendent may open or close these oversnow routes, or portions thereof, or designate new routes for snowcoach travel after taking into consideration the location of wintering wildlife, appropriate snow cover, public safety, and other factors. Notice of such opening or closing shall be provided by one of more of the methods listed in 36 CFR 1.7(a).

(iii) This paragraph (l)(8) also applies to non-administrative snowcoach use by NPS employees, contractors, concessioner employees, or other non-recreational users authorized by the Superintendent.

(9) *Must I travel with a commercial guide while snowmobiling in Yellowstone and what other guiding requirements apply?* (i) All recreational snowmobile operators must be accompanied by a commercial guide.

(ii) Snowmobile parties must travel in a group of no more than 11 snowmobiles, including that of the guide.

(iii) Guided parties must travel together within a maximum of one-third mile of the first snowmobile in the group.

(iv) The guiding requirements described in this paragraph (l)(9) do not apply to snowmobiles being operated on the Cave Falls Road.

(10) *Are there limits established for the number of snowmobiles and snowcoaches permitted to operate in the park each day?* The number of snowmobiles and snowcoaches allowed to operate in the park each day is limited to a certain number. Allocations may be shared among authorized guides between entrances or location. The limits will vary by day in accordance with the limits listed in the following table:

TABLE 1 TO § 7.13(l)(10)—DAILY SNOWMOBILE AND SNOWCOACH LIMITS *

Park entrance/location	Level A		Level B		Level C		Level D	
	Commercially guided snowmobiles	Commercially guided snowcoaches	Commercially guided snowmobiles	Commercially guided snowcoaches	Commercially guided snowmobiles	Commercially guided snowcoaches	Commercially guided snowmobiles	Commercially guided snowcoaches
(i) North Entrance	11	12	0–11	8	0–11	6	0–11	12
(ii) West Entrance	176	36	110	22	66	12	66	36
(iii) South Entrance	110	14	66	8	44	6	44	14
(iv) East Entrance	22	2	0–22	0–2	0–11	0	0–11	2
(v) Old Faithful	11	16	11	10	0–11	6	0–11	16
(vi) Cave Falls**	50	0	50	0	50	0	50	0
Totals (without Cave Falls)	330	80	187–220	48–50	110–143	30	110–143	80

*For the winter of 2011–2012 only, the following snowmobile allocations are in effect: West Entrance, 160; South Entrance, 114; East Entrance, 20; North Entrance, 12; and Old Faithful, 12. The following snowcoach allocations will apply in 2011–2012 only: West Entrance, 34; South Entrance, 13; East Entrance, 2; North Entrance, 13; and Old Faithful, 16.

**These snowmobiles operate on an approximately 1-mile segment of road within the park where the use is incidental to other snowmobiling activities in the Caribou-Targhee National Forest. These snowmobiles do not need to be guided or to meet NPS air and sound emissions requirements.

(11) *How will I know when I can operate a snowmobile or snowcoach in the park?* The Superintendent will:

(i) Determine operating hours, dates, and use levels.

(ii) The public will be notified of operating hours, dates, use levels and any applicable changes through one or more of the methods listed in § 1.7(a) of this chapter.

(iii) Except for emergency situations, any changes to the operating hours, dates, and use levels will be made on an annual basis.

(12) *What other conditions apply to the operation of oversnow vehicles?* (i) The following are prohibited:

(A) Idling an oversnow vehicle for more than 5 minutes at any one time.

(B) Driving an oversnow vehicle while the driver's motor vehicle license or privilege is suspended or revoked.

(C) Allowing or permitting an unlicensed driver to operate an oversnow vehicle.

(D) Driving an oversnow vehicle in willful or wanton disregard for the safety of persons, property, or park resources or otherwise in a reckless manner.

(E) Operating an oversnow vehicle without a lighted white headlamp and red taillight.

(F) Operating an oversnow vehicle that does not have brakes in good working order.

(G) The towing of persons on skis, sleds, or other sliding devices by oversnow vehicles, except in emergency situations.

(ii) The following are required:

(A) All oversnow vehicles that stop on designated routes must pull over to the far right and next to the snow berm. Pullouts must be used where available and accessible. Oversnow vehicles may not be stopped in a hazardous location or where the view might be obscured, or operated so slowly as to interfere with the normal flow of traffic.

(B) Oversnow vehicle drivers must possess a valid motor vehicle driver's license. A learner's permit does not satisfy this requirement. The license must be carried by the driver at all times.

(C) Equipment sleds towed by a snowmobile must be pulled behind the snowmobile and fastened to the snowmobile with a rigid hitching mechanism.

(D) Snowmobiles must be properly registered and display a valid registration from a state or province in the United States or Canada, respectively.

(iii) The Superintendent may impose other terms and conditions as necessary to protect park resources, visitors, or employees. The public will be notified of any changes through one or more methods listed in § 1.7(a) of this chapter.

(iv) This paragraph (l)(12) also applies to non-administrative oversnow vehicle use by NPS employees, contractors, or concessioner employees, or other non-recreational users authorized by the Superintendent.

(13) *What conditions apply to alcohol use while operating an oversnow vehicle?* In addition to 36 CFR 4.23, the following conditions apply:

(i) Operating or being in actual physical control of an oversnow vehicle is prohibited when the driver is under 21 years of age and the alcohol concentration in the driver's blood or breath is 0.02 grams or more of alcohol per 100 milliliters of blood or 0.02 grams or more of alcohol per 210 liters of breath.

(ii) Operating or being in actual physical control of an oversnow vehicle is prohibited when the driver is a snowmobile guide or a snowcoach driver and the alcohol concentration in the operator's blood or breath is 0.04 grams or more of alcohol per 100 milliliters of blood or 0.04 grams or more of alcohol per 210 liters of breath.

(iii) This paragraph (1)(13) also applies to non-administrative oversnow vehicle use by NPS employees, contractors, or concessioner employees, or other non-recreational users authorized by the Superintendent.

(14) *Do other NPS regulations apply to the use of oversnow vehicles?* (i) The use of oversnow vehicles in Yellowstone is subject to §§ 2.18(a) and (c), but not subject to §§ 2.18(b), (d), (e), and 2.19(b) of this chapter.

(ii) This paragraph (l)(14) also applies to non-administrative oversnow vehicle use by NPS employees, contractors, concessioner employees, or other non-recreational users authorized by the Superintendent.

(15) *Are there any forms of non-motorized oversnow transportation allowed in the park?*

(i) Non-motorized travel consisting of skiing, skating, snowshoeing, or walking is permitted unless otherwise restricted under this section or other NPS regulations.

(ii) The Superintendent may designate areas of the park as closed, reopen previously closed areas, or establish terms and conditions for non-motorized travel within the park in order to protect visitors, employees, or park resources. Notice will be made in accordance with § 1.7(a) of this chapter.

(iii) Dog sledding and ski-joring (a skier being pulled by a dog, horse or vehicle) are prohibited. Bicycles, including bicycles modified for oversnow travel, are not allowed on oversnow routes in Yellowstone.

(16) *May I operate a snowplane in Yellowstone National Park?* The operation of a snowplane in Yellowstone is prohibited.

(17) *Is violating any of the provisions of this section prohibited?* Violating any of the terms, conditions or requirements

of paragraphs (l)(1) through (l)(16) of this section is prohibited.

* * * * *

Dated: May 9, 2011.

Will Shafroth,

Acting Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 2011–16786 Filed 7–1–11; 8:45 am]

BILLING CODE 4310–CT–P

DEPARTMENT OF VETERANS AFFAIRS

38 CFR Parts 3, 14, and 20

RIN 2900–AN91

Substitution in Case of Death of Claimant

AGENCY: Department of Veterans Affairs.

ACTION: Reopening of public comment period.

SUMMARY: In response to a request for additional time to submit comments, notice is hereby given that the comment period for the proposed rule, ''Substitution in Case of Death of Claimant'' (76 FR 8666), published in the **Federal Register** on February 15, 2011, is reopened and extended. The comment period will reopen for 30 days.

DATES: Comments must be received by VA on or before August 4, 2011.

ADDRESSES: Written comments may be submitted through *http://www.Regulations.gov;* by mail or hand-delivery to Director, Regulations Management (02REG), Department of Veterans Affairs, 810 Vermont Ave., 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–AN91—Substitution in Case of Death of Claimant.'' 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: Robert Watkins, Department of Veterans Affairs, Veterans Benefits Administration, Compensation and Pension Service, Regulation Staff (211D), 810 Vermont Avenue, NW., Washington, DC 20420, (202) 461–9214. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: The Department of Veterans Affairs (VA) is reopening the comment period for the proposed rule, ''Substitution in Case of Death of Claimant'' (76 FR 8666), published in the **Federal Register** on February 15, 2011, in response to a request for additional time to submit comments from the National Organization of Veterans' Advocates (NOVA). The proposed regulations would implement section 212 of the Veterans' Benefits Improvement Act of 2008, which allows an eligible survivor to substitute for a deceased claimant in order to complete the processing of the deceased claimant's claim. The comment period will reopen for 30 days.

Approved: June 28, 2011.

William F. Russo,

Deputy Director, Office of Regulation Policy and Management, Office of the General Counsel, Department of Veterans Affairs.

[FR Doc. 2011–16662 Filed 7–1–11; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

42 CFR Part 5

Negotiated Rulemaking Committee on Designation of Medically Underserved Populations and Health Professional Shortage Areas; Notice of Meeting

AGENCY: Health Resources and Services Administration, HHS.

ACTION: Negotiated Rulemaking Committee meeting.

SUMMARY: In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), notice is hereby given of the following meeting of the Negotiated Rulemaking Committee on Designation of Medically Underserved Populations and Health Professional Shortage Areas.

DATES: Meetings will be held on July 20, 2011, 9:30 a.m. to 6 p.m. and July 21, 2011, 9 a.m. to 5 p.m.

ADDRESSES: Meetings will be held at the Sheraton Suites Old Town Alexandria, 801 North Saint Asaph Street, Alexandria, Virginia 22314, (703) 836–4700.

FOR FURTHER INFORMATION CONTACT: For more information, please contact Emily Cumberland, Office of Policy Coordination, Bureau of Health Professions, Health Resources and Services Administration, Room 9–49, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, Telephone (301) 443–4662, *E-mail: ecumberland@hrsa.gov* or visit *http://www.hrsa.gov/advisorycommittees/shortage/*.

SUPPLEMENTARY INFORMATION:

Status: The meeting will be open to the public.

Purpose: The purpose of the Negotiated Rulemaking Committee on Designation of Medically Underserved Populations and Health Professional Shortage Areas is to establish criteria and a comprehensive methodology for Designation of Medically Underserved Populations and Primary Care Health Professional Shortage Areas, using a Negotiated Rulemaking (NR) process. It is hoped that use of the NR process will yield a consensus among technical experts and stakeholders on a new rule for designation of medically underserved populations and primary care health professions shortage areas, which would be published as an Interim Final Rule in accordance with Section 5602 of the Affordable Care Act, Public Law 111–148.

Agenda: The meeting will be held on Wednesday, July 20 and Thursday, July 21. It will include a discussion of various components of a possible methodology for identifying areas of shortage and underservice, based on the recommendations of the Committee in the previous meeting. The Thursday meeting will also include development of the agenda for the next meeting. Members of the public will have the opportunity to provide comments during the meeting on Thursday afternoon.

Requests from the public to make oral comments or to provide written comments to the Committee should be sent to Emily Cumberland at the contact address above at least 10 days prior to the first day of the meeting, July 20. The meetings will be open to the public as indicated above, with attendance limited to space available. Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should notify the contact person listed above at least 10 days prior to the meeting.

Dated: June 27, 2011.

Reva Harris,

Acting Director, Division of Policy and Information Coordination.

[FR Doc. 2011–16718 Filed 7–1–11; 8:45 am]

BILLING CODE 4165–15–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

44 CFR Part 67

[Docket ID FEMA–2011–0002; Internal Agency Docket No. FEMA–B–1196]

Proposed Flood Elevation Determinations

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Proposed rule.

SUMMARY: Comments are requested on the proposed Base (1% annual-chance) Flood Elevations (BFEs) and proposed BFE modifications for the communities listed in the table below. The purpose of this proposed rule is to seek general information and comment regarding the proposed regulatory flood elevations for the reach described by the downstream and upstream locations in the table below. The BFEs and modified BFEs are a part of the floodplain management measures that the community is required either to adopt or to show evidence of having in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP). In addition, these elevations, once finalized, will be used by insurance agents and others to calculate appropriate flood insurance premium rates for new buildings and the contents in those buildings.

DATES: Comments are to be submitted on or before October 3, 2011.

ADDRESSES: The corresponding preliminary Flood Insurance Rate Map (FIRM) for the proposed BFEs for each community is available for inspection at the community's map repository. The respective addresses are listed in the table below.

You may submit comments, identified by Docket No. FEMA–B–1196, to Luis Rodriguez, Chief, Engineering Management Branch, Federal Insurance and Mitigation Administration, Federal Emergency Management Agency, 500 C Street, SW., Washington, DC 20472, (202) 646–4064, or (e-mail) *luis.rodriguez1@dhs.gov.*

FOR FURTHER INFORMATION CONTACT: Luis Rodriguez, Chief, Engineering Management Branch, Federal Insurance and Mitigation Administration, Federal Emergency Management Agency, 500 C Street, SW., Washington, DC 20472, (202) 646–4064, or (e-mail) *luis.rodriguez1@dhs.gov.*

SUPPLEMENTARY INFORMATION: The Federal Emergency Management Agency (FEMA) proposes to make determinations of BFEs and modified BFEs for each community listed below, in accordance with section 110 of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4104, and 44 CFR 67.4(a).

These proposed BFEs and modified BFEs, together with the floodplain management criteria required by 44 CFR 60.3, are the minimum that are required. They should not be construed to mean that the community must change any existing ordinances that are more stringent in their floodplain management requirements. The community may at any time enact stricter requirements of its own or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations are used to meet the floodplain management requirements of the NFIP and also are used to calculate the appropriate flood insurance premium rates for new buildings built after these elevations are made final, and for the contents in those buildings.

Comments on any aspect of the Flood Insurance Study and FIRM, other than the proposed BFEs, will be considered. A letter acknowledging receipt of any comments will not be sent.

National Environmental Policy Act. This proposed rule is categorically excluded from the requirements of 44 CFR part 10, Environmental Consideration. An environmental impact assessment has not been prepared.

Regulatory Flexibility Act. As flood elevation determinations are not within the scope of the Regulatory Flexibility Act, 5 U.S.C. 601–612, a regulatory flexibility analysis is not required.

Executive Order 12866, Regulatory Planning and Review. This proposed rule is not a significant regulatory action under the criteria of section 3(f) of Executive Order 12866, as amended.

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

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

List of Subjects in 44 CFR Part 67

Administrative practice and procedure, Flood insurance, Reporting and recordkeeping requirements.

Accordingly, 44 CFR part 67 is proposed to be amended as follows:

PART 67—[AMENDED]

1. The authority citation for part 67 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.

§ 67.4 [Amended]

2. The tables published under the authority of § 67.4 are proposed to be amended as follows:

Flooding source(s)	Location of referenced elevation**	* Elevation in feet (NGVD) + Elevation in feet (NAVD) # Depth in feet above ground ∧ Elevation in meters (MSL)		Communities affected
		Effective	Modified	
Lake County, Illinois, and Incorporated Areas				
Bull Creek (near Waukegan)	Approximately 0.41 mile downstream of Sheridan Road.	+606	+596	City of Waukegan, Unincorporated Areas of Lake County, Village of Beach Park.
	Approximately 475 feet upstream of Lewis Avenue	None	+681	
Bull Creek 27th Street Tributary.	Approximately 0.51 mile downstream of 33rd Street ...	None	+622	City of Zion, Village of Beach Park.
	Approximately 700 feet upstream of Lewis Avenue	None	+685	

Flooding source(s)	Location of referenced elevation**	* Elevation in feet (NGVD) + Elevation in feet (NAVD) # Depth in feet above ground ∧ Elevation in meters (MSL)		Communities affected
		Effective	Modified	
Bull Creek North Branch	Approximately 1,600 feet downstream of Wadsworth Road.	None	+613	City of Waukegan, City of Zion, Village of Beach Park.
	Approximately 200 feet upstream of Lewis Avenue	None	+683	
Glen Flora Tributary	Approximately 540 feet upstream of Pond Loop Road	None	+585	City of Waukegan.
	Approximately 0.51 mile upstream of Sheridan Road	None	+642	

* National Geodetic Vertical Datum.
+ North American Vertical Datum.
# Depth in feet above ground.
∧ Mean Sea Level, rounded to the nearest 0.1 meter.
** BFEs to be changed include the listed downstream and upstream BFEs, and include BFEs located on the stream reach between the referenced locations above. Please refer to the revised Flood Insurance Rate Map located at the community map repository (see below) for exact locations of all BFEs to be changed.

Send comments to Luis Rodriguez, Chief, Engineering Management Branch, Federal Insurance and Mitigation Administration, Federal Emergency Management Agency, 500 C Street, SW., Washington, DC 20472.

ADDRESSES

City of Waukegan
Maps are available for inspection at City Hall, 100 North Martin Luther King Jr. Avenue, Waukegan, IL 60085.

City of Zion
Maps are available for inspection at City Hall, 2828 Sheridan Road, Zion, IL 60099.

Unincorporated Areas of Lake County
Maps are available for inspection at the Lake County Courthouse, 18 North County Street, Waukegan, IL 60085.

Village of Beach Park
Maps are available for inspection at the Village Hall, 11270 West Wadsworth Road, Beach Park, IL 60099.

Bossier Parish, Louisiana, and Incorporated Areas

Flat River	Approximately 2.0 miles downstream of State Route 527.	+154	+153	City of Bossier City, Unincorporated Areas of Bossier Parish.
	Approximately 0.42 mile downstream of State Route 612 (Sligo Road).	+156	+155	
Red Chute Bayou	At Smith Road	+154	+153	Unincorporated Areas of Bossier Parish.
Approximately 1,125 feet downstream of State Route 612 (Sligo Road).	+156	+157		

* National Geodetic Vertical Datum.
+ North American Vertical Datum.
# Depth in feet above ground.
∧ Mean Sea Level, rounded to the nearest 0.1 meter.
** BFEs to be changed include the listed downstream and upstream BFEs, and include BFEs located on the stream reach between the referenced locations above. Please refer to the revised Flood Insurance Rate Map located at the community map repository (see below) for exact locations of all BFEs to be changed.

Send comments to Luis Rodriguez, Chief, Engineering Management Branch, Federal Insurance and Mitigation Administration, Federal Emergency Management Agency, 500 C Street, SW., Washington, DC 20472.

ADDRESSES

City of Bossier City
Maps are available for inspection at City Hall, 620 Benton Road, Bossier City, LA 71171.

Unincorporated Areas of Bossier Parish
Maps are available for inspection at the Bossier Parish Courthouse, 204 Burt Boulevard, Benton, LA 71006.

Madison Parish, Louisiana, and Incorporated Areas

Brushy Bayou	At the downstream side of I–20	None	+80	City of Tallulah, Village of Richmond.
	At the upstream side of I–20	None	+81	

Flooding source(s)	Location of referenced elevation**	* Elevation in feet (NGVD) + Elevation in feet (NAVD) # Depth in feet above ground ∧ Elevation in meters (MSL)		Communities affected
		Effective	Modified	
Cypress Bayou	Approximately 0.7 mile downstream of I–20	None	+81	Village of Delta, Village of Mound.
	Approximately 428 feet upstream of U.S. Route 80	None	+85	
Ditch L–7CC–1	Approximately 682 feet upstream of the Lower Roundaway Bayou confluence.	None	+77	City of Tallulah, Unincorporated Areas of Madison Parish, Village of Richmond.
	At the downstream side of State Route 601	None	+83	
Ditch L–7CC–2	Approximately 440 feet downstream of I–20	+77	+78	Unincorporated Areas of Madison Parish, Village of Richmond.
	At the downstream side of Burnside Road	None	+78	
Mississippi River	Approximately 0.9 mile downstream of I–20	None	+102	Village of Delta.
	Approximately 2.0 miles upstream of I–20	None	+103	

* National Geodetic Vertical Datum.
+ North American Vertical Datum.
# Depth in feet above ground.
∧ Mean Sea Level, rounded to the nearest 0.1 meter.
** BFEs to be changed include the listed downstream and upstream BFEs, and include BFEs located on the stream reach between the referenced locations above. Please refer to the revised Flood Insurance Rate Map located at the community map repository (see below) for exact locations of all BFEs to be changed.

Send comments to Luis Rodriguez, Chief, Engineering Management Branch, Federal Insurance and Mitigation Administration, Federal Emergency Management Agency, 500 C Street, SW., Washington, DC 20472.

ADDRESSES

City of Tallulah

Maps are available for inspection at 204 North Cedar Street, Tallulah, LA 71282.

Unincorporated Areas of Madison Parish

Maps are available for inspection at 100 North Cedar Street, Tallulah, LA 71282.

Village of Delta

Maps are available for inspection at 200 1st Street, Delta, LA 71233.

Village of Mound

Maps are available for inspection at 100 North Cedar Street, Tallulah, LA 71282.

Village of Richmond

Maps are available for inspection at 598 Wood Street, Richmond, LA 71282.

Bernalillo County, New Mexico, and Incorporated Areas

Basketball Pond	Entire shoreline	None	+5421	City of Albuquerque.
Glenrio Storm Drain (Shallow ponding area at the intersection of Palisades Drive Northwest and Glenrio Drive Northwest).	Entire shoreline	None	+5095	City of Albuquerque.
Glenrio Storm Drain	Approximately 650 feet downstream of the intersection of Hanover Road Northwest and 54th Street Northwest.	None	+5095	City of Albuquerque.
	At the intersection of 56th Street Northwest and Hanover Road Northwest.	None	+5095	
Kirtland Detention Pond	Entire shoreline	None	+5359	City of Albuquerque.
McKnight Storm Drain	Sheet flow area between Cyndi Court Northeast and Embudo Channel.	#1	#3	City of Albuquerque.
Shallow ponding area southeast of the intersection of Alameda Boulevard Northwest and the Albuquerque Main Line Canal.	Entire shoreline	+5001	+4997	Unincorporated Areas of Bernalillo County.
Sheet Flow along Candelaria Avenue, Northeast.	Sheet flow area along Candelaria Avenue, Northeast between Vermont Street Northeast and Louisiana Boulevard Northeast.	None	#1	City of Albuquerque.

Flooding source(s)	Location of referenced elevation**	* Elevation in feet (NGVD) + Elevation in feet (NAVD) # Depth in feet above ground ∧ Elevation in meters (MSL)		Communities affected
		Effective	Modified	
Sheet Flow between San Mateo Boulevard Southeast and Gibson Boulevard Southeast.	At the intersection of San Mateo Boulevard Southeast and Kathryn Avenue, Southeast.	None	#1	City of Albuquerque.
	At the intersection of Gibson Boulevard Southeast and Cardenas Drive Southeast.	None	#1	

* National Geodetic Vertical Datum.
+ North American Vertical Datum.
# Depth in feet above ground.
∧ Mean Sea Level, rounded to the nearest 0.1 meter.
** BFEs to be changed include the listed downstream and upstream BFEs, and include BFEs located on the stream reach between the referenced locations above. Please refer to the revised Flood Insurance Rate Map located at the community map repository (see below) for exact locations of all BFEs to be changed.

Send comments to Luis Rodriguez, Chief, Engineering Management Branch, Federal Insurance and Mitigation Administration, Federal Emergency Management Agency, 500 C Street, SW., Washington, DC 20472.

ADDRESSES

City of Albuquerque

Maps are available for inspection at the Planning Department, Development and Building Services Division, 600 2nd Street Northwest, Albuquerque, NM 87103.

Unincorporated Areas of Bernalillo County

Maps are available for inspection at the Bernalillo County Public Works Division, 2400 Broadway Southeast, Albuquerque, NM 87102.

Santa Fe County, New Mexico, and Incorporated Areas

Arroyo Barranca	Approximately 100 feet upstream of the Arroyo Mascaras confluence.	None	+7022	City of Santa Fe.
	Approximately 100 feet upstream of Camino Del Norte.	None	+7338	
Arroyo De La Paz	At the Arroyo De Los Antores confluence	None	+6722	City of Santa Fe.
	Approximately 1,000 feet upstream of Rodeo Road	None	+6802	
Arroyo De La Piedra	Approximately 300 feet downstream of Vallecita Drive	+7099	+7103	City of Santa Fe.
	Approximately 1,400 feet upstream of Barranca Drive	None	+7435	
Arroyo De Los Amigos	Approximately 100 feet upstream of the Arroyo De Los Chamisos confluence.	None	+6852	City of Santa Fe.
	Approximately 1,400 feet upstream of Saint Michaels Drive.	None	+7016	
Arroyo De Los Antores	Approximately 200 feet upstream of the Arroyo De Los Chamisos confluence.	None	+6701	City of Santa Fe.
	Approximately 600 feet upstream of Zia Road	None	+6738	
Arroyo De Los Antores Ponding Area.	Entire shoreline	None	+6750	City of Santa Fe.
Arroyo De Los Antores Sheet Flow.	Sheet flow areas along the Arroyo De Los Antores (Lowest Flood Depth).	None	#1	City of Santa Fe.
	Sheet flow areas along the Arroyo De Los Antores (Highest Flood Depth).	None	#2	
Arroyo En Medio	Approximately 500 feet upstream of the Arroyo De Los Chamisos confluence.	None	+6754	City of Santa Fe, Unincorporated Areas of Santa Fe County.
	Approximately 1,200 feet upstream of Cloudstone Drive.	None	+7510	
Arroyo Hondo	At the Arroyo De Los Chamisos confluence	None	+6098	City of Santa Fe, Unincorporated Areas of Santa Fe County.
	Approximately 70 feet upstream of County Road 67F	None	+7428	
Arroyo Hondo Split Flow	Approximately 0.7 mile upstream of Rancho Viejo Boulevard.	None	+6400	Unincorporated Areas of Santa Fe County.
	Approximately 1.8 miles upstream of Arroyo Viejo Road.	None	+6483	
Arroyo Ranchito	Approximately 150 feet upstream of the Arroyo De La Piedra confluence.	None	+7043	City of Santa Fe.
	Approximately 600 feet upstream of Camino Encantado.	None	+7320	
Arroyo Saiz	At the upstream side of Avenida Primera	None	+7191	City of Santa Fe.
	Approximately 0.6 mile upstream of Avenida Primera	None	+7339	

Flooding source(s)	Location of referenced elevation**	* Elevation in feet (NGVD) + Elevation in feet (NAVD) # Depth in feet above ground ∧ Elevation in meters (MSL)		Communities affected
		Effective	Modified	
Big Tesuque Creek	At the Rio Tesuque confluence	None	+6930	Unincorporated Areas of Santa Fe County.
	Approximately 1.0 mile upstream of County Road 72A	None	+7234	
Canada Ancha	Approximately 0.4 mile upstream of the Santa Fe River confluence.	+7193	+7194	City of Santa Fe, Unincorporated Areas of Santa Fe County.
	Approximately 0.3 mile upstream of La Entrada	None	+7780	
East Arroyo De La Piedra	At the Arroyo De La Piedra confluence	None	+7199	City of Santa Fe.
	Approximately 0.7 mile upstream of Calle Conejo	None	+7585	
Little Tesuque Creek	At the Rio Tesuque confluence	None	+6930	Unincorporated Areas of Santa Fe County.
	Approximately 100 feet upstream of Bishops Lodge Road.	None	+7140	
Northeast Arroyo De Los Pinos.	Approximately 80 feet upstream of 6th Street	None	+6828	City of Santa Fe.
	Approximately 1,100 feet upstream of Luisa Street	None	+6955	
Rio Tesuque	Approximately 0.5 mile downstream of Tesuque Village Road.	None	+6693	Pueblo of Tesuque, Unincorporated Areas of Santa Fe County.
	At the Big Tesuque Creek and Little Tesuque Creek confluence.	None	+6930	
Santa Cruz River	Approximately 1,000 feet downstream of State Route 106.	+5671	+5670	City of Espanola, Santa Clara Indian Reservation, Unincorporated Areas of Santa Fe County.
	Approximately 0.5 mile upstream of State Route 106	+5701	+5702	
Unnamed Stream 31	At the Rio Tesuque confluence	None	+6741	City of Santa Fe, Unincorporated Areas of Santa Fe County.
	Approximately 500 feet upstream of Sangre De Cristo Drive.	None	+7105	

* National Geodetic Vertical Datum.
+ North American Vertical Datum.
# Depth in feet above ground.
∧ Mean Sea Level, rounded to the nearest 0.1 meter.
** BFEs to be changed include the listed downstream and upstream BFEs, and include BFEs located on the stream reach between the referenced locations above. Please refer to the revised Flood Insurance Rate Map located at the community map repository (see below) for exact locations of all BFEs to be changed.

Send comments to Luis Rodriguez, Chief, Engineering Management Branch, Federal Insurance and Mitigation Administration, Federal Emergency Management Agency, 500 C Street, SW., Washington, DC 20472.

ADDRESSES

City of Espanola
Maps are available for inspection at City Hall, 405 North Paseo de Onate, Espanola, NM 87532.

City of Santa Fe
Maps are available for inspection at City Hall, 200 Lincoln Avenue, Santa Fe, NM 87504.

Pueblo of Tesuque
Maps are available for inspection at the Pueblo of Tesuque Governor's Office, TP 804 Building 4, Santa Fe, NM 87506.

Santa Clara Indian Reservation
Maps are available for inspection at the Santa Clara Indian Reservation Governor's Office, 1 Kee Street, Espanola, NM 87532.

Unincorporated Areas of Santa Fe County
Maps are available for inspection at the Santa Fe County Building, 102 Grant Avenue, Santa Fe, NM 87504.

(Catalog of Federal Domestic Assistance No. 97.022, ''Flood Insurance.'')

Dated: June 15, 2011.

Sandra K. Knight,

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

[FR Doc. 2011–16640 Filed 7–1–11; 8:45 am]

BILLING CODE 9110–12–P

Notices

Federal Register

Vol. 76, No. 128

Tuesday, July 5, 2011

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

Forest Service

Wrangell-Petersburg Resource Advisory Committee

AGENCY: Forest Service, USDA.

ACTION: Notice of meeting.

SUMMARY: The Wrangell-Petersburg Resource Advisory Committee will meet in Wrangell, Alaska. The committee is meeting as authorized under the Secure Rural Schools and Community Self-Determination Act (Pub. L. 110–343) (the Act) and in compliance with the Federal Advisory Committee Act. The purpose of the committee is to improve collaborative relationships and to provide advice and recommendations to the Forest Service concerning projects and funding consistent with Title II of the Act. The meeting is open to the public. The purpose of the meeting is to review project proposals and make project funding recommendations.

DATES: The meeting will be held on Friday, July 15, 2011 from 9 a.m. to 5 p.m, and Saturday, July 16, 2011 from 9 a.m. to 2 p.m, or until business is concluded.

ADDRESSES: Committee members will meet at the James and Elsie Nolan Center in Wrangell, Alaska. Written comments may be submitted as described under **SUPPLEMENTARY INFORMATION**.

All comments, including names and addresses when provided, are placed in the record and are available for public inspection and copying. The public may inspect comments received at the Petersburg Ranger District office at 12 North Nordic Drive or the Wrangell Ranger District office at 525 Bennett Street during regular office hours (Monday through Friday 8 a.m.–4:30 p.m.).

FOR FURTHER INFORMATION CONTACT: Christopher Savage, Petersburg District Ranger, P.O. Box 1328, Petersburg, Alaska 99833, phone (907) 772–3871, e-mail *csavage@fs.fed.us*, or Robert Dalrymple, Wrangell District Ranger, P.O. Box 51, Wrangell, AK 99929, phone (907) 874–2323, e-mail *rdalrymple@fs.fed.us*.

Individuals who use telecommunication devices for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 between 8 a.m. and 8 p.m., Eastern Standard Time, Monday through Friday. Requests for reasonable accommodation for access to the facility or proceedings may be made by contacting the person listed for further information.

SUPPLEMENTARY INFORMATION: The following business will be conducted: evaluation of project proposals and recommendation of projects for funding. Anyone who would like to bring related matters to the attention of the committee may file written statements with the committee staff before or after the meeting. A one-hour public input session will be provided beginning at 3 p.m. on July 15, and at 9:30 a.m. on July 16. Individuals wishing to make an oral statement should request in writing by July 11 to be scheduled on the agenda.

Written comments and requests for time for oral comments should be sent to Christopher Savage, Petersburg District Ranger, P.O. Box 1328, Petersburg, Alaska 99833, or Robert Dalrymple, Wrangell District Ranger, P.O. Box 51, Wrangell, AK 99929. Comments may also be sent via e-mail to *csavage@fs.fed.us,* or via facsimile to 907–772–5995.

Dated: June 24, 2011.

Christopher S. Savage,

District Ranger.

[FR Doc. 2011–16715 Filed 7–1–11; 8:45 am]

BILLING CODE 3410–11–P

DEPARTMENT OF AGRICULTURE

Forest Service

Lake Tahoe Basin Federal Advisory Committee (LTFAC)

AGENCY: Forest Service, USDA.

ACTION: Notice of meeting.

SUMMARY: The Lake Tahoe Federal Advisory Committee will hold a meeting on July 21, 2011 at the Tahoe Center for Environmental Science, 291 Country Club Drive, Incline Village, NV 89451. This Committee, established by the Secretary of Agriculture on December 15, 1998 (64 FR 2876), is chartered to provide advice to the Secretary on implementing the terms of the Federal Interagency Partnership on the Lake Tahoe Region and other matters raised by the Secretary.

DATES: The meeting will be held July 21, 2011, beginning at 1 p.m. and ending at 4 p.m.

ADDRESSES: Tahoe Center for Environmental Science, 291 Country Club Drive, Incline Village, NV 89451.

For Further Information or to Request an Accommodation (One Week Prior to Meeting Date) Contact: Arla Hains, Lake Tahoe Basin Management Unit, Forest Service, 35 College Drive, South Lake Tahoe, CA 96150, (530) 543–2773.

SUPPLEMENTARY INFORMATION: Items to be covered on the agenda: (1) The Southern Nevada Public Land Management Act Round 12 secondary list; (2) the role of the LTFAC in the future, and (3) public comment.

All Lake Tahoe Basin Federal Advisory Committee meetings are open to the public. Interested citizens are encouraged to attend at the above address. Issues may be brought to the attention of the Committee during the open public comment period at the meeting or by filing written statements with the secretary for the Committee before or after the meeting. Please refer any written comments to the Lake Tahoe Basin Management Unit at the contact address stated above.

Dated: June 28, 2011.

Jeff Marsolais,

Deputy Forest Supervisor.

[FR Doc. 2011–16782 Filed 7–1–11; 8:45 am]

BILLING CODE 3410–11–P

DEPARTMENT OF AGRICULTURE

Rural Business-Cooperative Service

Guarantee Fee Rates for Guaranteed Loans for Fiscal Year 2011; Maximum Portion of Guarantee Authority Available for Fiscal Year 2011; Annual Renewal Fee for Fiscal Year 2011

AGENCY: Rural Business-Cooperative Service, USDA.

ACTION: Notice.

SUMMARY: As set forth in 7 CFR 4279.107(b), Rural Development (the

Agency) has the authority to charge an annual renewal fee for loans made under the Business and Industry (B&I) Guaranteed Loan Program. Pursuant to that authority, the Agency is establishing the renewal fee rate at one-fourth of 1 percent for the B&I Guaranteed Loan Program. This rate will apply to all loans obligated in Fiscal Year 2011 that are made under the B&I program. As established in 7 CFR 4279.107, the amount of the fee on each guaranteed loan will be determined by multiplying the fee rate by the outstanding principal loan balance as of December 31, multiplied by the percent of guarantee.

As set forth in 7 CFR 4279.107(a) and 4279.119(b)(4), each fiscal year the Agency shall establish a limit on the maximum portion of B&I guarantee authority available for that fiscal year that may be used to guarantee loans with a B&I guarantee fee of 1 percent or guaranteed loans with a guarantee percentage exceeding 80 percent.

Allowing the guarantee fee to be reduced to 1 percent or exceeding the 80 percent guarantee on certain B&I guaranteed loans that meet the conditions set forth in 7 CFR 4279.107 and 4279.119, will increase the Agency's ability to focus guarantee assistance on projects which the Agency has found particularly meritorious. For 1 percent fees, the borrower's business supports value-added agriculture and results in farmers benefiting financially, or such projects are high impact as defined in 7 CFR 4279.155(b)(5), and located in rural communities that remain persistently poor, which experience long-term population decline and job deterioration, are experiencing trauma as a result of natural disaster, or are experiencing fundamental structural changes in its economic base. For guaranteed loans exceeding 80 percent, such projects must be a high-priority project in accordance with 7 CFR 4279.155 (and meet the other requirements of 7 CFR 4279.119(b)).

Not more than 12 percent of the Agency's quarterly apportioned B&I guarantee authority will be reserved for loan requests with a guarantee fee of 1 percent, and not more than 15 percent of the Agency's quarterly apportioned guarantee authority will be reserved for guaranteed loan requests with a guarantee percentage exceeding 80 percent. Once the respective quarterly limits are reached, all additional loans for that quarter will be at the standard fee and guarantee limits in 7 CFR part 4279.

DATES: *Effective Date:* July 5, 2011.

FOR FURTHER INFORMATION CONTACT: Brenda Griffin, USDA, Rural Development, Business Programs, Business and Industry Division, STOP 3224, 1400 Independence Avenue, SW., Washington, DC 20250–3224, telephone (202) 720–6802, e-mail *brenda.griffin@wdc.usda.gov.*

SUPPLEMENTARY INFORMATION: This action has been reviewed and determined not to be a rule or regulation as defined in Executive Order 12866, as amended by Executive Order 13258.

Dated: June 17, 2011.

Judith A. Canales,

Administrator, Rural Business-Cooperative Service.

[FR Doc. 2011–16762 Filed 7–1–11; 8:45 am]

BILLING CODE 3410–XY–P

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[Docket 45–2011]

Foreign-Trade Zone 29—Louisville, KY; Application for Expansion

An application has been submitted to the Foreign-Trade Zones Board (the Board) by the Louisville & Jefferson County Riverport Authority, grantee of FTZ 29, requesting authority to expand Site 9 of FTZ 29 to include the entire 4–Star Regional Industrial Park in Robards, Kentucky. The application was submitted pursuant to the provisions of the Foreign-Trade Zones Act, as amended (19 U.S.C. 81a–81u), and the regulations of the Board (15 CFR part 400). It was formally filed on June 28, 2011.

Foreign-Trade Zone 29 was approved by the FTZ Board on May 26, 1977 (Board Order 118, 42 FR 29323, 6/8/1977), and expanded on January 31, 1989 (Board Order 429, 54 FR 5992, 2/7/1989), December 15, 1997 (Board Order 941, 62 FR 67044, 12/23/1997), July 17, 1998 (Board Order 995, 63 FR 40878, 7/31/1998), December 11, 2000 (Board Order 1133, 65 FR 79802, 12/20/2000), January 15, 2002 (Board Order 1204, 67 FR 4391, 12/30/2002), November 20, 2003 (Board Order 1305, 68 FR 67400, 12/2/2003), and January 27, 2005 (Board Order 1364, 70 FR 6616, 2/8/2005). The zone currently consists of 13 sites (5,659 acres): *Site 1* (1,643 acres)—located within the Riverport Industrial Complex; *Site 2* (564 acres)—located at the junction of Gene Snyder Freeway and La Grange Road in eastern Jefferson County; *Site 3* (142 acres, 1,629,000 sq. ft.)—located at 5403 Southside Drive, Louisville; *Site 4* (2,149 acres) at the Louisville International Airport; *Site 5* (69 acres)—the Marathon Ashland Petroleum LLC Tank Farm (1.3 million barrels) and pipelines, located at 4510 Algonquin Parkway along the Ohio River, Louisville; *Site 6* (316 acres)—Cedar Grove Business Park, on Highway 480, near Interstate 65, Shepherdsville, Bullitt County; *Site 7* (191 acres)—Henderson County Riverport Authority facilities, 6200 Riverport Road, Henderson; *Site 8* (182 acres)—Owensboro Riverport Authority facilities, 2300 Harbor Road, Owensboro; *Site 9* (82 acres)—two parcels within the 4–Star Regional Industrial Park (expires 11/30/11), Robards; *Site 10* (25 acres)—Global Port Business Park, 6201 Global Distribution Way, Louisville; *Site 11* (261 acres)—Outer Loop, Louisville, including a warehousing facility located at Stennett Lane (116 acres), 8100 Air Commerce Drive (44 acres) and the Louisville Metro Commerce Center, 1900 Outer Loop Road (101 acres) (includes portions of two buildings located at 2240 and 2250 Outer Loop Road); *Site 12* (29 acres)—Salt River Business Park, 376 Zappos Blvd., Shepherdsville, Bullitt County; and, *Site 13* (6 acres)—Custom Quality Services located at 3401 Jewell Avenue, Louisville.

The applicant is requesting authority to expand Site 9 to include the entire 4–Star Regional Industrial Park as follows: Site 9 (778 acres)—4–Star Regional Industrial Park at US 41, Robards, Henderson County. The site will provide warehousing and distribution services to area businesses. No specific manufacturing authority is being requested at this time. Such requests would be made to the Board on a case-by-case basis.

In accordance with the Board's regulations, Elizabeth Whiteman of the FTZ Staff is designated examiner to evaluate and analyze the facts and information presented in the application and case record and to report findings and recommendations to the Board.

Public comment is invited from interested parties. Submissions (original and 3 copies) shall be addressed to the Board's Executive Secretary at the address below. The closing period for their receipt is September 6, 2011. Rebuttal comments in response to material submitted during the foregoing period may be submitted during the subsequent 15-day period to September 19, 2011.

A copy of the application will be available for public inspection at the Office of the Executive Secretary, Foreign-Trade Zones Board, Room 2111, U.S. Department of Commerce, 1401 Constitution Avenue, NW., Washington,

DC 20230–0002, and in the ''Reading Room'' section of the Board's Web site, which is accessible via *http://www.trade.gov/ftz.*

For further information, contact Elizabeth Whiteman at *Elizabeth.Whiteman@trade.gov* or (202) 482–0473.

Dated: June 28, 2011.

Andrew McGilvray,

Executive Secretary.

[FR Doc. 2011–16750 Filed 7–1–11; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[Order No. 1770]

Reorganization of Foreign-Trade Zone 182 Under Alternative Site Framework; Fort Wayne, IN

Pursuant to its authority under the Foreign-Trade Zones Act of June 18, 1934, as amended (19 U.S.C. 81a–81u), the Foreign-Trade Zones Board (the Board) adopts the following Order:

Whereas, the Board adopted the alternative site framework (ASF) (74 FR 1170, 01/12/09; correction 74 FR 3987, 01/22/09; 75 FR 71069–71070, 11/22/10) as an option for the establishment or reorganization of general-purpose zones;

Whereas, the City of Fort Wayne, Indiana, grantee of Foreign-Trade Zone 182, submitted an application to the Board (FTZ Docket 13–2011, filed 2/18/2011) for authority to reorganize under the ASF with a service area of Adams, Allen, DeKalb, Huntington, Noble, Wabash, Wells and Whitley Counties, Indiana, within and adjacent to the Fort Wayne Customs and Border Protection port of entry, FTZ 182's existing Site 3 would be categorized as a magnet site, existing Site 1 would be categorized as a usage-driven site and Sites 2 and 4 would be removed from the zone project;

Whereas, notice inviting public comment was given in the **Federal Register** (76 FR 10327–10328, 2/24/2011) and the application has been processed pursuant to the FTZ Act and the Board's regulations; and,

Whereas, the Board adopts the findings and recommendation of the examiner examiner's report, and finds that the requirements of the FTZ Act and Board's regulations are satisfied, and that the proposal is in the public interest;

Now, Therefore, the Board hereby orders:

The application to reorganize FTZ 182 under the alternative site framework is approved, subject to the FTZ Act and the Board's regulations, including Section 400.28, to the Board's standard 2,000-acre activation limit for the overall general-purpose zone project, and to a three-year ASF sunset provision for -2- usage-driven sites that would terminate authority for Site 1 if no foreign-status merchandise is admitted for a bona fide customs purpose by June 30, 2014.

Signed at Washington, DC, this 22nd day of June 2011.

Ronald K. Lorentzen,

Deputy Assistant Secretary for Import Administration, Alternate Chairman, Foreign-Trade Zones Board.

Attest:

Andrew McGilvray,

Executive Secretary.

[FR Doc. 2011–16485 Filed 7–1–11; 8:45 am]

BILLING CODE 3510–DS–M

DEPARTMENT OF COMMERCE

Bureau of Industry and Security

Proposed Information Collection; Comment Request; Import, End-User, and Delivery Verification Certificates

AGENCY: Bureau of Industry and Security, Commerce.

ACTION: Notice.

SUMMARY: The Department of Commerce, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995.

DATES: Written comments must be submitted on or before September 6, 2011.

ADDRESSES: Direct all written comments to Diana Hynek, Departmental Paperwork Clearance Officer, Department of Commerce, Room 6616, 14th and Constitution Avenue, NW., Washington, DC 20230 (or via the Internet at *dHynek@doc.gov*).

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection instrument and instructions should be directed to Larry Hall, BIS ICB Liaison, (202) 482–4895, *lhall@bis.doc.gov*.

SUPPLEMENTARY INFORMATION:

I. Abstract

This collection of information provides the certification of the overseas importer to the U.S. Government that specific commodities will be imported from the U.S. and will not be reexported, except in accordance with U.S. export regulations.

II. Method of Collection

Submitted electronically or on paper.

III. Data

OMB Control Number: 0694–0093.

Form Number(s): BIS–645P and BIS–647P.

Type of Review: Regular submission (extension of a currently approved information collection).

Affected Public: Business or other for-profit organizations.

Estimated Number of Respondents: 2,421.

Estimated Time per Response: 15 to 30 minutes.

Estimated Total Annual Burden Hours: 694.

Estimated Total Annual Cost to Public: $0.

IV. Request for Comments

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden (including hours and cost) of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology.

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval of this information collection; they also will become a matter of public record.

Dated: June 29, 2011.

Gwellnar Banks,

Management Analyst, Office of the Chief Information Officer.

[FR Doc. 2011–16714 Filed 7–1–11; 8:45 am]

BILLING CODE 3510–33–P

DEPARTMENT OF COMMERCE

International Trade Administration

Application(s) for Duty-Free Entry of Scientific Instruments

Pursuant to Section 6(c) of the Educational, Scientific and Cultural Materials Importation Act of 1966 (Pub. L. 89–651, as amended by Pub. L. 106–36; 80 Stat. 897; 15 CFR part 301), we

invite comments on the question of whether instruments of equivalent scientific value, for the purposes for which the instruments shown below are intended to be used, are being manufactured in the United States.

Comments must comply with 15 CFR 301.5(a)(3) and (4) of the regulations and be postmarked on or before July 25, 2011. Address written comments to Statutory Import Programs Staff, Room 3720, U.S. Department of Commerce, Washington, DC 20230. Applications may be examined between 8:30 a.m. and 5 p.m. at the U.S. Department of Commerce in Room 3720.

Docket Number: 11–032. *Applicant:* Southern Illinois University, Integrated Microscopy and Graphic Expertise (IMAGE) Center, 750 Communications Drive—Mailcode 4402, Carbondale, IL 62901. Instrument: Quanta 450 scanning electron microscope. *Manufacturer:* FEI Company, Czech Republic. *Intended Use:* The instrument will be used to study nanowires, nanocatalysts, nanotubes, nanolubricants, geological specimens, synthetic hip joints, and cellulose (wood chips), for their molecular components and properties. *Justification for Duty-Free Entry:* No instruments of the same general category, or instruments otherwise applicable for the intended purpose, are being manufactured in the United States. *Application accepted by Commissioner of Customs:* June 10, 2011.

Docket Number: 11–037. *Applicant:* Tulane University, 6823 St. Charles Avenue, New Orleans, LA 70118. *Instrument:* Field-emission transmission electron microscope. *Manufacturer:* FEI Company, the Netherlands. *Intended Use:* The instrument will enhance the research resources available to new faculty across a range of scientific and engineering disciplines doing a variety of research projects involving organic and inorganic materials at the nano, molecular and cellular levels. *Justification for Duty-Free Entry:* No instruments manufactured in the United States can meet the high-resolution, cryo-enabled and field-emission technical requirements for the intended uses. *Application accepted by Commissioner of Customs:* June 16, 2011.

Docket Number: 11–038. Applicant: Battelle Memorial Institute, Pacific Northwest National Laboratory, 3335 Q Avenue, Richland, WA 99354. *Instrument:* Scanning transmission electron microscope. *Manufacturer:* FEI Company, the Netherlands. *Intended Use:* The instrument will replace an old existing transmission electron microscope to meet the current technical requirements for research and study relating to geochemistry, nanostructured and energy-related materials, catalysis imaging, and structural and chemical composition. *Justification for Duty-Free Entry:* No instruments of the same general category, or instruments otherwise applicable for the intended purpose, are being manufactured in the United States. *Application accepted by Commissioner of Customs:* June 15, 2011.

Dated: June 28, 2011.

Gregory W. Campbell,

Director, Subsidies Enforcement Office, Office of Policy, Import Administration.

[FR Doc. 2011–16754 Filed 7–1–11; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[C–570–944]

Certain Oil Country Tubular Goods From the People's Republic of China: Rescission of Countervailing Duty Administrative Review

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

DATES: *Effective Date:* July 5, 2011.

FOR FURTHER INFORMATION CONTACT: Mary Kolberg at (202) 482–1785; AD/CVD Operations, Office 1, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230.

Background

On January 3, 2011, the Department of Commerce (''the Department'') published a notice announcing the opportunity to request an administrative review of the countervailing duty order on certain oil country tubular goods (''OCTG'') from the People's Republic of China (''PRC''). *See Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation; Opportunity To Request Administrative Review,* 76 FR 90 (January 3, 2011). On January 31, 2011, United States Steel Corporation and Maverick Tube Corporation (collectively, ''Petitioners''), domestic producers of OCTG, timely requested that the Department conduct an administrative review of 243 producers and/or exporters of the subject merchandise covering the period of January 20, 2010, through December 31, 2010. In accordance with 19 CFR 351.221(c)(1)(i), the Department published a notice initiating this administrative review. *See Initiation of Antidumping and Countervailing Duty Administrative Reviews and Request for Revocation in Part,* 76 FR 10329 (February 24, 2011).

Rescission of Review

Pursuant to 19 CFR 351.213(d)(l), the Secretary will rescind an administrative review, in whole or in part, if the party that requested a review withdraws the request within 90 days of the date of publication of the notice of initiation of the requested review. On May 25, 2011, Petitioners withdrew their request for review of all 243 exporters and producers within the 90-day period. Therefore, in response to Petitioners' timely withdrawal request, and as no other party requested a review, the Department is rescinding this administrative review.

Assessment

The Department will instruct U.S. Customs and Border Protection (''CBP'') to assess countervailing duties on all appropriate entries. For the companies for which this review is rescinded, the countervailing duties shall be assessed at rates equal to the cash deposit of estimated countervailing duties required at the time of entry, or withdrawal from warehouse, for consumption, in accordance with 19 CFR 351.212(c)(1)(i). The Department intends to issue appropriate assessment instructions to CBP 15 days after the date of publication of this notice of rescission of administrative review.

Notification Regarding Administrative Protective Order

This notice serves as a final reminder to parties subject to administrative protective order (''APO'') of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 CFR 351.305(a)(3). Timely written notification of the return/destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and terms of an APO is a sanctionable violation.

This notice of rescission is issued and published in accordance with sections 751(a)(l) and 777(i)(l) of the Tariff Act, as amended, and 19 CFR 351.213(d)(4).

Dated: June 27, 2011.

Christian Marsh,

Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations.

[FR Doc. 2011–16752 Filed 7–1–11; 8:45 am]

BILLING CODE P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

Proposed Information Collection; Comment Request; Pacific Albacore Logbook

AGENCY: National Oceanic and Atmospheric Administration (NOAA).

ACTION: Notice.

SUMMARY: The Department of Commerce, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995. Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)).

DATES: Written comments must be submitted on or before August 30, 2011.

ADDRESSES: Direct all written comments to Diana Hynek, Departmental Paperwork Clearance Officer, Department of Commerce, Room 6616, 14th and Constitution Avenue, NW., Washington, DC 20230 (or via the Internet at *dHynek@doc.gov).*

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection instrument and instructions should be directed to John Childers, (858) 546–7192 or *John.Childers@noaa.gov.*

SUPPLEMENTARY INFORMATION:

I. Abstract

This request is for an extension of a currently approved information collection.The National Oceanic and Atmospheric Administrations, Southwest Fisheries Science Center operates a Pacific Albacore Data Collection Program. Fishermen participating on the Pacific albacore tuna fishery are required to complete and submit logbooks documenting their catch and effort on fishing trips. This is a requirement under the Highly Migratory Species Fishery Management Plan and the High-Seas Fisheries Compliance Act permit for logbook submissions. The information obtained is used by the NOAA to assess the status of albacore stocks and to monitor the fishery. Fishermen are also provided an electronic logbook computer program that they can voluntarily use in place of the paper copy of the logbook.

II. Method of Collection

Respondents have a choice of either electronic data submission or paper forms. Methods of submittal include e-mail of electronic data submissions, and mailing of paper forms. A logbook form is used that consists of a front page form that collects vessel characteristics and a log sheet form that collects daily fishing information. Use of the electronic form is voluntary.

III. Data

OMB Control Number: 0648–0223.

Form Number: NOAA Form 88–197.

Type of Review: Regular submission (extension of a currently approved information collection).

Affected Public: Business or other for-profit organizations.

Estimated Number of Respondents: 1,000.

Estimated Time per Response: 1 hour.

Estimated Total Annual Burden Hours: 4,000.

Estimated Total Annual Cost to Public: $2,560.

IV. Request for Comments

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden (including hours and cost) of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology.

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval of this information collection; they also will become a matter of public record.

Dated: June 28, 2011.

Gwellnar Banks,

Management Analyst, Office of the Chief Information Officer.

[FR Doc. 2011–16648 Filed 7–1–11; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

RIN 0648–XA439

Notice of Availability of a Final Environmental Impact Statement and Final Habitat Conservation Plan

AGENCIES: National Marine Fisheries Service, National Oceanic and Atmospheric Administration, Commerce; Fish and Wildlife Service, Interior.

ACTION: Notice of Availability; Final Environmental Impact Statement and Habitat Conservation Plan.

SUMMARY: The National Marine Fisheries Service (NMFS) and the U.S. Fish and Wildlife Service (FWS) (collectively the Services) announce the availability of the final Environmental Impact Statement (EIS) associated with the applications received from the City of Kent (Kent), Washington, for Incidental Take Permits (ITPs) under the Endangered Species Act of 1973, as amended (ESA). We also announce the availability of Kent's Clark Springs Water Supply System Habitat Conservation Plan (HCP) and Implementing Agreement (IA). The final EIS addresses the Services' proposed issuance of ITPs to Kent for water withdrawal and habitat restoration actions on Rock Creek, King County, Washington. The proposed ITPs would authorize incidental take of three listed and six unlisted species of fish covered by Kent's Clark Springs Water Supply HCP. This notice provides an opportunity for the public to review the final EIS, HCP, and IA.

DATES: Comments must be received from interested parties on or before August 4, 2011. The Services' decisions on issuance of ITPs will occur no sooner than 30 days after the publication of the Environmental Protection Agency's (EPA) notice of the final EIS in the **Federal Register**.

ADDRESSES: Send comments to Tim Romanski, Project Lead, FWS, 510 Desmond Drive SE, Suite 102, Lacey, WA 98503; by facsimile at (360) 753–9518. Alternatively, you may send comments to Matt Longenbaugh, Project Lead, NMFS, 510 Desmond Drive SE, Suite 103, Lacey, WA 98503; by facsimile at (360) 753–9517.

FOR FURTHER INFORMATION CONTACT: The final documents are posted on the

Internet at: *http://www.fws.gov/wafwo/.* For further information, or to receive the documents on CD ROM, please contact Tim Romanski, at the FWS address above or by telephone at (360) 753–5823; or Matt Longenbaugh, at the NMFS address above or by telephone at (360) 753–7761.

SUPPLEMENTARY INFORMATION:

Background

Section 9 of the ESA (16 U.S.C. 1538) and implementing regulations prohibit the ''taking'' of a species listed as endangered or threatened. The term ''take'' is defined under the ESA (16 U.S.C. 1532(19)) as to mean harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect, or attempt to engage in any such conduct. ''Harm'' is defined by FWS regulation to include significant habitat modification or degradation where it actually kills or injures wildlife by significantly impairing essential behavioral patterns, including breeding, feeding, and sheltering (50 CFR 17.3, 50 CFR 222.102). NMFS' definition of harm includes significant habitat modification or degradation where it actually kills or injures fish or wildlife by significantly impairing essential behavioral patterns, including breeding, feeding, spawning, migrating, rearing, and sheltering (64 FR 60727; November 8, 1999).

Section 10 of the ESA and implementing regulations specify requirements for the issuance of ITPs to non-Federal landowners for the take of endangered and threatened species. Any proposed take must be incidental to otherwise lawful activities, not appreciably reduce the likelihood of the survival and recovery of the species in the wild, and minimize and mitigate the impact of such take to the maximum extent practicable. In addition, an applicant must prepare a conservation plan describing the impact that will likely result from such taking, the strategy for minimizing and mitigating the incidental take, the funding available to implement such steps, alternatives to such taking, and the reasons such alternatives are not being implemented. FWS regulations governing permits for Federally endangered and threatened species can be found in 50 CFR part 17. NMFS regulations governing permits for the incidental take of Federally endangered and threatened species are found in 50 CFR 222.307.

The ITP applications are for the operation and maintenance of Kent's Clark Springs Water Supply System adjacent to Rock Creek, King County, Washington. The Clark Springs Water Supply System consists of a spring-fed infiltration gallery and three well pumps. This facility is located adjacent to Rock Creek 1.8 miles upstream of the creek's confluence with the Cedar River. The facility is surrounded by 320 acres of Kent-owned land that is geographically separated from Kent. Covered activities can be summarized as follows:

- Water diversions of Kent's existing groundwater and surface water rights via infiltration gallery, well pumps, and infrastructure;
- Operation and maintenance of Clark Springs Water Supply facilities;
- Maintenance of 320 acres of Kent-owned property as it relates to the protection of its water supply; and
- Operation and maintenance of a water augmentation system for the enhancement of instream flows.

The ITP applications Kent submitted to the Services address the potential take of three ESA-listed threatened fish species and six non-listed fish species that may be affected by Kent's water withdrawal activities at the Clark Springs facility in the Rock Creek Watershed. The listed species under FWS jurisdiction is the bull trout (*Salvelinus confluentus*), listed as threatened. Non-listed species under FWS jurisdiction include coastal cutthroat trout (*Oncorhynchus clarki clarki*), Pacific lamprey (*Lampetra tridentatus*), and river lamprey (*L. ayresi*). Listed species under NMFS jurisdiction are the Puget Sound Chinook salmon (*O. tshawytscha*) and Puget Sound steelhead trout (*O. mykiss*), both listed as threatened. Non-listed species under NMFS jurisdiction include coho salmon (*O. kisutch*), chum salmon (*O. keta*), and sockeye salmon (*O. nerka*).

National Environmental Policy Act Compliance

The National Environmental Policy Act (NEPA) (42 U.S.C. 4321 *et seq.*) requires Federal agencies to conduct an environmental analysis of their proposed actions to determine if the actions may significantly affect the human environment. The Services' proposals to issue ITPs are Federal actions that trigger the need for compliance with NEPA. Accordingly, as the Federal agencies responsible for compliance under NEPA, the Services have jointly prepared an EIS that analyzes alternatives associated with issuance of the ITPs. The analysis provided in the final EIS is intended to accomplish the following: Inform the public of the agencies' proposed action and alternatives; address public comments received on the draft EIS and draft HCP; and disclose the direct, indirect, and cumulative effects on the human environment resulting from our proposed action and alternatives. The final EIS reflects changes made to the draft documents resulting from comments received during the public comment period. Responses to comments received from the public are included in the final EIS.

The final EIS analyzed two alternatives: The ''No-Action'' alternative, under which Kent would continue operating the Clark Springs facility without benefit of incidental take coverage from the Services; and, the ''Proposed Action'' alternative involving implementation of Kent's HCP, FWS issuance of an ITP for bull trout and three unlisted species, and NMFS issuance of an ITP for Chinook salmon, steelhead trout, and three unlisted species. Five other alternatives were considered, but dismissed from detailed analysis. Four of the dismissed alternatives were not analyzed in detail because they did not meet the purpose and need. They would not produce reliable water sources with sufficient excess capacity to augment or replace water withdrawals at the Clark Springs Facility during the low-flow periods between October 1 and December 31 to a level that would meet the City's current and future water demands. The fifth dismissed alternative considered a shorter permit term. The Services determined that the environmental impacts between a 20-year and 50-year term would not differ, and analysis of a shorter permit term in the EIS would not garner additional information to make an informed decision regarding impacts to the listed species or the human environment.

Public Involvement

The Services formally initiated an environmental review of the project through publication of a Notice of Intent to prepare a draft EIS in the **Federal Register** on June 19, 2006 (71 FR 35286). That notice also announced a public scoping period during which interested parties were invited to provide written comments expressing their issues or concerns relating to the proposal, and to attend a public scoping meeting held in Kent, Washington. Utilizing public scoping comments, the Services prepared a draft EIS to analyze the effects of alternatives on the human environment. On April 23, 2010, the Services published a notice of availability in the **Federal Register** (75 FR 21344) of the draft EIS, draft HCP, and draft IA for a 60-day public comment period. On May 7, 2010, the EPA published in the **Federal Register**

(75 FR 25238) their notice of availability of the draft EIS.

Public Review

Copies of the final FEIS, HCP, and IA are available for review (see **FOR FURTHER INFORMATION CONTACT** above). Any comments we receive will become part of the administrative record and will be available to the public. Before including your address, phone number, e-mail 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. If you wish us to withhold your name and/or address, you must state this prominently at the beginning of your comment. 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. We will honor your request to withhold your personal information to the extent allowable by law.

We will evaluate the application, associated documents, and comments submitted to determine whether the application meets the requirements of the ESA and NEPA. A permit decision will be made no sooner than 30 days after the publication of the EPA's final EIS notice in the **Federal Register**, completion of the Record of Decision and the Services' ESA decision documents. If the Services determine that all requirements are met, we will issue ITPs under section 10(a)(1)(B) of the ESA to Kent for take of the covered species, incidental to otherwise lawful activities in accordance with the HCP, the IA, and the ITPs.

Dated: June 28, 2011.

Richard Hannan,

Deputy Regional Director, U.S. Fish and Wildlife Service, Region 1, Portland, Oregon.

Dated: June 28, 2011.

Angela Somma,

Chief, Endangered Species Division, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 2011–16781 Filed 7–1–11; 8:45 am]

BILLING CODE 3510–22–P; 4310–55–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XA532

Mid-Atlantic Fishery Management Council; Public Meetings

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

ACTION: Notice of public meetings.

SUMMARY: The Mid-Atlantic Fishery Management Council's (MAFMC) Scientific and Statistical Committee (SSC) and the Bluefish, Summer Flounder, Scup, and Black Sea Bass Monitoring Committees will hold public meetings.

DATES: The SSC meeting will be held Wednesday and Thursday, July 27 and 28, 2011. The meeting will begin at 10 a.m. on July 27 and at 8:30 a.m. on July 28. These meetings will conclude by 5 p.m. each day. The Bluefish, Summer Flounder, Scup, and Black Sea Bass Monitoring Committees will meet on Friday, July 29, 2010 from 8:30 a.m. to 5 p.m.

ADDRESSES: All meetings will be held at the Pier 5 Hotel, 711 Eastern Avenue, Baltimore, MD 21202; *telephone:* (866) 583–4162.

Council addresss: Mid-Atlantic Fishery Management Council, 800 North State Street, Suite 201, Dover, DE 19901; *telephone:* (302) 674–2331.

FOR FURTHER INFORMATION CONTACT: Christopher M. Moore, Ph.D., Executive Director, Mid-Atlantic Fishery Management Council, 800 North State Street, Suite 201, Dover, DE 19901; *telephone:* (302) 674–2331, extension 255.

SUPPLEMENTARY INFORMATION: The agenda items for the SSC meeting include: (1) Review stock assessment information and specify overfishing level and acceptable biological catch (ABC) for bluefish, summer flounder, scup, and black sea bass for 2012; (2) review and comment on proposed 2012 quota specifications and management measures for bluefish, summer flounder, scup, and black sea bass for 2012; (3) Ecosystems Subcommittee Report; (4) research priorities for 2012; and (5) National SSC IV Meeting update.

The Bluefish, Summer Flounder, Scup, and Black Sea Bass Monitoring Committees will discuss and recommend 2012 annual catch targets (ACTs) and other associated management measures for the bluefish, summer flounder, scup, and black sea bass fisheries.

Although non-emergency issues not contained in this agenda may come before these groups for discussion, in accordance with the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act), those issues may not be the subject of formal action during these meetings. Actions will be restricted to those issues specifically identified in this notice and any issues arising after publication of this notice that require emergency action under Section 305(c) of the Magnuson-Stevens Act, provided the public has been notified of the Council's intent to take final action to address the emergency.

Special Accommodations

The meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to M. Jan Saunders at the Mid-Atlantic Council Office, (302) 526–5251, at least 5 days prior to the meeting date.

Dated: June 28, 2011.

Tracey L. Thompson,

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

[FR Doc. 2011–16647 Filed 7–1–11; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XA533

Caribbean Fishery Management Council; Public Meeting

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

ACTION: Notice of a public meeting.

SUMMARY: The Caribbean Fishery Management Council (Council) will hold a meeting.

DATES: The meeting will be held on Thursday, July, 21, 2011, from 11 a.m. to 3 p.m.

ADDRESSES: The meeting will be held at the Embassy Suites Hotel, located at 8000 Tartak St., Isla Verde, Carolina, Puerto Rico 00979.

FOR FURTHER INFORMATION CONTACT: Caribbean Fishery Management Council, 268 Muñoz Rivera Avenue, Suite 1108, San Juan, Puerto Rico 00918–1920, *telephone:* (787) 766–5926.

SUPPLEMENTARY INFORMATION: The Council will hold its 139th regular

Council Meeting to discuss the items contained in the following agenda:

July, 21st, 2011–11 a.m. to 3 p.m.

- Call to Order
- Adoption of Agenda
- ACL/AM 2011 Draft Document for species not overfished and not undergoing overfishing

Public Comment Period—(5) Five-minute Presentations

- Other Business
- Next Council Meeting

The established times for addressing items on the agenda may be adjusted as necessary to accommodate the timely completion of discussion relevant to the agenda items. To further accommodate discussion and completion of all items on the agenda, the meeting may be extended from, or completed prior to the date established in this notice.

The meetings are open to the public, and will be conducted in English. Fishers and other interested persons are invited to attend and participate with oral or written statements regarding agenda issues.

Although non-emergency issues not contained in this agenda may come before this group for discussion, those issues may not be subjects for formal action during this meeting. Actions will be restricted to those issues specifically identified in this notice, and any issues arising after publication of this notice that require emergency action under section 305(c) of the Magnuson-Stevens Fishery Conservation and Management Act, provided that the public has been notified of the Council's intent to take final action to address the emergency.

Special Accommodations

This meeting is physically accessible to people with disabilities. For more information or request for sign language interpretation and/other auxiliary aids, please contact Mr. Miguel A. Rolón, Executive Director, Caribbean Fishery Management Council, 268 Muñoz Rivera Avenue, Suite 1108, San Juan, Puerto Rico, 00918–1920, *telephone:* (787) 766–5926, at least five days prior to the meeting date.

Dated: June 28, 2011.

Tracey L. Thompson,

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

[FR Doc. 2011–16686 Filed 7–1–11; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XA531

New England Fishery Management Council; Public Meeting

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

ACTION: Notice; public meeting.

SUMMARY: The New England Fishery Management Council (Council) is scheduling a public meeting of its Habitat/MPA/Ecosystem Committee, in July, 2011, to consider actions affecting New England fisheries in the exclusive economic zone (EEZ). Recommendations from this group will be brought to the full Council for formal consideration and action, if appropriate.

DATES: This meeting will be held on Thursday, July 21, 2011 at 9 a.m.

ADDRESSES: This meeting will be held at the Holiday Inn, 31 Hampshire Street, Mansfield, MA 02048; *telephone:* (508) 339–2200; *fax:* (508) 339–1040.

Council address: New England Fishery Management Council, 50 Water Street, Mill 2, Newburyport, MA 01950.

FOR FURTHER INFORMATION CONTACT: Paul J. Howard, Executive Director, New England Fishery Management Council; *telephone:* (978) 465–0492.

SUPPLEMENTARY INFORMATION: The Committee will discuss measures to minimize the adverse effects of fishing on Essential Fish Habitat (EFH) and measures to protect deep-sea corals as well as review the decision document prepared by the Plan Development Team. The Committee will review Advisory Panel feedback and refine measures and provide guidance to the Plan Development Team for further development and analysis. The Committee will also discuss remaining EFH designation alternatives and review comments (if available) on the Omnibus Amendment submitted in response to the 6/17/11 Notice of Intent. Other business at the discretion of the Chair.

Although non-emergency issues not contained in this agenda may come before this group for discussion, those issues may not be the subject of formal action during this meeting. Action will be restricted to those issues specifically listed in this notice and any issues arising after publication of this notice that require emergency action under section 305(c) of the Magnuson-Stevens Act, provided the public has been notified of the Council's intent to take final action to address the emergency.

Special Accommodations

This meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Paul J. Howard, Executive Director, at 978–465–0492, at least 5 days prior to the meeting date.

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

Dated: June 28, 2011.

Tracey L. Thompson,

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

[FR Doc. 2011–16646 Filed 7–1–11; 8:45 am]

BILLING CODE 3510–22–P

COORDINATING COUNCIL ON JUVENILE JUSTICE AND DELINQUENCY PREVENTION

[OJP (OJJDP) Docket No. 1562]

Meeting of the Coordinating Council on Juvenile Justice and Delinquency Prevention

AGENCY: Coordinating Council on Juvenile Justice and Delinquency Prevention.

ACTION: Notice of meeting.

SUMMARY: The Coordinating Council on Juvenile Justice and Delinquency Prevention (Council) announces its July 2011 meeting.

DATES: Thursday, July 21 from 10 a.m. to 12:30 p.m., ET.

ADDRESSES: The meeting will take place in the third floor main conference room at the U.S. Department of Justice, Office of Justice Programs, 810 7th St., NW., Washington, DC 20531.

FOR FURTHER INFORMATION CONTACT: Visit the Web site for the Coordinating Council at *http://www.juvenilecouncil.gov* or contact Robin Delany-Shabazz, Designated Federal Official, by telephone at 202–307–9963 [**Note:** this is not a toll-free telephone number], or by e-mail at *Robin.Delany-Shabazz@usdoj.gov.* The meeting is open to the public.

SUPPLEMENTARY INFORMATION: The Coordinating Council on Juvenile Justice and Delinquency Prevention, established pursuant to Section 3(2)A of the Federal Advisory Committee Act (5 U.S.C. App. 2) will meet to carry out its advisory functions under Section 206 of the Juvenile Justice and Delinquency Prevention Act of 2002, 42 U.S.C. 5601, *et seq.* Documents such as meeting announcements, agendas, minutes, and reports will be available on the Council's Web page, *http://www.JuvenileCouncil.gov,* where you

may also obtain information on the meeting.

Although designated agency representatives may attend, the Council membership is composed of the Attorney General (Chair), the Administrator of the Office of Juvenile Justice and Delinquency Prevention (Vice Chair), the Secretary of Health and Human Services (HHS), the Secretary of Labor, the Secretary of Education, the Secretary of Housing and Urban Development, the Director of the Office of National Drug Control Policy, the Chief Executive Officer of the Corporation for National and Community Service, and the Assistant Secretary of Homeland Security for U.S. Immigration and Customs Enforcement. The nine additional members are appointed by the Speaker of the House of Representatives, the Senate Majority Leader, and the President of the United States. Other federal agencies take part in Council activities including the Departments of Agriculture, Defense, the Interior, and the Substance and Mental Health Services Administration of HHS.

Meeting Agenda

The preliminary agenda for this meeting includes: (a) A segment on youth and family engagement; (b) presentation of recommendations from the Consolidated Report of the Issue Teams to the Council; (c) follow up on promoting effective approaches to school discipline as discussed at the May Council meeting; and (d) agency announcements and updates.

Registration

For security purposes, members of the public who wish to attend the meeting must pre-register online at *http://www.juvenilecouncil.gov* no later than Friday, July 15, 2011. Should problems arise with web registration, call Daryel Dunston at 240–221–4343 or send a request to register to Mr. Dunston. Include name, title, organization or other affiliation, full address and phone, fax and e-mail information and send to his attention either by fax to 301–945–4295, or by e-mail to *ddunston@edjassociates.com.* [**Note:** these are not toll-free telephone numbers.] Additional identification documents may be required. Space is limited.

Note: Photo identification will be required for admission to the meeting.

Written Comments: Interested parties may submit written comments and questions by Friday, July 15, 2011, to Robin Delany-Shabazz, Designated Federal Official for the Coordinating Council on Juvenile Justice and Delinquency Prevention, at *Robin.Delany-Shabazz@usdoj.gov.* The Coordinating Council on Juvenile Justice and Delinquency Prevention expects that the public statements presented will not repeat previously submitted statements. Written questions may also be submitted to the moderator during the family engagement segment.

Jeff Slowikowski,

Acting Administrator, Office of Juvenile Justice and Delinquency Prevention.

[FR Doc. 2011–16707 Filed 7–1–11; 8:45 am]

BILLING CODE 4410–18–P

DEPARTMENT OF DEFENSE

Department of the Army

Western Hemisphere Institute for Security Cooperation Board of Visitors; Meeting

AGENCY: Department of the Army, DoD.

ACTION: Notice of open meeting.

SUMMARY: This notice replaces the original notice published in the **Federal Register** on June 10, 2011 (76 FR 34066) and sets forth the schedule and summary agenda for the annual meeting of the Board of Visitors (BoV) for the Western Hemisphere Institute for Security Cooperation (WHINSEC). Notice of this meeting is required under the Federal Advisory Committee Act (Pub. L. 92–463). The Board's charter was renewed on March 18, 2010 in compliance with the requirements set forth in Title 10 U.S.C. 2166.

Date: Monday, September 26th, 2011.

Time: 4 to 6 p.m.

Location: Double Tree Hotel Conference Room, 5351 Sidney Simons Blvd, Columbus, Georgia.

Proposed Agenda: Update briefings from the Office of the Secretary of Defense (Policy); Department of State; US Northern Command and US Southern Command meeting on December 3rd, 2010, as well as receive other information appropriate to its interests.

Date: Tuesday, September 27th, 2011.

Time: 8 a.m. to 4 p.m.

Location: WHINSEC, 7161 Richardson Circle, Modular 2D, Fort Benning, Georgia 31905.

Proposed Agenda: Topics will include an update briefing from the WHINSEC Commandant; WHINSEC Strategic Communications Plan; BoV engagement and subcommittees; WHINSEC budgeting and personnel challenges; WHINSEC curriculum and feedback

FOR FURTHER INFORMATION CONTACT: WHINSEC Board of Visitors Secretariat at (703) 614–8721.

SUPPLEMENTARY INFORMATION: The meeting is open to the public. Pursuant to the Federal Advisory Committee Act of 1972 and 41 CFR 102–3.140(c), members of the public or interested groups may submit written statements to the advisory committee for consideration by the committee members. Written statements should be no longer than two type-written pages and sent via fax to (703) 614–8920 by 5 p.m. EST on Monday, September 19th, 2011, for consideration at this meeting. In addition, public comments by individuals and organizations may be made from 8:30 to 8:45 a.m. during the meeting on September 27th. Public comments will be limited to three minutes each. Anyone desiring to make an oral statement must register by sending a fax to (703) 614–8920 with his/her name, phone number, email address, and the full text of his/her comments (no longer than two typewritten pages) by 5 p.m. EST on Monday, September 19th, 2011. The first five requestors will be notified by 5 p.m. EST on Friday, September 23rd, 2011, of their time to address the Board during the public comment forum. All other comments will be retained for the record. Public seating is limited and will be available on a first-come, first-served basis.

Brenda S. Bowen,

Army Federal Register Liaison Officer.

[FR Doc. 2011–16708 Filed 7–1–11; 8:45 am]

BILLING CODE 3710–08–P

DEPARTMENT OF DEFENSE

Department of the Army

Board of Visitors, Defense Language Institute Foreign Language Center

AGENCY: Department of the Army, DoD.

ACTION: Notice of open meeting.

SUMMARY: Under the provisions of the Federal Advisory Committee Act of 1972 (5 U.S.C., Appendix, as amended), the Government in the Sunshine Act of 1976 (5 U.S.C. 552b, as amended) and 41 CFR 102–3.150, the Department of Defense announces that the following Federal advisory committee meeting will take place:

Name of Committee: Board of Visitors, Defense Language Institute Foreign Language Center.

Date: August 3 and 4, 2011.

Time of Meeting: Approximately 8 a.m. through 4:30 p.m. Please allow

extra time for gate security for both days.

Location: Defense Language Institute Foreign Language Center and Presidio of Monterey (DLIFLC & POM), Building 614, Conference Room, Monterey, CA 93944.

Purpose of the Meeting: The purpose of the meeting is to provide an overview of the Language, Science & Technology directorate. In addition, the meeting will involve administrative matters.

Agenda: Summary—August 3—Board administrative details and functional areas will be discussed. August 4—The Board will be briefed on DLIFLC select mission and functional areas.

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 on a first-come basis. No member of the public attending open meetings will be allowed to present questions from the floor or speak to any issue under consideration by the Board. Although open to the public, gate access is required no later than five work days prior to the meeting. Contact the Committee's Designated Federal Officer, below, for gate access procedures.

Committee's Designated Federal Officer or Point of Contact: Mr. Detlev Kesten, ATFL–APO, Monterey, CA 93944, *Detlev.kesten@us.army.mil*, (831) 242–6670.

SUPPLEMENTARY INFORMATION: 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 may submit written statements to the Board of Visitors of the Defense Language Institute Foreign Language Center in response to the agenda. All written statements shall be submitted to the Designated Federal Officer of the Board of Visitors of the Defense Language Institute Foreign Language Center, and this individual will ensure that the written statements are provided to the membership for their consideration. Written statements should be sent to: Attention: DFO at ATFL–APO, Monterey, CA 93944 or faxed to (831) 242–6495. Statements must be received by the Designated Federal officer at least five work days prior to the meeting. Written statements received after this date may not be provided to or considered by the Board of Visitors of the Defense Language Institute Foreign Language Center until its next meeting.

FOR FURTHER INFORMATION CONTACT: Mr. Detlev Kesten, ATFL–APO, Monterey, CA 93944, *Detlev.kesten@us.army.mil,* (831) 242–6670.

Brenda S. Bowen,

Army Federal Register Liaison Officer.

[FR Doc. 2011–16710 Filed 7–1–11; 8:45 am]

BILLING CODE 3710–08–P

DELAWARE RIVER BASIN COMMISSION

Notice of Commission Meeting and Public Hearing

Notice is hereby given that the Delaware River Basin Commission will hold an informal conference followed by a public hearing on Wednesday, July 13, 2011. The hearing will be part of the Commission's regularly scheduled business meeting. The conference session and business meeting both are open to the public and will be held at the Commission's office building, located at 25 State Police Drive, West Trenton, New Jersey.

The morning conference session will begin at 11 a.m. and will consist of a presentation by Professor Gerald F. Kauffman of the University of Delaware on the economic value of the Delaware River and Bay and a presentation by Bethany Bearmore of the National Marine Fisheries Service on the natural resource damages settlement in the matter of the Athos I oil spill of November 26, 2004.

The subjects of the public hearing to be held during the 1:30 p.m. business meeting include the dockets listed below.

1. *Spring City Borough, D–1974–061 CP–3.* An application to renew the approval to discharge up to 0.345 million gallons per day (mgd) of treated effluent through existing Outfall No. 001 from the 0.6 mgd Spring City Borough Wastewater Treatment Plant (WWTP). The existing WWTP will continue to discharge to the Schuylkill River at River Mile 92.47—41.3 (Delaware River—Schuylkill River) in Spring City Borough, Chester County, Pennsylvania.

2. *Ambler Borough, D–1975–016 CP–3.* An application to renew the approval to discharge up to 8.0 mgd (monthly maximum flow) and up to 6.5 mgd (annual average flow) of treated effluent from the Ambler Borough WWTP. The existing WWTP will continue to discharge to the Wissahickon Creek, a tributary of the Schuylkill River. The facility is located in Upper Dublin Township, Montgomery County, Pennsylvania.

3. *Robeson Township, D–1983–034 CP–2.* An application to update the approval of the existing 0.30 mgd Robeson Township WWTP. An NAR for this application was published under docket number D–2010–031 CP–1 on November 3, 2010. The Commission originally approved the WWTP by Docket No. D–1983–034 CP–1 issued on September 25, 1984. Docket D–1983–034 CP–2 would update that approval. No modification to the Robeson Township WWTP is proposed. The Robeson Township WWTP will continue to discharge treated wastewater effluent to the Schuylkill River. The facility is located in Robeson Township, Berks County, Pennsylvania.

4. *Buck Hill Falls Company, D–2009–001 CP–2.* An application to renew the discharge of up to 0.20 mgd of treated effluent from existing Outfall No. 001 at the Buck Hill Falls WWTP. The existing WWTP discharges to Buck Hill Creek, a tributary of the Delaware River, at River Mile 213.00—21.11—0.50 (Delaware River—Brodhead Creek—Buck Hill Creek) within the drainage area of the portion of the non-tidal Delaware River known as the Middle Delaware, which is classified as Special Protection Waters. The project WWTP is located in Barrett Township, Monroe County, Pennsylvania.

5. *SPS Technologies, D–1979–088–5.* An application for the renewal of a groundwater withdrawal (GWD) project to continue the withdrawal of 8.89 million gallons per month (mgm) to supply the applicant's manufacturing plant from existing Well No. 7 completed in the Wissahickon Formation. The project is located in the Upper Reach Frankfort Creek Watershed in Abington Township, Montgomery County, Pennsylvania within the Southeastern Pennsylvania Ground Water Protected Area.

6. *Big Boulder Corporation, D–1985–025–2.* An application for the expansion of the Big Boulder Ski Area WWTP from 0.225 mgd to 0.265 mgd. The project WWTP will discharge 0.04 mgd to absorption beds located on-site and will continue to discharge 0.225 mgd directly to an unnamed tributary of Tunkhannock Creek at River Mile 183.66—83.5—5.6—2.5—0.64 (Delaware River—Lehigh River—Tobyhanna Creek—Tunkhannock Creek—Unnamed Tributary) in Kidder Township, Carbon County, Pennsylvania. The project WWTP is located in the drainage area of the section of the non-tidal Delaware River known as the Lower Delaware, which is classified as Special Protection Waters.

7. *Morrisville Borough, D–1987–008 CP–2.* An application for approval to renew a discharge of 7.1 mgd from the existing Morrisville Borough Municipal Authority (MBMA) WWTP. MBMA also

has requested approval to accept and treat up to 0.2 mgd of pre-treated landfill leachate from Waste Management Inc.'s (WMI's) GROWS/Tullytown landfills. The DRBC approved a pilot program in 2005 (Docket No. D–1988–54–2) that allowed WMI to send up to 0.025 mgd of pre-treated leachate to be treated and discharged from the MBMA WWTP. The pilot program was expanded to 0.07 mgd on May 18, 2007. Additionally, MBMA has requested an increase in its wasteload allocation for $CBOD_{20}$ from 2,418 lbs/day to 3,831 lbs/day and a determination to allow discharge at an effluent color limit greater than the Commission's standard of 100 units on the platinum cobalt scale. The WWTP is located in Morrisville Borough, Bucks County, Pennsylvania and discharges to the tidal Delaware River in Water Quality Zone 2 at River Mile 133.0.

8. *Lansdale Borough, D–1996–045 CP–2.* An application to approve an expansion of the service area of the existing Borough of Lansdale WWTP. The project also proposes to increase the permitted annual average flow rate from 2.6 to 3.2 mgd. The service area modification includes the acceptance of up to 1,000,000 gpd of pre-treated industrial wastewater, not to exceed a monthly average flow of 750,000 gpd, from the Merck West Point pharmaceutical facility located in Upper Gwynedd Township, Pennsylvania. No modification of the treatment facilities or increase in hydraulic design flow is proposed. The WWTP will continue to discharge to an unnamed tributary of the West Branch Neshaminy Creek, which is a tributary of the Neshaminy Creek. The project is located in Upper Gwynedd Township and the Borough of Lansdale in Montgomery County, Pennsylvania.

9. *Pennsylvania American Water Company—Lexington Woods, D–1998–016 CP–3.* An application for approval of a GWD project to supply up to 2.23 mgm of water to the applicant's Pocono District public water supply system from existing Lexington Well No. 2 for emergency and back-up water supply. The total GWD allocation from all 17 system wells will remain limited to 63.55 mgm. Lexington Well No. 2 is completed in the Catskill Formation and is located in the Clear Run Watershed in Coolbaugh Township, Monroe County, Pennsylvania. The site is located within the drainage area of the section of the non-tidal Delaware River known as the Lower Delaware, which is classified as Special Protection Waters.

10. *CB Mid-Atlantic Golf Club, LLC, D–1999–036–2.* An application for the renewal of a GWD project and to increase from 2.95 mgm to 4.75 mgm the withdrawal from existing Wells Nos. IW–1 and IW–2 in the Cockeysville Marble Formation for irrigation of the applicant's golf course. The increased groundwater allocation is requested in order to avoid the need for water purchases or use of approved surface water withdrawals from Broad Run Creek. The project is located in the West Branch Brandywine-Broad Run Watershed in West Bradford Township, Chester County, Pennsylvania, within the Southeastern Pennsylvania Ground Water Protected Area.

11. *Borough of Dublin, D–2000–011 CP–2.* An application for the renewal of a GWD project to continue a withdrawal of up to 6.9 million gallons per 30 days (mg/30 days) to supply the applicant's public water supply from existing Wells Nos. 1, 2, 3, and 5 in the Lockatong Formation and Brunswick Group. The project is located in the East Branch Perkiomen—Morris Run and Tohickon Deep Run watersheds in the Borough of Dublin, Bucks County, Pennsylvania, within the Southeastern Pennsylvania Ground Water Protected Area.

12. *Blue Mountain Ski Area/Tuthill Corporation & Acquashicola-Little Gap, D–2010–026–1.* An application for approval of a surface water withdrawal (SWWD) and GWD project to withdraw up to 300 million gallons of water annually from November through March from two existing surface water intakes located on Aquashicola Creek for the purpose of snow-making. Additionally, this project approves the allocation of 1.49 mgm from Wells Nos. 1 and 2 to supply the ski area with potable water. The existing project withdrawals were not previously approved by the Commission. The project is located in the Aquashicola Creek Watershed in Lower Towamensing Township, Carbon County, Pennsylvania. The site is located within the drainage area of the section of the non-tidal Delaware River known as the Lower Delaware, which is classified as Special Protection Waters.

13. *Lakeview Estates Homeowners Association, D–2010–032 CP–1.* An application for approval of the existing Lakeview Estates WWTP, for which the Commission has not previously issued a docket. The WWTP will continue to discharge up to 54,000 gallons per day (gpd) of treated sewage effluent to an unnamed tributary of the Lehigh River. The facility is located in Lehigh Township, Wayne County, Pennsylvania within the section of the non-tidal Delaware River known as the Lower Delaware, which is classified as Special Protection Waters.

14. *Aqua Pennsylvania, Inc., D–2010–042 CP–1.* An application for approval of a GWD project to supply up to 6.95 mgm of water to the applicant's public water supply system from new Well No. 1A and existing Wells Nos. 1, 2, 3A, 3B and 8. The project wells are completed in the Catskill Formation and are located in the Kleinhans and Wallenpaupack creeks watersheds in Palmyra Township, Pike County, Pennsylvania. The project is located within the drainage area of the section of the non-tidal Delaware River known as the Upper Delaware, which is classified as Special Protection Waters.

15. *Bethany Children's Home, D–2010–043–1.* An application for approval of a GWD and exportation project to supply up to 6.0 mgm of water for bottled water operations from new Wells Nos. PW–A and PW–B. Withdrawn water will be exported from the Delaware River Basin to the DS Waters bottling facility in Ephrata, Pennsylvania, within the Susquehanna River Basin. The project wells are completed in the Epler Formation and are located in the Tulpehocken Watershed in Heidelberg Township, Berks County, Pennsylvania.

16. *Covanta Delaware Valley Resource Recovery Facility, D–2011–003 CP–1.* An application to approve Covanta Delaware Valley, LP's Delaware Valley Resource Recovery Facility (DVRRF), which derives energy from waste, and the subsidiary water allocation for the facility of up to 62.372 mgm from the Chester Water Authority (CWA). Additionally, the applicant seeks approval to construct an influent pipeline and related polishing treatment facility that will accept up to 62.372 mgm of treated wastewater effluent from the Delaware County Regional Water Quality Control Authority (DELCORA) WWTP located nearby, in order to provide a new source of water for the DVRRF. The applicant is seeking approval to continue to use a combined total of 62.372 mgm from the two sources. The water is used for cooling purposes associated with power generation. The DVRRF is located in Chester City, Delaware County, Pennsylvania.

17. *Upper Gwynedd Township, D–2011–011 CP–1.* An application for approval to construct a pump station and associated sewerage interceptor and force main, to be owned and operated by Upper Gwynedd Township, for the purpose of conveying wastewater from the Merck West Point pharmaceutical facility located in Upper Gwynedd Township to the Lansdale Borough WWTP. The applicant proposes to construct a pump station, 3,260 linear foot gravity sewer interceptor, and 8-inch ductile iron pipe force main. The

pump station and associated interceptor and force main will be designed to convey up to 1,000,000 gpd of pre-treated industrial wastewater, not to exceed a monthly average flow of 750,000 gpd, from the Merck West Point pharmaceutical facility (also located in Upper Gwynedd Township) to the Lansdale Borough WWTP for treatment and discharge to the West Branch Neshaminy Creek, a tributary of the Neshaminy Creek. A separate application has been filed concurrently by the Borough of Lansdale (see DRBC Application No. D–1996–045 CP–2) for approval to revise its service area and to accept the additional flow. The proposed facilities are to be located in Upper Gwynedd Township, Montgomery County, Pennsylvania.

In addition to the standard business meeting items, consisting of adoption of the Minutes of the Commission's May 11, 2011 business meeting, announcements of upcoming meetings and events, a report on hydrologic conditions, reports by the Executive Director and the Commission's General Counsel, and public dialogue, the business meeting also will include a public hearing on a proposed resolution amending Resolution No. 2010–11 to increase the authorized amount of the Commission's contract for management of comments received on a proposed rulemaking concerning natural gas development.

The Commission will NOT consider action during its July 13, 2011 meeting on draft Docket No. D–2010–022–1, a proposed surface water withdrawal from Oquaga Creek in Sanford, Broome County, New York by XTO Energy for natural gas exploration and development projects. Public hearings on this item took place on May 11, 2011 in West Trenton, New Jersey and June 1, 2011 in Deposit, New York. The Commissioners and staff currently are reviewing the written and oral comments submitted on the draft docket by members of the public.

Draft dockets scheduled for public hearing on July 13, 2011 can be accessed through the Notice of Commission Meeting and Public Hearing on the Commission's Web site, *http://www.drbc.net,* ten days prior to the meeting date. Additional public records relating to the dockets may be examined at the Commission's offices. Please contact William Muszynski at 609–883–9500, extension 221, with any docket-related questions.

Note that conference items are subject to change and items scheduled for hearing are occasionally postponed to allow more time for the Commission to consider them. Please check the Commission's Web site, *http://www.drbc.net,* closer to the meeting date for changes that may be made after the deadline for filing this notice.

Individuals who wish to comment for the record on a hearing item or to address the Commissioners informally during the public dialogue portion of the meeting are asked to sign up in advance by contacting Ms. Paula Schmitt of the Commission staff, at *paula.schmitt@drbc.state.nj.us* or by phoning Ms. Schmitt at 609–883–9500 ext. 224.

Individuals in need of an accommodation as provided for in the Americans with Disabilities Act who wish to attend the informational meeting, conference session or hearings should contact the Commission Secretary directly at 609–883–9500 ext. 203 or through the Telecommunications Relay Services (TRS) at 711, to discuss how the Commission can accommodate your needs.

Dated: June 28, 2011.

Pamela M. Bush,

Commission Secretary.

[FR Doc. 2011–16716 Filed 7–1–11; 8:45 am]

BILLING CODE 6360–01–P

DEPARTMENT OF EDUCATION

The Fund for the Improvement of Postsecondary Education (IPSE) National Board

AGENCY: U.S. Department of Education, The Fund for the Improvement of Postsecondary Education (FIPSE) National Board.

ACTION: Notice of an open meeting.

SUMMARY: This notice sets forth the schedule and proposed agenda of an upcoming open meeting of the National Board (Board) of the Fund for the Improvement of Postsecondary Education. The notice also describes the functions of the Board. Notice of this meeting is required by Section 10(a)(2) of the Federal Advisory Committee Act and is intended to notify members of the public of their opportunity to attend.

DATES: Monday, July 25, 2011.

Time: 9 a.m.–4 p.m. Eastern Standard Time.

ADDRESSES: Eighth Floor Conference Room, 1990 K Street, NW., Washington, DC 20006, Telephone: (202) 502–7500.

FOR FURTHER INFORMATION CONTACT: Erin M. McDermott, U.S. Department of Education, 1990 K Street, NW., Washington, DC 20006–8544; telephone: (202) 502–7607; e-mail: *erin.mcdermott@ed.gov.*

SUPPLEMENTARY INFORMATION: The National Board of the Fund for the Improvement of Postsecondary Education is established in Title VII, Part B, Section 742 of the Higher Education Act of 1965, as amended (20 U.S.C. 1138a). The Board is authorized to advise the Director of the Fund and the Assistant Secretary for Postsecondary Education on (1) priorities for the improvement of postsecondary education, including recommendations for the improvement of postsecondary education and for the evaluation, dissemination, and adaptation of demonstrated improvements in postsecondary educational practice; and (2) the operation of the Fund, including advice on planning documents, guidelines, and procedures for grant competitions prepared by the Fund.

On Monday, July 25, 2011, from 9:00 a.m. to 4:00 p.m., Eastern Standard Time, the Board will meet in an open session. The proposed agenda for the meeting will include discussion of the Fund's programs and special initiatives. Presentations will be made on behalf of projects administered by the Fund.

Accessible Format: Individuals with disabilities can obtain this document in an accessible format (*e.g.,* Braille, large print, audiotape, or computer diskette) by contacting the person listed under **FOR FURTHER INFORMATION CONTACT** section of this notice. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FRS), toll-free, at 1–800–877–8339, Monday through Friday, between the hours of 8:00 a.m. and 8:00 p.m., Eastern Standard Time.

Individuals who will need accommodations for a disability in order to attend the meeting (*e.g.,* interpreting services, assistance listening devices, or materials in alternative format) should notify Erin McDermott at (202) 502–7607, no later than July 11, 2011. We will attempt to meet requests for accommodations after this date but cannot guarantee their availability. The meeting site is accessible to individuals with disabilities.

Members of the public are encouraged to submit written comments to the attention of Erin M. McDermott, 1990 K Street, NW., Room 6161, Washington, DC 20006–8544 or by e-mail at *erin.mcdermott@ed.gov.*

Records are kept of all Board proceedings and are available for public inspection at the Office of the Fund for the Improvement of Postsecondary Education, Sixth Floor, 1990 K Street, NW., Washington, DC 20006–8544, from the hours of 8 a.m. to 4:30 p.m., Eastern

Standard Time (EST), from Monday through Friday.

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: *http://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 Format (PDF). To use PDF, you must have Adobe Acrobat Reader, which is available free at this site. If you have questions about using PDF, call the U.S. Government Printing Office (GPO), toll-free, at 1–866–512–1800; or, in the Washington, DC area at (202) 512–0000.

You may also access documents of the Department with the search feature at *http://www.federalregister.gov.* Specifically, through the advanced search feature at this site, you can limit your search to documents published by the Department.

David A. Bergeron,

Deputy Assistant Secretary for Policy, Planning, and Innovation.

[FR Doc. 2011–16741 Filed 7–1–11; 8:45 am]

BILLING CODE 4000–01–P

U.S. ELECTION ASSISTANCE COMMISSION

Agency Information Collection Activities: Proposed Collection; Comment Request; Election Assistance Commission's Voting System Test Laboratory Program Manual, Version 1.0

AGENCY: U.S. Election Assistance Commission (EAC).

ACTION: Notice; comment request.

SUMMARY: As part of its continuing effort to reduce paperwork and respondent burden in accordance with the Paperwork Reduction Act of 1995, the U.S. Election Assistance Commission (EAC) invites the general public and other Federal agencies to take this opportunity to comment on EAC's request to renew an existing information collection, EAC's Voting System Test Laboratory Program Manual, Version 1.0. Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed information collection, including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the information collection on respondents. Comments submitted in response to this notice will be summarized and included in the request for approval of this information collection by the Office of Management and Budget; they also will become a matter of public record.

DATES: Written comments must be submitted on or before 11:59 PM EDT on September 6, 2011.

ADDRESSES: Comments and recommendations on the proposed information collection must be submitted in writing through either: (1) Electronically to *votingsystemguidelines@eac.gov;* via mail to Mr. Brian Hancock, Director of Voting System Testing and Certification, U.S. Election Assistance Commission, 1201 New York Avenue, NW., Suite 300, Washington, DC 20005; or via fax to (202) 566–1392. An electronic copy of the manual, version 1.0, may be found on EAC's Web site at *http://www.eac.gov/open/comment.aspx.*

FOR FURTHER INFORMATION CONTACT: To request more information on this proposed information collection, please contact Mr. Brian Hancock, Director, Voting System Testing and Certification, Washington, DC, (202) 566–3100, Fax: (202) 566–1392.

SUPPLEMENTARY INFORMATION:

Background

In this notice, EAC seeks comments on the paperwork burdens contained in the current version of the Voting System Test Laboratory Manual, Version 1.0 OMB Control Number 3265–0004 only. Version 1.0 is the original version of the Manual without changes or updates.

Current Information Collection Request, Version 1.0

Title: Voting System Test Laboratory Manual, Version 1.0.

OMB Number: 3265–0013.

Type of Review: Renewal.

Needs and Uses: Section 231(a) of the Help America Vote Act of 2002 (HAVA), 42 U.S.C. 15371(a), requires EAC to ''provide for the testing, certification, decertification, and recertification of voting system hardware and software by accredited laboratories.'' To fulfill this mandate, EAC has developed and implemented the Voting System Test Laboratory Program Manual, Version 1.0. This version is currently in use under OMB Control Number 3265–0013. Although participation in the program in voluntary, adherence to the program's procedural requirements is mandatory for participants.

Affected Public: Voting system manufacturers.

Estimated Number of Respondents: 8.

Total Annual Responses: 8.

Estimated Total Annual Burden Hours: 200 hours.

Thomas R. Wilkey,

Executive Director, U.S. Election Assistance Commission.

[FR Doc. 2011–16659 Filed 7–1–11; 8:45 am]

BILLING CODE 6820–KF–P

DEPARTMENT OF ENERGY

Environmental Management Site-Specific Advisory Board, Idaho National Laboratory

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), Idaho National Laboratory. The Federal Advisory Committee Act (Pub. L. No. 92–463, 86 Stat. 770) requires that public notice of this meeting be announced in the **Federal Register**.

DATES: Tuesday, July 12, 2011, 8 a.m.–5 p.m.

Opportunities for public participation will be from 10:30 to 10:45 a.m. and from 2:15 to 2:30 p.m.

These times are subject to change; please contact the Federal Coordinator (below) for confirmation of times prior to the meeting.

ADDRESSES: Hilton Garden Inn, 1741 Harrison Street North, Twin Falls, Idaho 83301.

FOR FURTHER INFORMATION CONTACT: Robert L. Pence, Federal Coordinator, Department of Energy, Idaho Operations Office, 1955 Fremont Avenue, MS–1203, Idaho Falls, Idaho 83415. Phone (208) 526–6518; Fax (208) 526–8789 or e-mail: *pencerl@id.doe.gov* or visit the Board's Internet home page at: *http://inlcab.energy.gov/.*

SUPPLEMENTARY INFORMATION:

Purpose of the Board: The purpose of the Board is to make recommendations to DOE–EM and site management in the areas of environmental restoration, waste management, and related activities.

Tentative Agenda: (agenda topics may change up to the day of the meeting; please contact Robert L. Pence for the most current agenda):

- Recent Public Involvement.
- Progress to Cleanup.

• Mixed Waste Coming to Idaho National Laboratory (INL) 101.

• INL EM Budget.

• Calcine Path Forward.

• Advanced Mixed Waste Treatment Project Contract Status.

• Integrated Waste Treatment Unit Status.

• Blue Ribbon Commission Update.

• Fukishima Lessons Learned—Seismic Risk and INL Facility Safety.

• Test Area North Wells Pump and Treat Status.

Public Participation: The EM SSAB, Idaho National Laboratory, 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 Robert L. Pence 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 presentations pertaining to agenda items should contact Robert L. Pence at the address or telephone number listed above. The request 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. This notice is being published less than 15 days prior to the meeting date due to programmatic issues that had to be resolved prior to the meeting date.

Minutes: Minutes will be available by writing or calling Robert L. Pence, Federal Coordinator, at the address and phone number listed above. Minutes will also be available at the following Web site: *http://inlcab.energy.gov/pages/meetings.php.*

Issued at Washington, DC on June 29, 2011.

LaTanya R. Butler,

Acting Deputy Committee Management Officer.

[FR Doc. 2011–16724 Filed 7–1–11; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings #1

Take notice that the Commission received the following electric rate filings:

Docket Numbers: ER10–2739–001; ER11–27–002; ER11–3320–002; ER10–2744–002; ER10–2740–002; ER10–1631–001; ER11–3321–002.

Applicants: Rocky Road Power, LLC, Riverside Generating Company, LLC, LS Power Marketing, LLC, University Park Energy, LLC, LSP Safe Harbor Holdings, LLC, LSP University Park, LLC, Wallingford Energy LLC.

Description: Updated Market Power Analysis and Notification of Change in Status.

Filed Date: 06/24/2011.

Accession Number: 20110624–5206.

Comment Date: 5 p.m. Eastern Time on Tuesday, August 23, 2011.

Docket Numbers: ER11–3281–001.

Applicants: Midwest Independent Transmission System Operator, Inc.

Description: Midwest Independent Transmission System Operator, Inc. submits tariff filing per 35: 6–24–2011 Module F Compliance Filing to be effective 6/1/2011.

Filed Date: 06/24/2011.

Accession Number: 20110624–5146.

Comment Date: 5 p.m. Eastern Time on Friday, July 15, 2011.

Docket Numbers: ER11–3531–001.

Applicants: Midwest Independent Transmission System Operator, Inc.

Description: Midwest Independent Transmission System Operator, Inc. submits tariff filing per 35.17(b): 06–24–2011 ATC Schedule 9 amendment to be effective 7/6/2011.

Filed Date: 06/24/2011.

Accession Number: 20110624–5179.

Comment Date: 5 p.m. Eastern Time on Friday, July 15, 2011.

Docket Numbers: ER11–3869–001.

Applicants: Southern California Edison Company.

Description: Southern California Edison Company submits tariff filing per 35.17(b): Resubmission of First Amended LGIA Sentinel Project to be effective 6/24/2011.

Filed Date: 06/24/2011.

Accession Number: 20110624–5113.

Comment Date: 5 p.m. Eastern Time on Friday, July 15, 2011.

Docket Numbers: ER11–3877–000.

Applicants: Southwest Power Pool, Inc.

Description: Southwest Power Pool, Inc. submits tariff filing per 35.13(a)(2)(iii: OG&E Transmission Revenue Requirement Update to be effective 3/1/2011.

Filed Date: 06/24/2011.

Accession Number: 20110624–5102.

Comment Date: 5 p.m. Eastern Time on Friday, July 15, 2011.

Docket Numbers: ER11–3878–000.

Applicants: PJM Interconnection, LLC.

Description: PJM Interconnection, LLC submits tariff filing per 35.13(a)(2)(iii: PJM Queue No. W1–116; Original Service Agreement No. 2946 to be effective 5/25/2011.

Filed Date: 06/24/2011.

Accession Number: 20110624–5118.

Comment Date: 5 p.m. Eastern Time on Friday, July 15, 2011.

Docket Numbers: ER11–3879–000.

Applicants: Amerigreen Energy, Inc.

Description: Amerigreen Energy, Inc. submits tariff filing per 35.12: Market Based Rate Tariff to be effective 6/27/2011.

Filed Date: 06/24/2011.

Accession Number: 20110624–5120.

Comment Date: 5 p.m. Eastern Time on Friday, July 15, 2011.

Docket Numbers: ER11–3880–000.

Applicants: Vermont Transco, LLC.

Description: Vermont Transco, LLC submits tariff filing per 35.13(a)(2)(iii: Vermont Transco LLC Updated Exhibit A for the 1991 Transmission Agreement to be effective 7/1/2011.

Filed Date: 06/24/2011.

Accession Number: 20110624–5133.

Comment Date: 5 p.m. Eastern Time on Friday, July 15, 2011.

Docket Numbers: ER11–3881–000.

Applicants: New York Independent System Operator, Inc.

Description: New York Independent System Operator, Inc. submits tariff filing per 35.13(a)(2)(iii: Clarify Definition of ATC and Update List of Applicable NAESB WEQ Standards to be effective 4/1/2011.

Filed Date: 06/24/2011.

Accession Number: 20110624–5134.

Comment Date: 5 p.m. Eastern Time on Friday, July 15, 2011.

Docket Numbers: ER11–3882–000.

Applicants: PJM Interconnection, LLC.

Description: PJM Interconnection, LLC submits tariff filing per 35.13(a)(2)(iii: Revisions to the PJM Operating Agreement Section 8.3.3 Quorum to be effective 8/23/2011.

Filed Date: 06/24/2011.

Accession Number: 20110624–5135.

Comment Date: 5 p.m. Eastern Time on Friday, July 15, 2011.

Docket Numbers: ER11–3883–000.

Applicants: Wisconsin Electric Power Company.

Description: Wisconsin Electric Power Company submits tariff filing per 35.13(a)(2)(iii: Formula Rate Wholesale Sales Tariff revisions to be effective 9/1/2011.

Filed Date: 06/24/2011.

Accession Number: 20110624–5136.

Comment Date: 5 p.m. Eastern Time on Friday, July 15, 2011.

Docket Numbers: ER11–3884–000.

Applicants: El Paso Electric Company.

Description: El Paso Electric Company submits tariff filing per 35.13(a)(2)(iii: Rate Schedule No. 107 Macho Springs Settlement Agreement to be effective 9/1/2011.

Filed Date: 06/24/2011.

Accession Number: 20110624–5149.

Comment Date: 5 p.m. Eastern Time on Friday, July 15, 2011.

Docket Numbers: ER11–3885–000.

Applicants: Wisconsin Electric Power Company.

Description: Wisconsin Electric Power Company submits tariff filing per 35.13(a)(2)(iii: WPPI Rate Schedule FERC No. 90 revised to be effective 9/1/2011.

Filed Date: 06/24/2011.

Accession Number: 20110624–5165

Comment Date: 5 p.m. Eastern Time on Friday, July 15, 2011.

Docket Numbers: ER11–3886–000.

Applicants: New York Independent System Operator, Inc., Niagara Mohawk Power Corporation.

Description: New York Independent System Operator, Inc. submits tariff filing per 35.13(a)(2)(iii: IA Between National Grid and the Village of Ilion to be effective 7/1/2011.

Filed Date: 06/24/2011.

Accession Number: 20110624–5198.

Comment Date: 5 p.m. Eastern Time on Tuesday, July 5, 2011.

Docket Numbers: ER11–3886–001.

Applicants: New York Independent System Operator, Inc., Niagara Mohawk Power Corporation.

Description: New York Independent System Operator, Inc. submits tariff filing per 35.17(b): Amendment to Niagara Mohawk, Village of Ilion IA No. 1755 to be effective 7/1/2011.

Filed Date: 06/27/2011.

Accession Number: 20110627–5097.

Comment Date: 5 p.m. Eastern Time on Tuesday, July 5, 2011.

Docket Numbers: ER11–3887–000.

Applicants: Cedar Creek Wind Energy, LLC.

Description: Cedar Creek Wind Energy, LLC submits tariff filing per 35.13(a)(2)(iii: Concurrence to be effective 6/24/2011.

Filed Date: 06/24/2011.

Accession Number: 20110624–5199.

Comment Date: 5 p.m. Eastern Time on Friday, July 15, 2011.

Docket Numbers: ER11–3891–000.

Applicants: ISO New England Inc.

Description: ISO New England Inc. Forward Capacity Auction Results Filing.

Filed Date: 06/27/2011.

Accession Number: 20110627–5095.

Comment Date: 5 p.m. Eastern Time on Thursday, August 11, 2011.

Take notice that the Commission received the following electric reliability filings

Docket Numbers: RD11–7–000.

Applicants: North American Electric Reliability Corp.

Description: Petition of the North American Electric Reliability Corporation for Approval of a Personnel Performance, Training, and Qualifications Reliability Standard.

Filed Date: 04/29/2011.

Accession Number: 20110429–5556.

Comment Date: 5 p.m. Eastern Time on Monday, July 18, 2011.

Any person desiring to intervene or to protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214) on or before 5 p.m. Eastern time on the specified comment date. It is not necessary to separately intervene again in a subdocket related to a compliance filing if you have previously intervened in the same docket. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant. In reference to filings initiating a new proceeding, interventions or protests submitted on or before the comment deadline need not be served on persons other than the Applicant.

As it relates to any qualifying facility filings, the notices of self-certification [or self-recertification] listed above, do not institute a proceeding regarding qualifying facility status. A notice of self-certification [or self-recertification] simply provides notification that the entity making the filing has determined the facility named in the notice meets the applicable criteria to be a qualifying facility. Intervention and/or protest do not lie in dockets that are qualifying facility self-certifications or self-recertifications. Any person seeking to challenge such qualifying facility status may do so by filing a motion pursuant to 18 CFR 292.207(d)(iii). Intervention and protests may be filed in response to notices of qualifying facility dockets other than self-certifications and self-recertifications.

The Commission encourages electronic submission of protests and interventions in lieu of paper, using the FERC Online links at *http://www.ferc.gov.* To facilitate electronic service, persons with Internet access who will eFile a document and/or be listed as a contact for an intervenor must create and validate an eRegistration account using the eRegistration link. Select the eFiling link to log on and submit the intervention or protests.

Persons unable to file electronically should submit an original and 14 copies of the intervention or protest to the Federal Energy Regulatory Commission, 888 First St., NE., Washington, DC 20426.

The filings in the above proceedings are accessible in the Commission's eLibrary system by clicking on the appropriate link in the above list. They are also available for review in the Commission's Public Reference Room in Washington, DC. There is an eSubscription link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed dockets(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov.* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: June 27, 2011.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2011–16689 Filed 7–1–11; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings #1

Take notice that the Commission received the following electric corporate filings:

Docket Numbers: EC11–87–000.

Applicants: Lakefield Wind Project, LLC, LWP Lessee, LLC.

Description: Supplemental Information to the Application of Lakefield Wind Project, LLC and LWP Lessee, LLC.

Filed Date: 06/21/2011.

Accession Number: 20110621–5116.

Comment Date: 5 p.m. Eastern Time on Friday, July 1, 2011.

Docket Numbers: EC11–89–000.

Applicants: Dighton Power, LLC, EquiPower Resources Management, LLC, Lake Road Generating Company, L.P., MASSPOWER, Milford Power Company, LLC.

Description: Joint Application for Authorization of Transaction of ECP II MBR Sellers.

Filed Date: 06/21/2011.

Accession Number: 20110621–5110.

Comment Date: 5 p.m. Eastern Time on Tuesday, July 12, 2011.

Take notice that the Commission received the following electric rate filings:

Docket Numbers: ER11–3551–001.

Applicants: Glacial Energy of New York.

Description: Glacial Energy of New York submits tariff filing per 35.17(b): Amended Market-Based Rate Tariff of Glacial Energy of New York to be effective 5/13/2011.

Filed Date: 06/21/2011.

Accession Number: 20110621–5103.

Comment Date: 5 p.m. Eastern Time on Tuesday, July 12, 2011.

Docket Numbers: ER11–3553–001.

Applicants: Glacial Energy of New Jersey, Inc.

Description: Glacial Energy of New Jersey, Inc. submits tariff filing per 35.17(b): Amended Market-Based Rate Tariff of Glacial Energy of New Jersey, Inc. to be effective 5/13/2011.

Filed Date: 06/21/2011.

Accession Number: 20110621–5107.

Comment Date: 5 p.m. Eastern Time on Tuesday, July 12, 2011.

Docket Numbers: ER11–3554–001.

Applicants: Glacial Energy of California, Inc.

Description: Glacial Energy of California, Inc. submits tariff filing per 35.17(b): Amended Market-Based Rate Tariff of Glacial Energy of California, Inc. to be effective 5/13/2011.

Filed Date: 06/21/2011.

Accession Number: 20110621–5108.

Comment Date: 5 p.m. Eastern Time on Tuesday, July 12, 2011.

Take notice that the Commission received the following qualifying facility filings:

Docket Numbers: QF11–359–000.

Applicants: Evonik Degussa Corporation, Evonik Stockhausen LLC.

Description: Form 556—Notice of self-certification of qualifying cogeneration facility status of Evonik Stockhausen LLC, *et al.*

Filed Date: 06/21/2011.

Accession Number: 20110621–5115.

Comment Date: None Applicable.

Take notice that the Commission received the following electric reliability filings:

Docket Numbers: RD11–6–000.

Applicants: North American Electric Reliability Corp.

Description: Petition of the North American Electric Reliability Corporation for Approval of Reliability Standard CIP–001–2a?Sabotage Reporting with a Regional Variance for Texas Reliability Entity.

Filed Date: 06/22/2011.

Accession Number: 20110622–5012.

Comment Date: 5 p.m. Eastern Time on Wednesday, July 13, 2011.

Any person desiring to intervene or to protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214) on or before 5 p.m. Eastern time on the specified comment date. It is not necessary to separately intervene again in a subdocket related to a compliance filing if you have previously intervened in the same docket. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant. In reference to filings initiating a new proceeding, interventions or protests submitted on or before the comment deadline need not be served on persons other than the Applicant.

As it relates to any qualifying facility filings, the notices of self-certification [or self-recertification] listed above, do not institute a proceeding regarding qualifying facility status. A notice of self-certification [or self-recertification] simply provides notification that the entity making the filing has determined the facility named in the notice meets the applicable criteria to be a qualifying facility. Intervention and/or protest do not lie in dockets that are qualifying facility self-certifications or self-recertifications. Any person seeking to challenge such qualifying facility status may do so by filing a motion pursuant to 18 CFR 292.207(d)(iii). Intervention and protests may be filed in response to notices of qualifying facility dockets other than self-certifications and self-recertifications.

The Commission encourages electronic submission of protests and interventions in lieu of paper, using the FERC Online links at *http://www.ferc.gov.* To facilitate electronic service, persons with Internet access who will eFile a document and/or be listed as a contact for an intervenor must create and validate an eRegistration account using the eRegistration link. Select the eFiling link to log on and submit the intervention or protests.

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Dated: June 22, 2011.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2011–16690 Filed 7–1–11; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings #1

Take notice that the Commission received the following electric rate filings:

Docket Numbers: ER10–3058–001; ER10–3059–001; ER10–3066–001; ER10–3065–001.

Applicants: Pinelawn Power, LLC, Equus Power I, L.P., Edgewood Energy LLC, Shoreham Energy, LLC.

Description: J–Power North America Holdings Co. Ltd, Triennial Market Power Update for the Northeast Region.

Filed Date: 06/27/2011.

Accession Number: 20110627–5139.

Comment Date: 5 p.m. Eastern Time on Friday, August 26, 2011.

Docket Numbers: ER11–2528–002.

Applicants: Southwest Power Pool, Inc.

Description: Southwest Power Pool, Inc. submits tariff filing per 35: Compliance Filing—ER11–2528 (North Buffalo Wind, LLC GIA) to be effective 12/10/2010.

Filed Date: 06/27/2011.

Accession Number: 20110627–5093.

Comment Date: 5 p.m. Eastern Time on Monday, July 18, 2011.

Docket Numbers: ER11–3888–000.

Applicants: Midwest Independent Transmission System Operator, Inc.

Description: Midwest Independent Transmission System Operator, Inc. submits tariff filing per 35.13(a)(2)(iii): City of Columbia Amended IA to be effective 6/1/2011.

Filed Date: 06/27/2011.
Accession Number: 20110627–5036.
Comment Date: 5 p.m. Eastern Time on Monday, July 18, 2011.

Docket Numbers: ER11–3889–000.
Applicants: PJM Interconnection, LLC.
Description: PJM Interconnection, LLC submits tariff filing per 35.13(a)(2)(iii): U2–077 & W1–001 Interim ISA, Original Service Agreement No. 2952 to be effective 5/26/2011.
Filed Date: 06/27/2011.
Accession Number: 20110627–5041.
Comment Date: 5 p.m. Eastern Time on Monday, July 18, 2011.

Docket Numbers: ER11–3890–000.
Applicants: PJM Interconnection, LLC.
Description: PJM Interconnection, LLC submits tariff filing per 35.13(a)(2)(iii): Queue No. W4–074; Original Service Agreement No. 2949 to be effective 5/26/2011.
Filed Date: 06/27/2011.
Accession Number: 20110627–5056.
Comment Date: 5 p.m. Eastern Time on Monday, July 18, 2011.

Docket Numbers: ER11–3892–000.
Applicants: Consumers Energy Company.
Description: Consumers Energy Company submits tariff filing per 35.12: Facilities Agreement with the Michigan Power Limited Partnership, Rate Schedule to be effective 8/26/2011.
Filed Date: 06/27/2011.
Accession Number: 20110627–5098.
Comment Date: 5 p.m. Eastern Time on Monday, July 18, 2011.

Docket Numbers: ER11–3893–000.
Applicants: PJM Interconnection, LLC.
Description: PJM Interconnection, LLC submits tariff filing per 35.13(a)(2)(iii): Queue Position T126; Original Service Agreement No. 2950 to be effective 5/26/2011.
Filed Date: 06/27/2011.
Accession Number: 20110627–5100.
Comment Date: 5 p.m. Eastern Time on Monday, July 18, 2011.

Docket Numbers: ER11–3894–000.
Applicants: Fowler Ridge II Wind Farm LLC.
Description: Fowler Ridge II Wind Farm LLC submits tariff filing per 35.15: Compliance Filing, Docket No. ER09–1650–001 and OA09–32–001 to be effective 6/27/2011.
Filed Date: 06/27/2011.
Accession Number: 20110627–5101.
Comment Date: 5 p.m. Eastern Time on Monday, July 18, 2011.

Docket Numbers: ER11–3895–000.
Applicants: Fowler Ridge II Wind Farm LLC.
Description: Fowler Ridge II Wind Farm LLC submits tariff filing per 35.1: Compliance Filing, Docket No. ER09–1650–001 and OA09–32–001 to be effective 8/18/2010.
Filed Date: 06/27/2011.
Accession Number: 20110627–5102.
Comment Date: 5 p.m. Eastern Time on Monday, July 18, 2011.

Docket Numbers: ER11–3896–000.
Applicants: PJM Interconnection, LLC.
Description: PJM Interconnection, LLC submits tariff filing per 35.13(a)(2)(iii): Queue Position T127; Original Service Agreement No. 2951 to be effective 5/26/2011.
Filed Date: 06/27/2011.
Accession Number: 20110627–5125.
Comment Date: 5 p.m. Eastern Time on Monday, July 18, 2011.

Docket Numbers: ER11–3897–000.
Applicants: PJM Interconnection, LLC.
Description: PJM Interconnection, LLC submits tariff filing per 35.15: Notice of Cancellation of Service Agreement 2862 in Docket No. ER11–3513–000 to be effective 5/26/2011.
Filed Date: 06/27/2011.
Accession Number: 20110627–5126.
Comment Date: 5 p.m. Eastern Time on Monday, July 18, 2011.

Docket Numbers: ER11–3898–000.
Applicants: The Cleveland Electric Illuminating Company.
Description: The Cleveland Electric Illuminating Company submits tariff filing per 35: Revised Market-Based Rate Power Sales Tariff to be effective 6/29/2011.
Filed Date: 06/28/2011.
Accession Number: 20110628–5020.
Comment Date: 5 p.m. Eastern Time on Tuesday, July 19, 2011.

Docket Numbers: ER11–3899–000.
Applicants: FirstEnergy Generation Mansfield Unit 1 Corp.
Description: FirstEnergy Generation Mansfield Unit 1 Corp. submits tariff filing per 35: Revised Market-Based Rate Power Sales Tariff to be effective 6/29/2011.
Filed Date: 06/28/2011.
Accession Number: 20110628–5021.
Comment Date: 5 p.m. Eastern Time on Tuesday, July 19, 2011.

Docket Numbers: ER11–3900–000.
Applicants: FirstEnergy Generation Corp.
Description: FirstEnergy Generation Corp. submits tariff filing per 35: Revised Market-Based Power Sales Tariff to be effective 6/29/2011.
Filed Date: 06/28/2011.
Accession Number: 20110628–5022.
Comment Date: 5 p.m. Eastern Time on Tuesday, July 19, 2011.

Docket Numbers: ER11–3901–000.
Applicants: FirstEnergy Nuclear Generation Corp.
Description: FirstEnergy Nuclear Generation Corp. submits tariff filing per 35: Revised Market-Based Rate Power Sales Tariff to be effective 6/29/2011.
Filed Date: 06/28/2011.
Accession Number: 20110628–5023.
Comment Date: 5 p.m. Eastern Time on Tuesday, July 19, 2011.

Docket Numbers: ER11–3902–000.
Applicants: Jersey Central Power & Light.
Description: Jersey Central Power & Light submits tariff filing per 35: Revised Market-Based Rate Power Sales Tariff to be effective 6/29/2011.
Filed Date: 06/28/2011.
Accession Number: 20110628–5024.
Comment Date: 5 p.m. Eastern Time on Tuesday, July 19, 2011.

Docket Numbers: ER11–3903–000.
Applicants: FirstEnergy Solutions Corp.
Description: FirstEnergy Solutions Corp. submits tariff filing per 35: Revised Market-Based Rate Power Sales Tariff to be effective 6/29/2011.
Filed Date: 06/28/2011.
Accession Number: 20110628–5025.
Comment Date: 5 p.m. Eastern Time on Tuesday, July 19, 2011.

Docket Numbers: ER11–3904–000.
Applicants: PJM Interconnection, LLC.
Description: PJM Interconnection, LLC submits Notice of Cancellation of the interim interconnection service agreement with Meadow Lake Wind Farm II LLC and Meadow Lake Wind Farm III LLC *et al.*
Filed Date: 06/27/2011.
Accession Number: 20110627–5153.
Comment Date: 5 p.m. Eastern Time on Monday, July 18, 2011.

Docket Numbers: ER11–3905–000.
Applicants: PJM Interconnection, LLC.
Description: Notice of Cancellation of PJM Interconnection, LLC.
Filed Date: 06/27/2011.
Accession Number: 20110627–5154.
Comment Date: 5 p.m. Eastern Time on Monday, July 18, 2011.

Docket Numbers: ER11–3906–000.
Applicants: Ohio Edison Company.
Description: Ohio Edison Company submits tariff filing per 35: Revised Market-Based Rate Power Sales Tariff to be effective 6/29/2011.
Filed Date: 06/28/2011.
Accession Number: 20110628–5045.
Comment Date: 5 p.m. Eastern Time on Tuesday, July 19, 2011.

Docket Numbers: ER11–3907–000.

Applicants: The Toledo Edison Company.

Description: The Toledo Edison Company submits tariff filing per 35: Revised Toledo MBR Power Sales Tariff to be effective 6/29/2011.

Filed Date: 06/28/2011.

Accession Number: 20110628–5047.

Comment Date: 5 p.m. Eastern Time on Tuesday, July 19, 2011.

Docket Numbers: ER11–3908–000.

Applicants: Pennsylvania Power Company.

Description: Pennsylvania Power Company submits tariff filing per 35: Revised Market-Based Rate Power Sales Tariff to be effective 6/29/2011.

Filed Date: 06/28/2011.

Accession Number: 20110628–5048.

Comment Date: 5 p.m. Eastern Time on Tuesday, July 19, 2011.

Docket Numbers: ER11–3909–000.

Applicants: Metropolitan Edison Company.

Description: Metropolitan Edison Company submits tariff filing per 35: Revised Market-Based Rate Power Sales Tariff to be effective 6/29/2011.

Filed Date: 06/28/2011.

Accession Number: 20110628–5049.

Comment Date: 5 p.m. Eastern Time on Tuesday, July 19, 2011.

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Dated: June 28, 2011.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2011–16712 Filed 7–1–11; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings

Take notice that the Commission has received the following Natural Gas Pipeline Rate and Refund Report filings:

Docket Numbers: RP11–2204–000.

Applicants: Big Sandy Pipeline, LLC.

Description: Big Sandy Pipeline, LLC submits tariff filing per 154.204: Conforming Negotiated Rate Agreement Filing to be effective 7/1/2011.

Filed Date: 06/22/2011.

Accession Number: 20110622–5051.

Comment Date: 5 p.m. Eastern Time on Tuesday, July 05, 2011.

Docket Numbers: RP11–2205–000.

Applicants: Venice Gathering System, LLC.

Description: Venice Gathering System, LLC submits tariff filing per 154.203: Section 26.2 Suspension of Reservation Charges in FM Situations to be effective 7/25/2011.

Filed Date: 06/23/2011.

Accession Number: 20110623–5012.

Comment Date: 5 p.m. Eastern Time on Tuesday, July 05, 2011.

Docket Numbers: RP11–2206–000.

Applicants: Gulf Crossing Pipeline Company LLC.

Description: Gulf Crossing Pipeline Company LLC submits tariff filing per 154.204: Devon K10–7 Amendment to Negotiated Rate Agreement to be effective 7/1/2011.

Filed Date: 06/23/2011.

Accession Number: 20110623–5017.

Comment Date: 5 p.m. Eastern Time on Tuesday, July 05, 2011.

Docket Numbers: RP11–2207–000.

Applicants: Gulf South Pipeline Company, LP.

Description: Gulf South Pipeline Company, LP submits tariff filing per 154.204: Devon 34694–30 Amendment to Negotiated Rate Agreement to be effective 7/1/2011.

Filed Date: 06/23/2011.

Accession Number: 20110623–5018.

Comment Date: 5 p.m. Eastern Time on Tuesday, July 05, 2011.

Docket Numbers: RP11–2208–000.

Applicants: ETC Tiger Pipeline, LLC.

Description: ETC Tiger Pipeline, LLC submits tariff filing per 154.203: Tiger Expansion FTSA Non-Conforming Agreements to be effective 8/1/2011.

Filed Date: 06/23/2011.

Accession Number: 20110623–5087.

Comment Date: 5 p.m. Eastern Time on Tuesday, July 05, 2011.

Docket Numbers: RP11–2209–000.

Applicants: USG Pipeline Company.

Description: USG Pipeline Company submits tariff filing per 154.204: Miscellaneous Tariff Revisions to be effective 7/23/2011.

Filed Date: 06/23/2011.

Accession Number: 20110623–5099.

Comment Date: 5 p.m. Eastern Time on Tuesday, July 05, 2011.

Docket Numbers: RP11–2210–000.

Applicants: Transcontinental Gas Pipe Line Company, LLC.

Description: Transcontinental Gas Pipe Line Company, LLC submits tariff filing per 154.204: Filing to Add Statement of Negotiated Commodity Rates to be effective 6/9/2011.

Filed Date: 06/23/2011.

Accession Number: 20110623–5100.

Comment Date: 5 p.m. Eastern Time on Tuesday, July 05, 2011.

Docket Numbers: RP11–2211–000.
Applicants: Eastern Shore Natural Gas Company.
Description: Eastern Shore Natural Gas Company submits tariff filing per 154.204: Form of Service Change for MHQ and Pressure to be effective 7/24/2011.
Filed Date: 06/24/2011.
Accession Number: 20110624–5067.
Comment Date: 5 p.m. Eastern Time on Wednesday, July 06, 2011.

Docket Numbers: RP11–2212–000.
Applicants: Golden Pass LNG Terminal LLC.
Description: Petition of Golden Pass LNG Terminal LLC for Waiver of Regulations to Permit Certain Releases of Capacity on Golden Pass Pipeline LLC.
Filed Date: 06/24/2011.
Accession Number: 20110624–5098.
Comment Date: 5 p.m. Eastern Time on Wednesday, July 06, 2011.

Docket Numbers: RP11–2213–000.
Applicants: Ruby Pipeline, LLC.
Description: Ruby Pipeline, LLC submits tariff filing per 154.203: Non-Conforming Negotiated Rate Agreements to be effective 12/31/9998.
Filed Date: 06/27/2011.
Accession Number: 20110627–5000.
Comment Date: 5 p.m. Eastern Time on Monday, July 11, 2011.

Any person desiring to intervene or to protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214) on or before 5 p.m. Eastern time on the specified comment date. It is not necessary to separately intervene again in a subdocket related to a compliance filing if you have previously intervened in the same docket. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant. In reference to filings initiating a new proceeding, interventions or protests submitted on or before the comment deadline need not be served on persons other than the Applicant.

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Dated: June 27, 2011.

Nathaniel J. Davis, Sr.

Deputy Secretary.

[FR Doc. 2011–16713 Filed 7–1–11; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings #1

Take notice that the Commission received the following electric rate filings:

Docket Numbers: ER10–2310–001; ER10–2314–001; ER10–2311–001; ER10–2312–001; ER10–2313–001; ER10–2315–001; ER10–2316–001; ER10–2318–001; ER10–2321–001.
Applicants: Covanta Maine, LLC, Covanta Essex Company, Covanta Plymouth Renewable Energy Limited, Covanta Delaware Valley, L.P., Covanta Union, Inc., Covanta Hempstead Company, Covanta Niagara, L.P., Covanta Power, LLC, Covanta Energy Marketing LLC.
Description: Updated Market Power Analysis of the Covanta MBR Entities.
Filed Date: 06/23/2011.
Accession Number: 20110623–5112.
Comment Date: 5 p.m. Eastern Time on Monday, August 22, 2011.

Docket Numbers: ER10–2960–001.
Applicants: Astoria Generating Company, L.P.
Description: Astoria Generating Company, L.P. submits their updated market power analysis in support of its continued market-based rate authorization.
Filed Date: 06/23/2011.
Accession Number: 20110623–5163.
Comment Date: 5 p.m. Eastern Time on Monday, August 22, 2011.

Docket Numbers: ER10–3069–001; ER10–3070–001.
Applicants: Alcoa Power Generating Inc., Alcoa Power Marketing LLC.
Description: Updated Market Power Analysis of the Alcoa Companies.
Filed Date: 06/23/2011.
Accession Number: 20110623–5128.
Comment Date: 5 p.m. Eastern Time on Monday, August 22, 2011.

Docket Numbers: ER11–3409–001.
Applicants: Florida Power & Light Company.
Description: Florida Power & Light Company submits tariff filing per 35: FPL Revisions to Attachments H–A and H–B Sections of the OATT Compliance Filing to be effective 5/15/2011.
Filed Date: 06/23/2011.
Accession Number: 20110623–5092.
Comment Date: 5 p.m. Eastern Time on Thursday, July 14, 2011.

Docket Numbers: ER11–3847–001.
Applicants: Public Service Company of New Mexico.
Description: Public Service Company of New Mexico submits tariff filing per 35.17(b): Re-submission of First Revised Service Agreement 317 to be effective 6/1/2011.
Filed Date: 06/22/2011.
Accession Number: 20110622–5003.
Comment Date: 5 p.m. Eastern Time on Wednesday, July 13, 2011.

Docket Numbers: ER11–3865–000.
Applicants: PacifiCorp.
Description: PacifiCorp submits tariff filing per 35.13(a)(2)(iii: Owners Agmt for Operation of Pacific AC Intertie and CA–OR Transmission Project to be effective 1/1/2012.
Filed Date: 06/23/2011.
Accession Number: 20110623–5080.
Comment Date: 5 p.m. Eastern Time on Thursday, July 14, 2011.

Docket Numbers: ER11–3866–000.
Applicants: Lake Road Generating Company, L.P.
Description: Lake Road Generating Company, L.P. submits tariff filing per 35.37: Revisions to Market-Based Rate Tariff to be effective 6/24/2011.
Filed Date: 06/23/2011.
Accession Number: 20110623–5081.
Comment Date: 5 p.m. Eastern Time on Thursday, July 14, 2011.

Docket Numbers: ER11–3867–000.
Applicants: MASSPOWER.
Description: MASSPOWER submits tariff filing per 35.37: Revisions to Market-Based Rate Tariff to be effective 6/24/2011.
Filed Date: 06/23/2011.
Accession Number: 20110623–5082.
Comment Date: 5 p.m. Eastern Time on Thursday, July 14, 2011.

Docket Numbers: ER11–3868–000.
Applicants: Midwest Independent Transmission System Operator, Inc.
Description: Midwest Independent Transmission System Operator, Inc. submits tariff filing per 35.13(a)(2)(iii: NSP–WAPA Letter Agreement to be effective 6/24/2011.
Filed Date: 06/23/2011.
Accession Number: 20110623–5088.
Comment Date: 5 p.m. Eastern Time on Thursday, July 14, 2011.

Docket Numbers: ER11–3869–000.
Applicants: Southern California Edison Company.
Description: Southern California Edison Company submits tariff filing per 35.13(a)(2)(iii: LGIA Amendment CPV Sentinel Project to be effective 6/22/2011.
Filed Date: 06/23/2011.
Accession Number: 20110623–5090.
Comment Date: 5 p.m. Eastern Time on Thursday, July 14, 2011.

Docket Numbers: ER11–3870–000.
Applicants: Public Service Company of Colorado.
Description: Public Service Company of Colorado submits tariff filing per 35.13(a)(2)(iii: 2011–6–23_TSGT_FG_SS_COM_Agmt_318–PSCo to be effective 5/24/2011.
Filed Date: 06/23/2011.
Accession Number: 20110623–5109.
Comment Date: 5 p.m. Eastern Time on Thursday, July 14, 2011.

Docket Numbers: ER11–3871–000.
Applicants: PJM Interconnection, LLC.
Description: PJM Interconnection, LLC. submits tariff filing per 35.13(a)(2)(iii: Queue No. W4–075; Original Service Agreement No. 2948 to be effective 5/26/2011.
Filed Date: 06/23/2011.
Accession Number: 20110623–5144.
Comment Date: 5 p.m. Eastern Time on Thursday, July 14, 2011.

Docket Numbers: ER11–3872–000.
Applicants: Stony Creek Energy LLC.
Description: Stony Creek Energy LLC submits tariff filing per 35.12: Application for Market-Based Rate Authorizations and Related Waivers & Approvals to be effective 8/23/2011.
Filed Date: 06/23/2011.
Accession Number: 20110623–5145.
Comment Date: 5 p.m. Eastern Time on Thursday, July 14, 2011.

Docket Numbers: ER11–3873–000.
Applicants: California Independent System Operator Corporation.
Description: California Independent System Operator Corporation submits tariff filing per 35.13(a)(2)(iii: 2011–06–23 CAISO CRR Amendment to be effective 8/22/2011.
Filed Date: 06/23/2011.
Accession Number: 20110623–5147.
Comment Date: 5 p.m. Eastern Time on Thursday, July 14, 2011.

Docket Numbers: ER11–3874–000.
Applicants: PJM Interconnection, LLC.
Description: PJM Interconnection, LLC submits tariff filing per 35.13(a)(2)(iii: Queue No. W2–059; Original Service Agreement No. 2937 to be effective 5/25/2011.
Filed Date: 06/23/2011.
Accession Number: 20110623–5148.
Comment Date: 5 p.m. Eastern Time on Thursday, July 14, 2011.

Docket Numbers: ER11–3875–000.
Applicants: Southern California Edison Company.
Description: Southern California Edison Company cancels Letter Agreement with Abengoa Solar.
Filed Date: 06/24/2011.
Accession Number: 20110624–5012.
Comment Date: 5 p.m. Eastern Time on Friday, July 15, 2011.

Take notice that the Commission received the following public utility holding company filings:

Docket Numbers: PH11–15–000.
Applicants: SteelRiver Infrastructure Partners LP.
Description: Form 65–A of SteelRiver Infrastructure Partners LP.
Filed Date: 06/23/2011.
Accession Number: 20110623–5168.
Comment Date: 5 p.m. Eastern Time on Thursday, July 14, 2011.

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The filings in the above proceedings are accessible in the Commission's eLibrary system by clicking on the appropriate link in the above list. They are also available for review in the Commission's Public Reference Room in Washington, DC. There is an eSubscription link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed dockets(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov.* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: June 24, 2011.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2011–16695 Filed 7–1–11; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings #1

Take notice that the Commission received the following electric corporate filings:

Docket Numbers: EC11–90–000.
Applicants: Duke Energy Indiana, Inc., Wabash Valley Power Association, Inc., Duke Energy Vermillion II, LLC.

Description: Duke Energy Vermillion II, LLC, et al. application for authorization under section 203 of the Federal Power Act.

Filed Date: 06/22/2011.

Accession Number: 20110622–5076.

Comment Date: 5 p.m. Eastern Time on Wednesday, July 13, 2011.

Take notice that the Commission received the following exempt wholesale generator filings:

Docket Numbers: EG11–96–000.

Applicants: Stony Creek Energy LLC.

Description: Notice of Self-Certification of Exempt Wholesale Generator Status of Stony Creek Energy LLC under EG11–96.

Filed Date: 06/23/2011.

Accession Number: 20110623–5036.

Comment Date: 5 p.m. Eastern Time on Thursday, July 14, 2011.

Take notice that the Commission received the following electric rate filings:

Docket Numbers: ER11–2547–002.

Applicants: New York Independent System Operator, Inc.

Description: New York Independent System Operator, Inc. submits tariff filing per 35: Clarification of Import Supplier Guarantee Formula to be effective 5/18/2011.

Filed Date: 06/22/2011.

Accession Number: 20110622–5075.

Comment Date: 5 p.m. Eastern Time on Wednesday, July 6, 2011.

Docket Numbers: ER11–3120–001.

Applicants: Genon Power Midwest, LP.

Description: Genon Power Midwest, LP submits tariff filing per 35: Reactive Rate Schedule Compliance to be effective 6/1/2011.

Filed Date: 06/22/2011.

Accession Number: 20110622–5057.

Comment Date: 5 p.m. Eastern Time on Wednesday, July 13, 2011.

Docket Numbers: ER11–3443–002.

Applicants: UNS Electric, Inc.

Description: UNS Electric, Inc. submits tariff filing per 35: UNSE SGIA Compliance Filing to be effective 4/28/2011.

Filed Date: 06/22/2011.

Accession Number: 20110622–5066.

Comment Date: 5 p.m. Eastern Time on Wednesday, July 13, 2011.

Docket Numbers: ER11–3444–002.

Applicants: Tucson Electric Power Company.

Description: Tucson Electric Power Company submits tariff filing per 35: TEP SGIA Compliance Filing to be effective 4/28/2011.

Filed Date: 06/22/2011.

Accession Number: 20110622–5052.

Comment Date: 5 p.m. Eastern Time on Wednesday, July 13, 2011.

Docket Numbers: ER11–3458–001.

Applicants: Northern States Power Company, a Wisconsin.

Description: Northern States Power Company, a Wisconsin corporation submits tariff filing per 35.17(b): 2011–6–23_NSPW–DPC R&R Pole Lic Agmt_295 to be effective 3/31/2011.

Filed Date: 06/23/2011.

Accession Number: 20110623–5040.

Comment Date: 5 p.m. Eastern Time on Thursday, July 14, 2011.

Docket Numbers: ER11–3581–001.

Applicants: PJM Interconnection, LLC, Monongahela Power Company.

Description: PJM Interconnection, LLC submits tariff filing per 35.17(b): Monongahela Power, *et al.,* submits Errata to the Third Revised Service Agreement 1395 to be effective 5/17/2011.

Filed Date: 06/22/2011.

Accession Number: 20110622–5026.

Comment Date: 5 p.m. Eastern Time on Wednesday, July 13, 2011.

Docket Numbers: ER11–3847–000.

Applicants: Public Service Company of New Mexico.

Description: Public Service Company of New Mexico submits tariff filing per 35.13(a)(2)(iii: First Revised Service Agreement No. 317 to be effective 6/1/2011.

Filed Date: 06/22/2011.

Accession Number: 20110622–5000.

Comment Date: 5 p.m. Eastern Time on Wednesday, July 13, 2011.

Docket Numbers: ER11–3848–000.

Applicants: NSTAR Electric Company.

Description: Tariff Filing of NSTAR Electric Company.

Filed Date: 06/21/2011.

Accession Number: 20110621–5121.

Comment Date: 5 p.m. Eastern Time on Tuesday, July 12, 2011.

Docket Numbers: ER11–3849–000.

Applicants: Southern California Edison Company.

Description: Southern California Edison Company submits tariff filing per 35.13(a)(2)(iii: Amendment to IFA with CSDLA to be effective 6/23/2011.

Filed Date: 06/22/2011.

Accession Number: 20110622–5032.

Comment Date: 5 p.m. Eastern Time on Wednesday, July 13, 2011.

Docket Numbers: ER11–3850–000.

Applicants: NorthWestern Corporation.

Description: NorthWestern Corporation submits tariff filing per 35.13(a)(2)(iii: OATT (MT) Revision for Intra-Hour Scheduling to be effective 7/1/2011.

Filed Date: 06/22/2011.

Accession Number: 20110622–5045.

Comment Date: 5 p.m. Eastern Time on Wednesday, July 13, 2011.

Docket Numbers: ER11–3851–000.

Applicants: Northern States Power Company, a Minnesota corporation.

Description: Northern States Power Company, a Minnesota corporation submits tariff filing per 35.13(a)(2)(iii: 2011–6–22_NSP–WPL–Cert of Con_311 to be effective 6/20/2011.

Filed Date: 06/22/2011.

Accession Number: 20110622–5047.

Comment Date: 5 p.m. Eastern Time on Wednesday, July 13, 2011.

Docket Numbers: ER11–3852–000.

Applicants: Northern States Power Company, a Wisconsin corporation.

Description: Northern States Power Company, a Wisconsin corporation submits tariff filing per 35.13(a)(2)(iii: 2011–6–22_NSPW–WPL–Cert of Con_311 to be effective 6/20/2011.

Filed Date: 06/22/2011.

Accession Number: 20110622–5048.

Comment Date: 5 p.m. Eastern Time on Wednesday, July 13, 2011.

Docket Numbers: ER11–3853–000.

Applicants: Black Hills Power, Inc.

Description: Black Hills Power, Inc. submits tariff filing per 35: Revised Baseline OATT of Black Hills Power, Inc. to be effective 9/30/2010.

Filed Date: 06/22/2011.

Accession Number: 20110622–5079.

Comment Date: 5 p.m. Eastern Time on Wednesday, July 13, 2011.

Docket Numbers: ER11–3854–000.

Applicants: New York State Electric & Gas Corporation.

Description: New York State Electric & Gas Corporation submits tariff filing per 35.1: NYSEG Facilities Agreement with NYPA 2011 Update to be effective 9/1/2011.

Filed Date: 06/22/2011.

Accession Number: 20110622–5080.

Comment Date: 5 p.m. Eastern Time on Wednesday, July 13, 2011.

Docket Numbers: ER11–3855–000.

Applicants: Black Hills Power, Inc.

Description: Black Hills Power, Inc. submits tariff filing per 35.13(a)(2)(iii: Black Hills Power, Inc., JOATT Section 23 to be effective 6/23/2011.

Filed Date: 06/22/2011.

Accession Number: 20110622–5085.

Comment Date: 5 p.m. Eastern Time on Wednesday, July 13, 2011.

Docket Numbers: ER11–3856–000.

Applicants: California Independent System Operator Corporation.

Description: California Independent System Operator Corporation submits tariff filing per 35.13(a)(2)(iii: 2011–06–22 CAISO BCR–ED Amendment to be effective 6/23/2011.

Filed Date: 06/22/2011.

Comment Date: 5 p.m. Eastern Time on Wednesday, July 13, 2011.

Docket Numbers: ER11–3857–000.
Applicants: Milford Power Company, LLC.
Description: Milford Power Company, LLC submits tariff filing per 35.37: Revisions to Market-Based Rate Tariff to be effective 6/24/2011.
Filed Date: 06/23/2011.
Accession Number: 20110623–5016.
Comment Date: 5 p.m. Eastern Time on Thursday, July 14, 2011.

Docket Numbers: ER11–3858–000.
Applicants: ECP Energy I, LLC.
Description: ECP Energy I, LLC submits tariff filing per 35.37: Revisions to Market-Based Rate Tariff to be effective 6/24/2011.
Filed Date: 06/23/2011.
Accession Number: 20110623–5038.
Comment Date: 5 p.m. Eastern Time on Thursday, July 14, 2011.

Docket Numbers: ER11–3859–000.
Applicants: Dighton Power, LLC.
Description: Dighton Power, LLC submits tariff filing per 35.37: Revisions to Market-Based Rate Tariff to be effective 6/24/2011.
Filed Date: 06/23/2011.
Accession Number: 20110623–5039.
Comment Date: 5 p.m. Eastern Time on Thursday, July 14, 2011.

Docket Numbers: ER11–3860–000.
Applicants: Westar Energy, Inc.
Description: Westar Energy, Inc. submits tariff filing per 35.13(a)(2)(iii: KEPCo, Revisions to Attachment A—Delivery Points to be effective 8/1/2011.
Filed Date: 06/23/2011.
Accession Number: 20110623–5041.
Comment Date: 5 p.m. Eastern Time on Thursday, July 14, 2011.

Docket Numbers: ER11–3861–000.
Applicants: Empire Generating Co, LLC.
Description: Empire Generating Co, LLC submits tariff filing per 35.37: Revisions to Market-Based Rate Tariff to be effective 6/24/2011.
Filed Date: 06/23/2011.
Accession Number: 20110623–5050.
Comment Date: 5 p.m. Eastern Time on Thursday, July 14, 2011.

Docket Numbers: ER11–3862–000.
Applicants: PacifiCorp.
Description: PacifiCorp's Notice of Termination of Installation Agreement between PacifiCorp and WAPA of Spring Creek Substation Capacitor Bank.
Filed Date: 06/23/2011.
Accession Number: 20110623–5068.
Comment Date: 5 p.m. Eastern Time on Thursday, July 14, 2011.

Docket Numbers: ER11–3863–000.
Applicants: ECP Energy I, LLC.
Description: ECP Energy I, LLC submits tariff filing per 35.37: Revisions to Market-Based Rate Filing to be effective 6/24/2011.
Filed Date: 06/23/2011.
Accession Number: 20110623–5072.
Comment Date: 5 p.m. Eastern Time on Thursday, July 14, 2011.

Docket Numbers: ER11–3864–000.
Applicants: EquiPower Resources Management, LLC.
Description: EquiPower Resources Management, LLC submits tariff filing per 35.37: Revisions to Market-Based Rate Tariff to be effective 6/24/2011.
Filed Date: 06/23/2011.
Accession Number: 20110623–5073.
Comment Date: 5 p.m. Eastern Time on Thursday, July 14, 2011.

Any person desiring to intervene or to protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214) on or before 5 p.m. Eastern time on the specified comment date. It is not necessary to separately intervene again in a subdocket related to a compliance filing if you have previously intervened in the same docket. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant. In reference to filings initiating a new proceeding, interventions or protests submitted on or before the comment deadline need not be served on persons other than the Applicant.

As it relates to any qualifying facility filings, the notices of self-certification [or self-recertification] listed above, do not institute a proceeding regarding qualifying facility status. A notice of self-certification [or self-recertification] simply provides notification that the entity making the filing has determined the facility named in the notice meets the applicable criteria to be a qualifying facility. Intervention and/or protest do not lie in dockets that are qualifying facility self-certifications or self-recertifications. Any person seeking to challenge such qualifying facility status may do so by filing a motion pursuant to 18 CFR 292.207(d)(iii). Intervention and protests may be filed in response to notices of qualifying facility dockets other than self-certifications and self-recertifications.

The Commission encourages electronic submission of protests and interventions in lieu of paper, using the FERC Online links at *http://www.ferc.gov.* To facilitate electronic service, persons with Internet access who will eFile a document and/or be listed as a contact for an intervenor must create and validate an eRegistration account using the eRegistration link. Select the eFiling link to log on and submit the intervention or protests.

Persons unable to file electronically should submit an original and 14 copies of the intervention or protest to the Federal Energy Regulatory Commission, 888 First St., NE., Washington, DC 20426.

The filings in the above proceedings are accessible in the Commission's eLibrary system by clicking on the appropriate link in the above list. They are also available for review in the Commission's Public Reference Room in Washington, DC. There is an eSubscription link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed dockets(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov.* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: June 23, 2011.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2011–16692 Filed 7–1–11; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings #2

Take notice that the Commission received the following exempt wholesale generator filings:

Docket Numbers: EG11–80–000.
Applicants: Bayonne Energy Center, LLC.
Description: Amendment to Notice of Self-Certification of Exempt Wholesale Generator Status of Bayonne Energy Center, LLC, Docket No. EG11–80.
Filed Date: 05/11/2011.
Accession Number: 20110511–5126.
Comment Date: 5 p.m. Eastern Time on Friday, July 01, 2011.

Take notice that the Commission received the following electric rate filings:

Docket Numbers: ER10–2670–002; *ER10–2669–002; ER10–2671–002; ER10–2673–002; ER10–2253–002; ER10–3319–003; ER10–2674–002; ER10–2627–002; ER10–2629–002; ER10–1546–003; ER10–1547–002; ER10–2675–002; ER10–2676–002; ER10–2636–002; ER10–1975–003; ER10–1974–003; ER11–2424–005; ER10–2677–002; ER10–1550–003; ER10–1551–002; ER10–2638–002.*
Applicants: Hopewell Cogeneration Ltd Partnership, MT. Tom Generating

Company LLC, Calumet Energy Team, LLC, Pleasants Energy, LLC, Waterbury Generation LLC, Syracuse Energy Corporation, GDF SUEZ Energy Marketing NA, Inc., FirstLight Power Resources Management, L, ANP Bellingham Energy Company, LLC, ANP Blackstone Energy Company, LLC, ANP Funding I, LLC, Armstrong Energy Limited Partnership, L., IPA Trading, Inc., Astoria Energy II LLC, Pinetree Power-Tamworth, Inc., Astoria Energy, LLC, Milford Power Limited Partnership, Northeast Energy Associates, A Limited P, FirstLight Hydro Generating Corporation, North Jersey Energy Associates, Northeast Power Company, Northeastern Power Company.

Description: Northeast Triennial Filing of the GDF SUEZ Northeast MBR Sellers.

Filed Date: 06/24/2011.

Accession Number: 20110624–5060.

Comment Date: 5 p.m. Eastern Time on Tuesday, August 23, 2011.

Docket Numbers: ER11–3872–001.

Applicants: Stony Creek Energy LLC.

Description: Stony Creek Energy LLC submits tariff filing per 35.17(b): Supplement to Market-Based Rate Application to be effective 8/23/2011.

Filed Date: 06/24/2011.

Accession Number: 20110624–5014.

Comment Date: 5 p.m. Eastern Time on Friday, July 15, 2011.

Docket Numbers: ER11–3876–000.

Applicants: Cordova Energy Company LLC.

Description: Cordova Energy Company LLC submits tariff filing per 35.1: Cordova Energy Company LLC MBR Tariff Baseline Filing to be effective 6/24/2011.

Filed Date: 06/24/2011.

Accession Number: 20110624–5027.

Comment Date: 5 p.m. Eastern Time on Friday, July 15, 2011.

Any person desiring to intervene or to protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214) on or before 5 p.m. Eastern time on the specified comment date. It is not necessary to separately intervene again in a subdocket related to a compliance filing if you have previously intervened in the same docket. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant. In reference to filings initiating a new proceeding, interventions or protests submitted on or before the comment deadline need not be served on persons other than the Applicant.

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The Commission encourages electronic submission of protests and interventions in lieu of paper, using the FERC Online links at *http://www.ferc.gov.* To facilitate electronic service, persons with Internet access who will eFile a document and/or be listed as a contact for an intervenor must create and validate an eRegistration account using the eRegistration link. Select the eFiling link to log on and submit the intervention or protests.

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Dated: June 24, 2011.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2011–16694 Filed 7–1–11; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RM09–2–001]

Contract Reporting Requirements of Intrastate Natural Gas Companies; Notice of Extension of Time and Notice of Corrections

In a May 20, 2011, filing in this proceeding, the Texas Pipeline Association requests that the Commission extend the deadline by which section 311 of the Natural Gas Policy Act of 1978 and Hinshaw pipelines must comply with the requirements of Order Nos. 735 and 735–A.[1] Specifically, it requests a delay until 90 days after the revised Form No. 549D, XML schema format, and Data Dictionary and Instruction have been finalized and posted on the FERC Web site. Enogex LLC and Atmos Energy filed comments in support.

For good cause shown and because the Office of Management & Budget (OMB) has approved the corrected versions of the Form 549D, the Data Dictionary and Instructions, notice is hereby given that all section 311 and Hinshaw pipelines are granted an extension of time. The deadline for filing Form 549D for the first quarter of calendar year 2011 shall be extended until September 9, 2011. However, Respondents will not be able to eFile their data until August 15, 2011. The deadline for filing Form 549D for the second quarter of calendar year 2011 shall be extended until September 30, 2011. The third and fourth quarter reports are due 60 days after the end of their respective quarters.

Commission Staff has corrected the Data Dictionary and Instructions for filing Form 549D. Staff also corrected and completed testing of a corrected XML XSD file (XML Schema) and corrected fillable Form 549D PDF with assistance of a Form 549D Test Group.[2] The Test Group was formed with the approval by OMB. Staff wishes to acknowledge the efforts of the Test Group and thank them for their participation.

Staff is publishing the following corrected documents on the FERC Web site for use by Respondents and

[1] *Contract Reporting Requirements of Intrastate Natural Gas Companies,* 133 FERC ¶ 61,150 (May 20, 2010) (Order No. 735), 133 FERC ¶ 61,216 (December 16, 2010) (Order No. 735–A).

[2] The Form 549D Test Group consisted of Humble Gas Pipeline Company, Enterprise Products Partners, L.P., Enbridge, Pacific Gas & Electric Company, AGL Resources, Energy Transfer Partners, L.P. Spectra Energy Corp., Regency Energy Partners and Kinder Morgan.

software developers who wish to create tools to facilitate compliance with the requirements of Order Nos. 735 and 735–A: (1) Fillable Form 549D PDF, (2) XML XSD file, and (3) Data Dictionary and Instruction for completing the Form 549D. Only these documents should be used to eFile the Form 549D.

Staff is also publishing in eLibrary a log of the changes to help Respondents understand the changes that were made and a redline/strikeout copy of the Data Dictionary and Instructions. The log of changes and the redline/strikeout copy of the Data Dictionary and Instructions will not be published in the **Federal Register**. Respondents should consult the Form 549D web page, especially the filing tips and instructions on the FERC Web site for more detailed information. Any questions should be sent to the *Form549D@ferc.gov* mail box.

Dated: June 24, 2011.

Nathaniel J. Davis, Sr.

Deputy Secretary.

[FR Doc. 2011–16693 Filed 7–1–11; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 4804–001]

San Luis Obispo Flood Control and Water Conservation District; Notice of Effectiveness of Surrender

On October 27, 1981, the Commission issued an Order Granting Exemption from Licensing for a Conduit Hydroelectric Project [1] to the San Luis Obispo Flood Control and Water Conservation District (District) for the Lopez Water Treatment Plant Hydropower Generation Unit Project No. 4804. The project was located on the county's water distribution system in San Luis Obispo County, California.

On October 24, 2005, the District filed an application with the Commission to surrender the exemption. On April 12, 2007, staff from the Commission's San Francisco Regional Office conducted an inspection of the project to verify that the District had dismantled and abandoned the project facilities as proposed. By letter dated May 3, 2007, Commission staff confirmed the project's abandonment.

Accordingly, the Commission accepts the District's surrender of its exemption from licensing issued on October 27, 1981, effective May 3, 2007.

[1] *San Luis Obispo Flood Control and Water Conservation District,* 17 FERC ¶ 62,113 (1981).

Dated: June 22, 2011.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2011–16691 Filed 7–1–11; 8:45 am]

BILLING CODE 6717–01–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OECA–2010–0777, FRL–9429–5]

Agency Information Collection Activities; Submission to OMB for Review and Approval; Comment Request; Source Compliance and State Action Reporting (Renewal)

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (PRA) (44 U.S.C. 3501 *et seq.*), this document announces that an Information Collection Request (ICR) has been forwarded to the Office of Management and Budget (OMB) for review and approval. This is a request to renew an existing approved collection. The ICR, which is abstracted below, describes the nature of the information collection and its estimated burden and cost.

DATES: Additional comments may be submitted on or before August 4, 2011.

ADDRESSES: Submit your comments, referencing Docket ID No. EPA–HQ–OECA–2010–0777, to (1) EPA online using *http://www.regulations.gov* (our preferred method), by e-mail to *docket.oeca@epa.gov,* or by mail to: EPA Docket Center, Environmental Protection Agency, Mail Code 28221T, 1200 Pennsylvania Ave., NW., Washington, DC 20460, and (2) OMB by mail to: Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), Attention: Desk Officer for EPA, 725 17th Street, NW., Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Betsy Metcalf, Enforcement Targeting & Data Division, Office of Compliance, 2222A, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460; telephone number: (202) 564–5962; fax number: (202) 564–0032; e-mail address: *metcalf.betsy@epa.gov.*

SUPPLEMENTARY INFORMATION: EPA has submitted the following ICR to OMB for review and approval according to the procedures prescribed in 5 CFR 1320.12. On January 18, 2011 (76 FR 2904), EPA sought comments on this ICR pursuant to 5 CFR 1320.8(d). EPA received two (2) comments during the comment period, which are addressed in the ICR. Any additional comments on this ICR should be submitted to EPA and OMB within 30 days of this notice.

EPA has established a public docket for this ICR under Docket ID No. EPA–HQ–OECA–2010–0777, which is available for online viewing at *http://www.regulations.gov,* or in person viewing at the Enforcement and Compliance Docket and Information Center (ECDIC) in the EPA Docket Center (EPA/DC), EPA West, Room 3334, 1301 Constitution Ave., NW., Washington, DC. The EPA/DC 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 Reading Room is 202–566–1744, and the telephone number for the ECDIC is 202–566–1752.

Use EPA's electronic docket and comment system at *http://www.regulations.gov,* to submit or view public comments, access the index listing of the contents of the docket, and to access those documents in the docket that are available electronically. Once in the system, select ''docket search,'' then key in the docket ID number identified above. Please note that EPA's policy is that public comments, whether submitted electronically or in paper, will be made available for public viewing at *http://www.regulations.gov* as EPA receives them and without change, unless the comment contains copyrighted material, confidential business information (CBI), or other information whose public disclosure is restricted by statute. For further information about the electronic docket, go to *http://www.regulations.gov.*

Title: Source Compliance and State Action Reporting (Renewal).

ICR numbers: EPA ICR No. 0107.10, OMB Control No. 2060–0096.

ICR Status: This ICR is scheduled to expire on July 31, 2011. Under OMB regulations, the Agency may continue to conduct or sponsor the collection of information while this submission is pending at OMB. An Agency may not conduct or sponsor, and a person is not required to respond to, a collection of information, unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations in title 40 of the CFR, after appearing in the **Federal Register** when approved, are listed in 40 CFR part 9, are displayed either by publication in the **Federal Register** or by other appropriate means, such as on the related collection instrument or form, if applicable. The display of OMB control numbers in certain EPA regulations is consolidated in 40 CFR part 9.

Abstract: Source Compliance and State Action Reporting is an activity whereby State, District, Local, and Commonwealth governments (hereafter referred to as either ''states/locals'' or ''state and local agencies'') make air compliance and enforcement information available to the U.S. Environmental Protection Agency (EPA or the Agency) on a cyclic basis via input to the Air Facility System (AFS). The information provided to EPA includes compliance activities and determinations, and enforcement activities. EPA uses this information to assess progress toward meeting emission requirements developed under the authority of the Clean Air Act (CAA or the Act) to protect and maintain the atmospheric environment and the public health. The EPA and many of the state and local agencies access the data in AFS to assist them in the management of their air pollution control programs. This renewal information collection request (ICR) affects oversight of approximately 39,005 stationary sources by 99 state and local agencies and the Federal EPA. On average, the burden imposed by this collection amounts to approximately one-tenth of a full-time equivalent employee for each small state and local agency, one-fourth of a full-time equivalent employee for each medium sized state and local agency and one and one-tenth of a full-time equivalent employee for each large sized state and local agency for national reporting of compliance and enforcement related data under all of the applicable Clean Air Act programs.

Burden Statement: The annual public reporting and recordkeeping burden for this collection of information is estimated to average 92 hours per response. Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements which have subsequently changed; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

Respondents/Affected Entities: State and Local Agencies.

Estimated Number of Respondents: 99.

Frequency of Response: Every 60 days.

Estimated Total Annual Hour Burden: 54,384.

Estimated Total Annual Cost: $2,843,187 in labor costs. There are no capital or O&M costs.

Changes in the Estimates: There is a decrease of 18,689 hours in the total estimated burden currently identified in the OMB Inventory of Approved ICR Burdens. This decrease is due to a continuing decrease in the number of major sources in the reportable universe and a reported decrease of time and resources available for use in data management by small and medium sized agencies.

Dated: June 28, 2011.

Joseph A. Sierra,

Acting Director, Collection Strategies Division.

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ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OW–2011–0439; EPA–HQ–OW–2011–0442; EPA–HQ–OW–2011–0443; FRL–9429–6]

Agency Information Collection Activities; Proposed Collection; Comment Request; Disinfectants/Disinfection Byproducts, Chemical and Radionuclides; Microbial; and Public Water System Supervision Program

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (PRA) (44 U.S.C. 3501 *et seq.*), this document announces that EPA is planning to submit a request to renew existing approved Information Collection Requests (ICRs) to the Office of Management and Budget (OMB). The ICRs scheduled to expire are Disinfectants/Disinfection Byproducts, Chemical and Radionuclides Rules ICR expires on December 31, 2011; Microbial Rules ICR expires on April 30, 2012; and Public Water System Supervision ICR expires on March 31, 2012. Before submitting the ICR to OMB for review and approval, EPA is soliciting comments on specific aspects of the proposed information collection as described below.

DATES: Comments must be submitted on or before September 6, 2011.

ADDRESSES: Submit your comments, identified by the Docket ID EPA–HQ–OW–2011–0439 (Disinfectants/Disinfection Byproducts, Chemical and Radionuclides Rules); EPA–HQ–OW–2011–0442 (Microbial Rules); and EPA–HQ–OW–2011–0443 (Public Water System Supervision), by one of the following methods:

- *http://www.regulations.gov:* Follow the on-line instructions for submitting comments.
- *E-mail: OW–Docket@epa.gov*
- *Mail:* Water Docket, US Environmental Protection Agency, EPA Docket Center (EPA/DC), Water Docket, MC: 28221T, 1200 Pennsylvania Ave., NW., Washington, DC 20460.
- *Hand Delivery:* EPA Docket Center, Public Reading Room, EPA Headquarters West Building, Room 3334, 1301 Constitution Ave., NW., Washington, DC. 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 identified by the Docket ID numbers identified in the **ADDRESSES** section for each item in the text. 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 e-mail. The *http://www.regulations.gov* Web site is an ''anonymous access'' system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through *www.regulations.gov* your e-mail address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD–ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses. For additional information about EPA's public docket visit the EPA

Docket Center homepage at *http://www.epa.gov/epahome/dockets.htm.*

FOR FURTHER INFORMATION CONTACT: Matthew Reed, Drinking Water Protection Division, Office of Ground Water and Drinking Water, (4606M), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460; telephone number: 202–564–4719; e-mail address: *reed.matthew@epa.gov.*

SUPPLEMENTARY INFORMATION:

How can I access the docket and/or submit comments?

EPA has established a public docket for each of the ICRs identified in the **ADDRESSES** section, which are available for online viewing at *http://www.regulations.gov*, or in person viewing at the Water Docket in the EPA Docket Center (EPA/DC), EPA West, Room 3334, 1301 Constitution Ave., NW., Washington, DC. The EPA/DC 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 Reading Room is 202–566–1744, and the telephone number for the Water Docket is 202–566–2426.

Use *http://www.regulations.gov* to obtain a copy of the draft collection of information, submit or view public comments, access the index listing of the contents of the docket, and to access those documents in the public docket that are available electronically. Once in the system, select ''search,'' then key in the docket ID number identified in this document.

What information is EPA particularly interested in?

Pursuant to section 3506(c)(2)(A) of the PRA, EPA specifically solicits comments and information to enable it to:

(i) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the Agency, including whether the information will have practical utility;

(ii) evaluate the accuracy of the Agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(iii) enhance the quality, utility, and clarity of the information to be collected; and

(iv) minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses. In particular, EPA is requesting comments from small public water systems (those that serve less than 10,000 customers) on examples of specific additional efforts that EPA could make to reduce the paperwork burden for small public water systems affected by this collection. The small public water systems include community water systems, and non-transient non-community water systems such as schools and hospitals, in addition to transient non-community water systems such as restaurants and campgrounds.

What should I consider when I prepare my comments for EPA?

You may find the following suggestions helpful for preparing your comments:

1. Explain your views as clearly as possible and provide specific examples.

2. Describe any assumptions that you used.

3. Provide copies of any technical information and/or data you used that support your views.

4. If you estimate potential burden or costs, explain how you arrived at the estimate that you provide.

5. Offer alternative ways to improve the collection activity.

6. Make sure to submit your comments by the deadline identified under DATES.

7. To ensure proper receipt by EPA, be sure to identify the docket ID number assigned to this action in the subject line on the first page of your response. You may also provide the name, date, and **Federal Register** citation.

What information collection activity or ICR does this apply to?

Docket ID No. EPA–HQ–OW–2011–0439.

Affected entities: Entities potentially affected by this action are new and existing public water systems (PWS), primacy agencies, and EPA.

Title: Disinfectants/Disinfection Byproducts, Chemical, and Radionuclides Rules (Renewal).

ICR numbers: EPA ICR No. 1896.09, OMB Control No. 2040–0204.

ICR status: This ICR is currently scheduled to expire on December 31, 2011. An Agency may not conduct or sponsor, and a person is not required to respond to, a collection of information, unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations in title 40 of the CFR, after appearing in the **Federal Register** when approved, are listed in 40 CFR part 9, are displayed either by publication in the **Federal Register** or by other appropriate means, such as on the related collection instrument or form, if applicable. The display of OMB control numbers in certain EPA regulations is consolidated in 40 CFR part 9.

Abstract: The Disinfectants/Disinfection Byproducts, Chemical and Radionuclides Rules ICR examines PWS, primacy agency and EPA burden and costs for recordkeeping and reporting requirements in support of the chemical drinking water regulations. These recordkeeping and reporting requirements are mandatory for compliance with 40 CFR parts 141 and 142. The following chemical regulations are included: Stage 1 Disinfectants and Disinfection Byproducts Rule (Stage 1 DBPR), Stage 2 Disinfectants and Disinfection Byproducts Rule (Stage 2 DBPR), Chemical Phase Rules (Phases II/IIB/V), 1976 Radionuclides Rule and 2000 Radionuclides Rule, Total Trihalomethanes (TTHM) Rule, Disinfectant Residual Monitoring and Associated Activities under the Surface Water Treatment Rule, Arsenic Rule, Lead and Copper Rule (LCR) and revisions. Future chemical-related rulemakings will be added to this consolidated ICR after the regulations are finalized and the initial, rule-specific, ICRs are due to expire.

Burden Statement: The annual public reporting and recordkeeping burden for this collection of information is estimated to average 0.40 hours per response. Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements which have subsequently changed; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

The ICR provides a detailed explanation of the Agency's estimate, which is only briefly summarized here:

Estimated total number of potential respondents: 246,048.

Frequency of response: varies by requirement (*i.e.,* on occasion, monthly, quarterly, semi-annually, annually, biennially, and every 3, 6, and 9 years).

Estimated total average number of responses for each respondent: varies by requirement.

Estimated total annual burden hours: 6,987,131 hours.

Estimated total annualized capital/startup costs: $6,918,000.

Estimated total annual maintenance and operational costs: $203,672,204.

Are there changes in the estimates from the last approval?

There is no estimated increase or decrease of hours in the total estimated respondent burden compared with that identified in the ICR currently approved by OMB.

What information collection activity or ICR does this apply to?

Docket ID No. EPA–HQ–OW–2011–0442.

Affected entities: Entities potentially affected by this action are new and existing public water systems (PWS), primacy agencies, and EPA.

Title: Microbial Rules (Renewal).

ICR numbers: EPA ICR No. 1895.07, OMB Control No. 2040–0205

ICR status: This ICR is currently scheduled to expire on April 30, 2012. An Agency may not conduct or sponsor, and a person is not required to respond to, a collection of information, unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations in title 40 of the CFR, after appearing in the **Federal Register** when approved, are listed in 40 CFR part 9, are displayed either by publication in the **Federal Register** or by other appropriate means, such as on the related collection instrument or form, if applicable. The display of OMB control numbers in certain EPA regulations is consolidated in 40 CFR part 9.

Abstract: The Microbial Rules Renewal ICR examines PWS, primacy agency and EPA burden and costs for recordkeeping and reporting requirements in support of the microbial drinking water regulations. These recordkeeping and reporting requirements are mandatory for compliance with 40 CFR parts 141 and 142. The following microbial regulations are included: Surface Water Treatment Rule (SWTR), Total Coliform Rule (TCR), Interim Enhanced Surface Water Treatment Rule (IESWTR), Filter Backwash Recycling Rule (FBRR), Long Term 1 Enhanced Surface Water Treatment Rule (LT1ESWTR), Long Term 2 Enhanced Surface Water Treatment Rule (LT2ESWTR), Ground Water Rule, and the Aircraft Drinking Water Rule. Although the Aircraft Drinking Water Rule has a stand-alone ICR at this time, it is being included into the Microbial ICR due to the nature of information collected. The information collected for the Aircraft Drinking Water Rule is directly correlated to information collected under the Total Coliform Rule, and therefore is appropriate to be included in the Microbial ICR. Future microbial-related rulemakings will be added to this consolidated ICR after the regulations are finalized and the initial, rule-specific, ICRs are due to expire.

Burden Statement: The annual public reporting and recordkeeping burden for this collection of information is estimated to average 0.79 hours per response. Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements which have subsequently changed; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

The ICR provides a detailed explanation of the Agency's estimate, which is only briefly summarized here:

Estimated total number of potential respondents: 161,337.

Frequency of response: Varies by requirement (*i.e.,* on occasion, monthly, quarterly, semi-annually, and annually.

Estimated total average number of responses for each respondent: 72.

Estimated total annual burden hours: 9,172,188 hours.

Estimated total annualized capital/startup costs: $32,888,601.

Estimated total annual maintenance and operational costs: $88,222,000.

Are there changes in the estimates from the last approval?

There is an increase of 17,583 hours in the total estimated respondent burden compared with that identified in the ICR currently approved by OMB. This increase reflects EPA's inclusion of the information collection requirements of the Aircraft Drinking Water Rule, which was previously a stand-alone ICR.

What information collection activity or ICR does this apply to?

Docket ID No. EPA–HQ–OW–2011–0443.

Affected entities: Entities potentially affected by this action are new and existing public water systems (PWS), primacy agencies, and EPA.

Title: Public Water System Supervision Program (Renewal).

ICR numbers: EPA ICR No. 0270.45, OMB Control No. 2040–0090.

ICR status: This ICR is currently scheduled to expire on March 31, 2012. An Agency may not conduct or sponsor, and a person is not required to respond to, a collection of information, unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations in title 40 of the CFR, after appearing in the **Federal Register** when approved, are listed in 40 CFR part 9, are displayed either by publication in the **Federal Register** or by other appropriate means, such as on the related collection instrument or form, if applicable. The display of OMB control numbers in certain EPA regulations is consolidated in 40 CFR part 9.

Abstract: The Public Water System Supervision (PWSS) Program Renewal ICR examines PWS, primacy agency, EPA, and tribal operator certification provider burden and costs for ''cross-cutting'' recordkeeping and reporting requirements (*i.e.,* the burden and costs for complying with drinking water information requirements that are not associated with contaminant-specific rulemakings). These activities which have record keeping and reporting requirements that are mandatory for compliance with 40 CFR parts 141 and 142 include the following: Consumer Confidence Reports (CCRs), Primacy Regulation Activities, Variance and Exemption Rule (V/E Rule), General State Primacy Activities, Public Notification (PN) and Proficiency Testing Studies for Drinking Water Laboratories. The information collection activities for both the Operator Certification/Expense Reimbursement Program and the Capacity Development Program are driven by the grant withholding and reporting provisions under Sections 1419 and 1420, respectively, of the Safe Drinking Water Act. Although the Tribal Operator Certification Program is voluntary, the information collection is driven by grant eligibility requirements outlined in the Drinking Water Infrastructure Grant Tribal Set-Aside Program Final Guidelines and the Tribal Drinking Water Operator Certification Program Guidelines.

Burden Statement: The annual public reporting and recordkeeping burden for this collection of information is estimated to average 6.5 hours per response. Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements which have subsequently changed; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

The ICR provides a detailed explanation of the Agency's estimate, which is only briefly summarized here:

Estimated total number of potential respondents: 161,682.

Frequency of response: Varies by requirement (*i.e.,* on occasion, monthly, quarterly, semi-annually, and annually).

Estimated total average number of responses for each respondent: 3.1.

Estimated total annual burden hours: 3,249,695 hours.

Estimated total annual costs: $119,174,000. This includes an estimated burden cost of $97,636,000 and an estimated cost of $21,538,000 for capital investment or maintenance and operational costs.

Are there changes in the estimates from the last approval?

There is no estimated increase or decrease of hours in the total estimated respondent burden compared with that identified in the ICR currently approved by OMB.

What is the next step in the process for these ICRs?

EPA will consider the comments received and amend the ICRs as appropriate. The final ICR packages will then be submitted to OMB for review and approval pursuant to 5 CFR 1320.12. At that time, EPA will issue another Federal Register notice pursuant to 5 CFR 1320.5(a)(1)(iv) to announce the submission of the ICRs to OMB and the opportunity to submit additional comments to OMB. If you have any questions about these ICRs or the approval process, please contact the technical person listed under **FOR FURTHER INFORMATION CONTACT**.

Dated: June 28, 2011.

Ronald W. Bergman,

Acting Director, Office of Ground Water and Drinking Water.

[FR Doc. 2011–16731 Filed 7–1–11; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–UST–2010–0651; FRL–9428–8]

Compatibility of Underground Storage Tank Systems With Biofuel Blends

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of final guidance.

SUMMARY: EPA is issuing final guidance on how owners and operators of underground storage tanks (USTs) can demonstrate compliance with the Federal compatibility requirement for UST systems storing gasoline containing greater than 10 percent ethanol or diesel containing greater than 20 percent biodiesel.

ADDRESSES: EPA established a docket for this action under Docket ID No. EPA–HQ–UST–2010–0651. All documents and public comments in the document are available at *http://www.regulations.gov* or in hard copy at the UST Docket in the EPA Headquarters Library, located at EPA West Building, Room 3334, 1301 Constitution Ave., NW., Washington, DC 20460. The Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding Federal holidays. The telephone number for the Public Reading Room is (202) 566–1744. The telephone number for the UST Docket is (202) 566–0270.

FOR FURTHER INFORMATION CONTACT: Andrea Barbery, Office of Underground Storage Tanks, Mail Code 5402P, U.S. Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460; telephone number: (703) 603–7137; e-mail address: *barbery.andrea@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this action apply to me?

This guidance is for owners and operators of underground storage tank (UST) systems (hereafter referred to as tank owners) regulated by 40 CFR Part 280, who intend to store gasoline blended with greater than 10 percent ethanol or diesel blended with greater than 20 percent biodiesel.

40 CFR Part 280, and therefore this guidance, applies in Indian country and in states and territories (hereafter referred to as states) that do not have state program approval (SPA). You can view a map of SPA states with approved UST programs at: *http://www.epa.gov/oust/states/spamap.htm.* SPA states may find this guidance relevant and useful because they also have a compatibility requirement that is similar to the Federal compatibility requirement. You can view state-specific requirements for SPA states at: *http://www.epa.gov/oust/fedlaws/spa_frs.htm.*

B. How can I get copies of this document and other related information?

1. Docket. EPA has established a docket for this action under Docket ID No. EPA–HQ–UST–2010–0651. Publicly available docket materials are available either electronically through www.regulations.gov or in hard copy at the UST Docket in the EPA Docket Center, located at EPA West Building, Room 3334, 1301 Constitution Ave., NW., Washington, DC 20460. The EPA Docket Center Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding Federal holidays. The telephone number for the Public Reading Room is (202) 566–1744. The telephone number for the UST Docket is (202) 566–0270.

2. Electronic Access. EPA established a docket for this action under Docket ID No. EPA–HQ–UST–2010–0651. All documents and public comments in the document are available at *http://www.regulations.gov.* In addition to being available in the UST docket, an electronic copy of this guidance is also available on EPA's Office of Underground Storage Tanks Web site at *http://www.epa.gov/oust.*

II. Background

A. Statutory Authority

This guidance discusses the Federal UST compatibility requirement promulgated under the authority of Subtitle I of the Solid Waste Disposal Act (SWDA), as amended. 42 U.S.C. 6991b *et seq.* You can find this requirement, which is referenced and discussed in the guidance, in 40 CFR 280.32.

B. Underground Storage Tank Compatibility Requirement

To protect groundwater, a source of drinking water for nearly half of all Americans, the U.S. Environmental Protection Agency (EPA) regulates UST systems storing petroleum or hazardous substances under authority of Subtitle I of the Solid Waste Disposal Act (SWDA), as amended. Tanks storing

gasoline or diesel mixed with ethanol or biodiesel are regulated, although pure ethanol and biodiesel are not regulated substances under Subtitle I of SWDA. For the purposes of this guidance, EPA considers an ethanol-blended fuel to be any amount of ethanol mixed with petroleum gasoline, and a biodiesel-blended fuel to be any amount of biodiesel mixed with petroleum diesel.

The Federal UST regulation in 40 CFR part 280 addresses preventing and detecting UST system releases; the provision in 40 CFR 280.32 requires the UST system be compatible with the substance stored. As the United States moves toward an increased use of biofuels, including ethanol and biodiesel, compliance with the UST compatibility requirement becomes even more important, since biofuel blends can compromise the integrity of some UST system materials (see following sections). Today's **Federal Register** notice issues guidance on how owners and operators of UST systems storing fuels containing greater than 10 percent ethanol or greater than 20 percent biodiesel can demonstrate compliance with the UST compatibility requirement.

As of September 30, 2010, there are approximately 600,000 regulated USTs at 215,000 facilities nationwide. Based on the size and diversity of the regulated community, states are in the best position to implement UST program requirements, and are therefore primarily responsible for the implementation of the UST program. Subtitle I of SWDA, as amended, allows state UST programs approved by EPA to operate in lieu of the Federal UST program. In order for EPA to approve a state's program, that state's regulations must be at least as stringent as the Federal UST regulations.

An UST system, as defined by 40 CFR 280.12, includes ''* * * an underground storage tank, connected underground piping, underground ancillary equipment, and containment system, if any.'' Ancillary equipment includes ''* * * any devices including, but not limited to, such devices as piping, fittings, flanges, valves, and pumps used to distribute, meter, or control the flow of regulated substances to and from an UST.'' Fuel dispensers are not part of the UST system as defined by 40 CFR 280.12. This means the compatibility requirement in 40 CFR 280.32 does not apply to dispensers.

C. Compatibility of UST Systems With Biofuels

The Federal UST regulation in 40 CFR 280.32 requires, ''Owners and operators must use an UST system made of or lined with materials that are compatible with the substance stored in the UST system.'' EPA understands that the chemical and physical properties of ethanol and biodiesel can be more degrading to certain UST system materials than petroleum alone, so it is important to ensure that all UST system components in contact with the biofuel blend are materially compatible with that fuel. Industry practice has been for tank owners to demonstrate compatibility by using equipment that is certified or listed by a nationally recognized, independent testing laboratory, such as Underwriters Laboratories (UL). However, based on EPA's understanding of UL listings, many UST system components in use today, with the exception of certain tanks and piping, have not been tested by UL or any other nationally recognized, independent testing laboratory for compatibility with ethanol blends greater than 10 percent. In addition, EPA is not aware of any nationally recognized, independent testing laboratory that has performed testing on UST system components with biodiesel-blended fuels. Absent certification or listing from a nationally recognized, independent testing laboratory, or other verification that equipment is compatible with anything beyond conventional fuels, the suitability of these components for use with ethanol or biodiesel blends comes into question.

1. Compatibility of UST Equipment With Ethanol-Blended Fuel

Gasoline containing 10 percent or less ethanol has been used in parts of the United States for many years. According to the Renewable Fuels Association, ethanol is blended into over 90 percent of all gasoline sold in the country.[1] Recently, there has been a movement toward higher blends of ethanol, due in part to recent Federal and state laws encouraging the increased use of biofuels. Certain tanks and piping have been tested and are listed by UL for compatibility with higher-level ethanol blends. Many other components of the UST system, such as leak detection devices, sealants, and containment sumps, may not be listed by UL or another nationally recognized, independent testing laboratory for compatibility with these blends.

EPA expects Federal and state laws encouraging increased use of biofuels to translate into a greater number of UST systems storing ethanol blends, as well as a greater number of UST systems storing ethanol blends greater than 10 percent. EPA is aware of material compatibility concerns associated with some UST system equipment storing higher ethanol blends, such as gasoline blended with up to 85 percent ethanol (E85), which is an alternative fuel used in flexible fuel vehicles. EPA understands that in order to avoid compatibility issues with E85, many tank owners who currently store E85 either installed all new equipment designed to store high level ethanol blends or upgraded certain components to handle the higher ethanol content. Because it is common for tank owners to use their tanks for 30 years or more, most UST systems currently in use are likely to contain components not designed to store ethanol blends greater than 10 percent. Components of these older systems may not be certified or listed by UL or another nationally recognized, independent testing laboratory for use with these blends.

Although very little data pertaining to the compatibility of UST equipment with ethanol blends exist, literature suggests that intermediate ethanol blends may have the most degrading effect on some UST system materials. A recent study performed by U.S. Department of Energy's Oak Ridge National Laboratory indicates some elastomeric materials are particularly affected by intermediate ethanol blends and certain sealants may not be suitable for any ethanol-blended fuels.[2] A 2007 report from UL[3] evaluated the effect of 85 percent ethanol and 25 percent ethanol blends on dispenser components. Results indicated some materials used in the manufacture of seals were degraded more when exposed to the 25 percent ethanol test fluid than when exposed to the 85 percent ethanol test fluid. Other literature suggests alcohol fuel blends can be more aggressive toward certain materials than independent fuel constituents, with maximum polymer swelling observed at approximately 15 percent ethanol by volume.[4]

[1] Renewable Fuels Association, ''Building Bridges to a More Sustainable Future: 2011 Ethanol Industry Outlook.'' *http://www.ethanolrfa.org/page/-/2011%20RFA%20Ethanol%20Industry%20Outlook.pdf?nocdn=1.*

[2] Oak Ridge National Laboratory, ''Intermediate Ethanol Blends Infrastructure Materials Compatibility Study: Elastomers, Metals, and Sealants'' (March 2011). Available in the UST Docket under Docket ID No. EPA–HQ–UST–2010–0651.

[3] Underwriters Laboratories, Inc., ''Underwriters Laboratories Research Program on Material Compatibility and Test Protocols for E85 Dispensing Equipment'' (December 2007). Available in the UST Docket under Docket ID No. EPA–HQ–UST–2010–0651.

[4] Westbrook, P.A., ''Compatibility and Permeability of Oxygenated Fuels to Materials in Underground Storage and Dispensing Equipment''

2. Compatibility of UST Equipment With Biodiesel-Blended Fuel

In addition to ethanol, biodiesel is becoming increasingly available across the United States, though its total use is significantly less than that of ethanol-blended gasoline. EPA understands some tank owners are storing blends of biodiesel and petroleum diesel ranging from 2–99 percent biodiesel (B2–B99, respectively) in UST systems, with the vast majority of biodiesel tanks storing biodiesel at concentrations of 20 percent (B20) or less. Although there is little information available regarding the compatibility of UST system equipment with biodiesel blends, there are known compatibility issues for pure biodiesel (B100). According to the U.S. Department of Energy's National Renewable Energy Laboratory (NREL) *Biodiesel Handling and Use Guide, Fourth Edition,*[5] ''B100 will degrade, soften, or seep through some hoses, gaskets, seals, elastomers, glues, and plastics with prolonged exposure * * * Nitrile rubber compounds, polypropylene, polyvinyl, and Tygon® materials are particularly vulnerable to B100.''

In contrast, the properties of very low blends of biodiesel (B5 or less) are so similar to those of petroleum diesel that ASTM International (ASTM) considers conventional diesel that contains up to 5 percent biodiesel to meet its ''Standard Specification for Diesel Fuel Oils''.[6] For biodiesel blends between 5 and 100 percent, there is very little compatibility information; however, NREL's handling and use guide concludes that biodiesel blends of B20 or less have less of an effect on materials and very low blends of biodiesel (for example, B5 and B2) ''* * * have no noticeable effect on materials compatibility.''[7] In addition, fleet service sites have stored B20 in USTs for years, and EPA is not aware of compatibility-related releases associated with those USTs storing B20. Based on these experiences, some states developed UST compatibility policies similar to today's final guidance, and they chose a mix of thresholds: B5, B10, and B20.[8]

D. EPA E15 Waivers

In March 2009, EPA received a Clean Air Act (CAA) waiver application to increase the allowable ethanol content of gasoline-ethanol blended fuel from 10 percent ethanol to 15 percent ethanol.[9] In October 2010 and January 2011, EPA conditionally granted partial waivers that allow gasoline-ethanol blends containing greater than 10 percent ethanol up to 15 percent ethanol (E15) to be introduced into commerce for use in 2001 and newer model year light-duty motor vehicles (which include passenger cars, light-duty trucks, and medium-duty passenger vehicles such as some sport utility vehicles).[10] If other state, Federal, and industry practices also support the introduction of E15 into commerce, EPA anticipates some tank owners may choose to store higher percentages of ethanol in their UST systems when these fuels become available.

Please note that this action under the CAA has no legal bearing on the requirement for tank owners to comply with all applicable UST regulations, including the UST compatibility requirement in 40 CFR 280.32. Under the existing Federal UST regulation, tank owners must meet the compatibility requirement for UST systems to ensure safe storage of any regulated substance, including higher ethanol and biodiesel blends.

E. November 17, 2010 **Federal Register** *Notice and Request for Comments*

On November 17, 2010, EPA published draft guidance in the **Federal Register** to solicit public comments on proposed options to help tank owners in complying with the Federal compatibility requirement for UST systems storing gasoline containing greater than 10 percent ethanol and diesel containing a to-be-determined amount of biodiesel.[11] EPA solicited comments on a number of issues, including: UST components that may be affected by biofuel blends; methods to demonstrate compatibility; criteria for equipment manufacturer approval as a compatibility method; applicability to biodiesel blends; ability to demonstrate compatibility using the proposed guidance; and other options that would sufficiently protect human health and the environment. The 30 day public comment period ended December 17, 2010. In response to the notice and proposed guidance, EPA received 27 comments from states, petroleum marketers, tank owners, biofuel groups, equipment manufacturers, and others. These comments are available in EPA's UST Docket under Docket ID No. EPA–HQ–UST–2010–0651 and are summarized and addressed in the following section.

III. Response to Public Comments

A. UST Components That May Be Affected by Biofuel Blends

In the **Federal Register** notice, EPA asked for comments on the proposed list of UST system components that may be affected by biofuel blends. Most commenters generally supported the proposed list, though some suggested additions or deletions. Many commenters suggested the list should include components such as shear valves, fill and riser caps, and vapor recovery equipment. EPA's intent is to identify all equipment that falls under the definition of UST system in 40 CFR 280.12, which, if incompatible, would lead to a liquid release to the environment. Therefore, EPA is adding the product shear valve and fill and riser caps to the list because: if a product shear valve is incompatible, product may be released if the dispenser is dislodged; if a riser cap fails, the overfill flow restrictor may no longer alert the transfer operator prior to overfilling a tank. EPA is not including vapor recovery equipment because these components do not routinely contain liquid product. Incompatibility of vapor recovery equipment would be less likely to result in a liquid release to the environment.

Based on commenters' input, EPA is removing from the list pipe adhesives and glues, because these components are typically used as part of the fiberglass piping and their compatibility is linked to that piping. That is, an UST contractor installing a new UST system does not have discretion over which pipe adhesives to use in the field. The pipe manufacturer provides these adhesives, also commonly referred to as glues, along with the piping as a complete set. Because these are not discretionary components, tank installers have not historically documented the type of pipe adhesive used during installation. As a result, a tank owner would have difficulty finding records about the type of pipe adhesives used in the piping system.

(January 1999). Available in the UST Docket under Docket ID No. EPA–HQ–UST–2010–0651.

[5] National Renewable Energy Laboratory, ''Biodiesel Handling and Use Guide, Fourth Edition.'' (2009). Available in the UST Docket under Docket ID No. EPA–HQ–UST–2010–0651.

[6] ASTM Standard D975, 2010c ''Standard Specification for Diesel Fuel Oils,'' ASTM International, West Conshohocken, PA, 2010, DOI: 10.1520/D0975–10C, *www.astm.org.*

[7] National Renewable Energy Laboratory, ''Biodiesel Handling and Use Guide, Fourth Edition.'' (2009). Available in the UST Docket under Docket ID No. EPA–HQ–UST–2010–0651.

[8] Wisconsin, Colorado, and South Carolina are examples of states with compatibility policies that address biodiesel. These documents are available in the UST Docket under Docket ID No. EPA–HQ–UST–2010–0651.

[9] *See* 74 FR 18228 (April 21, 2009).

[10] *See* 75 FR 68093 (November 4, 2010), and 76 FR 4662 (January 26, 2011).

[11] *See* 75 FR 70241 (November 17, 2010).

According to manufacturers, piping and its adhesives have been compatible with ethanol blends for many years before UL included ethanol blends as a test fluid. Therefore, pipe adhesives and glues are covered under the general category of piping.

Many commenters strongly recommended EPA include dispensers on the list; however, EPA does not regulate aboveground equipment, such as dispensers, under 40 CFR Part 280. Because EPA understands this distinction might not be obvious to tank owners and there are known material compatibility issues with dispenser components,[12] EPA is recommending tank owners determine if other Federal, state, or local requirements apply to their storing and dispensing equipment. For example, the U.S. Occupational Safety and Health Administration has listing requirements that apply to dispensing equipment,[13] and many state and local regulatory agencies adopted codes of practice such as National Fire Prevention Association codes and the International Fire Code. For information on which dispensers are listed for higher blends of ethanol, please see Appendix F of the Department of Energy's *Handbook for Handling, Storing, and Dispensing E85.*[14]

EPA is making one additional change by including further clarification regarding newly installed equipment versus equipment that has undergone maintenance where one or more components is replaced. For newly installed equipment comprised of multiple individual components and assembled by the manufacturer, some manufacturers provide a compatibility certification for the equipment as a whole. For example, a manufacturer may certify the entire submersible turbine pump as being compatible. The submersible turbine pump certification would include all components (gaskets, sealants, bushings, etc.) of the equipment assembled by the manufacturer. Therefore, an owner may obtain one certification for newly installed manufacturer-assembled equipment, as long as the manufacturer certifies the entire piece of equipment as compatible. However, over the lifetime of a typical UST system, equipment is likely to require maintenance, which may involve replacing parts like gaskets, sealants, and bushings. It is important for tank owners to use compatible replacement parts, especially since these components are sometimes constructed of materials that are not compatible with biofuel blends. Therefore, equipment components (such as gaskets, sealants, bushings, etc.) replaced after the equipment was originally installed will not be covered by the original manufacturer's approval.

B. Methods To Demonstrate Compatibility and Criteria for Manufacturer Certification

In the proposed guidance, EPA asked for comment on the appropriateness and feasibility of using these methods to demonstrate compatibility:

- Certification or listing by an independent test laboratory;
- Equipment manufacturer approval; or
- Another method determined by the implementing agency to sufficiently protect human health and the environment. EPA will work with states as they evaluate other acceptable methods.

Many commenters, including states, were concerned with the manufacturer approval option as a way to demonstrate UST system compatibility. Some thought this method would be better supported if manufacturers submitted compatibility test data as qualitative proof of compatibility. We acknowledge that the element of testing may make commenters more comfortable with allowing manufacturer's self-certification. However, absent nationally recognized compatibility test protocols for each component and general agreement on what constitutes acceptable test results, regulatory agencies are not in a position to assess the sufficiency of the tests.

After additional discussions with states and industry, EPA concluded that equipment manufacturers are uniquely suited to attest to the compatibility of their products and have an incentive to make truthful claims regarding use of their equipment with biofuel blends. Further, the manufacturer certification option is critical for components that do not have a certification or listing by a nationally recognized, independent testing laboratory. For example, biodiesel blends are not addressed by any nationally recognized, independent testing laboratory standards for UST equipment.[15] Therefore, EPA is keeping the manufacturer certification option in today's final guidance.

Other commenters warned that tank owners might obtain product brochures or other information with a general claim such as, biofuel-compatible, which may pertain to some biofuel blends but not others. To address this concern, EPA is including an additional element under the manufacturer's certification option to specify the range of biofuel blends the component is compatible with. This will better ensure components are compatible with the fuel blend stored.

Some commenters recommended EPA allow a Professional Engineer (P.E.) to make a compatibility determination. Although using P.E.s to determine compatibility is an option in some states, EPA understands tank owners are not using this option. There are numerous types of P.E.s, any of which is not likely to cover all aspects of materials science and UST equipment compatibility. If a tank owner is not able to provide information about the type of equipment at the facility, a P.E. would not be able to make a well informed decision regarding the compatibility of below-ground equipment with any fuel. Therefore, for the purposes of the Federal UST program as implemented under 40 CFR parts 280 and 281, EPA does not believe blanket acceptance of P.E. certification is an appropriate approach.

Similarly, some commenters recommended EPA allow tank owners to use other credible third-party determinations, such as a white paper on compatibility, to demonstrate compatibility. Without reference to an existing model of this idea, EPA does not think it is appropriate to speculate as to what criteria a white paper should meet or what other third-party groups would be credible. EPA's options in today's guidance allow flexibility for implementing agencies to adopt other methods if, in the future, a white paper or other tool is produced and implementing agencies determine it is a credible and appropriate demonstration of compatibility.

Some commenters suggested that EPA allow the National Work Group on Leak Detection Evaluations (NWGLDE) to act as an independent third party, since NWGLDE is involved in evaluating leak detection equipment. However, NWGLDE specifically does not make claims regarding material compatibility of leak detection equipment with biofuels, and it is unlikely to do so in the future. Therefore in today's final

[12] Boyce, K.; Chapin, J.T. (2010). ''Dispensing Equipment Testing with Mid-Level Ethanol/Gasoline Test Fluid: Summary Report.'' NREL Report No. SR–7A20–49187. Available in the UST Docket under Docket ID No. EPA–HQ–UST–2010–0651.

[13] 29 CFR 1910.106.

[14] U.S. Department of Energy, ''Handbook for Handling, Storing, and Dispensing E85.'' (2010). Available in the UST Docket under Docket ID No. EPA–HQ–UST–2010–0651.

[15] UL does not require special investigation for products intended to use biodiesel blends up to B5 that meets ASTM D975 fuel quality specifications. Available at: *http://www.ul.com/global/eng/pages/offerings/industries/appliancesandhvac/gasoilsolidfuel/release/.*

guidance, EPA is not including use of NWGLDE as an option to demonstrate compatibility.

Some commenters did not think it is appropriate to allow implementing agencies to use other options because this would lead to a patchwork of compatibility standards across the country. EPA understands the difficulty for tank owners to keep up with UST requirements in 56 states. However, states' discretion is a hallmark of the UST program. Currently, 38 states have UST programs approved by EPA to operate in lieu of the Federal UST program. These 38 states with State Program Approval (SPA) may or may not rely on the recommendations in this guidance. EPA will continue to allow other options, as long as those options sufficiently protect human health and the environment.

Other commenters expressed concern about the proposed methods because they do not allow for some equipment to be used. Commenters said there could be an instance where a certification or listing from a nationally recognized, independent testing laboratory was not available at the time of manufacture, and the manufacturer is no longer in business or is unwilling to certify the component is compatible. EPA does not see a way to accommodate this situation while minimizing risk to the environment. If tank owners cannot demonstrate compatibility, they would not be able to store ethanol blends greater than 10 percent or biodiesel blends greater than 20 percent in the UST system.

Finally, some commenters suggested adding ''nationally recognized'' to ''independent test laboratory.'' EPA acknowledges that some states, other Federal agencies, and organizations refer to UL and other third party testing labs as ''nationally recognized testing laboratories (NRTLs).'' To maintain consistency with 40 CFR part 280, today's guidance will use the term ''nationally recognized, independent testing laboratory.'' EPA considers ''nationally recognized, independent testing laboratories'' to be essentially the same as NRTLs.

C. Biodiesel Blends

In the November 17, 2010 **Federal Register** notice, EPA asked commenters if we should include biodiesel blends in the guidance. The majority of commenters agreed that USTs storing biodiesel blends should be subject to this guidance. EPA also requested feedback on what blend would be appropriate as a cutoff—that is, up to what blend level is the compatibility of biodiesel with UST equipment similar to the compatibility of petroleum diesel with UST equipment, and at what blend level do the known incompatibilities and the unknown risks necessitate further assurance of compatibility? Five percent biodiesel (B5), which is most commonly sold at retail facilities, and B20, which is more commonly used for vehicle fleets, were the two main options. Of those commenters who had an opinion on what biodiesel blend would be a reasonable cutoff, the majority chose B20, based largely on field experience and lack of compatibility issues with this blend. Some cited a report authored by Ken Wilcox [16] on leak detection devices used in biodiesel applications, though EPA notes this document addresses leak detection functionality, but not compatibility. More specific to compatibility, the aforementioned *Biodiesel Handling and Use Guide* [17] indicates that UST system materials should not experience compatibility issues with B20, so long as the biodiesel component meets fuel quality requirements in ASTM D6751.

Some commenters recommended EPA set the threshold at less than 20 percent biodiesel, since compatibility is more certain for biodiesel blends up to B5. For example, UL issued a statement indicating that biodiesel blends up to B5 meeting the fuel quality specification, ASTM D975, will not require special investigation by UL. Similarly, the Federal Trade Commission does not require B5 that meets ASTM D975 to be labeled, making it indistinguishable from conventional diesel fuel. Although this certainty does not exist for biodiesel blends between 5–20 percent, many states have experience with USTs storing biodiesel blends up to B20, and are not aware of any compatibility issues associated with those blends. Further, many fleet service sites, including state and local governments, use B20 to meet Federally mandated alternative fuel vehicle requirements and have experienced no compatibility problems with their UST equipment at this blend level. EPA is setting the threshold in today's final guidance at B20 because: The properties of B5 are so similar to petroleum diesel; field experience with B20 has been generally positive; little information exists on compatibility of UST equipment with biodiesel blends between 20–99 percent; and there are known compatibility issues with pure biodiesel. Because nearly all biodiesel blends used today are B20 or less, this guidance in effect applies to a small number of regulated USTs storing very high blends of biodiesel. EPA intends to investigate biodiesel compatibility further in our proposed UST regulation, which we expect to release for public comment in summer 2011. If you have additional data on biodiesel compatibility, please provide it during that public comment period.

D. Ability To Demonstrate Compatibility

While commenters generally agreed with the options for demonstrating compatibility, they also emphasized that, largely due to a lack of records, a majority of tank owners would not be able to demonstrate compatibility of their existing UST systems with any new fuel. Despite this, commenters did not generally support or suggest using equipment that was not demonstrated to be compatible. EPA acknowledges the challenge of maintaining records for UST system components, as well as the burden associated with tracking down third party listings or manufacturer certifications for each component. However, the Federal UST compatibility requirement has been in place for over twenty years, and tank owners decide whether to store higher percentages of biofuels. Tank owners who intend to store ethanol blends greater than 10 percent ethanol or biodiesel blends greater than 20 percent biodiesel will want to consider UST system compatibility as part of their overall business decisions. EPA believes most major components (tanks and pipes) are compatible with biofuel blends, and tank owners often have records of these components. It will be more difficult to obtain records for the smaller components, such as fittings, sealants, and boots, and therefore it will be more difficult to determine compatibility for these components. Because these smaller components are usually found in sumps, they can be accessed without excavation and changed out at a cost substantially less than the cost of an entire UST system replacement.

Many commenters felt the burden of demonstrating compatibility for individual UST components should not be on tank owners but on equipment manufacturers. The Federal UST regulation does not apply to UST equipment manufacturers; it only applies to UST system owners and operators. Today's guidance does not preclude a tank owner from obtaining assistance to make a compatibility

[16] Ken Wilcox Associates, Inc., ''Effects of Biodiesel Blends On Leak Detection for Underground Storage Tanks and Lines,'' August 18, 2010. Available in the UST Docket under Docket ID No. EPA–HQ–UST–2010–0651.

[17] National Renewable Energy Laboratory, ''Biodiesel Handling and Use Guide, Fourth Edition.'' (2009). Available in the UST Docket under Docket ID No. EPA–HQ–UST–2010–0651.

determination. In some states, a tank owner is assisted by a state-certified UST installer to identify the components in question and determine whether or not they are certified or listed by a nationally recognized, independent testing laboratory or otherwise approved by the equipment manufacturer for use with the intended fuel blend.

E. Other Comments

1. Functionality of UST Equipment

Although the guidance addresses how tank owners can comply with the UST regulation compatibility requirement for ethanol blends greater than 10 percent and biodiesel blends greater than 20 percent, many commenters asked EPA to expand the scope of the proposed guidance to address both compatibility and functionality with regard to leak detection equipment. EPA acknowledges the operability of some UST equipment may also be impacted by new fuels. In a separate effort, we are working to assess the functionality of leak detection equipment with ethanol blends. EPA expects that effort will provide information about what kinds of leak detection devices are suitable for use in ethanol blends. Also, some UST stakeholders are currently investigating functionality of other UST system components. EPA may be in a better position to issue guidance on UST equipment functionality after research and testing are complete.

2. Additional Tools To Assist Tank Owners

Some commenters suggested the most time-consuming portion of demonstrating compatibility is obtaining the documentation, and a tool to make the documentation more readily available would be helpful. In a separate effort, EPA will work with states and other stakeholders to consider useful resources to facilitate demonstrating compatibility.

3. Alternatives to Compatibility

In the proposed **Federal Register** notice, EPA asked if there were alternative methods tank owners could rely on or activities they could perform that would sufficiently protect human health and the environment. Commenters' suggestions included: conducting more frequent inspections and monitoring, performing a risk-based assessment, and using a secondarily contained UST system with interstitial monitoring. Because the regulatory requirement for compatibility is already in place and these alternatives would require a regulatory change to implement, EPA intends to consider these and other alternatives as part of a proposed UST regulation revision.

IV. Final Guidance

Guidance on the Compatibility of Underground Storage Tank Systems With Ethanol Blends Greater Than 10 Percent and Biodiesel Blends Greater Than 20 Percent

This guidance discusses how owners and operators of underground storage tanks (USTs) regulated under 40 CFR part 280 can demonstrate compliance with EPA's compatibility requirement (40 CFR 280.32) when storing gasoline containing greater than 10 percent ethanol or diesel containing greater than 20 percent biodiesel. In 1988, EPA promulgated the compatibility requirement (and all other UST requirements) under the authority of Subtitle I of the Solid Waste Disposal Act, as amended.

This guidance applies in Indian country and in states that do not have state program approval (SPA). Because SPA states must have a compatibility requirement that is similar to the Federal compatibility requirement, SPA states may find this guidance relevant and useful to them as well.

The discussion in this document is intended solely as guidance. The statutory provisions and EPA regulations described in this document contain legally binding requirements. This document is not a regulation itself, nor does not it change or substitute for those provisions and regulations. Thus, it does not impose legally binding requirements on EPA, states, or the regulated community.

In March 2009, EPA received a Clean Air Act (CAA) waiver application to increase the allowable ethanol content of a gasoline-ethanol blended fuel from 10 percent ethanol to 15 percent ethanol.[18] In October 2010 and January 2011, EPA conditionally granted partial waivers, allowing gasoline-ethanol blends that contain greater than 10 percent ethanol up to 15 percent ethanol (E15) to be introduced into commerce for use in 2001 and newer model year light-duty motor vehicles (which include passenger cars, light-duty trucks, and medium-duty passenger vehicles such as some sport utility vehicles).[19] If other state, Federal, and industry practices also support this introduction, E15 may become available in the marketplace. As a result, EPA anticipates that some UST system owners and operators may choose to store higher percentages of ethanol in their UST systems.

Please note that EPA's partial waiver under the CAA has no legal bearing on an UST owner or operator's requirement to comply with all applicable Federal UST regulations, including the UST compatibility requirement in 40 CFR 280.32. Specifically, in order to ensure the safe storage of higher ethanol and biodiesel blends, or any other regulated substance, owners and operators must meet the existing compatibility requirement for UST systems.

The UST compatibility requirement in 40 CFR 280.32 states, ''Owners and operators must use an UST system made of or lined with materials that are compatible with the substance stored in the UST system.'' Because the chemical and physical properties of ethanol and biodiesel blends may make them more aggressive to certain UST system materials than petroleum, it is important that all UST system components in contact with ethanol or biodiesel blends are materially compatible with that fuel.

UST System Components That May Be Affected by Biofuel Blends

To be in compliance with 40 CFR 280.32, owners and operators of UST systems storing ethanol-blended fuels greater than 10 percent ethanol or biodiesel-blended fuels greater than 20 percent biodiesel must use compatible equipment. EPA considers the following parts of the UST system to be critical for demonstrating compatibility:

- Tank or internal tank lining
- Piping
- Line leak detector
- Flexible connectors
- Drop tube
- Spill and overfill prevention equipment
- Submersible turbine pump and components
- Sealants (including pipe dope and thread sealant), fittings, gaskets, o-rings, bushings, couplings, and boots
- Containment sumps (including submersible turbine sumps and under dispenser containment)
- Release detection floats, sensors, and probes
- Fill and riser caps
- Product shear valve

For newly installed equipment comprised of multiple individual components such as submersible turbine pump assemblies, UST system owners and operators may obtain a certification from the equipment manufacturer documenting compatibility for the entire assembly. If equipment requires maintenance and components of that equipment (for example, sealants and gaskets) are

[18] *See* 74 FR 18228 (April 21, 2009).

[19] *See* 75 FR 68093 (November 4, 2010), and 76 FR 4662 (January 26, 2011).

subsequently added or replaced, manufacturer approval of the overall component is not sufficient to demonstrate compatibility.

Options for Meeting the Compatibility Requirement

Acceptable methods for owners and operators of UST systems storing ethanol-blended fuels greater than 10 percent ethanol or biodiesel-blended fuels greater than 20 percent biodiesel to demonstrate compatibility under 40 CFR 280.32 are:

- Use components that are certified or listed by a nationally recognized, independent testing laboratory (for example, Underwriters Laboratories) for use with the fuel stored;
- Use components approved by the manufacturer to be compatible with the fuel stored. EPA considers acceptable forms of manufacturer approvals to:
  - Be in writing;
  - Indicate an affirmative statement of compatibility;
  - Specify the range of biofuel blends the component is compatible with; and
  - Be from the equipment manufacturer, not another entity (such as the installer or distributor); or
- Use another method determined by the implementing agency to sufficiently protect human health and the environment. EPA will work with states as they evaluate other acceptable methods.

Currently, a note in 40 CFR 280.32 allows owners and operators to use the American Petroleum Institute's (API) Recommended Practice 1626, an industry code of practice, to meet the compatibility requirement for ethanol-blended fuels. The original version of API 1626 (1st ed. 1985, reaffirmed in 2000) applies to up to 10 percent ethanol blended with gasoline and is not applicable to meet the compatibility requirement for ethanol blends greater than 10 percent. In August 2010, API published a second edition of API 1626. The second edition addresses ethanol blends greater than 10 percent and may be used to demonstrate compatibility for UST systems storing ethanol blends.

If the UST owner and operator is not able to demonstrate that the UST system is made of materials that are compatible with the ethanol blend or biodiesel blend stored, according to 40 CFR 280.32, the UST owner and operator may not use the system to store those fuels.

State UST program regulations may be more stringent than the Federal UST regulations. In addition to state and Federal UST requirements, UST system owners and operators may be subject to other Federal, state, or local regulatory requirements (for example, U.S. Occupational Safety and Health Administration, National Fire Prevention Association, and International Fire Code). UST system owners and operators should check with their state and local agencies to determine other requirements.

If you have questions about this guidance, please contact Andrea Barbery at *barbery.andrea@epa.gov* or (703) 603–7137.

Dated: June 17, 2011.

Mathy Stanislaus,

Assistant Administrator, Office of Solid Waste and Emergency Response.

[FR Doc. 2011–16738 Filed 7–1–11; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

DEPARTMENT OF DEFENSE

Department of the Army, Corps of Engineers

EPA–HQ–OW–2011–0409; FRL–9428–4]

EPA and Army Corps of Engineers Guidance Regarding Identification of Waters Protected by the Clean Water Act

AGENCY: Environmental Protection Agency (EPA); and U.S. Army Corps of Engineers, Department of the Army, Department of Defense.

ACTION: Notice; extension of comment period.

SUMMARY: On May 2, 2011, the U.S. Environmental Protection Agency (EPA) and the U.S. Army Corps of Engineers (the Corps) announced availability of draft guidance (76 FR 24479) that describes how the agencies will identify waters protected by the Federal Water Pollution Control Act Amendments of 1972 (Clean Water Act or CWA or Act) and implement the Supreme Court's decisions on this topic (*i.e., Solid Waste Agency of Northern Cook County* v. *U.S. Army Corps of Engineers (SWANCC)* (531 U.S. 159 (2001)) and *Rapanos* v. *United States* (547 U.S. 715 (2006)) *(Rapanos)).* The comment period was originally set to expire on July 1, 2011, and the agencies are extending the public comment period by 30 days.

DATES: Public comments are due by July 31, 2011.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–HQ–OW–2011–0409 by one of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.
- *E-mail: ow-docket@epa.gov.* Include EPA–HQ–OW–2011–0409 in the subject line of the message.
- *Mail:* Send the original and three copies of your comments to: Water Docket, Environmental Protection Agency, Mail Code 2822T, 1200 Pennsylvania Avenue, NW., Washington, DC 20460, Attention: Docket ID No. EPA–HQ–OW–2011–0409.
- *Hand Delivery/Courier:* Deliver your comments to EPA Docket Center, EPA West, Room 3334, 1301 Constitution Avenue, NW., Washington, DC 20460, Attention Docket ID No. EPA–HQ–OW–2011–0409. Such deliveries are accepted only during the Docket's normal hours of operation, which are 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. Special arrangements should be made for deliveries of boxed information. The telephone number for the Water Docket is 202–566–2426.

Instructions: Direct your comments to Docket ID No. EPA–HQ–OW–2011–0409. EPA's policy is that all comments received will be included in the public docket without change and may be made available on-line at *http://www.regulations.gov,* including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI, or otherwise protected, through *http://www.regulations.gov* or e-mail. The *http://www.regulations.gov* Web site is an ''anonymous access'' system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail directly to EPA without going through *http://www.regulations.gov,* your e-mail address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD–ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA might not be able to consider your comment. Avoid the use of special characters and any form of encryption, and ensure that electronic files are free of any defects or viruses. For additional information

about EPA's public docket, visit the EPA Docket Center homepage at *http://www.epa.gov/epahome/dockets.htm.*

Docket: All documents in the docket are listed in the *http://www.regulations.gov* index. Some information, however, is not publicly available, *e.g.,* CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is publicly available only in hard copy. Publicly available docket materials are available electronically at *http://www.regulations.gov* or in hard copy at the Water Docket, EPA Docket Center, EPA West, Room 3334, 1301 Constitution Ave., NW., Washington, DC. The Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is 202–566–1744, and the telephone number for the Water Docket is 202–566–2426.

FOR FURTHER INFORMATION CONTACT: Ms. Donna Downing, Office of Water (4502–T), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington DC 20460; telephone number 202–566–1783; email address: *CWAwaters@epa.gov*. Mr. David Olson, Regulatory Community of Practice (CECW–CO–R), U.S. Army Corps of Engineers, 441 G Street, NW., Washington, DC 20314; telephone number 202–761–4922; e-mail address: *david.b.olson@usace.army.mil.*

SUPPLEMENTARY INFORMATION: In the May 2, 2011, issue of the **Federal Register** (76 FR 24479), the U.S. Environmental Protection Agency and U.S. Army Corps of Engineers announced the availability of draft agency guidance, regarding Clean Water Act (CWA) jurisdiction following the U.S. Supreme Court's decisions in *SWANCC* and *Rapanos*. The agencies invited public comment for a 60-day period. Several entities have requested an extension of the comment period for the guidance. The EPA and the Corps find that a 30-day extension of the comment period is warranted. Therefore, the comment period is extended until July 31, 2011.

A copy of the draft guidance can be found on EPA's Web site at *http://water.epa.gov/lawsregs/guidance/wetlands/CWAwaters.cfm* and on the Corps' Web site at *http://www.usace.army.mil/CECW/Pages/cwa_guide.aspx.*

Dated: June 27, 2011.

Nancy K. Stoner,

Acting Assistant Administrator for Water, Environmental Protection Agency.

Dated: June 27, 2011.

Jo-Ellen Darcy,

Assistant Secretary of the Army for Civil Works, Department of the Army.

[FR Doc. 2011–16617 Filed 7–1–11; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–9429–4]

Science Advisory Board Staff Office; Notification of a Public Teleconference of the SAB Mercury Review Panel

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: The Environmental Protection Agency (EPA or Agency) Science Advisory Board (SAB) Staff Office announces a public teleconference of the Mercury Review Panel.

DATES: The teleconference will be held on July 20, 2011, from 1 to 4 p.m. (Eastern Daylight Time)

ADDRESSES: The public teleconference will be conducted by telephone only.

FOR FURTHER INFORMATION CONTACT: Members of the public who wish to obtain further information regarding this meeting must contact Dr. Angela Nugent, Designated Federal Officer (DFO). Dr. Nugent may be contacted at the EPA Science Advisory Board (1400R), U.S. Environmental Protection Agency, 1200 Pennsylvania Avenue, NW., Washington, DC 20460; or by telephone/voice mail at (202) 564–2218; fax at (202) 565–2098; or e-mail at *nugent.angela@epa.gov*. General information concerning the SAB can be found at the EPA SAB Web site at *http://www.epa.gov/sab.*

SUPPLEMENTARY INFORMATION:

Background: The SAB was established pursuant to the Environmental Research, Development, and Demonstration Authorization Act (ERDAA), codified at 42 U.S.C. 4365, to provide independent scientific and technical advice to the EPA Administrator on the technical basis for Agency positions and regulations. The SAB is a Federal Advisory Committee chartered under the Federal Advisory Committee Act (FACA), 5 U.S.C., App. 2. Pursuant to FACA and EPA policy, notice is hereby given that the SAB Mercury Review Panel will hold a public teleconference to discuss a draft advisory report *Review of EPA's Draft Technical Support Document: National-Scale Mercury Risk Assessment Supporting the Appropriate and Necessary Finding for Coal and Oil-Fired Electric Generating Units—March 2011.* The Panel will comply with the provisions of FACA and all appropriate SAB Staff Office procedural policies.

EPA is considering regulating the emissions of hazardous air pollutants (HAPs) released from coal-burning electric generating units in the United States (U.S. EGUs) under Section 112(n)(1)(A) of the Clean Air Act (CAA). EPA developed a draft risk assessment for mercury, entitled *Technical Support Document: National-scale Mercury Risk Assessment.* This draft assessment considers the nature and magnitude of the potential risk to public health posed by current U.S. EGU mercury emissions and the nature and magnitude of the potential risk posed by U.S. EGU mercury emissions in the future, once all anticipated CAA-related regulations potentially reducing mercury from U.S. EGUs are in-place. EPA's Office of Air and Radiation requested peer review of this draft document. To conduct this review, the SAB Mercury Review Panel met on June 15–17, 2011 (76 FR 29746–29747) to review the draft *Technical Support Document.* The purpose of the July 21 2011, teleconference is to discuss the panel's draft report, *Review of EPA's Draft Technical Support Document: National-Scale Mercury Risk Assessment Supporting the Appropriate and Necessary Finding for Coal and Oil-Fired Electric Generating Units—March 2011.*

Availability of Meeting Materials: The agenda, the draft panel report, and other meeting materials will be available on the SAB Web site at *http://yosemite.epa.gov/sab/sabproduct.nsf/fedrgstr_activites/A%26N%20Hg%20Risk%20Assessment%20TSD?OpenDocument* in advance of the meeting.

Procedures for Providing Public Input: Public comment for consideration by EPA's Federal advisory committees and panels has a different purpose from public comment provided to EPA program offices. Therefore, the process for submitting comments to a Federal advisory committee is different from the process used to submit comments to an EPA program office.

Federal advisory committees and panels, including scientific advisory committees, provide independent advice to EPA. Members of the public can submit comments for a Federal advisory committee to consider as it develops advice for EPA. Input from the public to the SAB will have the most impact if it provides specific scientific

or technical information or analysis for panels to consider or if it relates to the clarity or accuracy of the technical information. Members of the public wishing to provide comment should contact the Designated Federal Officer for the relevant advisory committee directly. *Oral Statements:* In general, individuals or groups requesting an oral presentation at this public meeting will be limited to three minutes per speaker. Interested parties should contact Dr. Angela Nugent, DFO, in writing (preferably via e-mail) at the contact information noted above by July 18, 2011, to be placed on the list of public speakers for the meeting. *Written Statements:* Written statements should be received in the SAB Staff Office by July 18, 2011, so that the information can be made available to the Panel for their consideration. Written statements should be supplied to the DFO in electronic format via e-mail (acceptable file formats: Adobe Acrobat PDF, WordPerfect, MS Word, MS PowerPoint, or Rich Text files in IBM–PC/Windows 98/2000/XP format). It is the SAB Staff Office general policy to post written comments on the Web page for the advisory meeting or teleconference. Submitters are requested to provide an unsigned version of each document because the SAB Staff Office does not publish documents with signatures on its Web sites. Members of the public should be aware that their personal contact information, if included in any written comments, may be posted to the SAB Web site. Copyrighted material will not be posted without explicit permission of the copyright holder.

Accessibility: For information on access or services for individuals with disabilities, please contact Dr. Angela Nugent at the phone number or e-mail address noted above, preferably at least ten days prior to the meeting, to give EPA as much time as possible to process your request.

Dated: June 27, 2011.

Anthony F. Maciorowski,

Deputy Director, EPA Science Advisory Board Staff Office.

[FR Doc. 2011–16730 Filed 7–1–11; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–9429–2]

Science Advisory Board Staff Office Notification of a Public Teleconference of the Air Monitoring and Methods Subcommittee

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: The Environmental Protection Agency (EPA or Agency) Science Advisory Board (SAB) Staff Office announces a public teleconference of the Clean Air Scientific Advisory Committee (CASAC) Air Monitoring and Methods Subcommittee (AMMS) to discuss the AMMS draft report on EPA's draft plans for Photochemical Assessment Monitoring Stations (PAMS) Network Re-engineering.

DATES: A public teleconference will be held on Monday, July 18, 2011 from 12:30 to 3:30 p.m. (Eastern Time).

ADDRESSES: The public teleconference will be conducted by telephone only.

FOR FURTHER INFORMATION CONTACT: Any member of the public wishing further information regarding this Notice and public teleconference may contact Mr. Edward Hanlon, Designated Federal Officer (DFO), SAB Staff Office, by telephone/voice mail at (202) 564–2134; by fax at (202) 565–2098 or via e-mail at *hanlon.edward@epa.gov.* General information concerning the EPA CASAC can be found at the EPA CASAC Web site at *http://www.epa.gov/casac.* Any inquiry regarding EPA's draft plans for PAMS Network Re-engineering should be directed to Mr. Kevin Cavender, EPA Office of Air Quality Planning and Standards (OAQPS), at *cavender.kevin@epa.gov* or 919–541–2364.

SUPPLEMENTARY INFORMATION:

Background: The CASAC was established pursuant to the Clean Air Act (CAA) Amendments of 1977, codified at 42 U.S.C. 7409D(d)(2), to provide advice, information, and recommendations to the Administrator on the scientific and technical aspects of issues related to the criteria for air quality standards, research related to air quality, sources of air pollution, and the strategies to attain and maintain air quality standards and to prevent significant deterioration of air quality. The CASAC is a Federal Advisory Committee chartered under the Federal Advisory Committee Act (FACA), 5 U.S.C., App. 2. Pursuant to FACA and EPA policy, notice is hereby given that the CASAC AMMS will hold a public teleconference to discuss the Subcommittee's draft peer review report of the EPA's draft plans for PAMS Network Re-engineering.

The AMMS held two public teleconference calls on May 16 and May 17, 2011 to review EPA's draft plans for PAMS Network Re-engineering. [**Federal Register** Notice dated April 15, 2011 (76 FR 21345–21346)]. Materials from these teleconference calls are posted on the SAB Web site at *http://yosemite.epa.gov/sab/sabproduct.nsf/bf498bd32a1c7fdf85257242006dd6cb/6a62b0219d19df358525785c0064e71b!OpenDocument&Date=2011-05-16* and *http://yosemite.epa.gov/sab/sabproduct.nsf/bf498bd32a1c7fdf85257242006dd6cb/6abbc18d956a2b768525785c00663487!OpenDocument&Date=2011-05-17.* The purpose of the July 18, 2011 teleconference call is for the AMMS to discuss its draft peer review report.

Availability of Meeting Materials: The agenda and materials in support of this teleconference call will be placed on the EPA CASAC Web site at *http://www.epa.gov/casac* in advance of the teleconference call.

Procedures for Providing Public Input: Interested members of the public may submit relevant written or oral information on the topic of this advisory activity for the CASAC to consider during the advisory process. *Oral Statements:* In general, individuals or groups requesting an oral presentation at this public teleconference will be limited to three minutes per speaker. Interested parties should contact Mr. Edward Hanlon, DFO, in writing (preferably via e-mail), at the contact information noted above, by July 11, 2011 to be placed on the list of public speakers for the teleconference.

Written Statements: Written statements should be received in the SAB Staff Office by July 11, 2011 so that the information may be made available to the CASAC AMMS for their consideration. Written statements should be supplied to the DFO in the following formats: One hard copy with original signature, and one electronic copy via e-mail (acceptable file format: Adobe Acrobat PDF, WordPerfect, MS Word, MS PowerPoint, or Rich Text files in IBM–PC/Windows 98/2000/XP format). Submitters are requested to provide two versions of each document submitted with and without signatures, because the SAB Staff Office does not publish documents with signatures on its Web sites.

Accessibility: For information on access or services for individuals with disabilities, please contact Mr. Edward Hanlon at the phone number or e-mail

address noted above, preferably at least ten days prior to the teleconference call, to give EPA as much time as possible to process your request.

Dated: June 27, 2011.

Anthony F. Maciorowski,

Deputy Director, EPA Science Advisory Board Staff Office.

[FR Doc. 2011–16737 Filed 7–1–11; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–9429–3]

Science Advisory Board Staff Office; Notification of a Public Teleconference of the Chartered Science Advisory Board

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: The EPA Science Advisory Board (SAB) Staff Office announces a public teleconference of the Chartered SAB on July 19, 2011 to conduct a quality review of a draft SAB report, *SAB Evaluation of the Effectiveness of Partial Lead Service Line Replacement.*

DATES: The public teleconference will be held on July 19, 2011 from 12 to 3 p.m. (Eastern Daylight Time).

ADDRESSES: The public teleconference will be conducted by telephone only.

FOR FURTHER INFORMATION CONTACT: Any member of the public wishing to obtain general information concerning the public teleconference may contact Dr. Angela Nugent, Designated Federal Officer (DFO). Dr. Nugent may be contacted at the EPA Science Advisory Board (1400R), U.S. Environmental Protection Agency, 1200 Pennsylvania Avenue, NW., Washington, DC 20460; or by telephone/voice mail at (202) 564–2188; fax at (202) 565–2098; or e-mail at *nugent.angela@epa.gov.* General information concerning the EPA Science Advisory Board can be found on the EPA Web site at *http://www.epa.gov/sab.*

SUPPLEMENTARY INFORMATION: The SAB was established pursuant to the Environmental Research, Development, and Demonstration Authorization Act (ERDAA), codified at 42 U.S.C. 4365, to provide independent scientific and technical advice to the EPA Administrator on the technical basis for Agency positions and regulations. The SAB is a Federal Advisory Committee chartered under the Federal Advisory Committee Act (FACA), 5 U.S.C., App. 2. Pursuant to FACA and EPA policy, notice is hereby given that the SAB will hold a public teleconference to conduct a quality review of a draft report entitled *SAB Evaluation of the Effectiveness of Partial Lead Service Line Replacement.* The SAB will comply with the provisions of FACA and all appropriate SAB Staff Office procedural policies.

Background: Exposure to lead through drinking water results primarily from the corrosion of lead pipes and plumbing materials. EPA's Office of Water (OW) promulgated the Lead and Copper Rule (LCR) to minimize the amount of lead in drinking water. The LCR requires water systems that are not able to limit lead corrosion through treatment to replace service lines (pipes connecting buildings to water distribution mains) that are made from lead. Water systems must replace the portion of the lead service line owned by the system and offer to replace the customer's portion at the customer's cost. When customers do not replace their portion of the service line, the situation is called a ''partial lead service line replacement.''

OW has requested the SAB to review and provide advice on recent studies examining the effectiveness of partial lead service line replacements. The SAB Drinking Water Committee, augmented with additional technical experts, has developed the draft report that will undergo quality review by the chartered SAB.

Background information about the SAB advisory activity, including its meetings and teleconferences, can be found on the SAB Web site at *http://yosemite.epa.gov/sab/sabproduct.nsf/fedrgstr_activites/PLSLR%20Efficacy%20Review?OpenDocument.*

Availability of Meeting Materials: The agenda and other materials in support of the teleconference will be placed on the SAB Web site at *http://www.epa.gov/sab* in advance of the teleconference.

Procedures for Providing Public Input: Public comment for consideration by EPA's Federal advisory committees and panels has a different purpose from public comment provided to EPA program offices. Therefore, the process for submitting comments to a Federal advisory committee is different from the process used to submit comments to an EPA program office.

Federal advisory committees and panels, including scientific advisory committees, provide independent advice to EPA. Members of the public can submit comments for a Federal advisory committee to consider as it develops advice for EPA. Input from the public to the SAB will have the most impact if it provides specific scientific or technical information or analysis for SAB panels to consider or if it relates to the clarity or accuracy of the technical information. Members of the public wishing to provide comment should contact the Designated Federal Officer directly.

Oral Statements: In general, individuals or groups requesting an oral presentation at a teleconference will be limited to three minutes. Those interested in being placed on the public speakers list for the July 19, 2011 teleconference should contact Dr. Nugent at the contact information provided above no later than July 14, 2011. *Written Statements:* Written statements should be supplied to the DFO via e-mail at the contact information noted above by July 14, 2011 for the teleconference so that the information may be made available to the Panel members for their consideration. Written statements should be supplied in one of the following electronic formats: Adobe Acrobat PDF, MS Word, MS PowerPoint, or Rich Text files in IBM–PC/Windows 98/2000/XP format. It is the SAB Staff Office general policy to post written comments on the Web page for the advisory meeting or teleconference. Submitters are requested to provide an unsigned version of each document because the SAB Staff Office does not publish documents with signatures on its Web sites. Members of the public should be aware that their personal contact information, if included in any written comments, may be posted to the SAB Web site. Copyrighted material will not be posted without explicit permission of the copyright holder.

Accessibility: For information on access or services for individuals with disabilities, please contact Dr. Nugent (202) 564–2188 or *nugent.angela@epa.gov.* To request accommodation of a disability, please contact Dr. Nugent preferably at least ten days prior to the teleconference to give EPA as much time as possible to process your request.

Dated: June 27, 2011.

Anthony F. Maciorowski,

Deputy Director, EPA Science Advisory Board Staff Office.

[FR Doc. 2011–16732 Filed 7–1–11; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL ACCOUNTING STANDARDS ADVISORY BOARD

Notice of Request for Comments on Proposed Deferred Maintenance and Repairs Standards

AGENCY: Federal Accounting Standards Advisory Board.

ACTION: Notice.

Board Action: Pursuant to 31 U.S.C. 3511(d), the Federal Advisory Committee Act (Pub. L. 92–463), as amended, and the FASAB Rules of Procedure, as amended in October, 2010, notice is hereby given that the Federal Accounting Standards Advisory Board (FASAB) is requesting comments on the Exposure Draft, *Deferred Maintenance and Repairs, Amending Statements of Federal Financial Accounting Standards 6, 14, 29 and 32.*

The Exposure Draft is available on the FASAB home page *http://www.fasab.gov/board-activities/documents-for-comment/exposure-drafts-and-documents-for-comment/*. Copies can be obtained by contacting FASAB at (202) 512–7350. Respondents are encouraged to comment on any part of the exposure draft. Written comments on the Exposure Draft are requested by September 16, 2011. Comments on the Exposure Drafts should be sent to: Wendy M. Payne, Executive Director, Federal Accounting Standards Advisory Board, 441 G Street, NW., Suite 6814, Mail Stop 6K17V, Washington, DC 20548.

FOR FURTHER INFORMATION CONTACT: Wendy Payne, Executive Director, at (202) 512–7350.

Authority: Federal Advisory Committee Act, Pub. L. 92–463.

Dated: June 29, 2011.

Charles Jackson,

Federal Register Liaison Officer.

[FR Doc. 2011–16796 Filed 7–1–11; 8:45 am]

BILLING CODE 1610–02–P

FEDERAL DEPOSIT INSURANCE CORPORATION

Sunshine Act Meeting

Pursuant to the provisions of the ''Government in the Sunshine Act'' (5 U.S.C. 552b), notice is hereby given that the Federal Deposit Insurance Corporation's Board of Directors will meet in open session at 10 a.m. on Wednesday, July 6, 2011, to consider the following matters:

Summary Agenda: No substantive discussion of the following items is anticipated. These matters will be resolved with a single vote unless a member of the Board of Directors requests that an item be moved to the discussion agenda.

Disposition of minutes of previous Board of Directors' Meetings.

Memorandum and resolution re: Final Rule Pursuant to § 742(c) of the Dodd-Frank Wall Street Reform and Consumer Protection Act for the Purpose of Adding 12 CFR part 349 to Regulate FDIC-Supervised Entities Engaged in Retail Forex Transactions.

Memorandum and resolution re: Final Rule on Part 329 & 330 For Interest on Deposits and Deposit Insurance Coverage.

Memorandum and resolution re: Notice of Proposed Rulemaking Regarding Calculating the Maximum Obligation the FDIC May Incur in Liquidating a Covered Financial Company.

Personnel Matters.

Discussion Agenda:

Orderly Liquidation Authority and Priorities and Claims Process under Orderly Liquidation Authority.

Resolution Plans and Credit Exposure Reports.

Special Reporting, Analysis and Contingent Resolution Plans at Certain Insured Depository Institutions.

The meeting will be held in the Board Room on the sixth floor of the FDIC Building located at 550 17th Street, NW., Washington, DC.

This Board meeting will be Webcast live via the Internet and subsequently made available on-demand approximately one week after the event. Visit *http://www.vodium.com/goto/fdic/boardmeetings.asp* to view the event. If you need any technical assistance, please visit our Video Help page at: *http://www.fdic.gov/video.html.*

The FDIC will provide attendees with auxiliary aids (e.g., sign language interpretation) required for this meeting. Those attendees needing such assistance should call 703–562–2404 (Voice) or 703–649–4354 (Video Phone) to make necessary arrangements.

Requests for further information concerning the meeting may be directed to Mr. Robert E. Feldman, Executive Secretary of the Corporation, at 202–898–7043.

Dated: June 29, 2011.

Federal Deposit Insurance Corporation.

Robert E. Feldman,

Executive Secretary.

[FR Doc. 2011–16829 Filed 6–30–11; 11:15 am]

BILLING CODE 6714–01–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 19, 2011.

A. Federal Reserve Bank of Minneapolis (Jacqueline G. King, Community Affairs Officer) 90 Hennepin Avenue, Minneapolis, Minnesota 55480–0291:

1. *Robert Lynn Nelson,* Cudjoe Key, Florida; to gain control of Kirkwood Bancorporation Co., and thereby indirectly acquire voting shares of Kirkwood Bank and Trust Company, both in Bismarck, North Dakota. In addition, Applicant has also applied to acquire voting shares of Kirkwood Bancorporation of Nevada, Inc., and thereby indirectly acquire voting shares of Kirkwood Bank of Nevada, both in Las Vegas, Nevada.

Board of Governors of the Federal Reserve System, June 29, 2011.

Robert deV. Frierson,

Deputy Secretary of the Board.

[FR Doc. 2011–16726 Filed 7–1–11; 8:45 am]

BILLING CODE 6210–01–P

FEDERAL TRADE COMMISSION

[File No. 092–3194]

Beiersdorf, Inc.; Analysis of Proposed Consent Order To Aid Public Comment

AGENCY: Federal Trade Commission.

ACTION: Proposed consent agreement.

SUMMARY: The consent agreement in this matter settles alleged violations of federal law prohibiting unfair or deceptive acts or practices or unfair methods of competition. The attached Analysis to Aid Public Comment describes both the allegations in the draft complaint and the terms of the

consent order—embodied in the consent agreement—that would settle these allegations.

DATES: Comments must be received on or before July 29, 2011.

ADDRESSES: Interested parties are invited to submit written comments electronically or in paper form. Comments should refer to ''Beiersdorf, File No. 092–3194'' to facilitate the organization of comments. Please note that your comment—including your name and your state—will be placed on the public record of this proceeding, including on the publicly accessible FTC Web site, at *http://www.ftc.gov/os/publiccomments.shtm.*

Because comments will be made public, they should not include any sensitive personal information, such as an individual's Social Security number; date of birth; driver's license number or other state identification number, or foreign country equivalent; passport number; financial account number; or credit or debit card number. Comments also should not include any sensitive health information, such as medical records or other individually identifiable health information. In addition, comments should not include any ''[t]rade secret or any commercial or financial information which is obtained from any person and which is privileged or confidential. * * *,'' as provided in Section 6(f) of the FTC Act, 15 U.S.C. 46(f), and Commission Rule 4.10(a)(2), 16 CFR 4.10(a)(2). Comments containing material for which confidential treatment is requested must be filed in paper form, must be clearly labeled ''Confidential,'' and must comply with FTC Rule 4.9(c), 16 CFR 4.9(c).[1]

Because paper mail addressed to the FTC is subject to delay due to heightened security screening, please consider submitting your comments in electronic form. Comments filed in electronic form should be submitted by using the following Web link: *https://ftcpublic.commentworks.com/ftc/beiersdorfconsent* and following the instructions on the Web-based form. To ensure that the Commission considers an electronic comment, you must file it on the Web-based form at the Web link *https://ftcpublic.commentworks.com/ftc/beiersdorfconsent.* If this Notice appears at *http://www.regulations.gov/search/index.jsp,* you may also file an electronic comment through that Web site. The Commission will consider all comments that regulations.gov forwards to it. You may also visit the FTC Web site at *http://www.ftc.gov/* to read the Notice and the news release describing it.

A comment filed in paper form should include the ''Beiersdorf, File No. 092–3194'' reference both in the text and on the envelope, and should be mailed or delivered to the following address: Federal Trade Commission, Office of the Secretary, Room H–113 (Annex D), 600 Pennsylvania Avenue, NW., Washington, DC 20580. The FTC is requesting that any comment filed in paper form be sent by courier or overnight service, if possible, because U.S. postal mail in the Washington area and at the Commission is subject to delay due to heightened security precautions.

The Federal Trade Commission Act (''FTC Act'') and other laws the Commission administers permit the collection of public comments to consider and use in this proceeding as appropriate. The Commission will consider all timely and responsive public comments that it receives, whether filed in paper or electronic form. Comments received will be available to the public on the FTC Web site, to the extent practicable, at *http://www.ftc.gov/os/publiccomments.shtm.* As a matter of discretion, the Commission makes every effort to remove home contact information for individuals from the public comments it receives before placing those comments on the FTC Web site. More information, including routine uses permitted by the Privacy Act, may be found in the FTC's privacy policy, at *http://www.ftc.gov/ftc/privacy.shtm.*

FOR FURTHER INFORMATION CONTACT: Evan Rose (415–848–5100), FTC, Western Region, San Francisco, 600 Pennsylvania Avenue, NW., Washington, DC 20580.

SUPPLEMENTARY INFORMATION: Pursuant to section 6(f) of the Federal Trade Commission Act, 38 Stat. 721, 15 U.S.C. 46(f), and 2.34 the Commission Rules of Practice, 16 CFR 2.34, notice is hereby given that the above-captioned consent agreement containing a consent order to cease and desist, having been filed with and accepted, subject to final approval, by the Commission, has been placed on the public record for a period of thirty (30) days. The following Analysis to Aid Public Comment describes the terms of the consent agreement, and the allegations in the complaint. An electronic copy of the full text of the consent agreement package can be obtained from the FTC Home Page (for June 29, 2011), on the World Wide Web, at *http://www.ftc.gov/os/actions.shtm.* A paper copy can be obtained from the FTC Public Reference Room, Room 130–H, 600 Pennsylvania Avenue, NW., Washington, DC 20580, either in person or by calling (202) 326–2222.

Public comments are invited, and may be filed with the Commission in either paper or electronic form. All comments should be filed as prescribed in the **ADDRESSES** section above, and must be received on or before the date specified in the **DATES** section.

Analysis of Agreement Containing Consent Order To Aid Public Comment

The Federal Trade Commission (''FTC'' or ''Commission'') has accepted, subject to final approval, an Agreement Containing Consent Order from Beiersdorf, Inc. (''respondent''). The proposed consent order has been placed on the public record for thirty (30) days for receipt of comments by interested persons. Comments received during this period will become part of the public record. After thirty (30) days, the Commission will again review the agreement and the comments received, and will decide whether it should withdraw from the agreement and take appropriate action or make final the agreement's proposed order.

This matter involves the advertising, marketing, and sale of ''NIVEA My Silhouette! Redefining Gel-Cream'' (''My Silhouette'') by respondent. Respondent has marketed My Silhouette to consumers through third-party retail outlets.

My Silhouette is a skin cream that contains ''Bio-slim Complex,'' a combination of ingredients that includes white tea and anise. According to the FTC complaint, respondent promoted My Silhouette as able to slim and reshape the body.

Specifically, the FTC complaint alleges that respondent represented, in various advertisements, that regular use of My Silhouette results in significant reductions in body size. The complaint alleges that this claim is false and thus violates the FTC Act.

The proposed consent order contains provisions designed to prevent respondent from engaging in similar acts or practices in the future. Specifically, Part I prohibits respondent from claiming that My Silhouette or any other topically applied product causes substantial weight or fat loss or a substantial reduction in body size.

Part II covers any representation that a drug, dietary supplement, or cosmetic causes weight or fat loss or a reduction in body size. Part II prohibits

[1] The comment must be accompanied by an explicit request for confidential treatment, including the factual and legal basis for the request, and must identify the specific portions of the comment to be withheld from the public record. The request will be granted or denied by the Commission's General Counsel, consistent with applicable law and the public interest. *See* FTC Rule 4.9(c), 16 CFR 4.9(c).

respondent from making such representations unless the representation is non-misleading, and, at the time of making such representation, respondent possesses and relies upon competent and reliable scientific evidence that substantiates that the representation is true. For purposes of Part II, the proposed order defines ''competent and reliable scientific evidence'' as at least two randomized, double-blind, placebo-controlled human clinical studies that are conducted by independent, qualified researchers and that conform to acceptable designs and protocols, and whose results, when considered in light of the entire body of relevant and reliable scientific evidence, are sufficient to substantiate that the representation is true.

Part III of the proposed order prohibits respondent from making representations, other than representations covered under Parts I or II, about the health benefits of any drug, dietary supplement, or cosmetic, unless the representation is non-misleading, and, at the time of making such representation, respondent possesses and relies upon competent and reliable scientific evidence that is sufficient in quality and quantity based on standards generally accepted in the relevant scientific fields, when considered in light of the entire body of relevant and reliable scientific evidence, to substantiate that the representation is true. For purposes of Part III, the proposed order defines ''competent and reliable scientific evidence'' as ''tests, analyses, research, or studies that have been conducted and evaluated in an objective manner by qualified persons, and that are generally accepted in the profession to yield accurate and reliable results.''

Part IV of the proposed order states that the order does not prohibit respondent from making representations for any drug that are permitted in labeling for that drug under any tentative or final standard promulgated by the Food and Drug Administration (''FDA''), or under any new drug application approved by the FDA. This part of the proposed order also states that the order does not prohibit respondent from making representations for any product that are specifically permitted in labeling for that product by regulations issued by the FDA under the Nutrition Labeling and Education Act of 1990.

Part V of the proposed order requires respondent to pay nine hundred thousand dollars ($900,000) to the Commission to be used for equitable relief, including restitution, and any attendant expenses for the administration of such equitable relief.

Parts VI, VII, VIII, and IX of the proposed order require respondent to keep copies of relevant advertisements and materials substantiating claims made in the advertisements; to provide copies of the order to its personnel; to notify the Commission of changes in corporate structure that might affect compliance obligations under the order; and to file compliance reports with the Commission. Part X provides that the order will terminate after twenty (20) years, with certain exceptions.

The purpose of this analysis is to facilitate public comment on the proposed order, and it is not intended to constitute an official interpretation of the agreement and proposed order or to modify their terms in any way.

By direction of the Commission.

Donald S. Clark,

Secretary.

[FR Doc. 2011–16739 Filed 7–1–11; 8:45 am]

BILLING CODE 6750–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Meeting of the Advisory Committee on Minority Health

AGENCY: Office of Minority Health, Office of the Assistant Secretary for Health, Office of the Secretary, Department of Health and Human Services.

ACTION: Notice of meeting.

SUMMARY: As stipulated by the Federal Advisory Committee Act, the Department of Health and Human Services (DHHS) is hereby giving notice that the Advisory Committee on Minority Health (ACMH) will hold a meeting. 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 e-mail *acmh@osophs.dhhs.gov.*

DATES: The meeting will be held on Monday, August 29, 2011 from 9 a.m. to 5 p.m. and Tuesday, August 30, 2011 from 9 a.m. to 1 p.m.

ADDRESSES: The meeting will be held at the Doubletree Hotel, 1515 Rhode Island Ave., NW., Washington, DC 20005.

FOR FURTHER INFORMATION CONTACT: Ms. Monica A. Baltimore, Tower Building, 1101 Wootton Parkway, Suite 600, Rockville, Maryland 20852. Phone: 240–453–2882 Fax: 240–453–2883.

SUPPLEMENTARY INFORMATION: In accordance with Public Law 105–392, the ACMH was established to provide advice to the Deputy Assistant Secretary for Minority Health in improving the health of each racial and ethnic minority group and on the development of goals and specific program activities of the Office of Minority Health.

Topics to be discussed during this meeting will include increasing the health care workforce and strategies to improve the health of racial and ethnic minority populations through the development of health policies and programs that will help eliminate health disparities, as well as other related issues.

Public attendance at the meeting is limited to space available. Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should notify the designated contact person at least fourteen (14) business days prior to the meeting. Members of the public will have an opportunity to provide comments at the meeting. Public comments will be limited to three minutes per speaker. Individuals who would like to submit written statements should mail or fax their comments to the Office of Minority Health at least seven (7) business days prior to the meeting. Any members of the public who wish to have printed material distributed to ACMH committee members should submit their materials to the Executive Secretary, ACMH, Tower Building, 1101 Wootton Parkway, Suite 600, Rockville, Maryland 20852, prior to close of business August 24, 2011.

Dated: June 20, 2011.

Garth N. Graham,

Deputy Assistant Secretary for Minority Health, Office of Minority Health, Office of the Assistant Secretary for Health, Office of the Secretary, U.S. Department of Health and Human Services.

[FR Doc. 2011–16744 Filed 7–1–11; 8:45 am]

BILLING CODE 4150–29–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

HIT Standards Committee's Workgroup Meetings; Notice of Meetings

AGENCY: Office of the National Coordinator for Health Information Technology, HHS.

ACTION: Notice of meetings.

This notice announces forthcoming subcommittee meetings of a Federal advisory committee of the Office of the National Coordinator for Health Information Technology (ONC). The

meetings will be open to the public via dial-in access only.

Name of Committees: HIT Standards Committee's Workgroups: Clinical Operations, Vocabulary Task Force, Clinical Quality, Implementation, and Privacy & Security Standards workgroups.

General Function of the Committee: To provide recommendations to the National Coordinator on standards, implementation specifications, and certification criteria for the electronic exchange and use of health information for purposes of adoption, consistent with the implementation of the Federal Health IT Strategic Plan, and in accordance with policies developed by the HIT Policy Committee.

Date and Time: The HIT Standards Committee Workgroups will hold the following public meetings during July 2011: July 8th Vocabulary Task Force, 11 a.m. to 12 p.m./ET; and July 12th Implementation Workgroup, 12 to 1:30 p.m./ET.

Location: All workgroup meetings will be available via webcast; visit *http://healthit.hhs.gov* for instructions on how to listen via telephone or Web. Please check the ONC Web site for additional information as it becomes available. Contact Person: Judy Sparrow, Office of the National Coordinator, HHS, 330 C Street, SW., Washington, DC 20201, 202–205–4528, Fax: 202–690–6079, e-mail: *judy.sparrow@hhs.gov.* Please call the contact person for up-to-date information on these meetings. A notice in the **Federal Register** about last minute modifications that affect a previously announced advisory committee meeting cannot always be published quickly enough to provide timely notice.

Agenda: The workgroups will be discussing issues related to their specific subject matter, *e.g.,* clinical operations vocabulary standards, clinical quality, implementation opportunities and challenges, and privacy and security standards activities. If background materials are associated with the workgroup meetings, they will be posted on ONC's Web site prior to the meeting at *http://healthit.hhs.gov.*

Procedure: Interested persons may present data, information, or views, orally or in writing, on issues pending before the workgroups. Written submissions may be made to the contact person on or before two days prior to the workgroups' meeting dates. Oral comments from the public will be scheduled at the conclusion of each workgroup meeting. Time allotted for each presentation will be limited to three minutes. If the number of speakers requesting to comment is greater than can be reasonably accommodated during the scheduled open public session, ONC will take written comments after the meeting until close of business on that day.

If you require special accommodations due to a disability, please contact Judy Sparrow at least seven (7) days in advance of the meeting.

ONC is committed to the orderly conduct of its advisory committee meetings. Please visit our Web site at *http://healthit.hhs.gov* for procedures on public conduct during advisory committee meetings.

Notice of this meeting is given under the Federal Advisory Committee Act (Pub. L. 92–463, 5 U.S.C., App. 2).

Dated: June 24, 2011.

Judith Sparrow,

Office of Programs and Coordination, Office of the National Coordinator for Health Information Technology.

[FR Doc. 2011–16755 Filed 7–1–11; 8:45 am]

BILLING CODE 4150–45–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

HIT Policy Committee's Workgroup Meetings; Notice of Meetings

AGENCY: Office of the National Coordinator for Health Information Technology, HHS

ACTION: Notice of meetings.

This notice announces forthcoming subcommittee meetings of a Federal advisory committee of the Office of the National Coordinator for Health Information Technology (ONC). The meetings will be open to the public via dial-in access only.

Name of Committees: HIT Policy Committee's Workgroups: Meaningful Use, Privacy & Security Tiger Team, Quality Measures, Governance, Adoption/Certification, and Information Exchange workgroups.

General Function of the Committee: to provide recommendations to the National Coordinator on a policy framework for the development and adoption of a nationwide health information technology infrastructure that permits the electronic exchange and use of health information as is consistent with the Federal Health IT Strategic Plan and that includes recommendations on the areas in which standards, implementation specifications, and certification criteria are needed.

Date and Time: The HIT Policy Committee Workgroups will hold the following public meetings during July 2011: July 8th Privacy & Security Tiger Team, 2 to 4 p.m./ET; and July 22nd Privacy & Security Tiger Team, 2 to 4 p.m./ET.

Location: All workgroup meetings will be available via webcast; for instructions on how to listen via telephone or Web visit *http://healthit.hhs.gov.* Please check the ONC Web site for additional information or revised schedules as it becomes available.

Contact Person: Judy Sparrow, Office of the National Coordinator, HHS, 330 C Street, SW., Washington, DC 20201, 202–205–4528, Fax: 202–690–6079, e-mail: *judy.sparrow@hhs.gov.* Please call the contact person for up-to-date information on these meetings. A notice in the **Federal Register** about last minute modifications that affect a previously announced advisory committee meeting cannot always be published quickly enough to provide timely notice.

Agenda: The workgroups will be discussing issues related to their specific subject matter, *e.g.,* meaningful use, information exchange, privacy and security, quality measures, governance, or adoption/certification. If background materials are associated with the workgroup meetings, they will be posted on ONC's Web site prior to the meeting at *http://healthit.hhs.gov.*

Procedure: Interested persons may present data, information, or views, orally or in writing, on issues pending before the workgroups. Written submissions may be made to the contact person on or before two days prior to the workgroup's meeting date. Oral comments from the public will be scheduled at the conclusion of each workgroup meeting. Time allotted for each presentation will be limited to three minutes. If the number of speakers requesting to comment is greater than can be reasonably accommodated during the scheduled open public session, ONC will take written comments after the meeting until close of business on that day.

If you require special accommodations due to a disability, please contact Judy Sparrow at least seven (7) days in advance of the meeting.

ONC is committed to the orderly conduct of its advisory committee meetings. Please visit our Web site at *http://healthit.hhs.gov* for procedures on public conduct during advisory committee meetings.

Notice of this meeting is given under the Federal Advisory Committee Act (Pub. L. No. 92–463, 5 U.S.C., App. 2).

Dated: June 24, 2011.

Judith Sparrow,

Office of Programs and Coordination, Office of the National Coordinator for Health Information Technology.

[FR Doc. 2011–16749 Filed 7–1–11; 8:45 am]

BILLING CODE 4150–45–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

HIT Policy Committee Advisory Meeting; Notice of Meeting

AGENCY: Office of the National Coordinator for Health Information Technology, HHS

ACTION: Notice of meeting.

This notice announces a forthcoming meeting of a public advisory committee of the Office of the National Coordinator for Health Information Technology (ONC). The meeting will be open to the public.

Name of Committee: HIT Policy Committee.

General Function of the Committee: to provide recommendations to the National Coordinator on a policy framework for the development and adoption of a nationwide health information technology infrastructure that permits the electronic exchange and use of health information as is consistent with the Federal Health IT Strategic Plan and that includes recommendations on the areas in which standards, implementation specifications, and certification criteria are needed.

Date and Time: The meeting will be held on July 6, 2011, from 10 a.m. to 4 p.m./Eastern Time.

Location: Renaissance Dupont Circle Hotel, 1143 New Hampshire Ave, NW., Washington, DC. For up-to-date information, go to the ONC Web site, *http://healthit.hhs.gov.*

Contact Person: Judy Sparrow, Office of the National Coordinator, HHS, 330 C Street, SW., Washington, DC 20201, 202–205–4528, Fax: 202–690–6079, e-mail: *judy.sparrow@hhs.gov* Please call the contact person for up-to-date information on this meeting. A notice in the **Federal Register** about last minute modifications that impact a previously announced advisory committee meeting cannot always be published quickly enough to provide timely notice.

Agenda: The committee will hear reports from its workgroups, including the Meaningful Use Workgroup, the Privacy & Security Tiger Team, the Information Exchange Workgroup, and the Quality Measures Workgroup. ONC intends to make background material available to the public no later than two (2) business days prior to the meeting. If ONC is unable to post the background material on its Web site prior to the meeting, it will be made publicly available at the location of the advisory committee meeting, and the background material will be posted on ONC's Web site after the meeting, at *http://healthit.hhs.gov.*

Procedure: Interested persons may present data, information, or views, orally or in writing, on issues pending before the committee. Written submissions may be made to the contact person on or before July 1, 2011. Oral comments from the public will be scheduled between approximately 3 and 4 p.m. Time allotted for each presentation is limited to three minutes. If the number of speakers requesting to comment is greater than can be reasonably accommodated during the scheduled open public hearing session, ONC will take written comments after the meeting until close of business.

Persons attending ONC's advisory committee meetings are advised that the agency is not responsible for providing access to electrical outlets.

ONC welcomes the attendance of the public at its advisory committee meetings. Seating is limited at the location, and ONC will make every effort to accommodate persons with physical disabilities or special needs. If you require special accommodations due to a disability, please contact Judy Sparrow at least seven (7) days in advance of the meeting.

ONC is committed to the orderly conduct of its advisory committee meetings. Please visit our Web site at *http://healthit.hhs.gov* for procedures on public conduct during advisory committee meetings.

Notice of this meeting is given under the Federal Advisory Committee Act (Pub. L. 92–463, 5 U.S.C., App. 2).

Dated: June 24, 2011.

Judith Sparrow,

Office of Programs and Coordination, Office of the National Coordinator for Health Information Technology.

[FR Doc. 2011–16719 Filed 7–1–11; 8:45 am]

BILLING CODE 4150–45–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

HIT Standards Committee Advisory Meeting; Notice of Meeting

AGENCY: Office of the National Coordinator for Health Information Technology, HHS

ACTION: Notice of meeting.

This notice announces a forthcoming meeting of a public advisory committee of the Office of the National Coordinator for Health Information Technology (ONC). The meeting will be open to the public.

Name of Committee: HIT Standards Committee.

General Function of the Committee: to provide recommendations to the National Coordinator on standards, implementation specifications, and certification criteria for the electronic exchange and use of health information for purposes of adoption, consistent with the implementation of the Federal Health IT Strategic Plan, and in accordance with policies developed by the HIT Policy Committee.

Date and Time: The meeting will be held on July 20, 2011, from 9 a.m. to 3 p.m./Eastern Time.

Location: Renaissance Dupont Circle Hotel, 1143 New Hampshire Ave., NW., Washington, DC. For up-to-date information, go to the ONC Web site, *http://healthit.hhs.gov.*

Contact Person: Judy Sparrow, Office of the National Coordinator, HHS, 330 C Street, SW., Washington, DC 20201, 202–205–4528, Fax: 202–690–6079, e-mail: *judy.sparrow@hhs.gov.* Please call the contact person for up-to-date information on this meeting. A notice in the **Federal Register** about last minute modifications that impact a previously announced advisory committee meeting cannot always be published quickly enough to provide timely notice.

Agenda: The committee will hear reports from its workgroups, including the Clinical Operations, Vocabulary Task Force, Clinical Quality, Implementation, and Enrollment Workgroups. ONC intends to make background material available to the public no later than two (2) business days prior to the meeting. If ONC is unable to post the background material on its Web site prior to the meeting, it will be made publicly available at the location of the advisory committee meeting, and the background material will be posted on ONC's Web site after the meeting, at *http://healthit.hhs.gov.*

Procedure: Interested persons may present data, information, or views, orally or in writing, on issues pending before the committee. Written submissions may be made to the contact person on or before July 18, 2011. Oral comments from the public will be scheduled between approximately 2 and 3 p.m./Eastern Time. Time allotted for each presentation will be limited to three minutes each. If the number of speakers requesting to comment is greater than can be reasonably accommodated during the scheduled open public hearing session, ONC will take written comments after the meeting until close of business.

Persons attending ONC's advisory committee meetings are advised that the agency is not responsible for providing access to electrical outlets.

ONC welcomes the attendance of the public at its advisory committee meetings. Seating is limited at the location, and ONC will make every effort to accommodate persons with physical disabilities or special needs. If you require special accommodations due to a disability, please contact Judy Sparrow at least seven (7) days in advance of the meeting.

ONC is committed to the orderly conduct of its advisory committee

meetings. Please visit our Web site at *http://healthit.hhs.gov* for procedures on public conduct during advisory committee meetings.

Notice of this meeting is given under the Federal Advisory Committee Act (Pub. L. No. 92–463, 5 U.S.C., App. 2).

Dated: June 24, 2011.

Judith Sparrow,

Office of Programs and Coordination, Office of the National Coordinator for Health Information Technology.

[FR Doc. 2011–16747 Filed 7–1–11; 8:45 am]

BILLING CODE 4150–45–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

[CMS–5058–N]

Medicare Program; Section 3113: The Treatment of Certain Complex Diagnostic Laboratory Tests Demonstration

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

ACTION: Notice.

SUMMARY: This notice informs interested parties of an opportunity to participate in the Treatment of Certain Complex Diagnostic Laboratory Tests Demonstration. The Demonstration is mandated by section 3113 of the Affordable Care Act. This notice also serves to notify interested parties that they must obtain a temporary code from CMS for tests currently billed using a ''not otherwise classified (NOC)'' code but that would otherwise meet the criteria set forth in section 3113 for being a complex diagnostic laboratory test under the Demonstration. The statute requires a Report to Congress that includes an assessment of the impact of the Demonstration on access to care, quality of care, health outcomes, and expenditures.

DATES: Supporting information to request a temporary code under the Demonstration is due to CMS on or before August 1, 2011. Payment under the Demonstration begins January 1, 2012. The Demonstration will be conducted for two years subject to a $100 million payment limit. Thereafter, payment for these tests will be made under the existing non-demonstration process.

ADDRESSES: Supporting information should be mailed to the following address: Centers for Medicare & Medicaid Services, Attention: Linda R. Lebovic, 7500 Security Boulevard, Mail Stop: C4–14–15, Baltimore, Maryland 21244–1850.

FOR FURTHER INFORMATION CONTACT: Linda R. Lebovic at (410) 786–3402 or by e-mail at *ACA3113labdemo@cms.hhs.gov*.

SUPPLEMENTARY INFORMATION:

General Information

Please refer to file code [CMS–5058–N] on all supporting information for a temporary G-code under the Demonstration. Because of staffing and resource limitations, we cannot accept supporting information by facsimile (FAX) transmission. Hard copies and electronic copies must be identical.

Eligible Organizations

Under the Demonstration, an eligible organization is a laboratory that performs a complex diagnostic laboratory test with respect to a specimen collected from an individual during a period in which the individual is a patient of a hospital or critical access hospital (CAH) if the test is performed after such period of hospitalization and if Medicare would not otherwise have made separate payment to the laboratory for that test. This Demonstration will allow a separate payment to such laboratories performing tests billed with a date of service that would, under standard Medicare rules (at 42 CFR 414.510(b)(2)(i)(A)), be bundled into the payment to the hospital or CAH.

I. Background

Section 3113(a)(2) defines the term ''complex diagnostic laboratory test'' to mean a diagnostic laboratory test— (A) that is an analysis of gene protein expression, topographic genotyping, or a cancer chemotherapy sensitivity assay; (B) that is determined by the Secretary to be a laboratory test for which there is not an alternative test having equivalent performance characteristics; (C) which is billed using a Healthcare Common Procedure Coding System (HCPCS) code other than a not otherwise classified (NOC) code under such Coding System; (D) which is approved or cleared by the Food and Drug Administration or is covered under title XVIII of the Social Security Act; and (E) is described in section 1861(s)(3) of the Social Security Act (42 U.S.C. 1395x(s)(3)). Section 3113(a)(3) defines separate payment as ''direct payment to a laboratory (including a hospital-based or independent laboratory) that performs a complex diagnostic laboratory test with respect to a specimen collected from an individual during a period in which the individual is a patient of a hospital if the test is performed after such period of hospitalization and if separate payment would not otherwise be made under title XVIII of the Social Security Act [(the Act)] by reason of sections 1862(a)(14) and 1866(a)(1)(H)(i)'' of the Act. In general terms, sections 1862(a)(14) and 1866(a)(1)(H) of the Act state that no Medicare payment will be made for non-physician services, such as diagnostic laboratory tests, furnished to a hospital or CAH patient unless the tests are furnished by the hospital or CAH, either directly or under arrangement. The date of service rule at 42 CFR 414.510(b)(2)(i)(A) defines the date of service of a clinical laboratory test as the date the test was performed only if a test is ordered by the patient's physician at least 14 days following the date of the patient's discharge from the hospital. When a test is ordered by the patient's physician less than 14 days following the date of the patient's discharge from the hospital, the hospital or CAH must bill Medicare for a clinical laboratory test provided by a laboratory and the hospital or CAH would in turn pay the laboratory if the test was furnished under arrangement. Under the Demonstration, a laboratory may bill Medicare directly for a complex clinical laboratory test which is ordered by the patient's physician less than 14 days following the date of the patient's discharge from the hospital or CAH.

Laboratories choosing to directly bill Medicare under the Demonstration must submit a claim with a Project Identifier 56. For purposes of the Demonstration, in addition to the tests that already meet the requirements at section 3113(a)(2) (see ''Demonstration Test List'' at *http://www.cms.gov/DemoProjectsEvalRpts/MD/itemdetail.asp?itemID=CMS1240611),* we will assign temporary codes based on the supporting information provided to CMS for diagnostic laboratory tests defined in section 3113(a)(2) but currently billed using NOC codes. Entities that bill Medicare using NOC codes would be permitted to bill for complex laboratory tests under the Demonstration only if they obtain a temporary G-code with the condition that information about the clinical laboratory service is provided to us. Specifically, information about utilization (that is, clinical use, other tests used in combination with or follow-up to this test, frequency with which the test could be ordered), the Clinical Laboratory Improvement Amendment certificate number of the laboratory performing the test, current billing practices (that is, codes used,

accompanying technical and/or professional codes, combination of codes billed), and costs must be submitted to us.

II. Provisions of This Notice

This notice informs interested parties of an opportunity to participate in the section 3113 Treatment of Certain Complex Diagnostic Laboratory Tests Demonstration. The authorizing legislation requires us to conduct a Demonstration for a period of 2 years subject to a $100 million ($100,000,000) limit. The Demonstration will allow a direct payment to a laboratory for certain complex diagnostic laboratory tests in situations where, under the date of service rule (see 42 CFR 414.510(b)(2)(i)(A)), Medicare pays the hospital or CAH and the hospital or CAH, in turn, pays the laboratory (''under arrangement'') for laboratory tests.

This notice also serves to notify interested parties that they must obtain a temporary G code from CMS for tests currently billed using NOC codes that would otherwise meet the criteria set forth in section 3113(a)(2). Information about these tests is due to CMS no later than August 1, 2011. The purpose of the August deadline is to allow time for CMS to determine whether the test meets the criteria for a complex clinical laboratory test and to determine appropriate payment amounts for tests paid under the Demonstration. Payment under the Demonstration will begin on January 1, 2012.

For specific details regarding the section 3113 Demonstration, please refer to the CMS Web site at: *http://www.cms.gov/DemoProjectsEvalRpts/MD/itemdetail.asp?itemID=CMS1240611*.

III. Collection of Information Requirements

The burden discussed in this notice pertains to the time and effort necessary for interested parties to obtain a temporary G-code from CMS for tests currently billed using NOC codes that would otherwise meet the criteria set forth in section 3113(a)(2) for being a complex diagnostic laboratory test under the Demonstration. However, we believe that no more than nine entities will be eligible to meet those criteria, and therefore, while the aforementioned requirement is subject to the Paperwork Reduction Act (PRA) of 1995, the associated burden is exempt under 5 CFR 1320.3(c)(4). This will affect less than 10 entities in a 12-month period. Consequently, notice need not be reviewed by the Office of Management and Budget under the authority of the PRA.

Dated: May 4, 2011.

Donald M. Berwick,

Administrator, Centers for Medicare & Medicaid Services.

[FR Doc. 2011–16721 Filed 7–1–11; 8:45 am]

BILLING CODE 4120–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2011–D–0376]

Draft Guidance for Industry; Dietary Supplements: New Dietary Ingredient Notifications and Related Issues; 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 ''Dietary Supplements: New Dietary Ingredient Notifications and Related Issues.'' The draft guidance, when finalized, will assist industry in deciding when a premarket safety notification for a dietary supplement containing a new dietary ingredient (NDI) is necessary and in preparing premarket safety notifications (also referred to as ''NDI notifications'').

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 the draft guidance before it begins work on the final version of the guidance, submit either electronic or written comments on the draft guidance by October 3, 2011.

ADDRESSES: Submit written requests for single copies of this draft guidance to the Office of Nutrition, Labeling, and Dietary Supplements, Center for Food Safety and Applied Nutrition (HFS–850), Food and Drug Administration, 5100 Paint Branch Pkwy., College Park, MD 20740. 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.

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: Corey Hilmas, Center for Food Safety and Applied Nutrition (HFS–850), Food and Drug Administration, 5100 Paint Branch Pkwy., College Park, MD 20740, 240–402–2375.

SUPPLEMENTARY INFORMATION:

I. Background

FDA is announcing the availability of a draft guidance for industry entitled ''Dietary Supplements: New Dietary Ingredient Notifications and Related Issues.'' This draft guidance is being issued consistent with FDA's good guidance practices regulation (21 CFR 10.115(g)(2)).

This draft guidance is intended to assist industry in deciding when a premarket safety notification for a dietary supplement containing an NDI is necessary and in preparing NDI notifications. The draft guidance discusses in question and answer format FDA's views on what qualifies as an NDI, when an NDI notification is required, the procedures for submitting an NDI notification, the types of data and information that manufacturers and distributors should consider when they evaluate the safety of a dietary supplement containing an NDI, and what should be included in an NDI notification. In addition, the draft guidance contains questions and answers about parts of the dietary supplement definition that can affect whether a particular substance may be marketed as a dietary ingredient in a dietary supplement.

On October 25, 1994, the Dietary Supplement Health and Education Act of 1994 (DSHEA) (Pub. L. 103–417) was signed into law. DSHEA amended the Federal Food, Drug, and Cosmetic Act (FD&C Act) by adding, among other provisions, (1) Section 201(ff) (21 U.S.C. 321(ff)), which defines the term ''dietary supplement'' and (2) section 413 (21 U.S.C. 350b), which defines the term ''new dietary ingredient'' and requires the manufacturer or distributor of an NDI, or of the dietary supplement that contains the NDI, to submit a premarket notification to FDA at least 75 days before introducing the supplement into interstate commerce or delivering it for introduction into interstate commerce, unless the NDI and any other dietary ingredients in the dietary supplement ''have been present in the food supply as an article used for food in a form in which the food has not been chemically altered'' (section 413(a)(1)). The notification must contain the information, including any citation to published articles, which is the basis on which the manufacturer or distributor of the NDI or dietary supplement has concluded that the dietary supplement containing the NDI will reasonably be

expected to be safe. If the required premarket notification is not submitted to FDA, section 413(a) of the FD&C Act provides that the dietary supplement containing the NDI is deemed to be adulterated under section 402(f) of the FD&C Act (21 U.S.C. 342(f)). Even if the notification is submitted as required, the dietary supplement containing the NDI is adulterated under section 402(f) unless there is a history of use or other evidence of safety establishing that the NDI, when used under the conditions recommended or suggested in the labeling of the dietary supplement, will reasonably be expected to be safe.

To assist industry in complying with DSHEA, FDA issued a regulation, § 190.6 (21 CFR 190.6), to implement the FD&C Act's premarket notification requirements for dietary supplements that contain an NDI (62 FR 49886, September 23, 1997). The NDI regulation specifies the information the manufacturer or distributor must include in its premarket NDI notification (§ 190.6(b)) and establishes the administrative procedures for these notifications. FDA's goal in issuing the 1997 regulation was to ensure that NDI notifications contained the information that would enable FDA to evaluate whether a dietary supplement containing an NDI is reasonably expected to be safe.

On January 4, 2011, the President signed into law the FDA Food Safety Modernization Act (FSMA) (Pub. L. 111–353). Section 113(b) of FSMA requires FDA to publish, not later than 180 days after the date of enactment, guidance that clarifies when a dietary supplement ingredient is an NDI, when the manufacturer or distributor of a dietary ingredient or dietary supplement should submit an NDI notification to FDA under section 413(a)(2) of the FD&C Act, the evidence needed to document the safety of an NDI, and appropriate methods for establishing the identity of an NDI. This draft guidance is being published to comply with section 113(b) of FSMA.

The draft guidance, when finalized, will represent the Agency's current thinking on NDIs and dietary supplements that contain NDIs. It does not create or confer any rights for or on any person and does not operate to bind FDA or the public. An alternate approach may be used if such approach satisfies the requirements of the applicable statutes and regulations.

II. Paperwork Reduction Act of 1995

Under the Paperwork Reduction Act of 1995 (the PRA) (44 U.S.C. 3501–3520), Federal Agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. This draft guidance contains proposed collections of information. ''Collection of information'' is defined in 44 U.S.C. 3502(3) and 5 CFR 1320.3(c) and includes Agency requests or requirements that members of the public submit reports, keep records, or provide information to a third party. Section 3506(c)(2)(A) of the PRA (44 U.S.C. 3506(c)(2)(A)) requires Federal Agencies to publish a 60-day notice in the **Federal Register** soliciting public comment on each proposed collection of information before submitting the collection to OMB for approval. To comply with this requirement, FDA will publish a 60-day notice on the proposed collections of information in this draft guidance in a future issue of the **Federal Register**.

This draft guidance also refers to previously approved collections of information found in FDA regulations. These collections of information are subject to review by OMB under the PRA. The collections of information in 21 CFR Part 111 have been approved under OMB control number 0901–0606, and the collections of information in § 190.6 have been approved under OMB control number 0910–0330.

III. Comments

Interested persons may submit to the Division of Dockets Management (see **ADDRESSES**) either electronic or written comments regarding this document. It is only necessary to send one set of comments. It is no longer necessary to send two copies of mailed 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.

IV. Electronic Access

Persons with access to the Internet may obtain the draft guidance at either *http://www.fda.gov/RegulatoryInformation/Guidances/default.htm or http://www.regulations.gov.* Always access an FDA guidance document by using FDA's Web site listed previously to find the most current version of the guidance.

Dated: June 29, 2011.

Leslie Kux,

Acting Assistant Commissioner for Policy.

[FR Doc. 2011–16711 Filed 7–1–11; 8:45 am]

BILLING CODE 4160–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration

Advisory Committee on Infant Mortality; Notice of Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), notice is hereby given of the following meeting:

Name: Advisory Committee on Infant Mortality (ACIM).

Dates and Times: August 2, 2011, 9 a.m.–5 p.m. August 3, 2011, 9 a.m.–3 p.m.

Place: Hyatt Regency Bethesda, One Bethesda Metro Center, 7400 Wisconsin Avenue, Bethesda, MD 20814, (301) 657–1234.

Status: The meeting is open to the public with attendance limited to space availability.

Purpose: The Committee provides advice and recommendations to the Secretary of Health and Human Services on the following: Department of Health and Human Services' programs that focus on reducing infant mortality and improving the health status of infants and pregnant women; and factors affecting the continuum of care with respect to maternal and child health care. It includes outcomes following childbirth; strategies to coordinate the myriad of Federal, State, local and private programs and efforts that are designed to deal with the health and social problems impacting on infant mortality; and the implementation of the Healthy Start program and *Healthy People 2020* infant mortality objectives.

Agenda: Topics that will be discussed include the following: HRSA Update; MCHB Update; Healthy Start Program Update; Affordable Care Act and Infant Mortality; Quality Improvement in Perinatal Health Care; Patient Centered Medical Home; Centering Pregnancy, and Fetal Infant Mortality Review. Proposed agenda items are subject to change as priorities dictate.

Time will be provided for public comments limited to five minutes each. Comments are to be submitted in writing no later than 5 p.m. ET on July 19, 2011.

For Further Information Contact: Anyone requiring information regarding the Committee should contact Peter C. van Dyck, M.D., M.P.H., Executive Secretary, ACIM, Health Resources and Services Administration, Room 18–05, Parklawn Building, 5600 Fishers Lane, Rockville, MD 20857, Telephone: (301) 443–2170.

Individuals who are submitting public comments or who have questions regarding the meeting and location should contact David S. de la Cruz, Ph.D., M.P.H., HRSA, Maternal and Child Health Bureau, telephone: (301) 443–0543, e-mail: *David.delaCruz@hrsa.hhs.gov.*

Dated: June 28, 2011,

Reva Harris,

Acting Director, Division of Policy and Information Coordination.

[FR Doc. 2011–16717 Filed 7–1–11; 8:45 am]

BILLING CODE 4165–15–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; Clinical Study on Energy Balance and Adiposity.

Date: July 26, 2011.

Time: 4 p.m. to 5:30 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: Maria E. Davila-Bloom, PhD, Scientific Review Officer, Review Branch, DEA, NIDDK, National Institutes of Health, Room 758, 6707 Democracy Boulevard, Bethesda, MD 20892–5452, (301) 594–7637, *davila-bloomm@extra.niddk.nih.gov.*

Name of Committee: National Institute of Diabetes and Digestive and Kidney Diseases Special Emphasis Panel; Planning Grants for Better CKD Outcomes.

Date: July 27, 2011.

Time: 8 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Bethesda Marriott Suites, 6711 Democracy Boulevard, Bethesda, MD 20817.

Contact Person: Carol J. Goter-Robinson, PhD, Scientific Review Officer, Review Branch, DEA, NIDDK, National Institutes of Health, Room 748, 6707 Democracy Boulevard, Bethesda, MD 20892–5452, (301) 594–7791, *goterrobinsonc@extra.niddk.nih.gov.*

(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 28, 2011.

Jennifer S. Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 2011–16775 Filed 7–1–11; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Neurodegeneration and Glia.

Date: July 13, 2011.

Time: 1 p.m. to 3:30 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Telephone Conference Call)

Contact Person: Joanne T Fujii, PhD, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4184, MSC 7850, Bethesda, MD 20892, (301) 435–1178, *fujiij@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 28, 2011.

Jennifer S. Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 2011–16773 Filed 7–1–11; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Internal Agency Docket No. FEMA–1975–DR; Docket ID FEMA–2011–0001]

Arkansas; Amendment No. 9 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 Arkansas (FEMA–1975–DR), dated May 2, 2011, and related determinations.

DATES: *Effective Date:* June 22, 2011.

FOR FURTHER INFORMATION CONTACT: Peggy Miller, Office of Response and Recovery, Federal Emergency Management Agency, 500 C Street, SW., Washington, DC 20472, (202) 646–3886.

SUPPLEMENTARY INFORMATION: The notice of a major disaster declaration for the State of Arkansas 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 2, 2011.

Desha County for Individual Assistance.

Carroll, Chicot, Clark, Crawford, Dallas, and Hot Spring Counties for Individual Assistance (already designated for Public Assistance, including direct Federal 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. 2011–16667 Filed 7–1–11; 8:45 am]

BILLING CODE 9111–23–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Internal Agency Docket No. FEMA–1991–DR; Docket ID FEMA–2011–0001]

Illinois; 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 Illinois (FEMA–1991–DR), dated June 7, 2011, and related determinations.

DATES: *Effective Date:* June 27, 2011.

FOR FURTHER INFORMATION CONTACT: Peggy Miller, Office of Response and Recovery, Federal Emergency Management Agency, 500 C Street, SW., Washington, DC 20472, (202) 646–3886.

SUPPLEMENTARY INFORMATION: The notice of a major disaster declaration for the State of Illinois 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 June 7, 2011.

Wabash County for Individual Assistance (already designated for Public 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. 2011–16790 Filed 7–1–11; 8:45 am]

BILLING CODE 9111–23–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Internal Agency Docket No. FEMA–1981–DR; Docket ID FEMA–2011–0001]

North Dakota; 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 North Dakota (FEMA–1981–DR), dated May 10, 2011, and related determinations.

DATES: *Effective Date:* June 24, 2011.

FOR FURTHER INFORMATION CONTACT: Peggy Miller, Office of Response and Recovery, Federal Emergency Management Agency, 500 C Street, SW., Washington, DC 20472, (202) 646–3886.

SUPPLEMENTARY INFORMATION: The notice of a major disaster declaration for the State of North Dakota is hereby amended to include the Individual Assistance program for 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 10, 2011.

Burleigh and Ward Counties for Individual Assistance (already designated for Public 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. 2011–16787 Filed 7–1–11; 8:45 am]

BILLING CODE 9111–23–P

DEPARTMENT OF HOMELAND SECURITY

U.S. Customs and Border Protection

Agency Information Collection Activities: Vessel Entrance or Clearance Statement

AGENCY: U.S. Customs and Border Protection (CBP), Department of Homeland Security.

ACTION: 60-Day notice and request for comments; Extension of an existing collection of information: 1651–0019.

SUMMARY: As part of its continuing effort to reduce paperwork and respondent burden, CBP invites the general public and other Federal agencies to comment on an information collection requirement concerning the Vessel Entrance or Clearance Statement (CBP Form 1300). This request for comment is being made pursuant to the Paperwork Reduction Act of 1995 (Pub. L.104–13).

DATES: Written comments should be received on or before September 6, 2011, to be assured of consideration.

ADDRESSES: Direct all written comments to U.S. Customs and Border Protection, Attn: Tracey Denning, Regulations and Rulings, Office of International Trade, 799 9th Street, NW., 5th Floor, Washington, DC 20229–1177.

FOR FURTHER INFORMATION CONTACT: Requests for additional information should be directed to Tracey Denning, U.S. Customs and Border Protection, Regulations and Rulings, Office of International Trade, 799 9th Street, NW., 5th Floor, Washington, DC 20229–1177, at 202–325–0265.

SUPPLEMENTARY INFORMATION: CBP invites the general public and other Federal agencies to comment on proposed and/or continuing information collections pursuant to the Paperwork Reduction Act of 1995 (Pub. L. 104–13). The comments should address: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimates of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden including the use of automated collection techniques or the use of other forms of information technology; and (e) the annual costs burden to respondents or record keepers from the collection of information (a total capital/startup costs and operations and maintenance costs). The comments that are submitted will

be summarized and included in the CBP request for Office of Management and Budget (OMB) approval. All comments will become a matter of public record. In this document CBP is soliciting comments concerning the following information collection:

Title: Vessel Entrance or Clearance Statement.

OMB Number: 1651–0019.

Form Number: CBP Form 1300.

Abstract: CBP Form 1300, *Vessel Entrance or Clearance Statement,* is used to collect essential commercial vessel data at time of formal entrance and clearance in U.S. ports. The form allows the master to attest to the truthfulness of all CBP forms associated with the manifest package, and collects detailed information on the vessel, cargo, purpose of entrance, certificate numbers and expiration for various certificates. It also serves as a record of fees and tonnage tax payments in order to prevent overpayments. CBP Form 1300 was developed through agreement by the United Nations Intergovernmental Maritime Consultative Organization (IMCO) in conjunction with the United States and various other countries. The form was developed as a single form to replace the numerous other forms used by various countries for the entrance and clearance of vessels. CBP Form 1300 is authorized by 19 U.S.C. 1431, 1433, and 1434, and provided for by 19 CFR 4.7–4.9. This form is accessible at *http://forms.cbp.gov/pdf/CBP_Form_1300.pdf.*

Current Actions: CBP proposes to extend the expiration date of this information collection with no change to the burden hours or to the information being collected.

Type of Review: Extension (without change).

Affected Public: Businesses.

Estimated Number of Respondents: 12,000.

Estimated Number of Responses per Respondent: 22.

Estimated Total Annual Responses: 264,000.

Estimated Time per Response: 30 minutes.

Estimated Total Annual Burden Hours: 132,000.

Dated: June 29, 2011.

Tracey Denning,

Agency Clearance Officer, U.S. Customs and Border Protection.

[FR Doc. 2011–16706 Filed 7–1–11; 8:45 am]

BILLING CODE 9111–14–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–5486–N–18]

Notice of Proposed Information Collection: Transformation Initiative Family Self-Sufficiency Demonstration Small Grants

AGENCY: Office of Policy Development and Research, HUD.

ACTION: Notice.

SUMMARY: The proposed information collection requirement described below will be submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposal.

DATES: *Comments Due Date:* September 6, 2011.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and should be sent to: Reports Liaison Officer, Office of Policy Development and Research, Department of Housing and Urban Development, 451 Seventh Street, SW., Room 8230, Washington, DC 20410.

FOR FURTHER INFORMATION CONTACT: Jennifer Stoloff, Department of Housing and Urban Development, Office of Policy Development and Research, 451 7th Street, SW., Room 8120, Washington DC 20401; telephone (202) 402–5723, (this is not a toll free number). Copies of the proposed forms and other available documents may be obtained from Dr. Stoloff.

SUPPLEMENTARY INFORMATION: The Department will submit the proposed information collection to OMB for review, as required by the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35, as amended). This notice is soliciting comments from members of the public and affected agencies concerning the proposed collection of information to: (1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including if the information will have practical utility; (2) Evaluate the accuracy of the agency's estimate of the burden of proposed collection of information; (3) Enhance the quality, utility, and clarity of the information to be collected; and (4) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

This notice also lists the following information:

Title of Proposal: Notice of Funding Availability for the Transformation Initiative Family Self-Sufficiency Demonstration Small Grants.

Description of the need for information and proposed use: The information is being collected to select applicants for award in this statutorily created competitive grant program and to monitor performance of grantees to ensure they meet statutory and program goals and requirements.

Agency Form Numbers: SF–424, SF–424 Supplemental, HUD–424–CB, SF–LLL, HUD–2880, HUD–2993, HUD–96010 and HUD–96011. *http://portal.hud.gov/portal/page/portal/HUD/program_offices/administration/hudclips/forms.*

Members of the affected public: Nonprofit organizations, for profit organizations located in the U.S. (HUD will not pay fee or profit for the work conducted under this NOFA), foundations, think tanks, consortia, Institutions of higher education accredited by a national or regional accrediting agency recognized by the U.S. Department of Education and other entities that will sponsor a researcher, expert or analyst.

Estimation of the total number of hours needed to prepare the information collection including number of respondents, frequency of response, and hours of response: Information pursuant to grant award will be submitted once a year. The following chart details the respondent burden on a quarterly and annual basis:

	Number of respondents	Total annual responses	Hours per response	Total hours
Applicants	20	20	42	840
Quarterly Reports	5	20	6	120
Final Reports	5	5	6	30
Recordkeeping	5	5	4	20

	Number of respondents	Total annual responses	Hours per response	Total hours
Total	35	50	58	1010

Status of the proposed information collection: Pending OMB approval.

Authority: Section 3506 of the Paperwork Reduction Act of 1995, 44 U.S.C. Chapter 35, as amended.

Dated: June 27, 2011.

Raphael W. Bostic,

Assistant Secretary for Policy Development and Research.

[FR Doc. 2011–16770 Filed 7–1–11; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–5486–N–16]

Notice of Proposed Information Collection for Public Comment: Neighborhood Stabilization Program Tracking Study

AGENCY: Office of the Assistant Secretary for Policy Development and Research, HUD.

ACTION: Notice.

SUMMARY: The proposed information collection requirement described below will be submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposal.

DATES: *Comment Due Date*; September 6, 2011.

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 electronically to *Paul.A.Joice@hud.gov* or in hard copy to: Paul Joice, Office of Policy Development and Research, Department of Housing and Urban Development, 451 7th Street, SW., Room 8120, Washington, DC 20410–6000. Please use ''NSP PRA Comment'' in the subject line of any e-mail.

FOR FURTHER INFORMATION CONTACT: Paul Joice at 202–402–4608 (this is not a toll-free number) or *Paul.A.Joice@hud.gov,* for copies of the proposed forms and other available documents. Please use ''NSP PRA Comment'' in the subject line of any e-mail.

SUPPLEMENTARY INFORMATION: The Department of Housing and Urban Development will submit the proposed extension of information collection to OMB for review, as required by the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35, as amended). This Notice is soliciting comments from members of the public and affected agencies concerning the proposed collection of information to: (1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information; (3) enhance the quality, utility, and clarity of the information to be collected; and (4) minimize the burden of the collection of information on those who are to respond; including through the use of appropriate automated collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

This Notice also lists the following information:

Title of Proposal: Site Visit Protocols for Neighborhood Stabilization Program (NSP2) Evaluation.

OMB Control Number: Pending.

Description of the Need for the Information and Proposed Use: The U.S. Department of Housing and Urban Development (HUD) is conducting an important national study of the Neighborhood Stabilization Program (NSP), with a particular focus on the round of funding from the American Recovery and Reinvestment Act (ARRA), known as ''NSP2.'' This information collection will involve site visits and interviews of NSP2 grantees, in order to describe the process of implementing the NSP2 program and to identify the neighborhoods where NSP2 funding was spent, in order to evaluate its impact.

Agency Form Numbers: N/A.

Members of the Affected Public: Approximately 25 NSP2 grantees and 50 partner agencies will be part of the study. To select the grantees HUD will conduct brief reconnaissance telephone calls with up to 40 grantees to ensure that they have adequate data for evaluation. Staff of selected grantees will be asked to participate in more in-depth on-site interviews with HUD's contractor and to provide HUD's contractor with access to their records for tracking program activity. Reconnaissance phone calls will take up to an hour per grantee. On-site interviews will take approximately 2 hours per person and will be administered to approximately 4 staff per NSP2 grantee and 4 additional staff among partner agencies. Providing HUD's contractor with access to records will require approximately 2 hours from one person per grantee. *Estimation of the total number of hours needed to prepare the information collection including number of respondents, frequency of response, and hours of response:* The following chart details the respondent burden on a quarterly and annual basis:

	Number of entities	Responses per entity	Hours per response	Total hours
Reconnaissance telephone calls: NSP grantees	40	1	1	40
Interviews: NSP grantees	25	4	2	200
Interviews: Partner agencies	50	4	2	400
Providing Access to Records	25	1	2	50

Status of the proposed information collection: Pending OMB approval.

Authority: Section 3506 of the Paperwork Reduction Act of 1995, 44 U.S.C. Chapter 35, as amended.

Dated: June 27, 2011.

Raphael W. Bostic,

Assistant Secretary for Policy Development and Research.

[FR Doc. 2011–16772 Filed 7–1–11; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–5481–N–11]

Notice of Proposed Information Collection: Relocation and Real Property Acquisition, Recordkeeping Requirements Under the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as Amended (URA) Comment Request

AGENCY: Office of the Assistant Secretary for Community Planning and Development, HUD.

ACTION: Notice.

SUMMARY: The proposed information collection requirement described below will be submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposal.

DATES: *Comments Due Date:* September 6, 2011.

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: Rudene Thomas, Reports Liaison Officer, Department of Housing Urban and Development, 451 7th Street, SW., Room 7256, Washington, DC 20410.

FOR FURTHER INFORMATION CONTACT: Bryan O'Neill, Relocation Specialist, Relocation and Real Estate Division, CGHR, Department of Housing and Urban Development, 451 Seventh Street, Southwest, Rm 7168, Washington, DC 20410; e-mail *Bryan.J.O'Neill@HUD.gov,* (202) 708–2684. This is not a toll-free number. Copies of the proposed forms and other available documents submitted to OMB may be obtained from Mr. O'Neill.

SUPPLEMENTARY INFORMATION: The Department is submitting the proposed information collection to OMB for review, as required by the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35, as Amended).

This Notice is soliciting comments from members of the public and affecting agencies concerning the proposed collection of information to: (1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information; (3) Enhance the quality, utility, and clarity of the information to be collected; and (4) Minimize the burden of the collection of information on those who are to respond; including through the use of appropriate automated collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

This Notice also lists the following information:

Title of Proposal: Relocation and Real Property Acquisition, Recordkeeping Requirements under the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (as amended).

OMB Control Number, if applicable: 2506–0121.

Description of the need for the information and proposed use: HUD funded projects involving the acquisition of real property or the displacement of persons as a direct result of acquisition, rehabilitation or demolition are subject to the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (URA). Agencies receiving HUD funding for such projects are required to document their compliance with applicable requirements of the URA and its implementing government-wide regulations at 49 CFR part 24.

Agency form numbers, if applicable: None.

Status of the proposed information collection: Renewal.

Estimation of the total numbers of hours needed to prepare the Information collection including number of respondents, frequency of response, and hours of response.

Number of Respondents: 2000.

Frequency of Responses: 40.

Hours per Response: 3.5.

Burden Hours: 280,000.

Change: 0.

Authority: The Paperwork Reduction Act of 1995, 44 U.S.C. Chapter 35, as amended.

Dated: June 27, 2011.

Clifford D. Taffet,

General Deputy Assistant Secretary for Community Planning and Development.

[FR Doc. 2011–16776 Filed 7–1–11; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–5486–N–17]

Notice of Proposed Information Collection: Transformation Initiative Rent Reform Demonstration Small Grants

AGENCY: Office of Policy Development and Research, HUD.

ACTION: Notice.

SUMMARY: The proposed information collection requirement described below will be submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposal.

DATES: *Comments Due Date:* September 6, 2011.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and should be sent to: Reports Liaison Officer, Office of Policy Development and Research, Department of Housing and Urban Development, 451 Seventh Street, SW., Room 8230, Washington, DC 20410.

FOR FURTHER INFORMATION CONTACT: Jennifer Stoloff, Department of Housing and Urban Development, Office of Policy Development and Research, 451 7th Street, SW., Room 8120, Washington DC 20401; telephone (202) 402–5723, (this is not a toll free number). Copies of the proposed forms and other available documents may be obtained from Dr. Stoloff.

SUPPLEMENTARY INFORMATION: The Department will submit the proposed information collection to OMB for review, as required by the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35, as amended). This notice is soliciting comments from members of the public and affected agencies concerning the proposed collection of information to: (1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including if the information will have practical utility; (2) Evaluate the accuracy of the agency's estimate of the burden of proposed collection of information; (3) Enhance the quality, utility, and clarity

of the information to be collected; and (4) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

This notice also lists the following information:

Title of Proposal: Notice of Funding Availability for the Transformation Initiative Rent Reform Demonstration Small Grants.

Description of the need for information and proposed use: The information is being collected to select applicants for award in this statutorily created competitive grant program and to monitor performance of grantees to ensure they meet statutory and program goals and requirements.

Agency Form Numbers: SF–424, SF–424 Supplemental, HUD–424–CB, SF–LLL, HUD–2880, HUD–2993, HUD–96010 and HUD–96011.

Members of the affected public: Institutions of higher education accredited by a national or regional accrediting agency recognized by the U.S. Department of Education are the official applicants.

Estimation of the total number of hours needed to prepare the information collection including number of respondents, frequency of response, and hours of response: Information pursuant to grant award will be submitted once a year. The following chart details the respondent burden on a quarterly and annual basis:

	Number of respondents	Total annual responses	Hours per response	Total hours
Applicants	20	20	42	840
Quarterly Reports	5	20	6	120
Final Reports	5	5	6	30
Recordkeeping	5	5	4	20
Total	35	50	58	1010

Status of the proposed information collection: Pending OMB approval.

Authority: Section 3506 of the Paperwork Reduction Act of 1995, 44 U.S.C. Chapter 35, as amended.

Dated: June 27, 2011.

Raphael W. Bostic,

Assistant Secretary for Policy Development and Research.

[FR Doc. 2011–16771 Filed 7–1–11; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–5484–N–22]

Notice of Proposed Information Collection: Comment Request; Multifamily Insurance Benefits Claims Package

AGENCY: Office of the Assistant Secretary for Housing, HUD.

ACTION: Notice.

SUMMARY: The proposed information collection requirement described below will be submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposal.

DATES: *Comments Due Date:* September 6, 2011.

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, Departmental Reports Management Officer, QDAM, Department of Housing and Urban Development, 451 7th Street, SW., Washington, DC 20410; e-mail *Colette.Pollard@HUD.gov.*

FOR FURTHER INFORMATION CONTACT: Steven A. Trojan, Accountant, Office of Financial Service, Multifamily Insurance Operations Division, Multifamily Claims Branch, Department of Housing and Urban Development, 451 7th Street, SW., Washington, DC 20410, telephone (202) 402–2823 (this is not a toll free number) for copies of the proposed forms and other available information.

SUPPLEMENTARY INFORMATION: The Department is submitting the proposed information collection to OMB for review, as required by the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35, as amended).

This Notice is soliciting comments from members of the public and affected agencies concerning the proposed collection of information to: (1) Evaluate whether the proposed collection is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information; (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 the use of appropriate automated collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

This Notice also lists the following information:

Title of Proposal: Multifamily Insurance Benefits Claims Package.

OMB Control Number, if applicable: 2502–0418.

Description of the need for the information and proposed use: The claims package requests from the mortgagee the necessary fiscal data required for HUD to determine the insurance owned to mortgage lenders that filed an insurance claim. When terms of a multifamily contract are breached or when a mortgagee meets conditions stated within the multifamily contact for an automated assignment, the holder of the mortgage may file for insurance benefits. The law, which supports this action, is statute 12 U.S.C. 1713(g) and Title II, Section 207(g) of the National Housing Act. This Act provides in part that ''* * *'' the mortgagee shall be entitled to receive the benefits of the insurance as hereinafter provided, upon assignment, transfer, and delivery to the Secretary, within a period and in accordance with rules and regulations to be prescribed by the Secretary of (1) all rights and interest arising under the mortgage so in default; (2) all claims of the mortgagee against the mortgagor or others, arising under the mortgage transaction; (3) all policies of title or other insurance or surety bonds or guaranties and any or all claims there under; (4) any balance of the mortgage loan not advanced to the mortgagor; (5) any cash or property held by the mortgagee, or to which it is entitled, as deposits made for account of the mortgagor and which have been applied in reduction of the principal of the mortgage indebtedness; and (6) all records, documents, books, papers and

accounts relating to the mortgage transaction.'' These provisions are further spelled out in 24 CFR 207 Subpart B, Contract Rights and Obligations. To receive these benefits, the mortgagee must prepare and submit to HUD the Multifamily Insurance Benefits Claims Package.

Agency form numbers, if applicable: HUD–2741, 2742, 2744–A. 2744–B, 2744–C, 2744–D, and 2744–E, 434, 1044–D.

Estimation of the total numbers of hours needed to prepare the information collection including number of respondents, frequency of response, and hours of response: The estimated total number of hours needed to prepare the information collection is 531; the number of respondents is 1 generating approximately 125 annual responses; the frequency of response is on occasion, and the estimated time needed to prepare the response varies from 15 minutes to 1½ hours.

Status of the proposed information collection: Extension of a currently approved collection.

Authority: The Paperwork Reduction Act of 1995, 44 U.S.C., Chapter 35, as amended.

Dated: June 28, 2011.

Ronald Y. Spraker,

Associate General Assistant Secretary for Housing.

[FR Doc. 2011–16768 Filed 7–1–11; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–5478–N–03]

Privacy Act of 1974; Notice of a Computer Matching Program Between the Department of Housing and Urban Development (HUD) and the United States Department of Education (ED)

AGENCY: Office of the Chief Information Officer, HUD.

ACTION: Notice of a computer matching program between the HUD and ED.

SUMMARY: In accordance with the Privacy Act of 1974 (5 U.S.C. 552a), as amended by the Computer Matching and Privacy Protection Act of 1988 (Pub. L. 100–503), and the Office of Management and Budget (OMB) Guidelines on the Conduct of Matching Programs (June 19, 1989, 54 FR 25818), and OMB Bulletin 89–22, ''Instructions on Reporting Computer Matching Programs to the Office of Management and Budget (OMB), Congress and the Public,'' HUD is issuing a public notice of its intent to conduct a recurring computer matching program with the ED to utilize a computer information system of HUD, the Credit Alert Interactive Verification Reporting System (CAIVRS), with ED's debtor files.

DATES: *Effective Date:* The effective date of this agreement, and the date the match may begin is the later of the following dates: 40 days after HUD files a report of the subject matching program with the Committee on Oversight and Government Reform of the House of Representatives, the Committee on Homeland Security and Governmental Affairs of the Senate, and the Office of Management and Budget's (OMB), Office of Information and Regulatory Affairs; or 30 days after HUD publishes notice of the computer matching program in the Federal Register, unless changes to the matching program are required due to public comments or by Congressional or by Office of Management and Budget objections. Any public comment must be received before the effective comment due date.

Comments Due Date: August 4, 2011.

ADDRESSES: Interested persons are invited to submit comments regarding this notice to the Rules Docket Clerk, Office of General Counsel, HUD, 451 Seventh Street, SW., Room 10276, Washington, DC 20410. Communications should refer to the above docket number and title. A copy of each communication submitted will be available for public inspection and copying between 8 a.m. and 5 p.m. weekdays at the above address.

FOR FURTHER INFORMATION CONTACT: For Privacy Act inquires contact Donna Robinson-Staton, Chief Privacy Officer, Department of Housing and Urban Development, Office of the Chief Information Officer, 451 Seventh Street, SW., Room 2256, Washington, DC 20410, telephone number (202) 402–8073. For program related information from the ''Recipient Agency'' contact Debbie A. Agosto, Management Analyst, Department of Housing and Urban Development Office of Housing, Single Family Home Mortgage Insurance Division, 451 Seventh Street, SW., Room 9266, Washington, DC 20410, telephone number (202) 402–4312. For program related information from the ''Source Agency'' contact Cynthia M. Hill, Management and Program Analyst, U.S. Department of Education, Federal Student Aid Contracts Oversight Division, 830 First Street, NE., Room 61F1–UCP, Washington, DC 20202, telephone number (202) 377–3267. (These are not toll free telephone numbers). A telecommunications device for hearing- and speech-impaired individuals (TTY) is available at (800) 877–8339 (Federal Information Relay Service).

SUPPLEMENTARY INFORMATION: HUD's data in the CAIVRS database includes delinquent debt information from the Department of Education, Veterans Affairs, Department of Justice, and the Small Business Administration. The data received from the participating agencies will allow prescreening of applicants for debts owed or loans guaranteed by the Federal government to ascertain if the applicant is delinquent in paying a debt owed to or insured by the Federal government for HUD or ED direct or guaranteed loans. Before granting a loan, the lending agency and/or the authorized lending institution will be able to interrogate the CAIVRS debtor files which contains the Social Security Numbers (SSNs) of HUD's delinquent debtors and defaulters and defaulted debtor records of ED and verify that the loan applicant is not in default or delinquent on a direct or guaranteed loans of participating Federal programs of either agency. As a result of the information produced by this match, the authorized users may not deny, terminate, or make a final decision of any loan assistance to an applicant or take other adverse action against such applicant, until an officer or employee of such agency has independently verified such information.

Reporting of a Matching Program

In accordance with the Computer Matching and Privacy Protection Act of 1988 (Pub. L. 100–503), as amended. Copies of this notice are being provided to the Office of Management and Budget (OMB), the Senate Committee on Homeland Security and Governmental Affairs, and the House Committee on Oversight and Government Reform.

Authority: The matching program will be conducted pursuant to ''The Computer Matching and Privacy Protection Act of 1988 (Pub. L. 100–503),'' as amended, and OMB Circular A–129 (Revised January 1993), Policies for Federal Credit Program and Non-Tax Receivables. One of the purposes of all Executive departments and agencies, including HUD is to implement efficient management practices for Federal credit programs. OMB Circular A–129 was issued under the authority of the Budget and Accounting Act of 1921, as amended; the Budget and Accounting Act of 1950, as amended; the Debt Collection Act of 1982, as amended; and, the Deficit Reduction Act of 1984, as amended.

Objectives To Be Met by the Matching Program

The matching program will allow ED access to HUD's Credit Alert Verification System which permits

prescreening of applicants for loans owed or guaranteed by the Federal government to ascertain if the applicant is delinquent in paying a debt owed to or insured by the Government.

Records To Be Matched

HUD will use records from its systems of records HUD/SFH–01, Single Family Default Monitoring System; HUD/SFH–02, Single Family Insurance System CLAIMS Subsystem; HUD/HS–55, Debt Collection Asset Management System; and HUD/HS–59, Single Family Mortgage Asset Recovery Technology. The Single Family Default Monitoring System was published in the **Federal Register** on November 20, 2007 (72 FR 65350); the Single Family Insurance System CLAIMS Subsystem was published in the **Federal Register** on November 20, 2007 (72 FR 65348); the Debt Collection Asset Management was originally published in the **Federal Register** on June 26, 2006 (71 FR 36351) and subsequently amended on November 13, 2007 (72 FR 63919); and the Single Family Mortgage Asset Recovery Technology was published in the **Federal Register** on August 1, 2007 (72 FR 42102) and subsequently amended on June 18, 2010 (75 FR 34755). The debtor files for programs involved are included in these systems of records. HUD's debtor files contain information on borrowers and co-borrowers who are currently in default (at least 90 days delinquent on their loans) or who have had their partial claim subordinate mortgage called due and payable and it has not been repaid in full or who have any outstanding claims paid during the last three years on a Title I insured or guaranteed home mortgage loan. ED will provide HUD with debtors files contained in its system of records entitled, ''Title IV Program Files'' (18–11–05), originally published in the **Federal Register** on June 4, 1999 (64 FR 30163) and subsequently amended on December 27, 1999 (64 FR 72407). ED records from which the information is compiled are maintained in the Student Financial Assistance Collection system of records (18–11–07). The ED routine use for this match is published as routine use number one in the system of records notice for the Student Financial Assistance Collection, which permits disclosures of the pertinent information to HUD.

Notice Procedures

HUD and ED will notify individuals at the time of application (ensuring that routine use appears on the application form) for guaranteed or direct loans that their records will be matched to determine whether they are delinquent or in default on a Federal debt. HUD and ED will also publish notices concerning routine use disclosures in the **Federal Register** to inform individuals that a computer match may be performed to determine a loan applicant's credit status with the Federal government.

Categories of Records/Individuals Involved

The debtor records include these data elements: SSN, claim number, program code, and indication of indebtedness. Categories of records include: Records of claims and defaults, repayment agreements, credit reports, financial statements, and records of foreclosures. Categories of individuals include: Former mortgagors and purchasers of HUD-owned and home improvement loan debtors who are delinquent or default on their loans or who have had their partial claim subordinate mortgage called due and payable and it has not been repaid in full.

Period of the Match

Matching is expected to begin at least 40 days from the date copies of the signed (by both HUD and ED's Data Integrity Boards) computer matching agreement are sent to both Houses of Congress or at least 30 days from the date this notice is published in the **Federal Register**, which ever is later, providing no comments are received which would result in a contrary determination. The matching program will be in effect and continue for 18 months with an option to renew for 12 additional months unless one of the parties to the agreement advises the other in writing to terminate or modify the agreement.

Dated: June 20, 2011.

Kevin R. Cooke,

Deputy Chief Information Officer.

[FR Doc. 2011–16767 Filed 7–1–11; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[LLCOF00000–L16520000–XX0000]

Notice of Meeting, Rio Grande Natural Area Commission

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of public meeting.

SUMMARY: In accordance with the Federal Land Policy and Management Act of 1976 (FLPMA) and the Federal Advisory Committee Act of 1972 (FACA), the U.S. Department of the Interior, Bureau of Land Management (BLM) Rio Grande Natural Area Commission will meet as indicated below.

DATES: The meeting will be held from noon to 4 p.m. on August 5, 2011.

ADDRESSES: Inn of the Rio Grande, 333 Santa Fe Avenue, Alamosa, CO 81101.

FOR FURTHER INFORMATION CONTACT: Paul Tigan, Planning and Environmental Coordinator, BLM Colorado State Office, 2850 Youngfield Street, Lakewood, CO 80215. Phone: (303) 239–3949. E-mail: *pdtigan@blm.gov.*

SUPPLEMENTARY INFORMATION: The Rio Grande Natural Area Commission was established in the Rio Grande Natural Area Act (16 U.S.C. 460rrr–2). The nine-member Commission advises the Secretary of the Interior, through the BLM, concerning the preparation and implementation of a management plan relating to non-Federal land in the Rio Grande Natural Area, as directed by law. Planned agenda topics include: Commission Member Introductions; Resource Advisory Committee/FACA Orientation; Ethics Training for Resource Advisory Committee/FACA Members; Overview of the Rio Grande Natural Area Act and Commission Charter; Election of Commission Chairperson; Formation of Commission Subcommittees; Public Comment; and Scheduling Future Commission Meetings. This meeting is open to the public. The public is encouraged to make oral comments to the Commission at 3:30 p.m. or written statements may be submitted for the Commission's consideration. Depending on the number of persons wishing to comment and time available, the time for individual oral comments may be limited. Summary minutes for the Commission Meeting will be maintained in the San Luis Valley Public Lands Center and will be available for public inspection and reproduction during regular business hours within 30 days following the meeting. Meeting minutes and agenda (10 days prior to each meeting) are also available at: *http://www.blm.gov/rac/co/frrac/co_fr.htm.*

Dated: June 28, 2011.

Anna Marie Burden,

Acting State Director.

[FR Doc. 2011–16785 Filed 7–1–11; 8:45 am]

BILLING CODE 4310–JB–P

INTERNATIONAL TRADE COMMISSION

Notice of Receipt of Complaint; Solicitation of Comments Relating to the Public Interest

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission has received a complaint entitled *In Re Certain Flat Panel Display Devices, and Products Containing the Same,* DN 2823; the Commission is soliciting comments on any public interest issues raised by the complaint.

FOR FURTHER INFORMATION CONTACT: James R. Holbein, Secretary to the Commission, U.S. International Trade Commission, 500 E Street, SW., Washington, DC 20436, telephone (202) 205–2000. The public version of the complaint can be accessed on the Commission's electronic docket (EDIS) at *http://edis.usitc.gov,* and will be available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 500 E Street, SW., Washington, DC 20436, telephone (202) 205–2000.

General information concerning the Commission may also be obtained by accessing its Internet server (*http://www.usitc.gov*). The public record for this investigation may be viewed on the Commission's electronic docket (EDIS) at *http://edis.usitc.gov.* Hearing-impaired persons are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on (202) 205–1810.

SUPPLEMENTARY INFORMATION: The Commission has received a complaint filed on behalf of AU Optronics Corporation on June 27, 2011. The complaint alleges violations of section 337 of the Tariff Act of 1930 (19 U.S.C. 1337) in the importation into the United States, the sale for importation, and the sale within the United States after importation of certain flat panel display devices, and products containing same. The complaint names as respondents Samsung Electronics Co., Ltd. of Korea; Samsung Electronics America Inc. of Ridgefield, New Jersey; AT&T Inc. of Dallas, TX; Best Buy Co., Inc. of Richfield, MN, and BrandsMart USA, Inc. of Hollywood, FL.

The complainant, proposed respondents, other interested parties, and members of the public are invited to file comments, not to exceed five pages in length, on any public interest issues raised by the complaint. Comments should address whether issuance of an exclusion order and/or a cease and desist order in this investigation would negatively affect the public health and welfare in the United States, competitive conditions in the United States economy, the production of like or directly competitive articles in the United States, or United States consumers.

In particular, the Commission is interested in comments that:

(i) Explain how the articles potentially subject to the orders are used in the United States;

(ii) Identify any public health, safety, or welfare concerns in the United States relating to the potential orders;

(iii) Indicate the extent to which like or directly competitive articles are produced in the United States or are otherwise available in the United States, with respect to the articles potentially subject to the orders; and

(iv) Indicate whether Complainant, Complainant's licensees, and/or third party suppliers have the capacity to replace the volume of articles potentially subject to an exclusion order and a cease and desist order within a commercially reasonable time.

Written submissions must be filed no later than by close of business, five business days after the date of publication of this notice in the **Federal Register**. There will be further opportunities for comment on the public interest after the issuance of any final initial determination in this investigation.

Persons filing written submissions must file the original document and 12 true copies thereof on or before the deadlines stated above with the Office of the Secretary. Submissions should refer to the docket number (''Docket No. 2823'') in a prominent place on the cover page and/or the first page. The Commission's rules authorize filing submissions with the Secretary by facsimile or electronic means only to the extent permitted by section 201.8 of the rules (see Handbook for Electronic Filing Procedures, *http://www.usitc.gov/secretary/fed_reg_notices/rules/documents/handbook_on_electronic_filing.pdf*). Persons with questions regarding electronic filing should contact the Secretary (202–205–2000).

Any person desiring to submit a document to the Commission in confidence must request confidential treatment. All such requests should be directed to the Secretary to the Commission and must include a full statement of the reasons why the Commission should grant such treatment. *See* 19 CFR 201.6. Documents for which confidential treatment by the Commission is properly sought will be treated accordingly. All nonconfidential written submissions will be available for public inspection at the Office of the Secretary.

This action is taken under the authority of section 337 of the Tariff Act of 1930, as amended (19 U.S.C. 1337), and of sections 201.10 and 210.50(a)(4) of the Commission's Rules of Practice and Procedure (19 CFR 201.10, 210.50(a)(4)).

By order of the Commission.

Issued: June 28, 2011.

James R. Holbein,

Secretary to the Commission.

[FR Doc. 2011–16668 Filed 7–1–11; 8:45 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

Notice of Receipt of Complaint; Solicitation of Comments Relating to the Public Interest

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission has received a complaint entitled *In Re Certain Electronic Devices, Including Wireless Communication Devices, Portable Music and Data, and Tablet Computers,* DN 2824; the Commission is soliciting comments on any public interest issues raised by the complaint.

FOR FURTHER INFORMATION CONTACT: James R. Holbein, Secretary to the Commission, U.S. International Trade Commission, 500 E Street, SW., Washington, DC 20436, telephone (202) 205–2000. The public version of the complaint can be accessed on the Commission's electronic docket (EDIS) at *http://edis.usitc.gov,* and will be available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 500 E Street, SW., Washington, DC 20436, telephone (202) 205–2000.

General information concerning the Commission may also be obtained by accessing its Internet server (*http://www.usitc.gov*). The public record for this investigation may be viewed on the Commission's electronic docket (EDIS) at *http://edis.usitc.gov.* Hearing-impaired persons are advised that information on this matter can be obtained by contacting the

Commission's TDD terminal on (202) 205–1810.

SUPPLEMENTARY INFORMATION: The Commission has received a complaint filed on behalf of Samsung Electronics Co., Ltd. and Samsung Telecommunications America, LLC on June 28, 2011. The complaint alleges violations of section 337 of the Tariff Act of 1930 (19 U.S.C. 1337) in the importation into the United States, the sale for importation, and the sale within the United States after importation of certain electronic devices, including wireless communication devices, portable music and data processing devices, and tablet computers. The complaint names as respondent Apple Inc. of Cupertino, CA.

The complainant, proposed respondents, other interested parties, and members of the public are invited to file comments, not to exceed five pages in length, on any public interest issues raised by the complaint. Comments should address whether issuance of an exclusion order and/or a cease and desist order in this investigation would negatively affect the public health and welfare in the United States, competitive conditions in the United States economy, the production of like or directly competitive articles in the United States, or United States consumers.

In particular, the Commission is interested in comments that:

(i) explain how the articles potentially subject to the orders are used in the United States;

(ii) identify any public health, safety, or welfare concerns in the United States relating to the potential orders;

(iii) indicate the extent to which like or directly competitive articles are produced in the United States or are otherwise available in the United States, with respect to the articles potentially subject to the orders; and

(iv) indicate whether Complainant, Complainant's licensees, and/or third party suppliers have the capacity to replace the volume of articles potentially subject to an exclusion order and a cease and desist order within a commercially reasonable time.

Written submissions must be filed no later than by close of business, five business days after the date of publication of this notice in the **Federal Register**. There will be further opportunities for comment on the public interest after the issuance of any final initial determination in this investigation.

Persons filing written submissions must file the original document and 12 true copies thereof on or before the deadlines stated above with the Office of the Secretary. Submissions should refer to the docket number (''Docket No. 2824'') in a prominent place on the cover page and/or the first page. The Commission's rules authorize filing submissions with the Secretary by facsimile or electronic means only to the extent permitted by section 201.8 of the rules (see Handbook for Electronic Filing Procedures, *http://www.usitc.gov/secretary/fed_reg_notices/rules/documents/handbook_on_electronic_filing.pdf*). Persons with questions regarding electronic filing should contact the Secretary (202–205–2000).

Any person desiring to submit a document to the Commission in confidence must request confidential treatment. All such requests should be directed to the Secretary to the Commission and must include a full statement of the reasons why the Commission should grant such treatment. *See* 19 CFR 201.6. Documents for which confidential treatment by the Commission is properly sought will be treated accordingly. All nonconfidential written submissions will be available for public inspection at the Office of the Secretary.

This action is taken under the authority of section 337 of the Tariff Act of 1930, as amended (19 U.S.C. 1337), and of sections 201.10 and 210.50(a)(4) of the Commission's Rules of Practice and Procedure (19 CFR 201.10, 210.50(a)(4)).

By order of the Commission.

Issued: June 29, 2011.

James R. Holbein,

Secretary to the Commission.

[FR Doc. 2011–16725 Filed 7–1–11; 8:45 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

[USITC SE–11–018]

Government in the Sunshine Act Meeting Notice

AGENCY HOLDING THE MEETING: United States International Trade Commission.

TIME AND DATE: July 8, 2011 at 9:30 a.m.

PLACE: Room 110, 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–382 and 731–TA–798–803 (Second Review) (Stainless Steel Sheet and Strip from Germany, Italy, Japan, Korea, Mexico, and Taiwan). The Commission is currently scheduled to transmit its determinations and Commissioners' opinions to the Secretary of Commerce on or before July 27, 2011.
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 29, 2011.

William R. Bishop,

Hearings and Meetings Coordinator.

[FR Doc. 2011–16827 Filed 6–30–11; 11:15 am]

BILLING CODE 7020–02–P

DEPARTMENT OF JUSTICE

[OMB Number 1125–0003]

Agency Information Collection Activities: Proposed Collection; Comments Requested: Fee Waiver Request

ACTION: 60-Day Notice of Information Collection Under Review.

The Department of Justice (DOJ), Executive Office for Immigration Review (EOIR) will be submitting the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995. The proposed information collection is published to obtain comments from the public and affected agencies. Comments are encouraged and will be accepted for ''sixty days'' until September 6, 2011.

This process is conducted in accordance with 5 CFR 1320.10.

If you have comments especially on the estimated public burden or associated response time, suggestions, or need a copy of the proposed information collection instrument with instructions or additional information, please contact Robin M. Stutman, General Counsel, Executive Office for Immigration Review, U.S. Department of Justice, Suite 2600, 5107 Leesburg Pike, Falls Church, Virginia 22041.

Written comments concerning this information collection should be sent to the Office of Information and Regulatory Affairs, Office of Management and Budget, Attn: DOJ Desk Officer. The best way to ensure your comments are received is to e-mail them to *oira_submission@omb.eop.gov* or fax them to 202–395–7285. All comments should reference the 8 digit OMB

number for the collection or the title of the collection. If you have questions concerning the collection, please call Robin M. Stutman at (703) 305–0470 or the DOJ Desk Officer at 202–395–3176.

Written comments and suggestions from the public and affected agencies concerning the proposed collection of information are encouraged. Your comments should address one or more of the following four points:

—Evaluate whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
—Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
—Enhance the quality, utility, and clarity of the information to be collected; and
—Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.* permitting electronic submission of responses.

Overview of this information collection:

(1) *Type of Information Collection:* Extension of a currently approved collection.

(2) *Title of the Form/Collection:* Fee Waiver Request.

(3) *Agency form number, if any, and the applicable component of the Department of Justice sponsoring the collection:* Form Number: Form EOIR 26A. Executive Office for Immigration Review, United States Department of Justice.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract: Primary:* An individual submitting an appeal or motion to the Board of Immigration Appeals. Other: None. Abstract: The information on the fee waiver request form is used by the Board of Immigration Appeals to determine whether the requisite fee for a motion or appeal will be waived due to an individual's financial situation.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* It is estimated that 5,970 respondents will complete the form annually with an average of one hour per response.

(6) *An estimate of the total public burden (in hours) associated with the collection:*

There are an estimated 5,970 total burden hours associated with this collection annually.

If additional information is required contact: Jerri Murray, Department Clearance Officer, United States Department of Justice, Justice Management Division, Policy and Planning Staff, Two Constitution Square, 145 N Street, NE., Room 2E–508, Washington, DC 20530.

Jerri Murray,

Department Clearance Officer, PRA, United States Department of Justice.

[FR Doc. 2011–16720 Filed 7–1–11; 8:45 am]

BILLING CODE 4410–30–P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Importer of Controlled Substances; Notice of Application

Pursuant to 21 U.S.C. 958(i), the Attorney General shall, prior to issuing a registration under the Section to a bulk manufacturer of a controlled substance in Schedule I or II, and prior to issuing a regulation under 21 U.S.C. 952(a)(2) authorizing the importation of such a substance, provide manufacturers holding registrations for the bulk manufacturer of the substance an opportunity for a hearing.

Therefore, in accordance with Title 21 CFR 1301.34(a), this is notice that on April 5, 2011, Research Triangle Institute, Kenneth H. Davis Jr., Hermann Building, East Institute Drive, P.O. Box 12194, Research Triangle PA, North Carolina 27709, made application by renewal to the Drug Enforcement Administration (DEA) for registration as an importer of the following basic classes of controlled substances:

Drug	Schedule
1-(1-Phenylcyclohexyl)pyrrolidine (7458)	I
1-[1-(2-Thienyl)cyclohexyl]piperidine (7470)	I
1-[1-(2-Thienyl)cyclohexyl]pyrrolidine (7473)	I
1-Butyl-3-(1-naphthoyl)indole (7173)	I
1-Pentyl-3-(1-naphthoyl)indole (7118)	I
1-[2-(4-Morpholinyl)ethyl]-3-(1-naphthoyl) Idole (7200)	I
1-Methyl-4-phenyl-4-propionoxypiperidine (9661)	I
1-(2-Phenylethyl)-4-phenyl-4-acetoxypiperidine (9663)	I
5-(1,1-Dimethylheptyl)-2-[(1R,3S)-3-hydroxycyclohexyl]-phenol (7297)	I
5-(1,1-Dimethylloctyl)-2-[(1R,3S)-3-hydroxycyclohexyl]-phenol (7298)	I
2,5-Dimethoxy-4-(n)-propylthiophenethylamine (7348)	I
2,5-Dimethoxy-4-ethylamphetamine (7399)	I
2,5-Dimethoxyamphetamine (7396)	I
3,4,5-Trimethoxyamphetamine (7390)	I
3,4-Methylenedioxyamphetamine (7400)	I
3,4-Methylenedioxymethamphetamine (7405)	I
3,4-Methylenedioxy-N-ethylamphetamine (7404)	I
3-Methylfentanyl (9813)	I
3-Methylthiofentanyl (9833)	I
4-Bromo-2,5-dimethoxyamphetamine (7391)	I
4-Bromo-2,5-dimethoxyphenethylamine (7392)	I
4-Methyl-2,5-dimethoxyamphetamine (7395)	I
4-Methylaminorex (cis isomer) (1590)	I
4-Methoxyamphetamine (7411)	I
5-Methoxy-3,4-methylenedioxyamphetamine (7401)	I
5-Methoxy-N,N-diisopropyltryptamine (7439)	I
Acetorphine (9319)	I
Acetyl-alpha-methylfentanyl (9815)	I
Acetyldihydrocodeine (9051)	I
Acetylmethadol (9601)	I

Drug	Schedule
Allylprodine (9602)	I
Alphacetylmethadol except levo-alphacetylmethadol (9603)	I
Alpha-ethyltryptamine (7249)	I
Alphameprodine (9604)	I
Alphamethadol (9605)	I
Alpha-methylfentanyl (9814)	I
Alpha-methylthiofentanyl (9832)	I
Alpha-methyltryptamine (7432)	I
Aminorex (1585)	I
Benzethidine (9606)	I
Benzylmorphine (9052)	I
Betacetylmethadol (9607)	I
Beta-hydroxy-3-methylfentanyl (9831)	I
Beta-hydroxyfentanyl (9830)	I
Betameprodine (9608)	I
Betamethadol (9609)	I
Betaprodine (9611)	I
Bufotenine (7433)	I
Cathinone (1235)	I
Clonitazene (9612)	I
Codeine methylbromide (9070)	I
Codeine-N-Oxide (9053)	I
Cyprenorphine (9054)	I
Desomorphine (9055)	I
Dextromoramide (9613)	I
Diampromide (9615)	I
Diethylthiambutene (9616)	I
Diethyltryptamine (7434)	I
Difenoxin (9168)	I
Dihydromorphine (9145)	I
Dimenoxadol (9617)	I
Dimepheptanol (9618)	I
Dimethylthiambutene (9619)	I
Dimethyltryptamine (7435)	I
Dioxaphetyl butyrate (9621)	I
Dipipanone (9622)	I
Drotebanol (9335)	I
Ethylmethylthiambutene (9623)	I
Etonitazene (9624)	I
Etorphine except HCl (9056)	I
Etoxeridine (9625)	I
Fenethylline (1503)	I
Furethidine (9626)	I
Gamma Hydroxybutyric Acid (2010)	I
Heroin (9200)	I
Hydromorphinol (9301)	I
Hydroxypethidine (9627)	I
Ibogaine (7260)	I
Ketobemidone (9628)	I
Levomoramide (9629)	I
Levophenacylmorphan (9631)	I
Lysergic acid diethylamide (7315)	I
Marihuana (7360)	I
Mecloqualone (2572)	I
Mescaline (7381)	I
Methaqualone (2565)	I
Methcathinone (1237)	I
Methyldesorphine (9302)	I
Methyldihydromorphine (9304)	I
Morpheridine (9632)	I
Morphine methylbromide (9305)	I
Morphine methylsulfonate (9306)	I
Morphine-N-Oxide (9307)	I
Myrophine (9308)	I
N,N-Dimethylamphetamine (1480)	I
N-[1-(2-thienyl)methyl-4-piperidyl]-N-phenylpropanamide (9834)	I
N-[1-benzyl-4-piperidyl]-N-phenylpropanamide (9818)	I
N-Benzylpiperazine (7493)	I
N-Ethyl-3-piperidyl benzilate (7482)	I
N-Ethylamphetamine (1475)	I
N-Ethyl-1-phenylcyclohexylamine (7455)	I
N-Hydroxy-3,4-methylenedioxyamphetamine (7402)	I
Nicocodeine (9309)	I
Nicomorphine (9312)	I

Drug	Schedule
N-Methyl-3-piperidyl benzilate (7484)	I
Noracymethadol (9633)	I
Norlevorphanol (9634)	I
Normethadone (9635)	I
Normorphine (9313)	I
Norpipanone (9636)	I
Para-Fluorofentanyl (9812)	I
Parahexyl (7374)	I
Peyote (7415)	I
Phenadoxone (9637)	I
Phenampromide (9638)	I
Phenomorphan (9647)	I
Phenoperidine (9641)	I
Pholcodine (9314)	I
Piritramide (9642)	I
Proheptazine (9643)	I
Properidine (9644)	I
Propiram (9649)	I
Psilocybin (7437)	I
Psilocyn (7438)	I
Racemoramide (9645)	I
Tetrahydrocannabinols (7370)	I
Thebacon (9315)	I
Thiofentanyl (9835)	I
Tilidine (9750)	I
Trimeperidine (9646)	I
1-Phenylcyclohexylamine (7460)	II
1-Piperidinocyclohexanecarbonitrile (8603)	II
4-Anilino-N-phenethyl-4-piperidine (8333)	II
Alfentanil (9737)	II
Alphaprodine (9010)	II
Amobarbital (2125)	II
Amphetamine (1100)	II
Anileridine (9020)	II
Bezitramide (9800)	II
Carfentanil (9743)	II
Coca Leaves (9040)	II
Cocaine (9041)	II
Codeine (9050)	II
Dextropropoxyphene, bulk (non-dosage forms) (9273)	II
Dihydrocodeine (9120)	II
Dihydroetorphine (9334)	II
Diphenoxylate (9170)	II
Ecgonine (9180)	II
Ethylmorphine (9190)	II
Etorphine HCl (9059)	II
Fentanyl (9801)	II
Glutethimide (2550)	II
Hydrocodone (9193)	II
Hydromorphone (9150)	II
Isomethadone (9226)	II
Levo-alphacetylmethadol (9648)	II
Levomethorphan (9210)	II
Levorphanol (9220)	II
Lisdexamfetamine (1205)	II
Meperidine (9230)	II
Meperidine intermediate-A (9232)	II
Meperidine intermediate-B (9233)	II
Meperidine intermediate-C (9234)	II
Metazocine (9240)	II
Methadone (9250)	II
Methadone intermediate (9254)	II
Methamphetamine (1105)	II
Methylphenidate (1724)	II
Metopon (9260)	II
Moramide intermediate (9802)	II
Morphine (9300)	II
Nabilone (7379)	II
Opium, raw (9600)	II
Opium extracts (9610)	II
Opium fluid extract (9620)	II
Opium tincture (9630)	II
Opium poppy/Poppy Straw (9650)	II
Poppy Straw Concentrate (9670)	II

Drug	Schedule
Opium, granulated (9640)	II
Oxycodone (9143)	II
Oxymorphone (9652)	II
Pentobarbital (2270)	II
Phenazocine (9715)	II
Phencyclidine (7471)	II
Phenmetrazine (1631)	II
Phenylacetone (8501)	II
Piminodine (9730)	II
Powdered opium (9639)	II
Racemethorphan (9732)	II
Racemorphan (9733)	II
Remifentanil (9739)	II
Secobarbital (2315)	II
Sufentanil (9740)	II
Tapentadol (9780)	II
Thebaine (9333)	II

The company plans to import small quantities of the listed controlled substances for the National Institute on Drug Abuse (NIDA) for research activities.

No comments, objections, or requests for any hearings will be accepted on any application for registration or re-registration to import crude opium, poppy straw, concentrate of poppy straw, and coca leaves. As explained in the Correction to Notice of Application pertaining to Rhodes Technologies, 72 FR 3417 (2007), comments and requests for hearings on applications to import narcotic raw material are not appropriate.

Any bulk manufacturer who is presently, or is applying to be, registered with DEA to manufacture such basic classes of controlled substances listed in schedule I or II, which fall under the authority of section 1002(a)(2)(B) of the Act (21 U.S.C. 952 (a)(2)(B)) may, in the circumstances set forth in 21 U.S.C. 958(i), file comments or objections to the issuance of the proposed registration and may, at the same time, file a written request for a hearing on such application pursuant to 21 CFR 1301.43, and in such form as prescribed by 21 CFR 1316.47.

Any such comments or objections should be addressed, in quintuplicate, to the Drug Enforcement Administration, Office of Diversion Control, Federal Register Representative (ODL), 8701 Morrissette Drive, Springfield, Virginia 22152; and must be filed no later than August 4, 2011.

This procedure is to be conducted simultaneously with, and independent of, the procedures described in 21 CFR § 1301.34(b), (c), (d), (e), and (f). As noted in a previous notice published in the **Federal Register** on September 23, 1975, 40 FR 43745–46, all applicants for registration to import a basic classes of any controlled substances in schedule I or II are, and will continue to be, required to demonstrate to the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration, that the requirements for such registration pursuant to 21 U.S.C. 958(a); 21 U.S.C. 823(a); and 21 CFR 1301.34(b), (c), (d), (e), and (f) are satisfied.

Dated: June 23, 2011.

Joseph T. Rannazzisi,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. 2011–16795 Filed 7–1–11; 8:45 am]

BILLING CODE 4410–09–P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Manufacturer of Controlled Substances; Notice of Application

Pursuant to § 1301.33(a), Title 21 of the Code of Federal Regulations (CFR), this is notice that on January 4, 2011, Chemtos, LLC, 14101 W. Highway 290, Building 2000B, Austin, Texas 78737, made application by letter to the Drug Enforcement Administration (DEA) to be registered as a bulk manufacturer of the following basic classes of controlled substances:

Drug	Schedule
Amphetamine (1100)	II
Methamphetamine (1105)	II
Lisdexamfetamine (1205)	II
Methylphenidate (1724)	II
Nabilone (7379)	II
Phenylacetone (8501)	II
Cocaine (9041)	II
Codeine (9050)	II
Etorphine HCL (9059)	II
Dihydrocodeine (9120)	II
Oxycodone (9143)	II
Hydromorphone (9150)	II
Ecgonine (9180)	II
Ethylmorphine (9190)	II
Hydrocodone (9193)	II
Levomethorphan (9210)	II
Levorphanol (9220)	II
Isomethadone (9226)	II
Meperidine (9230)	II
Meperidine-intermediate-A (9232)	II
Meperidine-intermediate-B (9233)	II
Meperidine-intermediate-C (9234)	II
Methadone (9250)	II
Methadone intermediate (9254)	II
Morphine (9300)	II
Thebaine (9333)	II
Dihydroetorphine (9334)	II
Levo-alphacetylmethadol (9648)	II
Oxymorphone (9652)	II
Racemethorphan (9732)	II
Racemorphan (9733)	II

The company plans to manufacture small quantities of the listed controlled substances in bulk for distribution to its customers for use as reference standards.

Any other such applicant, and any person who is presently registered with DEA to manufacture such substances, may file comments or objections to the issuance of the proposed registration pursuant to 21 CFR 1301.33(a).

Any such comments or objections should be addressed, in quintuplicate, to the Drug Enforcement Administration, Office of Diversion Control, Federal Register Representative (ODL), 8701 Morrissette Drive, Springfield, Virginia 22152; and must be filed no later than September 6, 2011.

Dated: June 23, 2011.

Joseph T. Rannazzisi,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. 2011–16793 Filed 7–1–11; 8:45 am]

BILLING CODE 4410–09–P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Manufacturer of Controlled Substances; Notice of Application

Pursuant to § 1301.33(a), Title 21 of the Code of Federal Regulations (CFR), this is notice that on May 16, 2011, Cayman Chemical Company, 1180 East Ellsworth Road, Ann Arbor, Michigan 48108, made application by renewal to the Drug Enforcement Administration (DEA) to be registered as a bulk manufacturer of the following basic classes of controlled substances:

Drug	Schedule
Cathinone (1235)	I
Methcathinone (1237)	I
N-Ethylamphetamine (1475)	I
N-N-Dimethylamphetamine (1480)	I
Aminorex (1585)	I
4-Methylaminorex (cis isomer) (1590)	I
1-Pentyl-3-(1-naphthoyl)indole (7118)	I
1-Butyl-3-(1-naphthoyl)indole (7173)	I
1-[2-(4-Morpholinyl)ethyl]-3-(1-naphthoyl) Indole (7200)	I
Alpha-ethyltryptamine (7249)	I
5-(1,1-Dimethulheptyl)-2-[(1R,3S)-3-hydroxycyclohexyl]-phenol (7297)	I
5-(1,1-Dimethyloctyl)-2-[(1R,3S)-3-hydroxycyclohexyl]-phenol (7298)	I
Lysergic acid diethylamide (7315)	I
2,5-Dimethoxy-4-(n)-propylthiophenethylamine (7348)	I
Marihuana (7360)	I
Tetrahydrocannabinols (7370)	I
3,4,5-Trimethoxyamphetamine (7390)	I
4-Bromo-2,5-dimethoxyamphetamine (7391)	I
4-Bromo-2,5-dimethoxyphenethylamine (7392)	I
4-Methyl-2,5-dimethoxyamphetamine (7395)	I
2,5-Dimethoxyamphetamine (7396)	I
2,5-Dimethoxy-4-ethylamphetamine (7399)	I
3,4-Methylenedioxyamphetamine (7400)	I
5-Methoxy-3,4-methylenedioxyamphetamine (7401)	I
N-Hydroxy-3,4-methylenedioxyamphetamine (7402)	I
3,4-Methylenedioxy-N-ethylamphetamine (7404)	I
3,4-Methylenedioxymethamphetamine (7405)	I
4-Methoxyamphetamine (7411)	I
5-Methoxy-N-N-dimethyltryptamine (7431)	I
Alpha-methyltryptamine (7432)	I
Diethyltryptamine (7434)	I
Dimethyltryptamine (7435)	I
5-Methoxy-N,N-diisopropyltryptamine (7439)	I
Amphetamine (1100)	II
Methamphetamine (1105)	II
Lisdexamfetamine (1205)	II

The company plans to manufacture small quantities of marihuana derivatives for research purposes. In reference to drug code 7360 (Marihuana), the company plans to bulk manufacture cannabidol. In reference to drug code 7370 (Tetrahydrocannabinols), the company will manufacture a synthetic THC. No other activity for this drug code is authorized for this registration.

Any other such applicant, and any person who is presently registered with DEA to manufacture such substances, may file comments or objections to the issuance of the proposed registration pursuant to 21 CFR 1301.33(a).

Any such written comments or objections should be addressed, in quintuplicate, to the Drug Enforcement Administration, Office of Diversion Control, Federal Register Representative (ODL), 8701 Morrissette Drive, Springfield, Virginia 22152; and must be filed no later than September 6, 2011.

Dated: June 23, 2011.

Joseph T. Rannazzisi,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. 2011–16791 Filed 7–1–11; 8:45 am]

BILLING CODE 4410–09–P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Manufacturer of Controlled Substances; Notice of Application

Pursuant to § 1301.33(a), Title 21 of the Code of Federal Regulations (CFR), this is notice that on April 13, 2011, Johnson Matthey Pharmaceutical Materials Inc., Pharmaceutical Service, 25 Patton Road, Devens, Massachusetts 01434, made application by letter to the Drug Enforcement Administration (DEA) to be registered as a bulk manufacturer of Remifentanil (9739) the basic class of controlled substance in schedule II.

The company plans to utilize this facility to manufacture small quantities of the listed controlled substances in bulk and to conduct analytical testing in support of the company's primary manufacturing facility in West Deptford, New Jersey. The controlled substances manufactured in bulk at this facility will be distributed to the company's customers.

Any other such applicant, and any person who is presently registered with DEA to manufacture such substances,

may file comments or objections to the issuance of the proposed registration pursuant to 21 CFR 1301.33(a).

Any such written comments or objections should be addressed, in quintuplicate, to the Drug Enforcement Administration, Office of Diversion Control, Federal Register Representative (ODL), 8701 Morrissette Drive, Springfield, Virginia 22152; and must be filed no later than September 6, 2011.

Dated: June 23, 2011.

Joseph T. Rannazzisi,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. 2011–16794 Filed 7–1–11; 8:45 am]

BILLING CODE 4410–09–P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Manufacturer of Controlled Substances; Notice of Registration

By Notice dated February 15, 2011, and published in the **Federal Register** on February 23, 2011, 76 FR 10068, Johnson Matthey Pharmaceutical Materials Inc., Pharmaceutical Service, 25 Patton Road, Devens, Massachusetts 01434, made application by renewal to the Drug Enforcement Administration (DEA) to be registered as a bulk manufacturer of the following basic classes of controlled substances:

Drug	Schedule
Amphetamine (1100)	II
Methylphenidate (1724)	II
Nabilone (7379)	II
Alfentanil (9737)	II
Sufentanil (9740)	II
Hydrocodone (9193)	II

The company plans to utilize this facility to manufacture small quantities of the listed controlled substances in bulk and to conduct analytical testing in support of the company's primary manufacturing facility in West Deptford, New Jersey. The controlled substances manufactured in bulk at this facility will be distributed to the company's customers.

No comments or objections have been received. DEA has considered the factors in 21 U.S.C. 823(a) and determined that the registration of Johnson Matthey Inc. to manufacture the listed basic classes of controlled substances is consistent with the public interest at this time. DEA has investigated Johnson Matthey Inc. to ensure that the company's registration is consistent with the public interest. The investigation has included inspection and testing of the company's physical security systems, verification of the company's compliance with state and local laws, and a review of the company's background and history. Therefore, pursuant to 21 U.S.C. 823(a), and in accordance with 21 CFR 1301.33, the above named company is granted registration as a bulk manufacturer of the basic classes of controlled substances listed.

Dated: June 23, 2011.

Joseph T. Rannazzisi,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. 2011–16799 Filed 7–1–11; 8:45 am]

BILLING CODE 4410–09–P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Manufacturer of Controlled Substances Notice of Registration

By Notice dated March 8, 2011, and published in the **Federal Register** on March 17, 2011, 76 FR 14690, Cambrex Charles City, Inc., 1205 11th Street, Charles City, Iowa 50616, made application by letter to the Drug Enforcement Administration (DEA) to be registered as a bulk manufacturer of 4-Anilino-N-phenethyl-4-piperdine (8333), a basic class of controlled substance listed in schedule II.

The company plans to use this controlled substance in the manufacture of another controlled substance.

No comments or objections have been received. DEA has considered the factors in 21 U.S.C. 823(a) and determined that the registration of Cambrex Charles City, Inc. to manufacture the listed basic class of controlled substance is consistent with the public interest at this time. DEA has investigated Cambrex Charles City, Inc. to ensure that the company's registration is consistent with the public interest. The investigation has included inspection and testing of the company's physical security systems, verification of the company's compliance with state and local laws, and a review of the company's background and history. Therefore, pursuant to 21 U.S.C. 823(a), and in accordance with 21 CFR 1301.33, the above named company is granted registration as a bulk manufacturer of the basic class of controlled substance listed.

Dated: June 27, 2011.

Joseph T. Rannazzisi,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. 2011–16801 Filed 7–1–11; 8:45 am]

BILLING CODE 4410–09–P

DEPARTMENT OF JUSTICE

United States Parole Commission

Record of Vote of Meeting Closure (Pub. L. 94–409) (5 U.S.C. 552b)

I, Isaac Fulwood, of the United States Parole Commission, was present at a meeting of said Commission, which started at approximately 11 a.m., on Tuesday, June 21, 2011, at the U.S. Parole Commission, 90 K Street, NE., Third Floor, Washington, DC 20530. The purpose of the meeting was to discuss three original jurisdiction cases pursuant to 28 CFR 2.27. Four Commissioners were present, constituting a quorum when the vote to close the meeting was submitted.

Public announcement further describing the subject matter of the meeting and certifications of the General Counsel that this meeting may be closed by votes of the Commissioners present were submitted to the Commissioners prior to the conduct of any other business. Upon motion duly made, seconded, and carried, the following Commissioners voted that the meeting be closed: Isaac Fulwood, Cranston J. Mitchell, Patricia Cushwa and J. Patricia Wilson Smoot.

In witness whereof, I make this official record of the vote taken to close this meeting and authorize this record to be made available to the public.

Dated: June 21, 2011.

Isaac Fulwood,

Chairman, U.S. Parole Commission.

[FR Doc. 2011–16563 Filed 7–1–11; 8:45 am]

BILLING CODE 4410–01–M

DEPARTMENT OF LABOR

Comment Request for Information Collection for the Trade Adjustment Assistance Community College and Career Training (TAACCCT) Grant Program, New Collection

AGENCY: Employment and Training Administration, Labor.

ACTION: Notice.

SUMMARY: The Department of Labor, as part of its continuing effort to reduce paperwork and respondent burden, conducts a preclearance consultation

program to provide the general public and federal agencies with an opportunity to comment on proposed and/or continuing collections of information in accordance with the Paperwork Reduction Act of 1995 (PRA95) [44 U.S.C. 3506(c)(2)(A)]. This program helps to ensure that requested data can be provided in the desired format, reporting burden (time and financial resources) is minimized, collection instruments are clearly understood, and the impact of collection requirements on respondents can be properly assessed. Currently, the Employment and Training Administration is soliciting comments concerning the collection of data about the Trade Adjustment Assistance Community College and Career Training (TAACCCT) grant program.

A copy of the proposed information collection request (ICR) can be obtained by contacting the office listed below in the addressee section of this notice.

DATES: Written comments must be submitted to the office listed in the addressee's section below on or before September 6, 2011.

ADDRESSES: Submit written comments to Brad Wiggins, Room N–4643, Employment and Training Administration, 200 Constitution Avenue, NW., Washington, DC 20210. Telephone number: 202–693–3949 (this is not a toll-free number). Fax: 202–693–3890. E-mail: *taaccct@dol.gov.*

SUPPLEMENTARY INFORMATION:

I. *Background:* Grantees that are awarded Trade Adjustment Assistance Community College and Career Training (TAACCCT) grants will be required to submit standardized quarterly progress reports and annual performance reports summarizing participant characteristics, progress and implementation measures, and performance outcomes. Progress and implementation measures will be provided in narrative form on a quarterly basis using conclusions drawn from both self-assessments and data to ensure programs are on track toward meeting performance goals and continuously improve grant-funded programs. Outcome measures will be provided annually for both program participants and a comparison cohort for the following measures: Entered employment rate, employment retention rate, average earnings, attainment of credits toward degree(s), attainment of industry-recognized certificates (less than one year), attainment of industry-recognized certificates (more than one year), and graduation number and rate for degree programs.

The collection of this data helps ETA report the impact of these funds and provides ETA with more comprehensive information on the status of individual grants and individuals that receive services and find employment through these grants. The accuracy, reliability, and comparability of program reports submitted by grantees using federal funds are fundamental elements of good public administration and are necessary tools for maintaining and demonstrating system integrity. The use of a standard set of data elements, definitions, and specifications at all levels of the workforce system, including the TAACCCT grants, helps improve the quality of performance information that is received by ETA. This data also helps ETA provide more targeted technical assistance to support improvement of grantee outcomes. ETA will provide TAACCCT grantees with a reporting system which will support the submission of quarterly progress and annual performance reports to ETA, which include both quarterly narrative reports (ETA–9159 Form) and an annual performance report (ETA–9160 Form).

II. *Review Focus:* The Department of Labor is particularly interested in comments which:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submissions of responses.

III. *Current Actions:*

Type of Review: New collection.

Title: Trade Adjustment Assistance Community College and Career Training Grants: Quarterly Progress and Annual Performance Reporting Forms & Instructions.

OMB Number: 1205–0NEW.

Affected Public: TACT Grantees and program participants.

Form(s): ETA–9159 and ETA–9160.

Total Annual Respondents: 100.

Annual Frequency: Quarterly.

Total Annual Responses: 168,197.

Average Time per Response: 136.

Estimated Total Annual Burden Hours: 30,420.

Total Annual Burden Cost for Respondents: 0.

Comments submitted in response to this comment request will be summarized and/or included in the request for Office of Management and Budget approval of the information collection request; they will also become a matter of public record.

Dated: June 24, 2011.

Jane Oates,

Assistant Secretary, Employment and Training Administration.

[FR Doc. 2011–16733 Filed 7–1–11; 8:45 am]

BILLING CODE 4510–FN–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–70,056]

Tensolite, LLC D/B/A Carlisle Interconnect Assemblies Including On-Site Leased Workers From Volt Services Group and Adecco, Vancouver, WA; Amended Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974, as amended (''Act''), 19 U.S.C. 2273, the Department of Labor issued a Certification of Eligibility to Apply for Worker Adjustment Assistance on July 14, 2009, applicable to workers of Tensolite, LLC, d/b/a Carlisle Interconnect Assemblies, including on-site leased workers from Volt Services Group, Vancouver, Washington. The workers produce radio frequency products and interconnect assemblies. The notice was published in the **Federal Register** on September 2, 2009 (74 FR 45476).

At the request of the State agency, the Department reviewed the certification for workers of the subject firm. The company reports that workers leased from Adecco were employed on-site at the Vancouver, Washington location of Tensolite, LLC, d/b/a Carlisle Interconnect Assemblies. The Department has determined that these workers were sufficiently under the control of Tensolite, LLC, d/b/a Carlisle Interconnect Assemblies to be considered leased workers.

Based on these findings, the Department is amending this certification to include workers leased from Adecco working on-site at the Vancouver, Washington location of Tensolite, LLC d/b/a Carlisle Interconnect Assemblies.

The amended notice applicable to TA–W–70,056 is hereby issued as follows:

All workers of Tensolite, LLC d/b/a Carlisle Interconnect Assemblies, including on-site leased workers from Volt Services Group and Adecco, Vancouver, Washington, who became totally or partially separated from employment on or after May 18, 2008, through July 14, 2011, and all workers in the group threatened with total or partial separation from employment on the date of certification through two years from the date of certification, are eligible to apply for adjustment assistance under Chapter 2 of Title II of the Trade Act of 1974, as amended.

Signed at Washington, DC, this 20th day of June 2011.

Michael W. Jaffe,

Certifying Officer, Office of Trade Adjustment Assistance.

[FR Doc. 2011–16734 Filed 7–1–11; 8:45 am]

BILLING CODE 4510–FN–P

DEPARTMENT OF LABOR

Employment and Training Administration

Notice of Determinations Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974, as amended (19 U.S.C. 2273) the Department of Labor herein presents summaries of determinations regarding eligibility to apply for trade adjustment assistance for workers by (TA–W) number issued during the period of *June 13, 2011 through June 24, 2011.*

In order for an affirmative determination to be made for workers of a primary firm and a certification issued regarding eligibility to apply for worker adjustment assistance, each of the group eligibility requirements of Section 222(a) of the Act must be met.

I. Under Section 222(a)(2)(A), the following must be satisfied:

(1) A significant number or proportion of the workers in such workers' firm have become totally or partially separated, or are threatened to become totally or partially separated;

(2) The sales or production, or both, of such firm have decreased absolutely; and

(3) One of the following must be satisfied:

(A) Imports of articles or services like or directly competitive with articles produced or services supplied by such firm have increased;

(B) Imports of articles like or directly competitive with articles into which one or more component parts produced by such firm are directly incorporated, have increased;

(C) Imports of articles directly incorporating one or more component parts produced outside the United States that are like or directly competitive with imports of articles incorporating one or more component parts produced by such firm have increased;

(D) Imports of articles like or directly competitive with articles which are produced directly using services supplied by such firm, have increased; and

(4) The increase in imports contributed importantly to such workers' separation or threat of separation and to the decline in the sales or production of such firm; or

II. Section 222(a)(2)(B) all of the following must be satisfied:

(1) A significant number or proportion of the workers in such workers' firm have become totally or partially separated, or are threatened to become totally or partially separated;

(2) One of the following must be satisfied:

(A) There has been a shift by the workers' firm to a foreign country in the production of articles or supply of services like or directly competitive with those produced/supplied by the workers' firm;

(B) There has been an acquisition from a foreign country by the workers' firm of articles/services that are like or directly competitive with those produced/supplied by the workers' firm; and

(3) The shift/acquisition contributed importantly to the workers' separation or threat of separation.

In order for an affirmative determination to be made for adversely affected workers in public agencies and a certification issued regarding eligibility to apply for worker adjustment assistance, each of the group eligibility requirements of Section 222(b) of the Act must be met.

(1) A significant number or proportion of the workers in the public agency have become totally or partially separated, or are threatened to become totally or partially separated;

(2) The public agency has acquired from a foreign country services like or directly competitive with services which are supplied by such agency; and

(3) The acquisition of services contributed importantly to such workers' separation or threat of separation.

In order for an affirmative determination to be made for adversely affected secondary workers of a firm and a certification issued regarding eligibility to apply for worker adjustment assistance, each of the group eligibility requirements of Section 222(c) of the Act must be met.

(1) A significant number or proportion of the workers in the workers' firm have become totally or partially separated, or are threatened to become totally or partially separated;

(2) The workers' firm is a Supplier or Downstream Producer to a firm that employed a group of workers who received a certification of eligibility under Section 222(a) of the Act, and such supply or production is related to the article or service that was the basis for such certification; and

(3) Either—

(A) The workers' firm is a supplier and the component parts it supplied to the firm described in paragraph (2) accounted for at least 20 percent of the production or sales of the workers' firm; or

(B) A loss of business by the workers' firm with the firm described in paragraph (2) contributed importantly to the workers' separation or threat of separation.

In order for an affirmative determination to be made for adversely affected workers in firms identified by the International Trade Commission and a certification issued regarding eligibility to apply for worker adjustment assistance, each of the group eligibility requirements of Section 222(f) of the Act must be met.

(1) The workers' firm is publicly identified by name by the International Trade Commission as a member of a domestic industry in an investigation resulting in—

(A) An affirmative determination of serious injury or threat thereof under section 202(b)(1);

(B) An affirmative determination of market disruption or threat thereof under section 421(b)(1); or

(C) An affirmative final determination of material injury or threat thereof under section 705(b)(1)(A) or 735(b)(1)(A) of the Tariff Act of 1930 (19 U.S.C. 1671d(b)(1)(A) and 1673d(b)(1)(A));

(2) the petition is filed during the 1-year period beginning on the date on which—

(A) A summary of the report submitted to the President by the International Trade Commission under section 202(f)(1) with respect to the affirmative determination described in paragraph (1)(A) is published in the **Federal Register** under section 202(f)(3); or

(B) Notice of an affirmative determination described in subparagraph (1) is published in the **Federal Register**; and

(3) the workers have become totally or partially separated from the workers' firm within—

(A) The 1-year period described in paragraph (2); or

(B) Notwithstanding section 223(b)(1), the 1-year period preceding the 1-year period described in paragraph (2).

Affirmative Determinations for Worker Adjustment Assistance

The following certifications have been issued. The date following the company name and location of each determination references the impact date for all workers of such determination.

The following certifications have been issued. The requirements of Section 222(a)(2)(A) (increased imports) of the Trade Act have been met.

TA–W–75,055; Bright of America, LLC, Summersville, WV: December 29, 2009.

TA–W–75,298; Solix CMR, LLC, Efingham, IL: February 14, 2010.

TA–W–75,298A; Solix CMR, LLC, Charleston, IL: February 14, 2010.

Negative Determinations for Worker Adjustment Assistance

In the following cases, the investigation revealed that the eligibility criteria for worker adjustment assistance have not been met for the reasons specified.

The investigation revealed that the criteria under paragraphs (a)(2)(A)(i) (decline in sales or production, or both) and (a)(2)(B) (shift in production or services to a foreign country) of section 222 have not been met. None.

Determinations Terminating Investigations of Petitions for Worker Adjustment Assistance

After notice of the petitions was published in the **Federal Register** and on the Department's Web site, as required by Section 221 of the Act (19 U.S.C. 2271), the Department initiated investigations of these petitions.

The following determinations terminating investigations were issued because the petitioner has requested that the petition be withdrawn.

None.

I hereby certify that the aforementioned determinations were issued during the period of *June 13, 2011 through June 24, 2011.* Copies of these determinations may be requested under the Freedom of Information Act. Requests may be submitted by fax, courier services, or mail to FOIA Disclosure Officer, Office of Trade Adjustment Assistance (ETA), U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, DC 20210 or *tofoiarequest@dol.gov.* These determinations also are available on the Department's Web site at *http://www.doleta.gov/tradeact* under the searchable listing of determinations.

Dated: June 24, 2011.

Del Min Amy Chen,

Certifying Officer, Office of Trade Adjustment Assistance.

[FR Doc. 2011–16736 Filed 7–1–11; 8:45 am]

BILLING CODE 4510–FN–P

DEPARTMENT OF LABOR

Employment and Training Administration

Investigations Regarding Certifications of Eligibility To Apply for Worker Adjustment Assistance and Alternative Trade Adjustment Assistance

Petitions have been filed with the Secretary of Labor under Section 221(a) of the Trade Act of 1974 (''the Act'') and are identified in the Appendix to this notice. Upon receipt of these petitions, the Director of the Office of Trade Adjustment Assistance, Employment and Training Administration, has instituted investigations pursuant to Section 221(a) of the Act.

The purpose of each of the investigations is to determine whether the workers are eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act. The investigations will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved.

The petitioners or any other persons showing a substantial interest in the subject matter of the investigations may request a public hearing, provided such request is filed in writing with the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than July 15, 2011.

Interested persons are invited to submit written comments regarding the subject matter of the investigations to the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than July 15, 2011.

The petitions filed in this case are available for inspection at the Office of the Director, Office of Trade Adjustment Assistance, Employment and Training Administration, U.S. Department of Labor, Room N–5428, 200 Constitution Avenue, NW., Washington, DC 20210.

Signed at Washington, DC this 23rd day of June 2011.

Michael W. Jaffe,

Certifying Officer, Office of Trade Adjustment Assistance.

Appendix

14 TAA PETITIONS INSTITUTED BETWEEN 6/13/11 AND 6/17/11

TA–W	Subject firm (petitioners)	Location	Date of institution	Date of petition
80228	CNA Insurance (State/One-Stop)	Chicago, IL	06/13/11	06/10/11
80229	Neff Motivation, Inc. (Company)	Greenville, OH	06/14/11	06/13/11
80230	Paper Magic Group (Workers)	Moosic, PA	06/14/11	06/13/11
80231	Birds Eye Foods (Union)	Tacoma, WA	06/14/11	06/10/11
80232	StarTek, Inc. (State/One-Stop)	Collinsville, VA	06/14/11	06/13/11
80233	Ellison Educational Equipment, Inc. (Workers)	Lake Forest, CA	06/14/11	06/13/11
80234	American Phoenix, Inc. (Company)	Trenton, TN	06/15/11	06/10/11
80235	Nidec Motor Corporation (State/One-Stop)	Paragould, AR	06/15/11	06/14/11
80236	Unimin Cooperation (Union)	Green Mountain, NC	06/16/11	06/15/11
80237	Inteva Products (Union)	Gadsden, AL	06/17/11	06/15/11
80238	Datalogic Mobile, Inc. (Company)	Eugene, OR	06/17/11	06/16/11
80239	Eastman Kodak (Company)	New York, NY	06/17/11	06/16/11
80240	Pearson PLC (Workers)	Old Tappan, NJ	06/17/11	06/16/11
80241	CompuCredit Holdings (Company)	Atlanta, GA	06/17/11	06/16/11

[FR Doc. 2011–16735 Filed 7–1–11; 8:45 am]

BILLING CODE 4510–FN–P

NATIONAL SCIENCE FOUNDATION

National Science Board; Revised Sunshine Act Meetings; Notice

Federal Register Citation of Previous Announcement: 76 FR 37380, June 27, 2011.

The National Science Board's Committee on Strategy and Budget, pursuant to NSF regulations (45 CFR part 614), the National Science Foundation Act, as amended (42 U.S.C. 1862n–5), and the Government in the Sunshine Act (5 U.S.C. 552b), hereby gives notice in regard to the scheduling of meetings for the transaction of National Science Board business and other matters specified, as follows:

DATE AND TIME: Wednesday, July 6, 2011, at 8 a.m.—3 p.m., EDT.

CLOSED SUBJECT MATTER: Discussion on Planning NSF's FY 2013 Budget.

STATUS: Closed (8 a.m.–12 p.m.).

OPEN SUBJECT MATTER: Long Range Strategic Planning.

STATUS: Open (12:30–2:30 p.m.).

CLOSED SUBJECT MATTER: Review of NSF's FY 2013 Budget Plan.

STATUS: Closed (2:30–3 p.m.).

LOCATION: This meeting will be held at the National Science Foundation, 4201 Wilson Blvd., Room 1235, Arlington, VA 22230. For the Open Subject Matter: all visitors must contact the Board Office [call 703–292–7000 or send an e-mail message to *nationalsciencebrd@nsf.gov*] at least 24 hours prior to the meeting and provide name and organizational affiliation. All visitors must report to the NSF visitor desk located in the lobby at the 9th and N. Stuart Streets entrance on the day of the meeting to receive a visitor's badge. Photo identification is required.

Please refer to the National Science Board Web site (*http://www.nsf.gov/nsb/notices/*) for information or schedule updates, or contact: Blane Dahl or Jennie Moehlmann, National Science Foundation, 4201 Wilson Blvd., Arlington, VA 22230. Telephone: (703) 292–7000.

Ann Ferrante,

Writer-Editor.

[FR Doc. 2011–16815 Filed 6–30–11; 11:15 am]

BILLING CODE 7555–01–P

NUCLEAR REGULATORY COMMISSION

[Docket No. NRC–2011–0124]

Agency Information Collection Activities: Proposed Collection; Comment Request

AGENCY: Nuclear Regulatory Commission (NRC).

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 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:* 48 CFR 20, U.S. Nuclear Regulatory Commission Acquisition Regulation (NRCAR).

2. *Current OMB approval number:* 3150–0169.

3. *How often the collection is required:* On occasion; one time.

4. *Who is required or asked to report:* Potential contractors.

5. *The number of annual respondents:* 2,803 respondents.

6. *The number of hours needed annually to complete the requirement or request:* 21,579.5 (20,484 reporting plus 1,095.5 recordkeeping).

7. *Abstract:* The mandatory requirements of the NRCAR implement and supplement the government-wide Federal Acquisition Regulation (FAR), and ensure that the regulations governing the procurement of goods and services within the NRC satisfy the particular needs of the agency. Because of differing statutory authorities among Federal agencies, the FAR authorizes agencies to issue regulations to implement FAR policies and procedures internally and to include additional policies and procedures, solicitation provisions or contract clauses to satisfy the specific need of the agency.

Submit, by September 6, 2011, 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. OMB clearance requests are available at the NRC Web site, *http://www.nrc.gov/public-involve/doc-comment/omb/index.html*. 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–2011–0124. 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–2011–0124. Mail comments to NRC Clearance Officer, Tremaine Donnell (T–5 F53), U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001. Questions about the information collection requirements may be directed to the NRC Clearance Officer, Tremaine Donnell (T–5 F53), U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, by telephone at 301–415–6258, or by email to *INFOCOLLECTS.Resource@NRC.GOV*.

Dated at Rockville, Maryland, this 23rd day of June 2011.

For the Nuclear Regulatory Commission.

Tremaine Donnell,

NRC Clearance Officer, Office of Information Services.

[FR Doc. 2011–16645 Filed 7–1–11; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket No. NRC–2011–0122]

Agency Information Collection Activities: Proposed Collection; Comment Request

AGENCY: Nuclear Regulatory Commission (NRC).

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:* 70 (10 NRC licensees and 60 Agreement State licensees).

6. *The number of hours needed annually to complete the requirement or request:* 32,690.

7. *Abstract:* 10 CFR Part 36 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 operator training, written operating and emergency procedures, personnel monitoring, radiation surveys, inspection, and maintenance. 10 CFR 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 6, 2011, 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. OMB clearance requests are available at the NRC Web site: *http://www.nrc.gov/public-involve/doc-comment/omb/index.html.* 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–2011–0122. 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–2011–0122. Mail comments to NRC Clearance Officer, Tremaine Donnell (T–5 F53), U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001. Questions about the information collection requirements may be directed to the NRC Clearance Officer, Tremaine Donnell (T–5 F53), U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, by telephone at 301–415–6258, or by e-mail to *INFOCOLLECTS.Resource@NRC.GOV.*

Dated at Rockville, Maryland, this 20th day of June, 2011.

For the Nuclear Regulatory Commission.

Tremaine Donnell,

NRC Clearance Officer, Office of Information Services.

[FR Doc. 2011–16669 Filed 7–1–11; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket No. NRC–2011–0131]

Agency Information Collection Activities: Proposed Collection; Comment Request

AGENCY: Nuclear Regulatory Commission (NRC).

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 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 10 CFR parts 50 and 52 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:* Approximately 2 (6 responses in 3 years).

6. *The number of hours needed annually to complete the requirement or request:* 146,000 (73,000 hours per applicant).

7. *Abstract:* 10 CFR part 100, ''A 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. Non-seismic siting criteria include such factors as population density, the proximity of man-related hazards, and site atmospheric dispersion characteristics. 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 August 30, 2011, 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 20842. OMB clearance requests are available at the NRC Web site: *http://www.nrc.gov/public-involve/doc-comment/omb/index.html.* 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–2011–0131. 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–2011–0131. Mail comments to NRC Clearance Officer, Tremaine Donnell (T–5 F53), U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001. Questions about the information collection requirements may be directed to the NRC Clearance Officer, Tremaine Donnell (T–5 F53), U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, by telephone at 301–415–6258, or by e-mail to *INFOCOLLECTS.Resource@NRC.GOV.*

Dated at Rockville, Maryland, this 23rd day of June 2011.

For the Nuclear Regulatory Commission.

Tremaine Donnell,

NRC Clearance Officer, Office of Information Services.

[FR Doc. 2011–16670 Filed 7–1–11; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket Nos. 50–295 and 50–304; NRC–2011–0145]

ZIONSOLUTIONS, LLC; Zion Nuclear Power Station, Units 1 and 2 Exemption From Recordkeeping Requirements

1.0 Background

Zion Nuclear Power Station (ZNPS or Zion), Unit 1, is a Westinghouse 3250 MWt Pressurized Water Reactor which was granted Operating License No. DPR–39 on October 19, 1973, and subsequently shut down on February 21, 1997. Zion, Unit 2, is also a Westinghouse 3250 MWt Pressurized Water Reactor which was granted Operating License No. DPR–48 on November 14, 1973, and was shut down on September 19, 1996. Zion is located in Lake County, Illinois.

In February 1998, pursuant to Title 10 of the Code of Federal Regulations (10 CFR) 50.82(a)(1)(i), the licensee certified to the U.S. Nuclear Regulatory Commission (NRC or the Commission) that as of February 13, 1998, operations had ceased at Zion, Units 1 and 2. The licensee later certified, pursuant to 10 CFR 50.82(a)(1)(ii), that all fuel had been removed from the reactor vessel of both units, and committed to maintaining the units in a permanently defueled status. Therefore, pursuant to 10 CFR 50.82(a)(2), operations at Zion are no longer authorized under the 10 CFR part 50 licenses.

On September 1, 2010, the facility license was transferred from Exelon to *ZionSolutions* for the express purpose of expediting the decommissioning of the site. *ZionSolutions* intends to use a process that will reduce the labor-intensive separation of contaminated materials and transport the facility in bulk to the Energy*Solutions* disposal site in Utah. Preparations for decontamination and dismantlement have begun. Completion of fuel transfer to the independent spent fuel storage installation (ISFSI) is scheduled for 2014. Final site survey and license reduction to the ISFSI is currently planned for 2020.

2.0 Request/Action

By letter dated February 28, 2011, as supplemented on April 5, 2011, *ZionSolutions* filed a request for NRC approval of an exemption from the record keeping requirements of 10 CFR 50.71(c); 10 CFR part 50, Appendix A Criterion 1; 10 CFR part 50, Appendix B Criterion XVII; and 10 CFR 50.59(d)(3).

ZionSolutions requested a permanent exemption from the record retention requirements of: (1) 10 CFR part 50 Appendix A Criterion 1 which requires certain records be retained ''throughout the life of the unit''; (2) 10 CFR part 50 Appendix B Criterion XVII, which requires certain records be retained consistent with regulatory requirements for a duration established by the licensee; (3) 10 CFR 50.59(d)(3) which requires certain records be maintained until ''termination of a license issued pursuant to'' 10 CFR part 50; and (4) 10 CFR 50.71(c) which requires certain records to be maintained consistent with various elements of the NRC regulations, facility technical specifications and other licensing bases documents. The licensee is proposing to eliminate the records when: (1) The licensing basis requirements previously applicable to the nuclear power units and associated systems, structures, and components (SSC) are no longer effective (*e.g.,* removed from the Defueled Safety Analysis Report and/or Technical Specifications by appropriate change mechanisms); or (2) for SSCs associated with safe storage of fuel in the spent fuel pool (SFP), when spent nuclear fuel has been completely transferred from the SFP to dry storage, and the spent fuel building is ready for demolition and the associated licensing bases are no longer effective.

The licensee did not request an exemption associated with any record keeping requirements for storage of spent fuel at its future ISFSI under 10 CFR part 50 or the general license requirements of 10 CFR part 72.

3.0 Discussion

Pursuant to 10 CFR 50.12, the Commission may, upon application by any interested person or upon its own initiative, grant exemptions from the requirements of 10 CFR part 50 when (1) the exemptions are authorized by law, will not present an undue risk to public health or safety, and are consistent with the common defense and security; and (2) when special circumstances are present.

Decommissioning of the ZNPS has begun and the nuclear reactor and essentially all associated SSCs in the nuclear steam supply system and balance of plant that supported the generation of power have been retired in place and are being prepared for removal. The SSCs that remain operable are associated with the SFP and the spent fuel building, needed to meet other regulatory requirements, or needed to support other site facilities (e.g., radwaste handling, heating ventilation and air conditioning, etc).

No remaining SSCs are classified as safety related. The SSCs related to safe storage of nuclear fuel are designated as Important to the Defueled Condition by the current licensing basis.

ZionSolutions' dismantlement plans involve evaluating SSCs with respect to the current facility safety analysis; progressively removing them from the licensing basis where necessary through appropriate change mechanisms (*e.g.,* 10 CFR 50.59 or NRC-approved Technical Specification changes, as applicable); revising the Defueled Safety Analysis Report if and as necessary; and then proceeding with an orderly dismantlement. Dismantlement of the plant structures will also include dismantling existing records storage facilities.

While *ZionSolutions* intends to retain the records required by its license as the project transitions from the current plant conditions to fully dismantled with the fuel in dry storage, plant dismantlement will obviate the regulatory and business needs for maintenance of most records. As the SSCs are removed from the licensing basis and the need for their records is, on a practical basis, eliminated, the licensee proposes that they be exempted from the records retention requirements for SSCs and historical activities that are no longer relevant eliminating the associated, unnecessary regulatory and economic burdens of creating alternative storage locations, relocating and retaining records for them.

All records necessary for spent fuel and spent fuel storage SSCs and activities have been, and will continue to be, retained for the SFP throughout its functional life. Similar to other plant records, once the SFP is emptied of fuel, drained and ready for demolition, there will be no safety-significant function or other regulatory need for retaining SFP related records. Also, similar to the power generation ''footprint'', the SFP SSC's ''footprint'' remains under the radiological controls provided by the Defueled Safety Analysis Report, Quality Assurance Project Plan, Physical Security Plan, and other programmatic elements as appropriate through final dismantlement.

Specific Exemption is Authorized by Law

Paragraph 50.71(d)(2) allows for the granting of specific exemptions to the record retention requirements specified in the regulations. Paragraph 50.71(d)(2) states, in part: ''* * *the retention period specified in the regulations in this part for such records shall apply unless the Commission, pursuant to § 50.12 of this part, has granted a specific exemption from the record retention requirements specified in the regulations in this part.''

If the specific exemption requirements of 10 CFR 50.12 are satisfied, the exemption from the record keeping requirements of 10 CFR 50.71(c); 10 CFR part 50, Appendix A; 10 CFR part 50, Appendix B, and 10 CFR 50.59(d)(3) is authorized by law. The specific exemption requirements of 10 CFR 50.12 are discussed below.

Specific Exemption Will Not Present an Undue Risk to the Public Health and Safety

Removal of the underlying SSCs associated with the records has been or will be determined by the licensee to have no adverse public health and safety impact, in accordance with 10 CFR 50.59 or an NRC approved license amendment. Elimination of records for these removed SSCs can have no additional impact.

The partial exemption from the record keeping requirements of 10 CFR 50.71(c); 10 CFR part 50, Appendix A; 10 CFR part 50, Appendix B; and 10 CFR 50.59(d)(3), for the records described above is administrative in nature and will have no impact on any remaining decommissioning activities or on radiological effluents. The exemption will merely advance the schedule for destruction of the specified records. Considering the content of these records, the elimination of these records on an advanced timetable will have no reasonable possibility of presenting any undue risk to the public health and safety.

Specific Exemption Consistent With the Common Defense and Security

The elimination of the recordkeeping requirements is administrative in nature and does not involve information or activities that could potentially impact the common defense and security of the United States. Upon dismantlement of the affected SSCs, the records have no functional purpose relative to maintaining the safe operation of the SSCs nor to maintaining conditions that would affect the ongoing health and safety of workers or the public.

Rather, the exemption requested is administrative in nature and would merely advance the current schedule for destruction of the specified records. Therefore, the partial exemption from the recordkeeping requirements of 10 CFR 50.71(c); 10 CFR part 50, Appendix A; 10 CFR part 50, Appendix B; and 10 CFR 50.59(d)(3), for the types of records described above is consistent with the common defense and security.

Special Circumstances

Paragraph 50.12(a)(2) states, in part: ''(2) The Commission will not consider granting an exemption unless special circumstances are present. Special circumstances are present whenever:

(ii) Application of the regulation in the particular circumstances would not serve the underlying purpose of the rule or is not necessary to achieve the underlying purpose of the rule.''

Appendix A of 10 CFR 50, Criterion 1, states in part: ''Appropriate records of the design, fabrication, erection, and testing of structures, systems, and components important to safety shall be maintained by or under the control of the nuclear power unit licensee throughout the life of the unit.''

Appendix B of 10 CFR 50, Criterion XVII, states in part: ''Sufficient records shall be maintained to furnish evidence of activities affecting quality.''

Paragraph 50.59(d)(3) states in part: ''The records of changes in the facility must be maintained until the termination of an operating license issued under this part * * *''

Paragraph 50.71(c), states in part: ''Records that are required by the regulations in this part or Part 52 of this chapter, by license condition, or by technical specifications must be retained for the period specified by the appropriate regulation, license condition, or technical specification. If a retention period is not otherwise specified, these records must be retained until the Commission terminates the facility license * * *''

The common and underlying purpose for the records related regulations cited above is to ensure that the licensing and design basis of the facility is understood, documented, preserved and retrievable relative to establishing and maintaining the SSC's safety functions for the life of the facility. These regulations, however, do not consider the reduction in safety related SSCs during the decommissioning process. Removal of the SSCs from the licensing basis has been, or will be, evaluated by the licensee in accordance with 10 CFR 50.59 or NRC-approved license amendment, to have no adverse public health and safety impact prior to elimination of any records. Ultimately the SSCs will be physically removed from the facility. Elimination of associated records for these SSCs can have no additional impact. Retention of records associated with SSCs that are or will no longer be part of the facility serves no safety or regulatory purpose. Therefore, application of these record requirements in those circumstances

does not serve the underlying purpose of the regulations.

Based on the above, the application of the subject record keeping requirements to the ZNPS' records specified above is not required to achieve the underlying purpose of the rule. Thus, special circumstances are present which the NRC may consider, pursuant to 10 CFR 50.12(a)(2)(ii), to grant the requested exemption.

4.0 Conclusion

Section 50.12 allows the Commission to grant specific exemptions to the record retention requirements specified in 10 CFR part 50 provided the requirements of 10 CFR 50.12 are satisfied.

The staff has determined that the requested partial exemption from the record keeping requirements of 10 CFR 50.71(c); 10 CFR part 50, Appendix A; 10 CFR part 50, Appendix B; and 10 CFR 50.59(d)(3) will not present an undue risk to the public health and safety. The destruction of the identified records will not impact remaining decommissioning activities; plant operations, configuration, and/or radiological effluents; operational and/or installed SSCs that are quality-related or important to safety; or nuclear security.

The staff has determined that the destruction of the identified records is administrative in nature and does not involve information or activities that could potentially impact the common defense and security of the United States.

The staff has determined that the purpose for the record keeping regulations is to ensure that the licensing and design basis of the facility is understood, documented, preserved and retrievable relative to establishing and maintaining the SSC's safety functions for the life of the facility. Since the ZNPS' SSCs that were safety-related or important-to-safety will be removed from the licensing basis and removed from the plant, the staff agrees that the records identified in the partial exemption will no longer be required to achieve the underlying purpose of the rule.

Therefore, the Commission grants *ZionSolutions* the requested partial exemption to the record keeping requirements of 10 CFR 50.71(c); 10 CFR part 50, Appendix A; 10 CFR part 50, Appendix B; and 10 CFR 50.59(d)(3), as described in the February 28, 2011, letter as supplemented on April 5, 2011.

The Commission has determined that this licensing action meets the categorical exclusion provision in 10 CFR part 51.22(c)(25), as this action is an exemption from the requirements of the Commission's regulations, and (i) there is no significant hazards consideration; (ii) there is no significant change in the types or significant increase in the amounts of any effluents that may be released offsite; (iii) there is no significant increase in individual or cumulative public or occupational radiation exposure; (iv) there is no significant construction impact; (v) there is no significant increase in the potential for or consequences from radiological accidents; and (vi) the requirements from which an exemption is sought involve recordkeeping requirements. Therefore, this action does not require either an environmental assessment or an environmental impact statement.

This exemption is effective upon issuance.

Dated at Rockville, Maryland, this 22nd day of June 2011.

For the Nuclear Regulatory Commission.

Keith I. McConnell,

Deputy Director, Decommissioning and Uranium Recovery, Licensing Directorate, Division of Waste Management and Environmental Protection, Office of Federal and State Materials and Environmental Management Programs.

[FR Doc. 2011–16723 Filed 7–1–11; 8:45 am]

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NUCLEAR REGULATORY COMMISSION

[NRC–2011–0138]

Applications and Amendments to Facility Operating Licenses Involving Proposed No Significant Hazards Considerations and Containing Sensitive Unclassified Non-Safeguards Information and Order Imposing Procedures for Access to Sensitive Unclassified Non-Safeguards Information

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice of license amendment request, opportunity to comment, opportunity to request a hearing.

DATES: Comments must be filed by August 4, 2011. A request for a hearing must be filed by September 6, 2011. Any potential party as defined in Title 10 of the Code of Federal Regulations (10 CFR), 2.4 who believes access to Sensitive Unclassified Non-Safeguards Information (SUNSI) is necessary to respond to this notice must request document access by July 15, 2011.

ADDRESSES: Please include Docket ID NRC–2011–0138 in the subject line of your comments. Comments submitted in writing or in electronic form will be posted on the NRC Web site and on the Federal rulemaking Web site, *http://www.regulations.gov*. 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.

The NRC requests that any party soliciting or aggregating comments received from other persons for submission to the NRC inform those persons that the NRC will not edit their comments to remove any identifying or contact information, and therefore, they should not include any information in their comments that they do not want publicly disclosed.

You may submit comments by any one of the following methods:

- *Federal Rulemaking Web site:* Go to *http://www.regulations.gov* and search for documents filed under Docket ID NRC–2011–0138. Address questions about NRC dockets to Carol Gallagher, *telephone:* 301–492–3668; *e-mail: Carol.Gallagher@nrc.gov*.
- *Mail comments to:* Cindy Bladey, Chief, Rules, Announcements, and Directives Branch (RADB), Office of Administration, *Mail Stop:* TWB–05–B01M, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.
- *Fax comments to:* RADB at 301–492–3446.

You can access publicly available documents related to this notice using the following methods:

- *NRC's Public Document Room (PDR):* The public may examine and have copied, for a fee, publicly available documents at the NRC's PDR, Room O1–F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852.
- *NRC's Agencywide Documents Access and Management System (ADAMS):* Publicly available documents created or received at the NRC are available online in the NRC Library at *http://www.nrc.gov/reading-rm/adams.html*. From this page, the public can gain entry into ADAMS, which provides text and image files of the NRC's public documents. If you do not have access to ADAMS or if there are problems in accessing the documents located in ADAMS, contact the NRC's PDR reference staff at 1–800–397–4209, 301–415–4737, or by e-mail to *pdr.resource@nrc.gov*.
- *Federal Rulemaking Web site:* Public comments and supporting materials related to this notice can be found at *http://www.regulations.gov* by

searching on Docket ID NRC–2011–0138.

Background

Pursuant to Section 189a.(2) of the Atomic Energy Act of 1954, as amended (the Act), the U.S. Nuclear Regulatory Commission (the Commission, NRC, or NRC staff) is publishing this notice. The Act requires the Commission to publish notice of any amendments issued, or proposed to be issued and grants the Commission the authority to issue and make immediately effective any amendment to an operating license upon a determination by the Commission that such amendment involves no significant hazards consideration, notwithstanding the pendency before the Commission of a request for a hearing from any person.

This notice includes notices of amendments containing SUNSI.

Notice of Consideration of Issuance of Amendments to Facility Operating Licenses, Proposed No Significant Hazards Consideration Determination, and Opportunity for a Hearing

The Commission has made a proposed determination that the following amendment requests involve no significant hazards consideration. Under the Commission's regulations in 10 CFR 50.92, this means that operation of the facility in accordance with the proposed amendment would not (1) Involve a significant increase in the probability or consequences of an accident previously evaluated; (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety. The basis for this proposed determination for each amendment request is shown below.

The Commission is seeking public comments on this proposed determination. Any comments received within 30 days after the date of publication of this notice will be considered in making any final determination.

Normally, the Commission will not issue the amendment until the expiration of 60 days after the date of publication of this notice. The Commission may issue the license amendment before expiration of the 60-day period provided that its final determination is that the amendment involves no significant hazards consideration. In addition, the Commission may issue the amendment prior to the expiration of the 30-day comment period should circumstances change during the 30-day comment period such that failure to act in a timely way would result, for example in derating or shutdown of the facility. Should the Commission take action prior to the expiration of either the comment period or the notice period, it will publish in the **Federal Register** a notice of issuance. Should the Commission make a final No Significant Hazards Consideration Determination, any hearing will take place after issuance. The Commission expects that the need to take this action will occur very infrequently.

Within 60 days after the date of publication of this notice, any person(s) whose interest may be affected by this action may file a request for a hearing and a petition to intervene with respect to issuance of the amendment to the subject facility operating license. Requests for a hearing and a petition for leave to intervene shall be filed in accordance with the Commission's ''Rules of Practice for Domestic Licensing Proceedings'' in 10 CFR part 2. Interested person(s) should consult a current copy of 10 CFR 2.309, which is available at the NRC's PDR, located at One White Flint North, Room O1–F21, 11555 Rockville Pike (first floor), Rockville, Maryland 20852. The NRC regulations are accessible electronically from the NRC Library on the NRC Web site at *http://www.nrc.gov/reading-rm/doc-collections/cfr/*. If a request for a hearing or petition for leave to intervene is filed within 60 days, the Commission or a presiding officer designated by the Commission or by the Chief Administrative Judge of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition; and the Secretary or the Chief Administrative Judge of the Atomic Safety and Licensing Board will issue a notice of a hearing or an appropriate order.

As required by 10 CFR 2.309, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following general requirements: (1) The name, address, and telephone number of the requestor or petitioner; (2) the nature of the requestor's/petitioner's right under the Act to be made a party to the proceeding; (3) the nature and extent of the requestor's/petitioner's property, financial, or other interest in the proceeding; and (4) the possible effect of any decision or order which may be entered in the proceeding on the requestor's/petitioner's interest. The petition must also set forth the specific contentions which the requestor/petitioner seeks to have litigated at the proceeding.

Each contention must consist of a specific statement of the issue of law or fact to be raised or controverted. In addition, the requestor/petitioner shall provide a brief explanation of the bases for the contention and a concise statement of the alleged facts or expert opinion which support the contention and on which the requestor/petitioner intends to rely in proving the contention at the hearing. The requestor/petitioner must also provide references to those specific sources and documents of which the petitioner is aware and on which the requestor/petitioner intends to rely to establish those facts or expert opinion. The petition must include sufficient information to show that a genuine dispute exists with the applicant on a material issue of law or fact. Contentions shall be limited to matters within the scope of the amendment under consideration. The contention must be one which, if proven, would entitle the requestor/petitioner to relief. A requestor/petitioner who fails to satisfy these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing.

If a hearing is requested, and the Commission has not made a final determination on the issue of no significant hazards consideration, the Commission will make a final determination on the issue of no significant hazards consideration. The final determination will serve to decide when the hearing is held. If the final determination is that the amendment request involves no significant hazards consideration, the Commission may issue the amendment and make it immediately effective, notwithstanding the request for a hearing. Any hearing held would take place after issuance of the amendment. If the final determination is that the amendment request involves a significant hazards consideration, then any hearing held would take place before the issuance of any amendment.

All documents filed in NRC adjudicatory proceedings, including a request for hearing, a petition for leave to intervene, any motion or other document filed in the proceeding prior to the submission of a request for hearing or petition to intervene, and documents filed by interested

governmental entities participating under 10 CFR 2.315(c), must be filed in accordance with the NRC E-Filing rule (72 FR 49139, August 28, 2007). The E-Filing process requires participants to submit and serve all adjudicatory documents over the internet, or in some cases to mail copies on electronic storage media. Participants may not submit paper copies of their filings unless they seek an exemption in accordance with the procedures described below.

To comply with the procedural requirements of E-Filing, at least 10 days prior to the filing deadline, the participant should contact the Office of the Secretary by e-mail at *hearing.docket@nrc.gov,* or by telephone at 301–415–1677, to request (1) A digital identification (ID) certificate, which allows the participant (or its counsel or representative) to digitally sign documents and access the E-Submittal server for any proceeding in which it is participating; and (2) advise the Secretary that the participant will be submitting a request or petition for hearing (even in instances in which the participant, or its counsel or representative, already holds an NRC-issued digital ID certificate). Based upon this information, the Secretary will establish an electronic docket for the hearing in this proceeding if the Secretary has not already established an electronic docket.

Information about applying for a digital ID certificate is available on the NRC's public Web site at *http://www.nrc.gov/site-help/e-submittals/apply-certificates.html.* System requirements for accessing the E-Submittal server are detailed in the NRC's ''Guidance for Electronic Submission,'' which is available on the agency's public Web site at *http://www.nrc.gov/site-help/e-submittals.html.* Participants may attempt to use other software not listed on the Web site, but should note that the NRC's E-Filing system does not support unlisted software, and the NRC Meta System Help Desk will not be able to offer assistance in using unlisted software.

If a participant is electronically submitting a document to the NRC in accordance with the E-Filing rule, the participant must file the document using the NRC's online, Web-based submission form. In order to serve documents through Electronic Information Exchange System, users will be required to install a Web browser plug-in from the NRC Web site. Further information on the Web-based submission form, including the installation of the Web browser plug-in, is available on the NRC's public Web site at *http://www.nrc.gov/site-help/e-submittals.html.*

Once a participant has obtained a digital ID certificate and a docket has been created, the participant can then submit a request for hearing or petition for leave to intervene. Submissions should be in Portable Document Format (PDF) in accordance with the NRC guidance available on the NRC public Web site at *http://www.nrc.gov/site-help/e-submittals.html.* A filing is considered complete at the time the documents are submitted through the NRC's E-Filing system. To be timely, an electronic filing must be submitted to the E-Filing system no later than 11:59 p.m. Eastern Time on the due date. Upon receipt of a transmission, the E-Filing system time-stamps the document and sends the submitter an e-mail notice confirming receipt of the document. The E-Filing system also distributes an e-mail notice that provides access to the document to the NRC Office of the General Counsel and any others who have advised the Office of the Secretary that they wish to participate in the proceeding, so that the filer need not serve the documents on those participants separately. Therefore, applicants and other participants (or their counsel or representative) must apply for and receive a digital ID certificate before a hearing request/petition to intervene is filed so that they can obtain access to the document via the E-Filing system.

A person filing electronically using the agency's adjudicatory E-Filing system may seek assistance by contacting the NRC Meta System Help Desk through the ''Contact Us'' link located on the NRC Web site at *http://www.nrc.gov/site-help/e-submittals.html,* by e-mail at *MSHD.Resource@nrc.gov,* or by a toll-free call at 1–866–672–7640. The NRC Meta System Help Desk is available between 8 a.m. and 8 p.m., Eastern Time, Monday through Friday, excluding government holidays.

Participants who believe that they have a good cause for not submitting documents electronically must file an exemption request, in accordance with 10 CFR 2.302(g), with their initial paper filing requesting authorization to continue to submit documents in paper format. Such filings must be submitted by: (1) First class mail addressed to the Office of the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, Attention: Rulemaking and Adjudications Staff; or (2) courier, express mail, or expedited delivery service to the Office of the Secretary, Sixteenth Floor, One White Flint North, 11555 Rockville Pike, Rockville, Maryland, 20852, *Attention:* Rulemaking and Adjudications Staff. Participants filing a document in this manner are responsible for serving the document on all other participants. Filing is considered complete by first-class mail as of the time of deposit in the mail, or by courier, express mail, or expedited delivery service upon depositing the document with the provider of the service. A presiding officer, having granted an exemption request from using E-Filing, may require a participant or party to use E-Filing if the presiding officer subsequently determines that the reason for granting the exemption from use of E-Filing no longer exists.

Documents submitted in adjudicatory proceedings will appear in the NRC's electronic hearing docket which is available to the public at *http://ehd1.nrc.gov/EHD/,* unless excluded pursuant to an order of the Commission, or the presiding officer. Participants are requested not to include personal privacy information, such as social security numbers, home addresses, or home phone numbers in their filings, unless an NRC regulation or other law requires submission of such information. With respect to copyrighted works, except for limited excerpts that serve the purpose of the adjudicatory filings and would constitute a Fair Use application, participants are requested not to include copyrighted materials in their submission.

Petitions for leave to intervene must be filed no later than 60 days from the date of publication of this notice. Non-timely filings will not be entertained absent a determination by the presiding officer that the petition or request should be granted or the contentions should be admitted, based on a balancing of the factors specified in 10 CFR 2.309(c)(1)(i)–(viii).

For further details with respect to this amendment action, see the application for amendment which is available for public inspection at the NRC's PDR, located at One White Flint North, Room O1–F21, 11555 Rockville Pike (first floor), Rockville, Maryland 20852. Publicly available documents created or received at the NRC are accessible electronically through ADAMS in the NRC Library at *http://www.nrc.gov/reading-rm/adams.html.* If you do not have access to ADAMS or if there are problems in accessing the documents located in ADAMS, contact the PDR Reference staff at 1–800–397–4209, 301–415–4737, or by e-mail to *pdr.resource@nrc.gov.*

Dominion Nuclear Connecticut Inc., et al., Docket No. 50–423, Millstone Power Station, Unit 3, New London County, Connecticut

Date of amendment request: January 20, 2011.

Description of amendment request: This amendment request contains sensitive unclassified non-safeguards information (SUNSI). The amendment would revise the Millstone Power Station, Unit No. 3 (MPS3) Technical Specification (TS) 6.8.4.g, ''Steam Generator (SG) Program,'' to exclude a portion of the tubes below the top of the steam generator tubesheet from periodic steam generator tube inspections during Refueling Outage 14 and the subsequent operating cycle. The amendment request would also revise the reporting criteria in MPS3 TS 6.9.1.7, ''Steam Generator Tube Inspection Report,'' to remove reference to previous one-time alternate repair criteria and add reporting requirements specific to temporary alternate repair criteria.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below, along with NRC edits noted in square brackets:

(1) Does the proposed change involve a significant increase in the probability or consequences of an accident previously evaluated?

Response: No.

The previously analyzed accidents are initiated by the failure of plant structures, systems, or components. The proposed change that alters the steam generator inspection criteria and the steam generator inspection reporting criteria does not have a detrimental impact on the integrity of any plant structure, system, or component that initiates an analyzed event. The proposed change will not alter the operation of, or otherwise increase the failure probability of any plant equipment that initiates an analyzed accident.

Of the applicable accidents previously evaluated, the limiting transients with consideration to the proposed change to the steam generator tube inspection and repair criteria are the steam generator tube rupture (SGTR) event and the feedline break (FLB) postulated accidents.

During the SGTR event, the required structural integrity margins of the steam generator tubes and the tube-to-tubesheet joint over the H* distance will be maintained. Tube rupture in tubes with cracks within the tubesheet is precluded by the constraint provided by the tube-to-tubesheet joint. This constraint results from the hydraulic expansion process, thermal expansion mismatch between the tube and tubesheet, and from the differential pressure between the primary and secondary side. Based on this design, the structural margins against burst, as discussed in Regulatory Guide (RG) 1.121, ''Bases for Plugging Degraded PWR Steam Generator Tubes,'' (Reference 25 [in the January 20, 2011, letter]) are maintained for both normal and postulated accident conditions.

The proposed change has no impact on the structural or leakage integrity of the portion of the tube outside of the tubesheet. The proposed change maintains structural integrity of the steam generator tubes and does not affect other systems, structures, components, or operational features. Therefore, the proposed change results in no significant increase in the probability of the occurrence of a SGTR accident.

At normal operating pressures, leakage from primary water stress corrosion cracking below the proposed limited inspection depth is limited by both the tube-to-tubesheet crevice and the limited crack opening permitted by the tubesheet constraint. Consequently, negligible normal operating leakage is expected from cracks within the tubesheet region. The consequences of an SGTR event are affected by the primary-to-secondary leakage flow during the event. However, primary-to-secondary leakage flow through a postulated broken tube is not affected by the proposed changes since the tubesheet enhances the tube integrity in the region of the hydraulic expansion by precluding tube deformation beyond its initial hydraulically expanded outside diameter.

Therefore, the proposed changes do not result in a significant increase in the consequences of a SGTR.

The consequences of a steam line break (SLB) are also not significantly affected by the proposed changes. During a SLB accident, the reduction in pressure above the tubesheet on the shell side of the steam generator creates an axially uniformly distributed load on the tubesheet due to the reactor coolant system pressure on the underside of the tubesheet. The resulting bending action constrains the tubes in the tubesheet thereby restricting primary-to-secondary leakage below the mid-plane.

Primary-to-secondary leakage from tube degradation in the tubesheet area during the limiting accident (*i.e.,* a SLB) is limited by flow restrictions. These restrictions result from the crack and tube-to-tubesheet contact pressures that provide a restricted leakage path above the indications and also limit the degree of potential crack face opening as compared to free span indications.

The leakage factor of 2.49 for Millstone Power Station Unit 3 (MPS3), for a postulated SLB/FLB, has been calculated as shown in Table RA124–2 (Revised Table 9–7) of Reference 19 [in the January 20, 2011, letter]. Specifically, for the condition monitoring (CM) assessment, the component of leakage from the prior cycle from below the H* distance will be multiplied by a factor of 2.49 and added to the total leakage from any other source and compared to the allowable accident induced leakage limit. For the operational assessment (OA), the difference in the leakage between the allowable leakage and the accident induced leakage from sources other than the tubesheet expansion region will be divided by 2.49 and compared to the observed operational leakage.

The probability of a SLB is unaffected by the potential failure of a steam generator tube as the failure of the tube is not an initiator for a SLB event. SLB leakage is limited by leakage flow restrictions resulting from the leakage path above potential cracks through the tube-to-tubesheet crevice. The leak rate during postulated accident conditions (including locked rotor) has been shown to remain within the accident analysis assumptions for all axial and or circumferentially orientated cracks occurring 15.2 inches below the top of the tubesheet. The accident induced leak rate limit is 1.0 gpm [gallon per minute]. The TS operational leak rate is 150 gpd [gallon per day] (0.1 gpm) through any one steam generator. Consequently, there is significant margin between accident leakage and allowable operational leakage. The SLB/FLB leak rate ratio is only 2.49 resulting in significant margin between the conservatively estimated accident leakage and the allowable accident leakage (1.0 gpm).

Therefore, the proposed change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

(2) Does the change create the possibility of a new or different kind of accident from any accident previously evaluated?

Response: No

The proposed change that alters the steam generator inspection criteria and the steam generator inspection reporting criteria does not introduce any new equipment, create new failure modes for existing equipment, or create any new limiting single failures. Plant operation will not be altered, and all safety functions will continue to perform as previously assumed in accident analyses.

Therefore, the proposed change does not create the possibility of a new or different kind of accident from any accident previously evaluated.

(3) Does the change involve a significant reduction in a margin of safety?

Response: No.

The proposed change that alters the steam generator inspection criteria and the steam generator inspection reporting criteria maintains the required structural margins of the steam generator tubes for both normal and accident conditions. NEI 97–06, Revision 2, ''Steam Generator Program Guidelines'' (Reference 1 [in the January 20, 2011, letter]) and RG 1.121, ''Bases for Plugging Degraded PWR Steam Generator Tubes'' (Reference 25 [in the January 20, 2011, letter]), are used as the bases in the development of the limited tubesheet [in the January 20, 2011, letter] inspection depth methodology for determining that steam generator tube integrity considerations are maintained within acceptable limits. RG 1.121 describes a method acceptable to the Nuclear Regulatory Commission for meeting GDC 14, ''Reactor Coolant Pressure Boundary,'' GDC 15, ''Reactor Coolant System Design,'' GDC 31, ''Fracture Prevention of Reactor Coolant Pressure Boundary,'' and GDC 32, ''Inspection of Reactor Coolant Pressure Boundary,'' by reducing the probability and consequences of a SGTR. This RG uses safety factors on loads for tube burst that are consistent with the requirements of Section

III of the American Society of Mechanical Engineers (ASME) Code.

For axially oriented cracking located within the tubesheet, tube burst is precluded due to the presence of the tubesheet. For circumferentially oriented cracking, the H* analysis, documented in Section 4 of this license amendment request, defines the length of degradation-free, expanded tubing that provides the necessary resistance to tube pullout due to the pressure induced forces, with applicable safety factors applied. Application of the limited hot and cold leg tubesheet inspection criteria will preclude unacceptable primary-to-secondary leakage during all plant conditions. The methodology for determining leakage provides for large margins between calculated and actual leakage values in the proposed limited tubesheet inspection depth criteria.

Therefore, the proposed change does not involve a significant reduction in any margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Attorney for licensee: Lillian M. Cuoco, Senior Counsel, Dominion Resource Services, Inc., 120 Tredegar Street, RS–2, Richmond, VA 23219.

NRC Branch Chief: Harold K. Chernoff.

Order Imposing Procedures for Access to Sensitive Unclassified Non-Safeguards Information for Contention Preparation

Dominion Nuclear Connecticut Inc., et al., Docket No. 50–423, Millstone Power Station, Unit 3, New London County, Connecticut

A. This Order contains instructions regarding how potential parties to this proceeding may request access to documents containing Sensitive Unclassified Non-Safeguards Information (SUNSI).

B. Within 10 days after publication of this notice of hearing and opportunity to petition for leave to intervene, any potential party who believes access to SUNSI is necessary to respond to this notice may request such access. A ''potential party'' is any person who intends to participate as a party by demonstrating standing and filing an admissible contention under 10 CFR 2.309. Requests for access to SUNSI submitted later than 10 days after publication will not be considered absent a showing of good cause for the late filing, addressing why the request could not have been filed earlier.

C. The requestor shall submit a letter requesting permission to access SUNSI to the Office of the Secretary, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, Attention: Rulemakings and Adjudications Staff, and provide a copy to the Associate General Counsel for Hearings, Enforcement and Administration, Office of the General Counsel, Washington, DC 20555–0001. The expedited delivery or courier mail address for both offices is: U.S. Nuclear Regulatory Commission, 11555 Rockville Pike, Rockville, Maryland 20852. The e-mail address for the Office of the Secretary and the Office of the General Counsel are *Hearing.Docket@nrc.gov* and *OGCmailcenter@nrc.gov*, respectively.[1] The request must include the following information:

(1) A description of the licensing action with a citation to this **Federal Register** notice;

(2) The name and address of the potential party and a description of the potential party's particularized interest that could be harmed by the action identified in C.(1);

(3) The identity of the individual or entity requesting access to SUNSI and the requestor's basis for the need for the information in order to meaningfully participate in this adjudicatory proceeding. In particular, the request must explain why publicly-available versions of the information requested would not be sufficient to provide the basis and specificity for a proffered contention;

D. Based on an evaluation of the information submitted under paragraph C.(3) the NRC staff will determine within 10 days of receipt of the request whether:

(1) There is a reasonable basis to believe the petitioner is likely to establish standing to participate in this NRC proceeding; and

(2) The requestor has established a legitimate need for access to SUNSI.

E. If the NRC staff determines that the requestor satisfies both D.(1) and D.(2) above, the NRC staff will notify the requestor in writing that access to SUNSI has been granted. The written notification will contain instructions on how the requestor may obtain copies of the requested documents, and any other conditions that may apply to access to those documents. These conditions may include, but are not limited to, the signing of a Non-Disclosure Agreement or Affidavit, or Protective Order[2] setting forth terms and conditions to prevent the unauthorized or inadvertent disclosure of SUNSI by each individual who will be granted access to SUNSI.

F. Filing of Contentions. Any contentions in these proceedings that are based upon the information received as a result of the request made for SUNSI must be filed by the requestor no later than 25 days after the requestor is granted access to that information. However, if more than 25 days remain between the date the petitioner is granted access to the information and the deadline for filing all other contentions (as established in the notice of hearing or opportunity for hearing), the petitioner may file its SUNSI contentions by that later deadline.

G. Review of Denials of Access.

(1) If the request for access to SUNSI is denied by the NRC staff either after a determination on standing and need for access, or after a determination on trustworthiness and reliability, the NRC staff shall immediately notify the requestor in writing, briefly stating the reason or reasons for the denial.

(2) The requestor may challenge the NRC staff's adverse determination by filing a challenge within 5 days of receipt of that determination with: (a) The presiding officer designated in this proceeding; (b) if no presiding officer has been appointed, the Chief Administrative Judge, or if he or she is unavailable, another administrative judge, or an administrative law judge with jurisdiction pursuant to 10 CFR 2.318(a); or (c) if another officer has been designated to rule on information access issues, with that officer.

H. Review of Grants of Access. A party other than the requestor may challenge an NRC staff determination granting access to SUNSI whose release would harm that party's interest independent of the proceeding. Such a challenge must be filed with the Chief Administrative Judge within 5 days of the notification by the NRC staff of its grant of access.

If challenges to the NRC staff determinations are filed, these procedures give way to the normal process for litigating disputes concerning access to information. The availability of interlocutory review by the Commission of orders ruling on such NRC staff determinations (whether

[1] While a request for hearing or petition to intervene in this proceeding must comply with the filing requirements of the NRC's ''E–Filing Rule,'' the initial request to access SUNSI under these procedures should be submitted as described in this paragraph.

[2] Any motion for Protective Order or draft Non-Disclosure Affidavit or Agreement for SUNSI must be filed with the presiding officer or the Chief Administrative Judge if the presiding officer has not yet been designated, within 30 days of the deadline for the receipt of the written access request.

granting or denying access) is governed by 10 CFR 2.311.[3]

I. The Commission expects that the NRC staff and presiding officers (and any other reviewing officers) will consider and resolve requests for access to SUNSI, and motions for protective orders, in a timely fashion in order to minimize any unnecessary delays in identifying those petitioners who have standing and who have propounded contentions meeting the specificity and basis requirements in 10 CFR part 2. Attachment 1 to this Order summarizes the general target schedule for processing and resolving requests under these procedures.

It is so ordered.

Dated at Rockville, Maryland, this 23rd day of June, 2011.

For the Nuclear Regulatory Commission.

Andrew L. Bates,

Acting Secretary of the Commission.

Attachment 1—General Target Schedule for Processing and Resolving Requests for Access to Sensitive Unclassified Non-Safeguards Information in This Proceeding

Day	Event/Activity
0	Publication of Federal Register notice of hearing and opportunity to petition for leave to intervene, including order with instructions for access requests.
10	Deadline for submitting requests for access to Sensitive Unclassified Non-Safeguards Information (SUNSI) with information: supporting the standing of a potential party identified by name and address; describing the need for the information in order for the potential party to participate meaningfully in an adjudicatory proceeding.
60	Deadline for submitting petition for intervention containing: (i) Demonstration of standing; (ii) all contentions whose formulation does not require access to SUNSI (+25 Answers to petition for intervention; +7 requestor/petitioner reply).
20	Nuclear Regulatory Commission (NRC) staff informs the requestor of the staff's determination whether the request for access provides a reasonable basis to believe standing can be established and shows need for SUNSI. (NRC staff also informs any party to the proceeding whose interest independent of the proceeding would be harmed by the release of the information.) If NRC staff makes the finding of need for SUNSI and likelihood of standing, NRC staff begins document processing (preparation of redactions or review of redacted documents).
25	If NRC staff finds no ''need'' or no likelihood of standing, the deadline for requestor/petitioner to file a motion seeking a ruling to reverse the NRC staff's denial of access; NRC staff files copy of access determination with the presiding officer (or Chief Administrative Judge or other designated officer, as appropriate). If NRC staff finds ''need'' for SUNSI, the deadline for any party to the proceeding whose interest independent of the proceeding would be harmed by the release of the information to file a motion seeking a ruling to reverse the NRC staff's grant of access.
30	Deadline for NRC staff reply to motions to reverse NRC staff determination(s).
40	(Receipt +30) If NRC staff finds standing and need for SUNSI, deadline for NRC staff to complete information processing and file motion for Protective Order and draft Non-Disclosure Affidavit. Deadline for applicant/licensee to file Non-Disclosure Agreement for SUNSI.
A	If access granted: Issuance of presiding officer or other designated officer decision on motion for protective order for access to sensitive information (including schedule for providing access and submission of contentions) or decision reversing a final adverse determination by the NRC staff.
A + 3	Deadline for filing executed Non-Disclosure Affidavits. Access provided to SUNSI consistent with decision issuing the protective order.
A + 28	Deadline for submission of contentions whose development depends upon access to SUNSI. However, if more than 25 days remain between the petitioner's receipt of (or access to) the information and the deadline for filing all other contentions (as established in the notice of hearing or opportunity for hearing), the petitioner may file its SUNSI contentions by that later deadline.
A + 53	(Contention receipt +25) Answers to contentions whose development depends upon access to SUNSI.
A + 60	(Answer receipt +7) Petitioner/Intervenor reply to answers.
>A + 60	Decision on contention admission.

[FR Doc. 2011–16275 Filed 7–1–11; 8:45 am]

BILLING CODE 7590–01–P

POSTAL REGULATORY COMMISSION

[Docket No. A2011–19; Order No. 754]

Post Office Closing

AGENCY: Postal Regulatory Commission.

ACTION: Notice.

SUMMARY: This document informs the public that an appeal of the closing of the Lafayette Postal Facility has been filed. It identifies preliminary steps and provides a procedural schedule. Publication of this document will allow the Postal Service, petitioners, and others to take appropriate action.

DATES: *Administrative record due (from Postal Service):* July 7, 2011; *deadline for notices to intervene:* July 25, 2011. *See* the Procedural Schedule in the **SUPPLEMENTARY INFORMATION** section for other dates of interest.

ADDRESSES: Submit comments electronically by accessing the ''Filing Online'' link in the banner at the top of the Commission's Web site (*http://www.prc.gov*) or by directly accessing the Commission's Filing Online system at *https://www.prc.gov/prc-pages/filing-online/login.aspx.* Commenters who cannot submit their views electronically should contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section as the source for case-related information for advice on alternatives to electronic filing.

FOR FURTHER INFORMATION CONTACT: Stephen L. Sharfman, General Counsel, at 202–789–6820 (case-related information) or *DocketAdmins@prc.gov* (electronic filing assistance).

SUPPLEMENTARY INFORMATION: Notice is hereby given that, pursuant to 39 U.S.C. 404(d), the Commission received two petitions for review of the closing of the Lafayette Postal Facility in Freehold,

[3] Requestors should note that the filing requirements of the NRC's E–Filing Rule (72 FR 49139; August 28, 2007) apply to appeals of NRC staff determinations (because they must be served on a presiding officer or the Commission, as applicable), but not to the initial SUNSI request submitted to the NRC staff under these procedures.

New Jersey.[1] The first petition, which was filed by A. Richard Gatto on behalf of the Freehold Center Management Corporation, included an application for suspension of the determination. On June 24, 2011, a second petition for review was filed by Duane O. Davison on behalf of the Township of Freehold, New Jersey.

The Commission hereby institutes a proceeding under 39 U.S.C. 404(d)(5) and designates the case as Docket No. A2011–19 to consider Petitioners' appeals. If Petitioners would like to further explain their positions with supplemental information or facts, Petitioners may either file a Participant Statement on PRC Form 61 or file an initial brief with the Commission no later than July 27, 2011.

Categories of issues apparently raised. Petitioners raise two issues: (1) The failure of the Postal Service to follow the procedural requirements of 39 U.S.C. 404(d) and 39 CFR 241.3 for closing a post office; and (2) the failure of the Postal Service to consider the impact the closing would have on the community (*see* 39 U.S.C. 404(d)(2)(A)(i)).

After the Postal Service files the administrative record and the Commission reviews it, the Commission may find that there are more legal issues than those set forth above, or that the Postal Service's determination disposes of one or more of those issues. The deadline for the Postal Service to file the administrative record with the Commission is July 7, 2011. *See* 39 CFR 3001.113. In addition, the due date for any responsive pleading by the Postal Service to this notice is July 7, 2011.

Application for Suspension of Determination. In addition to its Petition, Freehold Management Corporation filed an application for suspension of the Postal Service's determination (*see* 39 CFR 3001.114). Commission rules allow for the Postal Service to file an answer to such application within 10 days after the application is filed. The Postal Service shall file an answer to the application no later than July 5, 2011.

Availability; Web site posting. The Commission has posted the appeal and supporting material on its Web site at *http://www.prc.gov.* Additional filings in this case and participant's submissions will also be posted on the Commission's Web site, if provided in electronic format or amenable to conversion, and not subject to a valid protective order. Information on how to use the Commission's Web site is available online or by contacting the Commission's webmaster via telephone at 202–789–6873 or via electronic mail at *prc-webmaster@prc.gov.*

The appeal and all related documents are also available for public inspection in the Commission's docket section. Docket section hours are 8 a.m. to 4:30 p.m., Monday through Friday, except on Federal government holidays. Docket section personnel may be contacted via electronic mail at *prc-dockets@prc.gov* or via telephone at 202–789–6846.

Filing of documents. All filings of documents in this case shall be made using the Internet (Filing Online) pursuant to Commission rules 9(a) and 10(a) at the Commission's Web site, *http://www.prc.gov,* unless a waiver is obtained. *See* 39 CFR 3001.9(a) and 3001.10(a). Instructions for obtaining an account to file documents online may be found on the Commission's Web site or by contacting the Commission's docket section at *prc-dockets@prc.gov* or via telephone at 202–789–6846.

The Commission reserves the right to redact personal information which may infringe on an individual's privacy rights from documents filed in this proceeding.

Intervention. Those, other than the Petitioners and respondent, wishing to be heard in this matter are directed to file a notice of intervention. *See* 39 CFR 3001.111(b). Notices of intervention in this case must be filed on or before July 25, 2011. A notice of intervention shall be filed using the Internet (Filing Online) at the Commission's Web site unless a waiver is obtained for hardcopy filing. *See* 39 CFR 3001.9(a) and 3001.10(a).

Further procedures. By statute, the Commission is required to issue its decision within 120 days from the date it receives the appeal. *See* 39 U.S.C. 404(d)(5). A procedural schedule has been developed to accommodate this statutory deadline. In the interest of expedition, in light of the 120-day decision schedule, the Commission may request the Postal Service or other participants to submit information or memoranda of law on any appropriate issue. As required by Commission rules, if any motions are filed, responses are due 7 days after any such motion is filed. *See* 39 CFR 3001.21.

It is ordered:

1. The Postal Service shall file an answer to the application for suspension of the Postal Service's determination no later than July 5, 2011.

2. The Postal Service shall file the administrative record regarding this appeal no later than July 7, 2011.

3. Any responsive pleading by the Postal Service to this notice is due no later than July 7, 2011.

4. The procedural schedule listed below is hereby adopted.

Pursuant to 39 U.S.C. 505, Richard A. Oliver is designated officer of the Commission (Public Representative) to represent the interests of the general public.

5. The Secretary shall arrange for publication of this notice and order in the **Federal Register.**

PROCEDURAL SCHEDULE

June 22, 2011	Filing of Appeal.
July 5, 2011	Deadline for the Postal Service to file answer responding to application for suspension.
July 7, 2011	Deadline for the Postal Service to file the administrative record in this appeal.
July 7, 2011	Deadline for the Postal Service to file any responsive pleading.
July 25, 2011	Deadline for notices to intervene (*see* 39 CFR 3001.111(b)).
July 27, 2011	Deadline for Petitioner's Form 61 or initial brief in support of petition (*see* 39 CFR 3001.115(a) and (b)).
August 16, 2011	Deadline for answering brief in support of the Postal Service (*see* 39 CFR 3001.115(c)).
August 31, 2011	Deadline for reply briefs in response to answering briefs (*see* 39 CFR 3001.115(d)).
September 7, 2011	Deadline for motions by any party requesting oral argument; the Commission will schedule oral argument only when it is a necessary addition to the written filings (*see* 39 CFR 3001.116).
October 20, 2011	Expiration of the Commission's 120-day decisional schedule (*see* 39 U.S.C. 404(d)(5)).

[1] Petition for Review, Application for Suspension of Determination of the Postal Service to Close Lafayette Postal Trailer Pending Appeal and Petition for Review, Request for Oral Arguments, filed by A. Richard Gatto, Freehold Center Management Corporation, June 22, 2011. The Petition includes five exhibits. *See also* Petition for Review of Closure Decision—Postal Service Facility at 13 Lafayette Street, Freehold, New Jersey 07728, filed by Duane O. Davison, on behalf of the Township of Freehold, New Jersey, June 24, 2011 (Petition).

By the Commission.

Shoshana M. Grove,

Secretary.

[FR Doc. 2011–16666 Filed 7–1–11; 8:45 am]

BILLING CODE 7710–FW–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–64760; File No. SR–ISE–2011–34]

Self-Regulatory Organizations; International Securities Exchange, LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Increase the Position and Exercise Limit for Options on the Standard & Poor's® Depository Receipts (SPDRs®)

June 28, 2011.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the ''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on June 17, 2011, the International Securities Exchange, LLC (the ''Exchange'' or the ''ISE'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I and II below, which items have been prepared by the Exchange. The Exchange filed the proposal as a ''non-controversial'' proposed rule change pursuant to Section 19(b)(3)(A) of the Act [3] and Rule 19b–4(f)(6) thereunder.[4] The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend the rules of the Exchange to increase the position and exercise limit applicable to options on the Standard and Poor's® Depositary Receipts (''SPDRs®'').[5] The text of the proposed rule change is available on the Exchange's Web site *http://www.ise.com,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in Sections A, B and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The purpose of the proposal is to amend ISE Rules 412 and 414 to increase the position and exercise limit applicable to options on SPDRs®, which are trading under the symbol SPY, from 300,000 to 900,000 contracts on the same side of the market. The Exchange began trading options on SPDRs® on January 10, 2005. That year, the position limit for these options was increased to the current limit of 300,000 contracts on the same side of the market, and has remained unchanged.[6] However, institutional and retail traders have greatly increased their demand for options on SPDRs® for hedging and trading purposes, such that these options have experienced an explosive gain in popularity and have been the most actively traded options for the last two years. For example, options on SPDRs® (SPY), the most actively traded options in the U.S. in terms of volume, traded a total of 33,341,698 contracts across all exchanges from March 1, 2011 through March 16, 2011. In contrast, over the same time period, options on the Nasdaq-100 Index® Tracking Stock (''QQQ℠''),[7] the third most actively traded options, traded a total of 8,730,718 contracts (less than 26.2% of the volume of options on SPDRs®).

Currently, SPY options have a position limit of only 300,000 contracts on the same side on the market while the significantly lesser-volume QQQ℠ options, which are comparable to SPY options, have a position limit of 900,000 contracts on the same side of the market. The Exchange believes that SPY options should, like options on QQQ℠, have a position limit of 900,000 contacts. Given the increase in volume and continuous unprecedented demand for trading options on SPDRs®, the Exchange believes that the current position limit of 300,000 contracts is too low and inadequate and is a deterrent to the optimal use of the product for hedging and trading purposes. There are multiple reasons to increase the position and exercise limit for SPY options.

First, traders have informed the Exchange that the current SPY option position limit of 300,000 contracts, which has remained flat for more than five years despite the tremendous trading volume increase, is no longer sufficient for optimal trading and hedging purposes. SPY options are, as noted, used by large institutions and traders as a means to invest in or hedge the overall direction of the market. Second, options on SPDRs® are 1/10th the size of options on the S&P 500®Index, traded under the symbol SPX. Thus, a position limit of 300,000 contracts in options on SPDRs® is equivalent to a 30,000 contract position limit in options on SPX.[8] Traders who trade options on SPDRs® to hedge positions in SPX options (and the SPDRs® ETF based on SPX, SPDRs® Trust Series 1) have indicated on several occasions that the current position limit for options on SPDRs® is simply too restrictive,[9] which may adversely affect their (and the Exchange's) ability to provide liquidity in this product. And third, the products that are perhaps most comparable to options on SPDRs®, namely options on QQQ℠, are subject to a 900,000 contract position limit on the same side of the market.[10] This has, in light of the huge run-up in SPY option trading making them the number one nationally-ranked option in terms of volume, resulted in a skewed and unacceptable SPY option position limit. Specifically, the position limit for options on SPDRs® at 300,000 contracts

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 15 U.S.C. 78s(b)(3)(A).

[4] 17 CFR 240.19b–4(f)(6).

[5] ''SPDRs®'', ''Standard & Poor's®'', ''S&P®'', ''S&P 500®'', ''Standard & Poor's 500'', and ''500'' are trademarks of The McGraw-Hill Companies, Inc. SPDRs®, also sometimes referred to colloquially as ''spiders'', are exchange traded funds (''ETFs'') based on the S&P 500® Index. Each share of the traditional SPDRs® ETF (SPDRs® Trust Series 1) holds a stake in the 500 stocks represented by the S&P 500®. SPDRs®, and options thereon, are generally used by large institutions and traders as bets on the overall direction of the market. They are also used by individual retail investors who believe in passive management (index investing).

[6] *See* Securities Exchange Act Release No. 51042 (January 14, 2005), 70 FR 3412 (January 24, 2005) (SR–ISE–2005–05) (Approval order increasing position and exercise limits for options on SPDRs® from 75,000 contracts to 300,000 contracts on the same side of the market).

[7] QQQ℠ options were formerly traded under the ticker symbol QQQQ℠. QQQ℠, Nasdaq–100®, Nasdaq–100 Index®, Nasdaq®, and Nasdaq–100 Index Tracking Stock℠ are trademarks or service marks of The Nasdaq Stock Market, Inc. (''Nasdaq'').

[8] Chicago Board Options Exchange, which lists and trades SPX options, has established that there is no position limit on SPX options. *See* CBOE Rule 24.4 and Securities Exchange Act Release No. 44994 (October 26, 2001), 66 FR 55722 (November 2, 2001) (SR–CBOE–2001–22) (order approving permanent elimination of SPX options position limit).

[9] *See* supra note 3.

[10] *See* Securities Exchange Act Release No. 51295 (March 2, 2005), 70 FR 11292 (March 8, 2005) (SR–ISE–2005–14).

is but 33% of the position limit for the less active options on QQQ℠ at 900,000 contracts.[11] The Exchange proposes that options on SPDRs® similarly be subject to a position and exercise limit of 900,000 contracts.

Under this proposal, the Exchange's options reporting requirement would continue abated. Thus, the Exchange would require that, just like for options on QQQ℠, each member or member organization that maintains a position in SPDRs® options on the same side of the market, for its own account or for the account of a customer, must report certain information. This information would include, but would not be limited to, the option position, whether such position is hedged and if so, a description of the hedge and if applicable, the collateral used to carry the position. Exchange market makers would continue to be exempt from this reporting requirement as information regarding positions held by market makers can be accessed through the Exchange's market surveillance systems. In addition, the general reporting requirement for customer accounts that maintain an aggregate position of 200 or more option contracts (''large positions'') would remain at this level for options on SPDRs®.

The Exchange believes that position and exercise limits, at their current levels, no longer serve their stated purpose. There has been a steadfast and significant increase over the last decade in the overall volume of exchange-traded options; position limits, however, have not kept up with the volume. Part of this volume is attributable to a corresponding increase in the number of overall market participants, which has, in turn, brought about additional depth and increased liquidity in exchange-traded options.[12]

As the anniversary of listed options trading approaches its fortieth year, the Exchange believes that the existing surveillance procedures and reporting requirements at ISE, other options exchanges, and at the several clearing firms are capable of properly identifying unusual and/or illegal trading activity. In addition, routine oversight inspections of the Exchange's regulatory programs by the Commission have not uncovered any material inconsistencies or shortcomings in the manner in which the Exchange's market surveillance is conducted. These procedures utilize daily monitoring of market movements via automated surveillance techniques to identify unusual activity in both options and underlying stocks.[13]

Furthermore, large stock holdings must be disclosed to the Commission by way of Schedules 13D or 13G.[14] Options positions are part of any reportable positions and, thus, cannot be legally hidden. Moreover, the Exchange's requirement that members file reports with the Exchange for any customer who held aggregate large long or short positions of any single class for the previous day will continue to serve as an important part of the Exchange's surveillance efforts.

The Exchange believes that the current financial requirements imposed by the Exchange and by the Commission adequately address concerns that a member or its customer may try to maintain an inordinately large un-hedged position in an option, particularly on SPDRs®. Current margin and risk-based haircut methodologies serve to limit the size of positions maintained by any one account by increasing the margin and/or capital that a member must maintain for a large position held by it or by its customer. In addition, the Commission's net capital rule, Rule 15c3–1 under the Act,[15] imposes a capital charge on members to the extent of any margin deficiency resulting from a higher margin requirement.

The Exchange believes that while position limit on options on QQQs℠, which as noted are similar to options on SPDRs®, has been gradually expanded from 75,000 contracts to the current level of 900,000 contracts in 2005, there have been no adverse affects on the market as a result of this position limit increase. Likewise, there have been no adverse affects on the market from expanding the position limit for options on SPDRs® from 75,000 contracts to the current level of 300,000 contracts in 2005.

The Exchange also believes that restrictive option position limits prevent large customers, such as mutual funds and pension funds, from using options to gain meaningful exposure to and hedging protection through the use of options on SPDRs®. This can result in lost liquidity in both the options market and the equity market. The proposed position limit increase will remedy this situation to the benefit of large as well as retail traders, investors, and public customers. The Exchange believes that increasing position and exercise limits for options would lead to a more liquid and competitive market environment for options on SPDRs® that would benefit customers interested in this product.

Finally, the Exchange believes that the proposed increase in position and exercise limits on options on SPDRs® is required for competitive purposes as well as for purposes of consistency and uniformity among the competing options exchanges. This, taken in conjunction with the permanent establishment of other separate increased position and exercise limits, all as noted above, supports the Exchange's current proposal to increase the position and exercise limits applicable to options on SPDRs®.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with the requirements of Section 6(b) of the Securities Exchange Act of 1934,[16] in general, and Section 6(b)(5) of the Act of 1934,[17] in particular, in that it is designed to promote just and equitable principles of trade, to prevent fraudulent and manipulative acts, 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. Specifically, the Exchange believes that the structure of the SPDRs® options and the considerable liquidity of the market for SPDRs® options diminish the opportunity to manipulate this product and disrupt the underlying market that a lower position limit may protect against. Further, the Exchange believes that this proposal will be beneficial to

[11] Similarly to options on SPDRs® (SPY) being 1/10th the size of options on the related index S&P 500®Index (SPX), so options on the Nasdaq–100 Index® Tracking Stock (QQQ℠) are 1/10th the size of options on the related index NASDAQ–100 Index (NDX). The position limit for QQQ℠ options and its related index NDX have a comparable relationship to that of SPY options and SPX. That is, the position limit for options on QQQ℠ is 900,000 contracts and there is no positions limit for NDX options. *See* supra note 7 and Securities Exchange Act Release No. 52650 (October 21, 2005), 70 FR 62147 (October 28, 2005) (SR–CBOE–2001–41) (order approving elimination of NDX options position limit).

[12] The Commission has previously observed that: Since the inception of standardized options trading, the options exchanges have had rules imposing limits on the aggregate number of options contracts that a member or customer could hold or exercise. These rules are intended to prevent the establishment of options positions that can be used or might create incentives to manipulate or disrupt the underlying market so as to benefit the options position. In particular, position and exercise limits are designed to minimize the potential for mini-manipulations and for corners or squeezes of the underlying market. In addition such limits serve to reduce the possibility for disruption of the options market itself, especially in illiquid options classes. *See* Securities Exchange Act Release No. 39489 (December 24, 1997), 63 FR 276 (January 5, 1998) (SR–CBOE–97–11) (order approving).

[13] These procedures have been effective for the surveillance of SPY options trading and will continue to be employed.

[14] 17 CFR 240.13d–1.

[15] 17 CFR 240.15c3–1.

[16] 15 U.S.C. 78(f)(b).

[17] 15 U.S.C. 78(f)(b)(5).

large market makers (which generally have the greatest potential and actual ability to provide liquidity and depth in this product), as well as retail traders, investors, and public customers.

B. Self-Regulatory Organization's Statement on Burden on Competition

The proposed rule change does not impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

The Exchange has not solicited, and does not intend to solicit, comments on this proposed rule change. The Exchange has not received any unsolicited written comments from members or other interested parties.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing proposed rule change does not (i) Significantly affect the protection of investors or the public interest; (ii) does not impose any significant burden on competition; and (iii) by its terms, does not become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate if consistent with the protection of investors and the public interest, provided that the self-regulatory organization has given 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,[18] the proposed rule change has become effective pursuant to Section 19(b)(3)(A) of the Act[19] and Rule 19b–4(f)(6)[20] thereunder.

A proposed rule change filed under Rule 19b–4(f)(6) normally does not become operative prior to 30 days after the date of filing. However, pursuant to Rule 19b–4(f)(6)(iii), the Commission may designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange has asked the Commission to waive the 30-day operative delay so that the proposal may become operative immediately upon filing. The Commission believes that waiving the 30-day operative delay is consistent with the protection of investors and the public interest, because it will enable the Exchange immediately to compete with another exchange that already has adopted the higher position and exercise limit for options on SPDRs®. Therefore, the Commission designates the proposal operative upon filing.[21]

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 E-mail to *rule-comments@sec.gov.* Please include File No. SR–ISE–2011–34 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–ISE–2011–34. This file number should be included on the subject line if e-mail 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 Commissions 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. Copies of such filing also will be available for inspection and copying at the principal office of the ISE. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–ISE–2011–34 and should be submitted by July 26, 2011.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[22]

Cathy H. Ahn,

Deputy Secretary.

[FR Doc. 2011–16679 Filed 7–1–11; 8:45 am]

BILLING CODE 8011–01–P

[18] The Exchange has satisfied this requirement.

[19] 15 U.S.C. 78s(b)(3)(A).

[20] 17 CFR 240.19b–4(f)(6).

[21] For purposes only of waiving the 30-day operative delay, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

[22] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–64762; File No. SR–NYSE–2011–30]

Self-Regulatory Organizations; New York Stock Exchange LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Extending the Operation of Its Supplemental Liquidity Providers Pilot Until the Earlier of the Securities and Exchange Commission's Approval To Make Such Pilot Permanent or January 31, 2012

June 28, 2011.

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 21, 2011, New York Stock Exchange LLC (''NYSE'' or the ''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 Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of the Substance of the Proposed Rule Change

The Exchange proposes to extend the operation of its Supplemental Liquidity Providers Pilot (''SLP Pilot'' or ''Pilot'') (See Rule 107B), currently scheduled to expire on August 1, 2011, until the earlier of the Securities and Exchange Commission's (''Commission'') approval to make such Pilot permanent or January 31, 2012. The text of the

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

proposed rule change is available at the Exchange, the Commission's Public Reference Room, and *http://www.nyse.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 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 extend the operation of its Supplemental Liquidity Providers Pilot,[3] currently scheduled to expire on August 1, 2011, until the earlier of Commission approval to make such Pilot permanent or January 31, 2012.

Background [4]

In October 2008, the NYSE implemented significant changes to its market rules, execution technology and the rights and obligations of its market participants all of which were designed to improve execution quality on the Exchange. These changes are all elements of the Exchange's enhanced market model referred to as the ''New Market Model'' (''NMM Pilot'').[5] The SLP Pilot was launched in coordination with the NMM Pilot (see Rule 107B).

As part of the NMM Pilot, NYSE eliminated the function of specialists on the Exchange creating a new category of market participant, the Designated Market Maker or DMM.[6] Separately, the NYSE established the SLP Pilot, which established SLPs as a new class of market participants to supplement the liquidity provided by DMMs.[7]

The SLP Pilot is scheduled to end operation on August 1, 2011 or such earlier time as the Commission may determine to make the rules permanent. The Exchange is currently preparing a rule filing seeking permission to make the SLP Pilot permanent, but does not expect that filing to be completed and approved by the Commission before August 1, 2011.[8]

Proposal To Extend the Operation of the SLP Pilot

The NYSE established the SLP Pilot to provide incentives for quoting, to enhance competition among the existing group of liquidity providers, including the DMMs, and add new competitive market participants. The Exchange believes that the SLP Pilot, in coordination with the NMM Pilot, allows the Exchange to provide its market participants with a trading venue that utilizes an enhanced market structure to encourage the addition of liquidity, facilitate the trading of larger orders more efficiently and operates to reward aggressive liquidity providers. As such, the Exchange believes that the rules governing the SLP Pilot (Rule 107B) should be made permanent. Through this filing the Exchange seeks to extend the current operation of the SLP Pilot until January 31, 2012, in order to allow the Exchange to formally submit a filing to the Commission to convert the Pilot rule to a permanent rule.[9]

2. Statutory Basis

The basis under the Securities Exchange Act of 1934 (the ''Act'') for this proposed rule change is the requirement under Section 6(b)(5) that an exchange have rules that are designed to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system and, in general, to protect investors and the public interest. The Exchange believes that the instant filing is consistent with these principles because the SLP Pilot provides its market participants with a trading venue that utilizes an enhanced market structure to encourage the addition of liquidity and operates to reward aggressive liquidity providers. Moreover, the instant filing requesting an extension of the SLP Pilot will permit adequate time for: (i) The Exchange to prepare and submit a filing to make the rules governing the SLP Pilot permanent; (ii) public notice and comment; and (iii) completion of the 19b–4 approval process.

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.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The Exchange has filed the proposed rule change pursuant to Section 19(b)(3)(A)(iii) of the Act [10] and Rule 19b–4(f)(6) thereunder.[11] Because the proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative prior to 30 days from the date on which it was filed, or such shorter time as the Commission may designate, if

[3] *See* Securities Exchange Act Release No. 58877 (October 29, 2008), 73 FR 65904 (November 5, 2008) (SR–NYSE–2008–108) (establishing the SLP Pilot). *See also* Securities Exchange Act Release Nos. 59869 (May 6, 2009), 74 FR 22796 (May 14, 2009) (SR–NYSE–2009–46) (extending the operation of the SLP Pilot to October 1, 2009); 60756 (October 1, 2009), 74 FR 51628 (October 7, 2009) (SR–NYSE–2009–100) (extending the operation of the New Market Model and the SLP Pilots to November 30, 2009); 61075 (November 30, 2009), 74 FR 64112 (December 7, 2009) (SR–NYSE–2009–119) (extending the operation of the SLP Pilot to March 30, 2010); 61840 (April 5, 2010), 75 FR 18563 (April 12, 2010) (SR–NYSE–2010–28) (extending the operation of the SLP Pilot to September 30, 2010); 62813 (September 1, 2010), 75 FR 54686 (September 8, 2010) (SR–NYSE–2010–62) (extending the operation of the SLP Pilot to January 31, 2011); and 63616 (December 29, 2010), 76 FR 612 (January 5, 2011) (SR–NYSE–2010–86) (extending the operation of the SLP Pilot to August 1, 2011).

[4] The information contained herein is a summary of the NMM Pilot and the SLP Pilot. *See supra* note 4 [sic] for a fuller description of those pilots.

[5] *See* Securities Exchange Act Release No. 58845 (October 24, 2008), 73 FR 64379 (October 29, 2008) (SR–NYSE–2008–46).

[6] *See* NYSE Rule 103.

[7] *See* NYSE Rule 107B.

[8] The NMM Pilot was scheduled to expire on August 1, 2011. On June 21, 2011, 2011 the Exchange filed to extend the NMM Pilot until January 31, 2012. *See* SR–NYSE–2011–29). *See also* Securities Exchange Act Release Nos. 63618 (December 29, 2010) 76 FR 617 (January 5, 2011) (SR–NYSE–2010–85) (extending the operation of the New Market Model Pilot to August 1, 2011); 62819 (September 1, 2010), 75 FR 54937 (September 9, 2010) (SR–NYSE–2010–61) (extending the operation of the New Market Model Pilot to January 31, 2011); 61724 (March 17, 2010), 75 FR 14221 (SR–NYSE–2010–25) (extending the operation of the New Market Model Pilot to September 30, 2010); and 61031 (November 19, 2009), 74 FR 62368 (SR–NYSE–2009–113) (extending the operation of the New Market Model Pilot to March 30, 2010).

[9] The NYSE Amex SLP Pilot (NYSE Amex Equities Rule 107B) is also being extended until January 31, 2012 or until the Commission approves it as permanent (*See* SR–NYSEAmex–2011–44).

[10] 15 U.S.C. 78s(b)(3)(A)(iii).

[11] 17 CFR 240.19b–4(f)(6).

consistent with the protection of investors and the public interest, the proposed rule change has become effective pursuant to Section 19(b)(3)(A) of the Act and Rule 19b–4(f)(6)(iii) thereunder.[12]

A proposed rule change filed under Rule 19b–4(f)(6)[13] normally does not become operative prior to 30 days after the date of the filing. However, pursuant to Rule 19b–4(f)(6)(iii),[14] the Commission may designate a shorter time if such action is consistent with the protection of investors and the public interest.

At any time within 60 days of the filing of such proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an e-mail to *rule-comments@sec.gov*. Please include File Number SR–NYSE–2011–30 on the subject line.

Paper Comments

- Send paper comments in triplicate to Elizabeth M. Murphy, Secretary, Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–NYSE–2011–30. This file number should be included on the subject line if e-mail 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 on official business days between the hours of 10 a.m. and 3 p.m. Copies of such filing also will be available for inspection and copying at the principal offices of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–NYSE–2011–30, and should be submitted on or before July 26, 2011.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[15]

Cathy H. Ahn,

Deputy Secretary.

[FR Doc. 2011–16688 Filed 7–1–11; 8:45 am]

BILLING CODE 8011–01–P

[12] 17 CFR 240.19b–4(f)(6). In addition, Rule 19b–4(f)(6)(iii) requires a self-regulatory organization to provide the Commission with written notice of its intent to file the proposed rule change, along with a brief description and text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has fulfilled this requirement.

[13] 17 CFR 240.19b–4(f)(6).

[14] 17 CFR 240.19b–4(f)(6)(iii).

[15] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–64761; File No. SR–NYSE–2011–29]

Self-Regulatory Organizations; New York Stock Exchange LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Extending the Operation of Its New Market Model Pilot Until the Earlier of Securities and Exchange Commission Approval To Make Such Pilot Permanent or January 31, 2012

June 28, 2011.

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 21, 2011, New York Stock Exchange LLC (''NYSE'' or the ''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 Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

I. Self-Regulatory Organization's Statement of the Terms of the Substance of the Proposed Rule Change

The Exchange proposes to extend the operation of its New Market Model Pilot, currently scheduled to expire on August 1, 2011, until the earlier of Securities and Exchange Commission (''Commission'') approval to make such pilot permanent or January 31, 2012. The text of the proposed rule change is available at the Exchange, the Commission's Public Reference Room, and *http://www.nyse.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 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 extend the operation of its New Market Model Pilot (''NMM Pilot''),[3] currently scheduled to expire on August 1, 2011, until the earlier of Securities and Exchange Commission approval to make such pilot permanent or January 31, 2012.

The Exchange notes that parallel changes are proposed to be made to the rules of the NYSE Amex LLC.[4]

[3] *See* Securities Exchange Act Release No. 58845 (October 24, 2008), 73 FR 64379 (October 29, 2008) (SR–NYSE–2008–46); *see also* Securities Exchange Act Release Nos. 60756 (October 1, 2009), 74 FR 51628 (October 7, 2009) (SR–NYSE–2009–100) (extending Pilot to November 30, 2009); 61031 (November 19, 2009), 74 FR 62368 (November 27, 2009) (SR–NYSE–2009–113) (extending Pilot to March 30, 2010); 61724 (March 17, 2010), 75 FR 14221 (March 24, 2010) (SR–NYSE–2010–25) (extending Pilot to September 30, 2010); 62819 (September 1, 2010), 75 FR 54937 (September 9, 2010) (SR–NYSE–2010–61) (extending Pilot to January 31, 2011); and 63616 (December 29, 2010), 76 FR 612 (January 5, 2011) (SR–NYSE–2010–86) (extending Pilot to August 1, 2011).

[4] *See* SR–NYSE Amex–2011–43.

Background [5]

In October 2008, the NYSE implemented significant changes to its market rules, execution technology and the rights and obligations of its market participants all of which were designed to improve execution quality on the Exchange. These changes are all elements of the Exchange's enhanced market model. Certain of the enhanced market model changes were implemented through a pilot program.

As part of the NMM Pilot, NYSE eliminated the function of specialists on the Exchange creating a new category of market participant, the Designated Market Maker or DMM.[6] The DMMs, like specialists, have affirmative obligations to make an orderly market, including continuous quoting requirements and obligations to re-enter the market when reaching across to execute against trading interest. Unlike specialists, DMMs have a minimum quoting requirement [7] in their assigned securities and no longer have a negative obligation. DMMs are also no longer agents for public customer orders.[8]

In addition, the Exchange implemented a system change that allowed DMMs to create a schedule of additional non-displayed liquidity at various price points where the DMM is willing to interact with interest and provide price improvement to orders in the Exchange's system. This schedule is known as the DMM Capital Commitment Schedule (''CCS'').[9] CCS provides the Display Book® [10] with the amount of shares that the DMM is willing to trade at price points outside, at and inside the Exchange Best Bid or Best Offer (''BBO''). CCS interest is separate and distinct from other DMM interest in that it serves as the interest of last resort.

The NMM Pilot further modified the logic for allocating executed shares among market participants having trading interest at a price point upon execution of incoming orders. The modified logic rewards displayed orders that establish the Exchange's BBO. During the operation of the NMM Pilot orders, or portions thereof, that establish priority [11] retain that priority until the portion of the order that established priority is exhausted. Where no one order has established priority, shares are distributed among all market participants on parity.

The NMM Pilot was originally scheduled to end operation on October 1, 2009, or such earlier time as the Commission may determine to make the rules permanent. The Exchange filed to extend the operation of the Pilot on five occasions in order to prepare a rule filing seeking permission to make the above described changes permanent.[12] The Exchange is currently still preparing such formal submission but does not expect that filing to be completed and approved by the Commission before August 1, 2011.

Proposal To Extend the Operation of the NMM Pilot

The NYSE established the NMM Pilot to provide incentives for quoting, to enhance competition among the existing group of liquidity providers and to add a new competitive market participant. The Exchange believes that the NMM Pilot allows the Exchange to provide its market participants with a trading venue that utilizes an enhanced market structure to encourage the addition of liquidity, facilitate the trading of larger orders more efficiently and operates to reward aggressive liquidity providers. As such, the Exchange believes that the rules governing the NMM Pilot should be made permanent. Through this filing the Exchange seeks to extend the current operation of the NMM Pilot until January 31, 2012, in order to allow the Exchange time to formally submit a filing to the Commission to convert the pilot rules to permanent rules.

2. Statutory Basis

The basis under the Securities Exchange Act of 1934 (the ''Act'') for this proposed rule change is the requirement under Section 6(b)(5) that an exchange have rules that are designed to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system and, in general, to protect investors and the public interest. The Exchange believes that the instant filing is consistent with these principles because the NMM Pilot provides its market participants with a trading venue that utilizes an enhanced market structure to encourage the addition of liquidity, facilitate the trading of larger orders more efficiently and operates to reward aggressive liquidity providers. Moreover, the instant filing requesting an extension of the NMM Pilot will permit adequate time for: (i) The Exchange to prepare and submit a filing to make the rules governing the NMM Pilot permanent; (ii) public notice and comment; and (iii) completion of the 19b–4 approval process.

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.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The Exchange has filed the proposed rule change pursuant to Section 19(b)(3)(A)(iii) of the Act [13] and Rule 19b–4(f)(6) thereunder.[14] Because the proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative prior to 30 days from the date on which it was filed, or such shorter time as the Commission may designate, if consistent with the protection of investors and the public interest, the proposed rule change has become effective pursuant to Section 19(b)(3)(A) of the Act and Rule 19b–4(f)(6)(iii) thereunder.[15]

A proposed rule change filed under Rule 19b–4(f)(6) [16] normally does not become operative prior to 30 days after the date of the filing. However, pursuant to Rule 19b–4(f)(6)(iii),[17] the

[5] The information contained herein is a summary of the NMM Pilot. *See supra* note 1 [sic] for a fuller description.

[6] *See* NYSE Rule 103.

[7] *See* NYSE Rule 104.

[8] *See* NYSE Rule 60; *see also* NYSE Rules 104 and 1000.

[9] *See* NYSE Rule 1000.

[10] The Display Book system is an order management and execution facility. The Display Book system receives and displays orders to the DMMs, contains the order information, and provides a mechanism to execute and report transactions and publish the results to the Consolidated Tape. The Display Book system is connected to a number of other Exchange systems for the purposes of comparison, surveillance, and reporting information to customers and other market data and national market systems.

[11] *See* NYSE Rule 72(a)(ii).

[12] *See supra* note 4.

[13] 15 U.S.C. 78s(b)(3)(A)(iii).

[14] 17 CFR 240.19b–4(f)(6).

[15] 17 CFR 240.19b–4(f)(6). In addition, Rule 19b–4(f)(6)(iii) requires a self-regulatory organization to provide the Commission with written notice of its intent to file the proposed rule change, along with a brief description and text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has fulfilled this requirement.

[16] 17 CFR 240.19b–4(f)(6).

[17] 17 CFR 240.19b–4(f)(6)(iii).

Commission may designate a shorter time if such action is consistent with the protection of investors and the public interest.

At any time within 60 days of the filing of such proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an e-mail to *rule-comments@sec.gov*. Please include File Number SR–NYSE–2011–29 on the subject line.

Paper Comments

- Send paper comments in triplicate to Elizabeth M. Murphy, Secretary, Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–NYSE–2011–29. This file number should be included on the subject line if e-mail 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 on official business days between the hours of 10 a.m. and 3 p.m. Copies of such filing also will be available for inspection and copying at the principal offices of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–NYSE–2011–29, and should be submitted on or before July 26, 2011.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[18]

Cathy H. Ahn,

Deputy Secretary.

[FR Doc. 2011–16687 Filed 7–1–11; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[File No. 500–1]

In the Matter of Basin Water, Inc.; Order of Suspension of Trading

June 30, 2011.

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Basin Water, Inc. (''Basin'') because of questions regarding the accuracy of assertions by Basin, and by others, in periodic filings with the Commission concerning, among other things, the company's current financial condition because it has not filed any periodic reports since the period ended March 31, 2009.

The Commission is of the opinion that the public interest and the protection of investors require a suspension of trading in the securities of the above-listed company.

Therefore, it is ordered, pursuant to Section 12(k) of the Securities Exchange Act of 1934, that trading in the securities of the above-listed company is suspended for the period from 9:30 a.m. EDT, on June 30, 2011 through 11:59 p.m. EDT, on July 14, 2011.

By the Commission.

Jill M. Peterson,

Assistant Secretary.

[FR Doc. 2011–16841 Filed 6–30–11; 11:15 am]

BILLING CODE 8011–01–P

SMALL BUSINESS ADMINISTRATION

[Disaster Declaration # 12617 and # 12618]

Illinois Disaster Number IL–00030

AGENCY: U.S. Small Business Administration.

ACTION: Amendment 2.

SUMMARY: This is an amendment of the Presidential declaration of a major disaster for the State of Illinois (FEMA–1991–DR), dated 06/07/2011.

Incident: Severe Storms and Flooding.

Incident Period: 04/19/2011 through 06/14/2011.

Effective Date: 06/27/2011.

Physical Loan Application Deadline Date: 08/08/2011.

EIDL Loan Application Deadline Date: 03/07/2012.

ADDRESSES: Submit completed loan applications to: U.S. Small Business Administration, Processing and Disbursement Center, 14925 Kingsport Road, Fort Worth, TX 76155.

FOR FURTHER INFORMATION CONTACT: A. Escobar, Office of Disaster Assistance, U.S. Small Business Administration, 409 3rd Street, SW., Suite 6050, Washington, DC 20416.

SUPPLEMENTARY INFORMATION: The notice of the Presidential disaster declaration for the State of Illinois, dated 06/07/2011 is hereby amended to include the following areas as adversely affected by the disaster:

Primary Counties: (Physical Damage and Economic Injury Loans): Wabash.

All counties contiguous to the above named primary county have previously been declared.

All other information in the original declaration remains unchanged.

(Catalog of Federal Domestic Assistance Numbers 59002 and 59008)

James E. Rivera,

Associate Administrator for Disaster Assistance.

[FR Doc. 2011–16797 Filed 7–1–11; 8:45 am]

BILLING CODE 8025–01–P

SMALL BUSINESS ADMINISTRATION

[Disaster Declaration #12545 and #12546]

Alabama Disaster Number AL–00036

AGENCY: U.S. Small Business Administration.

ACTION: Amendment 9.

SUMMARY: This is an amendment of the Presidential declaration of a major disaster for the State of Alabama (FEMA–1971–DR), dated 04/28/2011.

Incident: Severe Storms, Tornadoes, Straight-line Winds, and Flooding.

Incident Period: 04/15/2011 through 05/31/2011.

Effective Date: 06/24/2011.

Physical Loan Application Deadline Date: 07/18/2011.

EIDL Loan Application Deadline Date: 01/30/2012.

[18] 17 CFR 200.30–3(a)(12).

ADDRESSES: Submit completed loan applications to: U.S. Small Business Administration, Processing and Disbursement Center, 14925 Kingsport Road, Fort Worth, TX 76155.

FOR FURTHER INFORMATION CONTACT: A. Escobar, Office of Disaster Assistance, U.S. Small Business Administration, 409 3rd Street, SW., Suite 6050, Washington, DC 20416.

SUPPLEMENTARY INFORMATION: The notice of the President's major disaster declaration for the State of Alabama, dated 04/28/2011 is hereby amended to extend the deadline for filing applications for physical damages as a result of this disaster to 07/18/2011.

All other information in the original declaration remains unchanged.

(Catalog of Federal Domestic Assistance Numbers 59002 and 59008)

James E. Rivera,

Associate Administrator for Disaster Assistance.

[FR Doc. 2011–16798 Filed 7–1–11; 8:45 am]

BILLING CODE 8025–01–P

DEPARTMENT OF STATE

[Public Notice: 7513]

Determination Under Section 107(a) of the William Wilberforce Trafficking Victims Protection Reauthorization Act of 2008

Pursuant to the authority vested in me by Section 107(a) of the William Wilberforce Trafficking Victims Protection Act of 2008 (Pub. L. 110–457) and Delegation of Waiver Authority Pursuant to Section 107(a) of Public Law 110–457, I hereby determine that a waiver of the application of clause (i) of Section 110(b)(3)(D) of the Trafficking Victims Protection Act of 2000, as amended (Pub. L. 106–386), is justified with respect to Azerbaijan, Bangladesh, Cameroon, China, Republic of the Congo, Guinea, Iraq, Mali, Qatar, Russia, St. Vincent and Grenadines, Tunisia, and Uzbekistan.

This Determination shall be reported to Congress and published in the **Federal Register.**

Dated: June 15, 2011.

Hillary Rodham Clinton,

Secretary of State, U.S. Department of State.

[FR Doc. 2011–16756 Filed 7–1–11; 8:45 am]

BILLING CODE 4710–02–P

TENNESSEE VALLEY AUTHORITY

Paperwork Reduction Act of 1995, as Amended; Proposed Collection, Comment Request

AGENCY: Tennessee Valley Authority.

ACTION: Notice.

SUMMARY: The proposed information collection described below will be submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35, as amended). The Tennessee Valley Authority is soliciting public comments on this proposed collection as provided by 5 CFR Section 1320.8(d)(1).

FOR FURTHER INFORMATION CONTACT: Requests for information, including copies of the information collection proposed and supporting documentation, should be directed to the Agency Clearance Officer: Mark Winter, Tennessee Valley Authority, 1101 Market Street (MP–3C), Chattanooga, Tennessee 37402–2801; (423) 751–6004.

DATES: Comments should be sent to the Agency Clearance Officer, or to OMB Office of Information & Regulatory Affairs, Attention: Desk Officer for Tennessee Valley Authority, Washington, DC 20503, no later than August 4, 2011.

SUPPLEMENTARY INFORMATION:

Type of Request: Regular Submission.

Title of Information Collection: EnergyRight® Program.

Frequency of Use: On occasion.

Type of Affected Public: Individuals or households.

Small Businesses or Organizations Affected: No.

Federal Budget Functional Category Code: 271.

Estimated Number of Annual Responses: 29,000.

Estimated Total Annual Burden Hours: 8,700.

Estimated Average Burden Hours per Response: .3.

Need For and Use of Information: This information is used by distributors of TVA power to assist in identifying and financing energy improvements for their electrical energy customers.

Michael T. Tallent,

Director, Enterprise Information Security and Policy (Acting).

[FR Doc. 2011–16680 Filed 7–1–11; 8:45 am]

BILLING CODE 8120–08–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Updated Noise Exposure Map Notice for Indianapolis International Airport; Indianapolis, Indiana

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice.

SUMMARY: The Federal Aviation Administration (FAA) announces its determination that the updated noise exposure maps submitted by the Indianapolis Airport Authority for the Indianapolis International Airport under the provisions of 49 U.S.C. 47501 *et seq.* (Aviation Safety and Noise Abatement Act) and 14 CFR part 150 are in compliance with applicable requirements.

DATES: *Effective Date:* The effective date of the FAA's determination on the noise exposure maps is August 13, 2009.

FOR FURTHER INFORMATION CONTACT: Bobb A. Beauchamp, 2300 E. Devon Ave., Suite 320, Des Plaines, Illinois 60018, (847) 294–7364.

SUPPLEMENTARY INFORMATION: This notice announces that the FAA finds that the updated noise exposure maps submitted for Indianapolis International Airport are in compliance with applicable requirements of Title 14 Code of Federal Regulations (CFR) part 150, effective (Note 1). Under 49 U.S.C. section 47503 of the Aviation Safety and Noise Abatement Act (hereinafter referred to as ''the Act''), an airport operator may submit to the FAA noise exposure maps which meet applicable regulations and which depict non-compatible land uses as of the date of submission of such maps, a description of projected aircraft operations, and the ways in which such operations will affect such maps. The Act requires such maps to be developed in consultation with interested and affected parties in the local community, government agencies, and persons using the airport. An airport operator who has submitted noise exposure maps that are found by FAA to be in compliance with the requirements of 14 CFR part 150, promulgated pursuant to the Act, may submit a noise compatibility program for FAA approval which sets forth the measures the operator has taken or proposes to take to reduce existing non-compatible uses and prevent the introduction additional non-compatible uses.

The FAA has completed its review of the updated noise exposure maps and accompanying documentation submitted by Indianapolis Airport

Authority. The documentation that constitutes the ''noise exposure maps'' as defined in section 150.7 of part 150 includes: Exhibit NEM–1, Existing (2008) Noise Exposure Map; Exhibit NEM–2, Future (2013) Noise Exposure Map; Table 2, Distribution of Average Daily Operations by Aircraft Type Existing (2008) Conditions; Exhibit 4, North Flow Large Passenger Jet INM Flight Tracks; Exhibit 5, North Flow Large Cargo Jet INM Flight Tracks; Exhibit 6, North Flow Regional/Air Taxi Jet INM Flight Tracks; Exhibit 7, North Flow Propeller Aircraft INM Flight Tracks; Exhibit 8, South Flow Large Passenger Jet INM Flight Tracks; Exhibit 9, South Flow Large Cargo Jet INM Flight Tracks; Exhibit 10, South Flow Regional/Air Taxi Jet INM Flight Tracks; Exhibit 11, South Flow Propeller Aircraft INM Flight Tracks; Table 8, Ground Run-Up Operations Existing (2008) Conditions; Table 10, Population, Housing, and Noise-Sensitive Facilities Exposed to Various Noise Levels 2008 Noise Exposure Map; Table 13, Distribution of Average Daily Operations by Aircraft Type Future (2013) Conditions; Table 18, Ground Run-Up Operations Future (2013) Conditions; Table 20, Population, Housing, and Noise-Sensitive Facilities Exposed to Various Noise Levels 2013 Noise Exposure Map; Table 21, Grid Analysis Report-Existing (2008) NEM Compared to Future (2013) NEM, and; Exhibit 17, Current Land Use and Environmental Mitigation Program Areas. The FAA has determined that these updated noise exposure maps and accompanying documentation are in compliance with applicable requirements. This determination is effective on August 13, 2009. FAA's determination on an airport operator's noise exposure maps is limited to a finding that the maps were developed in accordance with the procedures contained in appendix A of FAR Part 150. Such determination does not constitute approval of the applicant's data, information or plans, or a commitment to approve a noise compatibility program or to fund the implementation of that program.

If questions arise concerning the precise relationship of specific properties to noise exposure contours depicted on a noise exposure map submitted under section 47503 of the Act, it should be noted that the FM is not involved in any way in determining the relative locations of specific properties with regard to the depicted noise contours, or in interpreting the noise exposure maps to resolve questions concerning, for example, which properties should be covered by the provisions of section 47506 of the Act. These functions are inseparable from the ultimate land use control and planning responsibilities of local government. These local responsibilities are not changed in any way under part 150 or through FAA's review of noise exposure maps. Therefore, the responsibility for the detailed overlaying of noise exposure contours onto the map depicting properties on the surface rests exclusively with the airport operator that submitted those maps, or with those public agencies and planning agencies with which consultation is required under section 47503 of the Act. The FAA has relied on the certification by the airport operator, under section 150.21 of FAR part 150, that the statutorily required consultation has been accomplished.

Copies of the full updated noise exposure map documentation and of the FAA's evaluation of the maps are available for examination at the following locations:

Marion County Public Library, 40 E. St. Clair St., Indianapolis, IN 46204, 317–275–4100.

Decatur Township Branch Library, 5301 Kentucky Avenue, Indianapolis, IN 46221, 317–275–4330.

Mooresville Public Library, 220 W. Harrison Street, Mooresville, IN 46158, 317–831–7323.

Wayne Township Branch Library, 198 South Girls School Road, Indianapolis, IN 46231 317–275–4530.

Plainfield Public Library, 1120 Stafford Road, Plainfield, IN 46168, 317–839–6602.

Indianapolis Airport Authority, Indianapolis International Airport, 2500 South High School Road, Indianapolis, IN 46241.

Federal Aviation Administration, Chicago Airports District Office, 2300 E. Devon, Suite 320, Des Plaines, IL 60018.

Questions may be directed to the individual named above under the heading **FOR FURTHER INFORMATION CONTACT**.

Issued in Des Plaines, Illinois, August 13, 2009.

Jack Delaney,

Acting Manager, Chicago Airports District Office, FAA Great Lakes Region.

Editorial Note: This document was received in the Office of the Federal Register on June 28, 2011.

[FR Doc. 2011–16572 Filed 7–1–11; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Transit Administration

[FTA Docket No. FTA–2011–0038]

Agency Information Collection Activity Under OMB Review

AGENCY: Federal Transit Administration, DOT.

ACTION: Notice of request for comments.

SUMMARY: The Federal Transit Administration invites public comment about our intention to request the Office of Management and Budget's (OMB) approval to renew the following information collection:

49 U.S.C. Sections 5309 and 5307 Capital Assistance Programs

The information collected on the certification forms is necessary for FTA's grantees to meet the requirements of 49 U.S.C. 5323(m). The **Federal Register** notice with a 60-day comment period soliciting comments was published on April 26, 2011 (Citation 76 FR 23354). No comments were received from that notice.

DATES: Comments must be submitted before August 4, 2011. A comment to OMB is most effective if OMB receives it within 30 days of publication.

FOR FURTHER INFORMATION CONTACT: Sylvia L. Marion, Office of Administration, Office of Management Planning, (202) 366–6680.

SUPPLEMENTARY INFORMATION:

Title: 49 U.S.C. 5309 and 5307 Capital Assistance Programs.

Abstract: 49 U.S.C. 5309 Capital Program and Section 5307 Urbanized Area Formula Program authorize the Secretary of Transportation to make grants to State and local governments and public transportation authorities for financing mass transportation projects. Grant recipients are required to make information available to the public and to publish a program of projects for affected citizens to comment on the proposed program and performance of the grant recipients at public hearings. Notices of hearings must include a brief description of the proposed project and be published in a newspaper circulated in the affected area. FTA also uses the information to determine eligibility for funding and to monitor the grantees' progress in implementing and completing project activities. The information submitted ensures FTA's compliance with applicable federal laws, OMB Circular A–102, and 49 CFR part 18, ''Uniform Administrative Requirements for Grants and Cooperative Agreements with State and Local Governments.''

Estimated Total Annual Burden: 198,450 hours.

ADDRESSES: All written comments must refer to the docket number that appears at the top of this document and be submitted to the Office of Information and Regulatory Affairs, Office of Management and Budget, 725-17th Street, NW. Washington, DC 20503, Attention: FTA Desk Officer.

Comments are Invited on: Whether the proposed collection of information is necessary for the proper performance of the functions of the Department, including whether the information will have practical utility; the accuracy of the Department's estimate of the burden of the proposed information collection; ways to enhance the quality, utility, and clarity of the information to be collected; and ways to minimize the burden of the collection of information on respondents, including the use of automated collection techniques or other forms of information technology.

Issued On: June 28, 2011.

Ann M. Linnertz,

Associate Administrator for Administration.

[FR Doc. 2011–16661 Filed 7–1–11; 8:45 am]

BILLING CODE P

DEPARTMENT OF TRANSPORTATION

Maritime Administration

[Docket No. MARAD 2011 0081]

Requested Administrative Waiver of the Coastwise Trade Laws

AGENCY: Maritime Administration, Department of Transportation.

ACTION: Invitation for public comments on a requested administrative waiver of the Coastwise Trade Laws for the vessel VALKYRIE.

SUMMARY: As authorized by 46 U.S.C. 12121, the Secretary of Transportation, as represented by the Maritime Administration (MARAD), is authorized to grant waivers of the U.S.-build requirement of the coastwise laws under certain circumstances. A request for such a waiver has been received by MARAD. The vessel, and a brief description of the proposed service, is listed below. The complete application is given in DOT docket MARAD–2011–0081 at *http://www.regulations.gov*. Interested parties may comment on the effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. If MARAD determines, in accordance with 46 U.S.C. 12121 and MARAD's regulations at 46 CFR part 388 (68 FR 23084, April 30, 2003), that the issuance of the waiver will have an unduly adverse effect on a U.S.-vessel builder or a business that uses U.S.-flag vessels in that business, a waiver will not be granted. Comments should refer to the docket number of this notice and the vessel name in order for MARAD to properly consider the comments. Comments should also state the commenter's interest in the waiver application, and address the waiver criteria given in § 388.4 of MARAD's regulations at 46 CFR part 388.

DATES: Submit comments on or before August 4, 2011.

ADDRESSES: Comments should refer to docket number MARAD–2011–0081. Written comments may be submitted by hand or by mail to the Docket Clerk, U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue, SE., Washington, DC 20590. You may also send comments electronically via the Internet at *http://www.regulations.gov*. All comments will become part of this docket and will be available for inspection and copying at the above address between 10 a.m. and 5 p.m., E.T., Monday through Friday, except federal holidays. An electronic version of this document and all documents entered into this docket is available on the World Wide Web at *http://www.regulations.gov*.

FOR FURTHER INFORMATION CONTACT: Joann Spittle, U.S. Department of Transportation, Maritime Administration, 1200 New Jersey Avenue, SE., Room W21–203, Washington, DC 20590. Telephone 202–366–5979, E-mail *Joann.Spittle@dot.gov*.

SUPPLEMENTARY INFORMATION: As described by the applicant the intended service of the vessel VALKYRIE is:

Intended Commercial Use of Vessel: ''Passenger day sail catamaran charter.''

Geographic Region: ''New York, New Jersey.''

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 (Volume 65, Number 70; Pages 19477–78).

By Order of the Maritime Administrator.

Dated: June 14, 2011.

Christine Gurland,

Secretary, Maritime Administration.

[FR Doc. 2011–16699 Filed 7–1–11; 8:45 am]

BILLING CODE 4910–81–P

DEPARTMENT OF TRANSPORTATION

Research & Innovative Technology Administration

[Docket ID Number RITA 2008–0002]

Agency Information Collection; Activity Under OMB Review; Report of Financial and Operating Statistics for Small Aircraft Operators

AGENCY: Research & Innovative Technology Administration (RITA), Bureau of Transportation Statistics (BTS), DOT.

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), this notice announces that the Information Collection Request (ICR) abstracted below is being forwarded to the Office of Management and Budget (OMB) for extension of currently approved collection. The ICR describes the nature of the information collection and its expected burden. The **Federal Register** Notice with a 60-day comment period soliciting comments on the following collection of information was published on January 27, 2011 (76 FR 4993). The Bureau of Economic Analysis at the Department of Commerce submitted comments in support of the continuation of the data collection.

DATES: Written comments should be submitted by August 4, 2011.

FOR FURTHER INFORMATION CONTACT: Jennifer Fabrizi, Office of Airline Information, RTS–42, Room E34–420, RITA, BTS, 1200 New Jersey Avenue, SE., Washington, DC 20590–0001, Telephone Number (202) 366–8513, Fax Number (202) 366–3383 or e-mail *jennifer.fabrizi@dot.gov*.

Comments: Send comments to the Office of Information and Regulatory Affairs, Office of Management and Budget, 725–17th Street, NW., Washington, DC 20503, Attention: RITA/BTS Desk Officer.

SUPPLEMENTARY INFORMATION:

OMB Approval No. 2138–0009

Title: Report of Financial and Operating Statistics for Small Aircraft Operators.

Form No.: BTS Form 298–C.

Type Of Review: Extension of a currently approved collection for the financial data.

Respondents: Small certificated and commuter air carriers.

Number of Respondents: 80.

Estimated Time per Response: 4 hours per commuter carrier, 12 hours per small certificated carrier.

Total Annual Burden: 2,560 hours.

Needs and Uses: Program uses for Form 298–C financial data are as follows:

Mail Rates

The Department of Transportation sets and updates the Intra-Alaska Bush mail rates based on carrier aircraft operating expense, traffic, and operational data. Form 298–C cost data, especially fuel costs, terminal expenses, and line haul expenses are used in arriving at rate levels. DOT revises the established rates based on the percentage of unit cost changes in the carriers' operations. These updating procedures have resulted in the carriers receiving rates of compensation that more closely parallel their costs of providing mail service and contribute to the carriers' economic well-being.

Essential Air Service

DOT often has to select a carrier to provide a community's essential air service. The selection criteria include historic presence in the community, reliability of service, financial stability and cost structure of the air carrier.

Carrier Fitness

Fitness determinations are made for both new entrants and established U.S. domestic carriers proposing a substantial change in operations. A portion of these applications consists of an operating plan for the first year (14 CFR part 204) and an associated projection of revenues and expenses. The carrier's operating costs, included in these projections, are compared against the cost data in Form 298–C for a carrier or carriers with the same aircraft type and similar operating characteristics. Such a review validates the reasonableness of the carrier's operating plan.

The quarterly financial submissions by commuter and small certificated air carriers are used in determining each carrier's continuing fitness to operate. Section 41738 of Title 49 of the United States Code requires DOT to find all commuter and small certificated air carriers fit, willing, and able to conduct passenger service as a prerequisite to providing such service to an eligible essential air service point. In making a fitness determination, DOT reviews three areas of a carrier's operation: (1) The qualifications of its management team, (2) its disposition to comply with laws and regulations, and (3) its financial posture. DOT must determine whether or not a carrier has sufficient financial resources to conduct its operations without imposing undue risk on the traveling public. Moreover, once a carrier begins conducting flight operations, DOT is required to monitor its continuing fitness.

Senior DOT officials must be kept fully informed and advised of all current and developing economic issues affecting the airline industry. In preparing financial condition reports or status reports on a particular airline, financial and traffic data are analyzed. Briefing papers prepared for senior DOT officials may use the same information.

The Confidential Information Protection and Statistical Efficiency Act of 2002 (44 U.S.C. 3501 note), requires a statistical agency to clearly identify information it collects for non-statistical purposes. BTS hereby notifies the respondents and the public that BTS uses the information it collects under this OMB approval for non-statistical purposes including, but not limited to, publication of both Respondent's identity and its data, submission of the information to agencies outside BTS for review, analysis and possible use in regulatory and other administrative matters.

Issued on June 27, 2011.

Anne Suissa,

Director, Office of Airline Information, Bureau of Transportation Statistics.

[FR Doc. 2011–16704 Filed 7–1–11; 8:45 am]

BILLING CODE 4910–HY–P

DEPARTMENT OF TRANSPORTATION

[Docket ID Number RITA 2008–0002]

Research & Innovative Technology Administration

Agency Information Collection; Activity Under OMB Review; Report of Traffic and Capacity Statistics—The T–100 System

AGENCY: Research & Innovative Technology Administration (RITA), Bureau of Transportation Statistics (BTS), DOT.

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), this notice announces that the Information Collection Request (ICR) abstracted below is being forwarded to the Office of Management and Budget (OMB) for extension of currently approved collection. The ICR describes the nature of the information collection and its expected burden. The **Federal Register** Notice with a 60-day comment period soliciting comments on the following collection of information was published on January 27, 2011 (76 FR 4994). The Bureau of Economic Analysis at the Department of Commerce submitted comments in support of the continuation of the data collection.

DATES: Written comments should be submitted by August 4, 2011.

FOR FURTHER INFORMATION CONTACT: Marianne Seguin, Office of Airline Information, RTS–42, Room E34–418, RITA, BTS, 1200 New Jersey Avenue, SE., Washington, DC 20590–0001, Telephone Number (202) 366–1457, Fax Number (202) 366–3383 or e-mail *marianne.seguin@dot.gov*.

Comments: Send comments to the Office of Information and Regulatory Affairs, Office of Management and Budget, 725–17th Street, NW., Washington, DC 20503, Attention: RITA/BTS Desk Officer.

SUPPLEMENTARY INFORMATION:

OMB Approval No. 2138–0040

Title: Report of Traffic and Capacity Statistics—The T–100 System.

Form No.: Schedules T–100 and T–100(f).

Type of Review: Extension of a currently approved collection.

Respondents: Certificated, commuter and foreign air carriers that operate to, from or within the United States.

Number of Respondents: 250.

Number of Annual responses 3,000.

Total Burden per Response: 6 hours.

*Total Annual Burden: 18,*000 hours.

Needs and Uses:

Airport Improvement

The Federal Aviation Administration uses enplanement data for U.S. airports to distribute the annual Airport Improvement Program (AIP) entitlement funds to eligible primary airports, *i.e.,* airports which account for more than 0.01 percent of the total passengers enplaned at U.S. airports. Enplanement data contained in Schedule T–100/T–100(f) are the sole data base used by the FAA in determining airport funding. U.S. airports receiving significant service from foreign air carriers operating small aircraft could be receiving less than their fair share of AIP entitlement funds. Collecting Schedule T–100(f) data for small aircraft operations will enable the FAA to more fairly distribute these funds.

Air Carrier Safety

The FAA uses traffic, operational and capacity data as important safety indicators and to prepare the air carrier

traffic and operation forecasts that are used in developing its budget and staffing plans, facility and equipment funding levels, and environmental impact and policy studies. The FAA monitors changes in the number of air carrier operations as a way to allocate inspection resources and in making decisions as to increased safety surveillance. Similarly, airport activity statistics are used by the FAA to develop airport profiles and establish priorities for airport inspections.

Acquisitions and Mergers

While the Justice Department has the primary responsibility over air carrier acquisitions and mergers, the Department reviews the transfer of international routes involved to determine if they would substantially reduce competition, or determine if the transaction would be inconsistent with the public interest. In making these determinations, the proposed transaction's effect on competition in the markets served by the affected air carriers is analyzed. This analysis includes, among other things, a consideration of the volume of traffic and available capacity, the flight segments and origins-destinations involved, and the existence of entry barriers, such as limited airport slots or gate capacity. Also included is a review of the volume of traffic handled by each air carrier at specific airports and in specific markets which would be affected by the proposed acquisition or merger. The Justice Department uses T–100 data in carrying out its responsibilities relating to airline competition and consolidation.

Traffic Forecasting

The FAA uses traffic, operational and capacity data as important safety indicators and to prepare the air carrier traffic and operation forecasts. These forecast as used by the FAA, airport managers, the airlines and others in the air travel industry as planning and budgeting tools.

Airport Capacity Analysis

The mix of aircraft type are used in determining the practical annual capacity (PANCAP) at airports as prescribed in the FAA Advisory Circular *Airport Capacity Criteria Used in Preparing the National Airport Plan.* The PANCAP is a safety-related measure of the annual airport capacity or level of operations. It is a predictive measure which indicates potential capacity problems, delays, and possible airport expansions or runway construction needs. If the level of operations at an airport exceeds PANCAP significantly, the frequency and length of delays will increase, with a potential concurrent risk of accidents. Under this program, the FAA develops ways of increasing airport capacity at congested airports.

Airline Industry Status Evaluations

The Department apprises Congress, the Administration and others of the effect major changes or innovations are having on the air transportation industry. For this purpose, summary traffic and capacity data as well as the detailed segment and market data are essential. These data must be timely and inclusive to be relevant for analyzing emerging issues and must be based upon uniform and reliable data submissions that are consistent with the Department's regulatory requirements.

Mail Rates

The Department is responsible for establishing intra-Alaska mail rates. Separate rates are set for mainline and bush Alaskan operations. The rates are updated every six months to reflect changes in unit costs in each rate-making entity. Traffic and capacity data are used in conjunction with cost data to develop the required unit cost data.

Essential Air Service

The Department reassesses service levels at small domestic communities to assure that capacity levels are adequate to accommodate current demand.

System Planning at Airports

The FAA is charged with administering a series of grants that are designed to accomplish the necessary airport planning for future development and growth. These grants are made to state metropolitan and regional aviation authorities to fund needed airport systems planning work. Individual airport activity statistics, nonstop market data, and service segment data are used to prepare airport activity level forecasts.

Review of IATA Agreements

The Department reviews all of the International Air Transport Association (IATA) agreements that relate to fares, rates, and rules for international air transportation to ensure that the agreements meet the public interest criteria. Current and historic summary traffic and capacity data, such as revenue ton-miles and available ton-miles, by aircraft type, type of service, and length of haul are needed to conduct these analyses to: (1) Develop the volume elements for passenger/cargo cost allocations, (2) evaluate fluctuations in volume of scheduled and charter services, (3) assess the competitive impact of different operations such as charter versus scheduled, (4) calculate load factors by aircraft type, and (5) monitor traffic in specific markets.

Foreign Air Carriers Applications

Foreign air carriers are required to submit applications for authority to operate to the United States. In reviewing these applications the Department must find that the requested authority is encompassed in a bilateral agreement, other intergovernmental understanding, or that granting the application is in the public interest. In the latter cases, T–100 data are used in assessing the level of benefits that carriers of the applicant's homeland presently are receiving from their U.S. operations. These benefits are compared and balanced against the benefits U.S. carriers receive from their operations to the applicant's homeland.

Air Carrier Fitness

The Department determines whether U.S. air carriers are and continue to be fit, willing and able to conduct air service operations without undue risk to passengers and shippers.

The Department monitors a carrier's load factor, operational, and enplanement data to compare with other carriers with similar operating characteristics. Carriers that expand operations at a high rate are monitored more closely for safety reasons.

International Civil Aviation Organization

Pursuant to an international agreement, the United States is obligated to report certain air carrier data to the International Civil Aviation Organization (ICAO). The traffic data supplied to ICAO are extracted from the U.S. air carriers' Schedule T–100 submissions.

The Confidential Information Protection and Statistical Efficiency Act of 2002 (44 U.S.C. 3501 note), requires a statistical agency to clearly identify information it collects for non-statistical purposes. BTS hereby notifies the respondents and the public that BTS uses the information it collects under this OMB approval for non-statistical purposes including, but not limited to, publication of both Respondent's identity and its data, submission of the information to agencies outside BTS for review, analysis and possible use in regulatory and other administrative matters.

Issued on June 27, 2011.

Anne Suissa,

Director, Office of Airline Information, Bureau of Transportation Statistics.

[FR Doc. 2011–16705 Filed 7–1–11; 8:45 am]

BILLING CODE 4910–HY–P

DEPARTMENT OF TRANSPORTATION

Research & Innovative Technology Administration

[Docket ID Number RITA 2008–0002]

Agency Information Collection; Activity Under OMB Review; Report of Financial and Operating Statistics for Large Certificated Air Carriers

AGENCY: Research & Innovative Technology Administration (RITA), Bureau of Transportation Statistics (BTS), DOT.

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), this notice announces that the Information Collection Request (ICR) abstracted below is being forwarded to the Office of Management and Budget (OMB) for extension of currently approved collection. The ICR describes the nature of the information collection and its expected burden. The **Federal Register** Notice with a 60-day comment period soliciting comments on the following collection of information was published on January 27, 2011 (76 FR 4992). The Bureau of Economic Analysis at the Department of Commerce submitted comments in support of the continuation of the data collection.

DATES: Written comments should be submitted by August 4, 2011.

FOR FURTHER INFORMATION CONTACT: Jeff Gorham, Office of Airline Information, RTS–42, Room E34–414, RITA, BTS, 1200 New Jersey Avenue, SE., Washington, DC 20590–0001, Telephone Number (202) 366–4406, Fax Number (202) 366–3383 or e-mail *jeff.gorham@dot.gov*.

Comments: Send comments to the Office of Information and Regulatory Affairs, Office of Management and Budget, 725–17th Street, NW., Washington, DC 20503, Attention: RITA/BTS Desk Officer.

SUPPLEMENTARY INFORMATION:

OMB Approval No. 2138–0013

Title: Report of Financial and Operating Statistics for Large Certificated Air Carriers.

Form No.: BTS Form 41.

Type Of Review: Extension of a currently approved collection.

Respondents: Large certificated air carriers.

Number of Respondents: 76.

Estimated Time per Response: 4 hours per schedule, an average carrier may submit 90 schedules in one year.

Total Annual Burden: 27,360 hours.

Needs and Uses: Program uses for Form 41 data are as follows:

Mail Rates

The Department of Transportation sets and updates mainline Alaska mail rates based on carrier aircraft operating expense, traffic and operational data. Form 41 cost data, especially fuel costs, terminal expenses, and line haul expenses are used in arriving at rate levels. DOT revises the established rates based on the percentage of unit cost changes in the carriers' operations. These updating procedures have resulted in the carriers receiving rates of compensation that more closely parallel their costs of providing mail service and contribute to the carriers' economic well-being.

Submission of U.S. Carrier Data to ICAO

As a party to the Convention on International Civil Aviation, the United States is obligated to provide the International Civil Aviation Organization with financial and statistical data on operations of U.S. air carriers. Over 99 percent of the data filed with ICAO is extracted from the carriers' Form 41 reports.

Carrier Fitness

Fitness determinations are made for both new entrants and established U.S. domestic carriers proposing a substantial change in operations. A portion of these applications consists of an operating plan for the first year (14 CFR part 204) and an associated projection of revenues and expenses. The carrier's operating costs, included in these projections, are compared against the cost data in Form 41 for a carrier or carriers with the same aircraft type and similar operating characteristics. Such a review validates the reasonableness of the carrier's operating plan.

Form 41 reports, particularly balance sheet reports and cash flow statements play a major role in the identification of vulnerable carriers. Data comparisons are made between current and past periods in order to assess the current financial position of the carrier. Financial trend lines are extended into the future to analyze the continued viability of the carrier. DOT reviews three areas of a carrier's operation: (1) The qualifications of its management team, (2) its disposition to comply with laws and regulations, and (3) its financial posture. DOT must determine whether or not a carrier has sufficient financial resources to conduct its operations without imposing undue risk on the traveling public. Moreover, once a carrier is operating, DOT is required to monitor its continuing fitness.

Senior DOT officials must be kept fully informed as to all current and developing economic issues affecting the airline industry. In preparing financial conditions reports or status reports on a particular airline, financial and traffic data are analyzed. Briefing papers may use the same information.

The Confidential Information Protection and Statistical Efficiency Act of 2002 (44 U.S.C. 3501 note), requires a statistical agency to clearly identify information it collects for non-statistical purposes. BTS hereby notifies the respondents and the public that BTS uses the information it collects under this OMB approval for non-statistical purposes including, but not limited to, publication of both Respondent's identity and its data, submission of the information to agencies outside BTS for review, analysis and possible use in regulatory and other administrative matters.

Issued in Washington, DC, on June 27, 2011.

Anne Suissa,

Director, Office of Airline Information.

[FR Doc. 2011–16703 Filed 7–1–11; 8:45 am]

BILLING CODE 4910–HY–P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[Docket No. FD 35363]

R.J. Corman Railroad Property, LLC—Acquisition Exemption—NC Railroad, Inc

R. J. Corman Railroad Property, LLC (RJC Railroad Property), a Class III rail carrier, filed a verified notice of exemption under 49 CFR 1150.41 to acquire from NC Railroad, Inc. (NCRL) approximately 42 route miles of rail line between milepost 0.144 at or near Oneida and milepost 42.0 at or near Devonia, in Scott, Campbell, and Anderson Counties, Tenn. The notice was served and published in the **Federal Register** on April 9, 2010 (75 FR 18,253), and became effective on April 25, 2010.

On May 28, 2010, RJC Railroad Property filed a correction to the notice. According to RJC Railroad Property, the acquisition for which exemption was

sought only involves the segment between milepost 0.95 (not milepost 0.144) and milepost 42.0. Thus, RJC Railroad Property indicates that the correct description of the subject line is that it extends between milepost 0.95 at or near Oneida and milepost 42.0 at or near Devonia. This correction is recognized here. All remaining information from the April 9, 2010 notice remains unchanged.

The acquisition transaction is related to the notice of exemption in Docket No. FD 35364, *R. J. Corman Railroad Company/Bardstown Line—Lease and Operation Exemption—R. J. Corman Railroad Property, LLC,* in which R. J. Corman Railroad Company/Bardstown Line filed a notice of exemption to lease and operate the line. The description of the line in Docket No. FD 35364 also is being corrected by separate notice.

Board decisions and notices are available on our Web site at *http://www.stb.dot.gov.*

Decided: June 29, 2011.

By the Board, Joseph H. Dettmar, Acting Director, Office of Proceedings.

Jeffrey Herzig,

Clearance Clerk.

[FR Doc. 2011–16700 Filed 7–1–11; 8:45 am]

BILLING CODE 4915–01–P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[Docket No. FD 35364]

R. J. Corman Railroad Company/ Bardstown Line—Lease and Operation Exemption—R. J. Corman Railroad Property, LLC

R. J. Corman Railroad Company/ Bardstown Line (RJC Railroad Company), a Class III rail carrier, filed a verified notice of exemption under 49 CFR 1150.41 to lease from R. J. Corman Railroad Property, LLC (RJC Railroad Property), and operate approximately 42 route miles of rail line between milepost 0.144 at or near Oneida and milepost 42.0 at or near Devonia, in Scott, Campbell, and Anderson Counties, Tenn. The notice was served and published in the **Federal Register** on April 9, 2010 (75 FR 18,254), and became effective on April 25, 2010.

On May 28, 2010, RJC Railroad Company filed a correction to the notice. According to RJC Railroad Company, the lease and operation transaction for which the exemption was sought only involves the segment between milepost 0.95 (not milepost 0.144) and milepost 42.0. Thus, RJC Railroad Company indicates that the correct description of the subject line is that it extends between milepost 0.95 at or near Oneida and milepost 42.0 at or near Devonia. This correction is recognized here. All remaining information from the April 9, 2010 notice remains unchanged.

This transaction is related to the notice of exemption in Docket No. FD 35363, *R. J. Corman Railroad Property, LLC—Acquisition Exemption—NC Railroad, Inc.,* in which RJC Railroad Property filed a notice of exemption to acquire the line from NC Railroad, Inc. The description of the line in Docket No. FD 35363 also is being corrected by separate notice.

Board decisions and notices are available on our Web site at *http://www.stb.dot.gov.*

Decided: June 29, 2011.

By the Board, Joseph H. Dettmar, Acting Director, Office of Proceedings.

Jeffrey Herzig,

Clearance Clerk.

[FR Doc. 2011–16701 Filed 7–1–11; 8:45 am]

BILLING CODE 4915–01–P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[Docket No. FD 35529]

C&NC Railroad, LLC—Lease Renewal Exemption—Norfolk Southern Railway Company

Under 49 CFR 1011.7(a)(2)(x)(A), the Director of the Office of Proceedings (Director) is delegated the authority to determine whether to issue notices of exemption for lease transactions under 49 U.S.C. 10902. However, the Board reserves to itself the consideration and disposition of all matters involving issues of general transportation importance. 49 CFR 1011.2(a)(6). Accordingly, the Board revokes the delegation to the Director with respect to the issuance of this notice of exemption. The Board determines that this notice of lease renewal exemption should be issued, and does so here.

Notice

C&NC Railroad, LLC (C&NC), a Class III rail carrier, has filed a verified notice of exemption under 49 CFR 1150.41 to renew its lease of approximately 21 miles of rail line from Norfolk Southern Railway Company (NSR).[1] The rail lines extend from (a) milepost CB5.4 at Beesons, Ind., to milepost 25.30 at New Castle, Ind., and (b) milepost R0.1 to milepost R1.16 at New Castle. C&NC has leased and operated the lines since 1997.[2] The 1997 lease agreement, by its terms, expired on December 9, 2009, and C&NC and NSR agreed to continue operations under the terms of the 1997 agreement pending renegotiation of a new lease. On March 11, 2011, the parties executed a new lease.[3]

As required at 49 CFR 1150.43(h), C&NC has disclosed that the new lease agreement contains an interchange commitment provision that would provide for a lease credit whereby C&NC may reduce its lease payments by receiving a credit for each car interchanged with NSR. C&NC notes that NSR initially proposed a fixed rental payment with no option to reduce the rent, but C&NC requested a lease credit option to provide an opportunity for C&NC to earn a lower rental payment so it would be able to invest in improvements on the leased lines to increase traffic levels. According to C&NC, the interchange point with NSR is New Castle.

C&NC certifies that the projected annual revenues as a result of the proposed transaction will not exceed those that would make it a Class III rail carrier and further certifies that its projected annual revenues would not exceed $5 million.

The transaction is expected to be consummated on or after July 17, 2011, the effective date of the exemption (30 days after the exemption was officially filed).

If the verified notice contains false or misleading information, the exemption is void *ab initio.* Petitions to revoke the exemption under 49 U.S.C. 10502(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the effectiveness of the exemption. Petitions for stay must be filed no later than July 8, 2011 (at least 7 days before the exemption becomes effective).

An original and 10 copies of all pleadings, referring to Docket No. FD 35529, must be filed with the Surface Transportation Board, 395 E Street, SW., Washington, DC 20423–0001. In

[1] C&NC originally filed its notice of exemption on June 3, 2011, as a lease renewal under 49 CFR 1180.2(d)(4). That provision, however, applies to lease renewals ''where the Board has previously authorized the transaction and only an extension of time is involved.'' Because the new lease includes a new credit provision and milepost adjustments, on June 17, 2011, C&NC filed a motion for the notice to be considered as filed under 49 CFR 1150.41 instead of 49 CFR 1180.2(d)(4). The motion also includes a revenue certification and caption summary in compliance with the requirements for the class exemption at § 1150.41. Accordingly, the notice will be considered as filed under § 1150.41 with a filing date of June 17, 2011.

[2] *See C&NC R.R. —Lease and Operation Exemption—Line of the Norfolk and W. Ry. and Ind. Hi Rail,* FD 33475 (STB served Oct. 31, 1997).

[3] C&NC has filed the new lease agreement under seal pursuant to 49 CFR 1150.43(h)(1)(ii).

addition, a copy of each pleading must be served on Richard R.Wilson, Esq., 518 N. Center Street, Ste. 1, Ebensburg, PA 15931.

Board decisions and notices are available at our Web site at *http://www.stb.dot.gov.*

It is ordered:

1. The delegation of authority to the Director of the Office of Proceedings, under 49 CFR 1011.7(a)(2(x)(A), to determine whether to issue a notice of exemption in this proceeding is revoked.

2. This decision is effective on the date of service.

Decided: June 28, 2011.

Andrea Pope-Matheson,

Clearance Clerk.

By the Board, Chairman Elliott, Vice Chairman Begeman, and Commissioner Mulvey. Commissioner Mulvey dissented with a separate expression.

COMMISSIONER MULVEY, dissenting:

I disagree with the Board's decision to allow this transaction to be processed under the Board's class exemption procedures. A lease agreement between C&NC and NSR has been in place since 1997. I can presume that the lease has been successful given the parties' willingness to renew it for an additional term. However, the renewal lease contains a new provision that provides a disincentive for C&NC to interchange with carriers other than NSR. C&NC's pleadings do not provide an adequate justification for why this new competition-restricting provision is necessary. C&NC states that the interchange restriction, in the form of a ''lease credit option,'' will enable it to ''invest in improvements on the leased lines to increase traffic levels.'' But there is no reason to believe that C&NC did not have the same goal in the initial term of the lease, where C&NC did not see the need for an interchange restriction. Under these circumstances, I believe that the Board should be taking a close look at this transaction, the affected shippers, and the traffic flows, rather than allowing it to be consummated without regulatory oversight.

[FR Doc. 2011–16626 Filed 7–1–11; 8:45 am]

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FEDERAL REGISTER

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Part II

Department of Veteran Affairs

38 CFR Part 4
Schedule for Rating Disabilities; The Digestive System; Proposed Rule

DEPARTMENT OF VETERANS AFFAIRS

38 CFR Part 4

RIN 2900–AN12

Schedule for Rating Disabilities; The Digestive System

AGENCY: Department of Veterans Affairs.

ACTION: Proposed rule.

SUMMARY: The Department of Veterans Affairs (VA) proposes to amend the portion of the Schedule for Rating Disabilities that addresses the Digestive System. The purpose of this change is to incorporate medical advances that have occurred since the last review, insert current medical terminology, and provide clear criteria.

DATES: Comments must be received by VA on or before September 6, 2011.

ADDRESSES: Written comments may be submitted through *http://www.Regulations.gov;* by mail or hand-delivery to the Director, Regulations Management (02REG), Department of Veterans Affairs, 810 Vermont Ave., NW., Room 1068, Washington, DC 20420; or by fax to (202) 273–9026. Comments should indicate that they are submitted in response to RIN 2900–AN12–Schedule for Rating Disabilities; The Digestive System. 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 at *http://www.Regulations.gov.*

FOR FURTHER INFORMATION CONTACT: Thomas J. Kniffen, Chief, Regulations Staff (211D), Compensation and Pension Service, Veterans Benefits Administration, Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420, (202) 461–9725. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: VA published an advance notice of proposed rulemaking in the **Federal Register** of May 2, 1991 (56 FR 20168), advising the public of our intent to revise and update the portion of the Schedule for Rating Disabilities (the rating schedule) that addresses the digestive system as well as to solicit and obtain comments and suggestions from interest groups and the general public. By revising the rating schedule, we aim to eliminate ambiguities, include medical conditions not currently in the rating schedule, and implement current medical criteria and terminology that reflect recent medical advances.

Comments in Response To Advance Notice of Proposed Rulemaking

In response to the advance notice of proposed rulemaking, we received comments from the American Legion and from several VA employees. One commenter suggested that we add to the rating schedule Crohn's disease; esophageal spasm (with its own evaluation criteria); hepatitis A, B, and C; chronic inflammation of the liver and its residuals; and malabsorption due to pancreatic disease. We propose to address each of these conditions in this revision, except for hepatitis and chronic inflammation of the liver, which were addressed in a separate rulemaking on liver disabilities (66 FR 29486, May 31, 2001).

The same commenter suggested we include reflux esophagitis with hiatal hernia, with the criteria taking into account a measurement of reflux. For esophageal abnormalities, reflux measurement (manometry), barium swallows, and esophagoscopy provide information about physiological and anatomical abnormalities, and may be useful for diagnosis and prognosis, for determining response to therapy, and to prepare for surgery. They are less useful, however, in assessing the level of disability than the severity of symptoms, the impact of the condition on the nutritional status of the patient, and the potential for remediation (''Disability Evaluation'' 379 (Stephen L. Demeter, M.D., Gunnar B.J. Anderson, M.D., and George M. Smith, M.D., 1996) and The Merck Manual 113 (18th ed. 2006)). While we propose to address reflux esophagitis in this revision, as discussed further below, we do not propose to use a measurement of reflux for evaluation.

A second commenter suggested we add Crohn's disease and also revise the criteria for hemorrhoids. We propose to do both.

One commenter suggested that we evaluate gastrectomy and vagotomy-pyloroplasty under the same criteria. The major postoperative problem related to gastrectomy is dumping syndrome, which is the common term that refers to the group of symptoms that may occur following various types of surgery for ulcer disease. Many problems may be associated with vagotomy-pyloroplasty, of which dumping syndrome is only one. We therefore propose to retain separate evaluation criteria for these conditions, as discussed in more detail below.

The same commenter suggested that we delete diagnostic codes 7201 (lips, injuries of), 7205 (esophagus, diverticulum of, acquired), 7306 (marginal ulcer), 7309 (stomach, stenosis of), 7310 (stomach, injury of, residuals), 7315 (chronic cholelithiasis), 7316 (chronic cholangitis), 7324 (distomiasis, intestinal or hepatic), and 7342 (visceroptosis) because they are rare.

We propose to remove diagnostic code 7342 (visceroptosis) because visceroptosis is an obsolete diagnosis, as discussed further below. However, we propose to retain all of the other diagnostic codes mentioned by the commenter, although some in a revised form, since some of them, such as diagnostic code 7315 (cholelithiasis), represent common digestive diseases, and others, such as those for injuries of the lips or stomach, may be the only appropriate codes under which to address injuries, including combat wounds, to those parts of the body. They may therefore be useful to VA for statistical purposes, as well as for rating purposes.

Another commenter suggested we remove diagnostic code 7201 (lips, injuries of); add esophagitis, duodenitis, and Crohn's disease; provide a diagnostic code for total gastrectomy; add a 10-percent evaluation level for cirrhosis; provide evaluation criteria for ileostomy and colostomy; and provide objective evaluation criteria for pancreatitis. We have already discussed injuries of the lips, which we propose to retain. We otherwise propose to follow all of these suggestions, with two exceptions. First, we do not propose to add a diagnostic code for total gastrectomy, because that condition can be appropriately evaluated under an existing diagnostic code (7308, Postgastrectomy syndromes). Second, we have already added a 10-percent evaluation level for cirrhosis in the separate rulemaking that addressed disabilities of the liver (66 FR 29486, May 31, 2001), so there is no need for further action in this proposed rule based on that comment. This commenter also suggested we remove diagnostic codes 7342 (visceroptosis) and 7337 (pruritus ani) and that we delete the word ''infectious'' from ''infectious hepatitis.'' We also propose to remove diagnostic codes 7342 and 7337. The suggested change concerning hepatitis was made in the separate rulemaking for liver disabilities, so there is no need for further action in this proposed rule.

Outside Consultants

In addition to publishing an advance notice of proposed rulemaking, VA contracted with an outside consulting firm for the purpose of gathering suggestions for changes in the rating schedule to help fulfill the goals of revising and updating the medical criteria. This proposed amendment includes many of their suggestions. Since one of the goals of the rating schedule revision is to eliminate ambiguities, we did not follow some of our consultants' recommendations that are based, at least, in part, on subjective or indefinite language when more objective terminology could be used. Furthermore, each group of consultants reviewed only one portion or body system of the rating schedule, and we had to assess the feasibility of their recommendations in light of the entire rating schedule, in order to assure internal consistency. Relevant recommendations from our consultants are discussed below.

Section 4.110

Current § 4.110, ''Ulcers,'' explains that ''the term 'peptic ulcer' is not sufficiently specific for rating purposes'' because there are ''manifest differences'' between ulcers of the stomach or duodenum as compared to those at an anastomotic stoma, and that, therefore, the location of an ulcer should be identified in order to evaluate it. This material is unnecessary, since there are separate diagnostic codes for ulcers of the stomach, duodenum, and gastrojejunal area (or anastomotic stoma), and the rating schedule therefore makes it clear that the site of an ulcer must be identified in order to assign the correct diagnostic code. Furthermore, this section establishes no procedures that raters must follow in evaluating ulcer disease. We therefore propose to remove the material currently in § 4.110, retitle this section ''Dyspepsia,'' and provide in it a definition of the term ''dyspepsia'' for purposes of evaluating conditions in § 4.114. We propose that § 4.110 would define dyspepsia as any combination of the following symptoms: Gnawing or burning epigastric or substernal pain that may be relieved by food (especially milk) or antacids, nausea, vomiting, anorexia (lack or loss of appetite), abdominal bloating, and belching. It would also state that when there is obstruction of the outlet of the stomach (gastric outlet obstruction), dyspepsia may also include symptoms of gastroesophageal reflux (flow of stomach contents back into the esophagus), borborygmi (audible rumbling bowel sounds), crampy pain, and obstipation (severe constipation).

Section 4.111

Current § 4.111, ''Postgastrectomy syndromes,'' discusses dumping syndrome, a condition which is relevant only to diagnostic code 7308, ''postgastrectomy syndromes,'' and we propose to list the symptoms of dumping syndrome in a note under that diagnostic code. We therefore propose to remove § 4.111.

Section 4.112

Current § 4.112, ''Weight loss,'' defines ''substantial weight loss,'' ''minor weight loss,'' ''inability to gain weight,'' and ''baseline weight,'' for purposes of evaluating conditions in § 4.114. Some of the revisions of conditions in § 4.114 that we are proposing have evaluation criteria that are based in part on malnutrition, and there is no universally accepted definition of malnutrition. We, therefore, propose to provide a definition of malnutrition for purposes of evaluating conditions in § 4.114 by expanding the title of § 4.112 to ''Weight loss and malnutrition'' and adding the following definition: '' 'malnutrition' means a deficiency state resulting from insufficient intake of one or multiple essential nutrients or the inability of the body to absorb, utilize, or retain such nutrients. It is characterized by failure of the body to maintain normal organ functions and healthy tissues.''

Section 4.113

Current § 4.113, ''Coexisting abdominal conditions,'' states that there are diseases of the digestive system that produce a common disability picture with similar symptoms and which should therefore not be rated separately, as this would be a violation of 38 CFR 4.14, ''Avoidance of pyramiding'' (which states that the evaluation of the same disability under various diagnoses is to be avoided). Current § 4.114, in an introductory paragraph, lists specific diagnostic codes that cannot be combined, and directs that a single evaluation ''be assigned under the diagnostic code that reflects the predominant disability picture, with elevation to the next higher evaluation where the severity of the overall disability warrants such evaluation.'' In order to provide clear guidance about evaluation when there are two or more coexisting digestive conditions, we propose to revise the material in §§ 4.113 and 4.114 related to this subject and place the revised directions in § 4.113.

We propose to direct the rater to separately evaluate two or more conditions in § 4.114 only if the signs and symptoms attributed to each are separable, and if they are not separable, to assign a single evaluation under the diagnostic code that best allows evaluation of the overall functional impairment resulting from both conditions. With these instructions, the list of conditions that may not be combined, given in current § 4.114, would be unnecessary, and we propose to remove it. This revision would provide a fair and equitable method of evaluation, and is not contrary to § 4.14. In addition, it would remove the somewhat unclear direction to assign a diagnostic code that reflects the predominant disability and elevate to the next higher evaluation level ''where the severity of the overall disability warrants such elevation,'' a direction that could be interpreted differently by different individuals. We also propose to change the title of § 4.113 to ''Evaluation of coexisting digestive conditions,'' since not all disabilities in this body system are abdominal, as the current title of § 4.113 implies.

Section 4.114 Schedule of Ratings-Digestive System

Mouth injuries, Lip injuries, Tongue Injuries (Including Tongue Loss), Esophageal Stricture, Achalasia (Cardiospasm) and Other Motor Disorders of the Esophagus, and Esophageal Diverticula (Diagnostic Codes 7200–7205)

The current rating schedule directs that injuries of the mouth (diagnostic code 7200) be evaluated on the basis of disfigurement and impairment of masticatory function, and injuries of the lips (diagnostic code 7201) on the basis of disfigurement of the face. Both mouth and lip injuries are therefore evaluated using criteria under other diagnostic codes. Loss of whole or part of the tongue (diagnostic code 7202) is currently evaluated at 100 percent if there is inability to communicate by speech, at 60 percent if there is loss of one-half or more of the tongue, and at 30 percent if there is marked speech impairment. Findings in these three conditions sometimes overlap, according to our consultants, with the major problems being (1) Difficulty with mastication (chewing) or swallowing, causing a restriction of diet; (2) difficulty with speech; (3) loss of part of the tongue; and (4) disfigurement. We therefore propose to provide a general rating formula for the evaluation of residuals of mouth injuries, lip injuries,

and tongue injuries, including tongue loss.

In addition, there are several esophageal abnormalities with signs and symptoms that are similar to one another, and that also overlap the findings in mouth, lip, and tongue injuries. For these reasons, we propose to include several esophageal conditions in the same general rating formula for this whole group of conditions, as discussed in more detail below. Our consultants recommended that there be a 10-percent evaluation level for each of these disabilities, and also pointed out that stricture of the esophagus, for example, can be totally disabling. We agree, and propose to provide evaluation levels of 100, 60, 30, and 10 percent in this general rating formula.

Stricture of the esophagus (diagnostic code 7203) is currently evaluated at 80 percent if it permits ''passage of liquids only, with marked impairment of general health;'' at 50 percent if it is ''severe, permitting liquids only;'' and at 30 percent if it is ''moderate.'' These criteria contain subjective terms such as ''marked,'' ''moderate,'' and ''severe,'' which could be interpreted differently by different individuals. The general rating formula we are proposing for the evaluation of this and other related conditions with symptoms in common would provide more objective criteria.

Spasm of the esophagus (cardiospasm) (diagnostic code 7204) is currently evaluated based on the degree of obstruction (stricture), if not amenable to dilation. We propose to update the title of diagnostic code 7204 from ''cardiospasm'' to ''achalasia,'' the current term for this condition. Achalasia is a condition in which, upon swallowing, there is a failure of relaxation of the lower esophageal sphincter (at the junction of the esophagus and stomach). We also propose to include in this diagnostic code other related motor disorders of the esophagus with impairment in the normal passage of food through the esophagus due to muscle or nerve abnormalities, by revising the title to ''Achalasia (cardiospasm) and other motor disorders of the esophagus (diffuse esophageal spasm, corkscrew esophagus, nutcracker esophagus, etc.).'' Our consultants suggested we provide one diagnostic code for achalasia, with 100- and 30-percent evaluation levels, and another for other esophageal motor disorders, with 50-, 30-, and 10-percent evaluation levels. However, the signs and symptoms of these conditions are very similar, and the severity of disability from any one of these conditions varies widely from individual to individual. Therefore, in our judgment, it is feasible and preferable to provide a single diagnostic code with a broad range of evaluations (100 to 10 percent), for the sake of promoting more consistent and appropriate evaluations.

Acquired diverticulum of the esophagus (diagnostic code 7205) is currently evaluated as obstruction (stricture). We propose to revise the title of diagnostic code 7205 from ''Esophagus, diverticulum of'' to ''Esophageal diverticula, including pharyngoesophageal (Zenker's), midesophageal, and epiphrenic types'' to indicate more clearly the several types of diverticula that may warrant evaluation under this diagnostic code. Achalasia and esophageal diverticulum result in impairments similar to one another, and there is overlap with impairments resulting from mouth, lip, and tongue injuries. In addition, esophageal stricture, achalasia, and esophageal diverticulum may all result in pulmonary aspiration (inhaling food or liquid into the lungs) due to regurgitation or vomiting and may require treatment with prescription medication to control symptoms. Esophageal dilation may be required for stricture or achalasia. We therefore propose to include criteria for these esophageal conditions, as well as mouth, lip, and tongue injuries, in a general rating formula that encompasses the main signs and symptoms of all.

We propose to title the general rating formula for this group of conditions as follows: ''General Rating Formula for Residuals of mouth injuries (diagnostic code 7200), Residuals of lip injuries (diagnostic code 7201), Residuals of tongue injuries, including tongue loss (diagnostic code 7202), Esophageal stricture (diagnostic code 7203), Achalasia (cardiospasm) and other motor disorders of the esophagus (diagnostic code 7204), and Esophageal diverticula (diagnostic code 7205).'' We propose to base evaluation of these conditions on the extent of limitation of diet, on the extent of the ability to speak clearly enough to be understood, on the frequency of episodes of pulmonary aspiration due to regurgitation or vomiting, and on whether or not continuous treatment with prescription medication is required. We propose to provide a list of findings at each evaluation level, any of which would warrant that percentage of evaluation.

We propose a 100-percent evaluation for any of the following: Tube feeding required; diet restricted to liquid foods, with substantial weight loss, malnutrition, and anemia; four or more episodes per year of pulmonary aspiration (with bronchitis, pneumonia, or pulmonary abscess) due to regurgitation or vomiting; or inability to speak clearly enough to be understood. We propose a 60-percent evaluation for any of the following: Diet restricted to liquid and soft solid foods, with substantial weight loss or anemia; two to three episodes per year of pulmonary aspiration (with bronchitis, pneumonia, or pulmonary abscess) due to regurgitation or vomiting; or inability to speak clearly enough to be understood at least half of the time but not all of the time. We propose a 30-percent evaluation for any of the following: Diet restricted to liquid and soft solid foods, with minor weight loss; esophageal dilation carried out five or more times per year; daily regurgitation or vomiting; one episode per year of pulmonary aspiration (with bronchitis, pneumonia, or pulmonary abscess) due to regurgitation or vomiting; or inability to speak clearly enough to be understood at times, but less than half of the time. We propose a 10-percent evaluation for any of the following: Diet restricted to liquid and soft solid foods; esophageal dilation carried out one to four times per year; heartburn (pyrosis) requiring continous treatment with prescription and at least one of the following other symptoms: Retrosternal chest pain, difficulty swallowing (dysphagia), or pain during swallowing (odynophagia); partial tongue loss; or impaired articulation for some words, but speech understandable.

We also propose to add a note directing raters to separately evaluate mouth and lip injuries under diagnostic code 7800 (Burn scar(s) of the head, face, or neck; scar(s) of the head, face, or neck due to other causes; or other disfigurement of the head, face, or neck), if applicable, and to combine this with an evaluation under this general rating formula, under the provisions of § 4.25.

The proposed general rating formula for these conditions is broad enough to encompass any degree of severity of the major types of impairment from any of these conditions, and from combined injuries of more than one of these structures. It also provides more objective criteria than the current schedule because it excludes subjective descriptors like ''marked'' and more sharply defines the extent of speech impairment and dietary limitations required for various evaluations. Evaluations should, therefore, be more consistent. Although our consultants used subjective terms such as ''moderate'' and ''severe'' in their recommended criteria, we are proposing to exclude such terms whenever possible throughout the revision of the

rating schedule, for the sake of promoting consistent evaluations. Our consultants also included the nebulous phrase ''interfering with normal daily functioning,'' which could be subject to different interpretations by different people, and we do not propose to use this language. However, the criteria are otherwise substantially the same as those our consultants recommended.

Salivary Gland Disease (Diagnostic Code 7207)

Since there is no current diagnostic code under which salivary gland disease can be appropriately evaluated, and it is a common enough disability in veterans to require evaluation, we propose to add diagnostic code 7207, ''Salivary gland (parotid, submandibular, sublingual) disease other than neoplasm.'' We propose that there be 20-, 10-, and zero-percent evaluation levels, based on the presence of xerostomia (dry mouth) and its effects, chronic inflammation or swelling of a salivary gland, salivary gland calculi or stricture, increase in dental caries, and weight loss, because these are the major impairments that may result from salivary gland disease (''Textbook of Gastroenterology'' 225 (Tadataka Yamada, M.D., ed., 1991)).

We propose a 20-percent evaluation for xerostomia (dry mouth) with altered sensation of taste and difficulty with lubrication and mastication of food resulting in either weight loss or increase in dental caries; a 10-percent evaluation for xerostomia with altered sensation of taste and difficulty with lubrication and mastication of food, but without weight loss or increase in dental caries; chronic inflammation of a salivary gland with pain and swelling on eating; one or more salivary calculi; or a salivary gland stricture. We propose a zero-percent evaluation for either xerostomia without difficulty in mastication of food, or painless swelling of the salivary gland. We are proposing a zero-percent evaluation level in order to make it clear that these findings warrant a zero-, rather than a ten-percent evaluation when it might otherwise be unclear to the rater.

We also propose to provide note (1) directing that facial nerve (cranial nerve VII) impairment, which may result from parotid gland disease or its treatment, be evaluated under diagnostic code 8207 (cranial nerve VII) and that any disfigurement due to facial swelling be evaluated under diagnostic code (Burn scar(s) of the head, face, or neck; scar(s) of the head, face, or neck due to other causes; or other disfigurement of the head, face, or neck). We propose to add note (2) to explain what Sjogren's syndrome is and how it should be evaluated. It is an autoimmune disorder that causes xerostomia (dry mouth) and keratoconjunctivitis sicca (dry eyes) and may affect other parts of the body. The note directs that the effects of xerostomia (dry mouth) due to Sjogren's syndrome be evaluated under diagnostic code 7207, keratoconjunctivitis sicca under the portion of the rating schedule that addresses Organs of Special Sense, and other effects of the syndrome, if any, on other body parts under appropriate diagnostic codes in other sections of the rating schedule.

Peritoneal Adhesions (Diagnostic Code 7301)

Peritoneal adhesions, diagnostic code 7301, are currently evaluated at levels of 50, 30, 10, or zero percent. A 50-percent evaluation is assigned if adhesions are severe, with ''definite partial obstruction shown by X-ray, with frequent and prolonged episodes of severe colic distention, nausea or vomiting, following severe peritonitis, ruptured appendix, perforated ulcer, or operation with drainage.'' A 30-percent evaluation is assigned if adhesions are moderately severe, with ''partial obstruction manifested by delayed motility of barium meal and less frequent and less prolonged episodes of pain.'' A 10-percent evaluation is assigned if adhesions are moderate, with ''pulling pain on attempting work or aggravated by movements of the body, or occasional episodes of colic pain, nausea, constipation (perhaps alternating with diarrhea) or abdominal distention.'' A zero-percent evaluation is assigned if adhesions are ''mild.'' Subjective adjectives such as ''mild,'' ''moderate,'' ''moderately severe,'' and ''severe'' are used at each level.

We propose to provide evaluation levels of 60, 30, or 10 percent for peritoneal adhesions, based primarily on the number of episodes of partial intestinal obstruction with typical symptoms, which may include, but are not limited to colicky abdominal pain, abdominal distention, borborygmi (audible rumbling bowel sounds), nausea, vomiting, and obstipation (severe constipation) (Yamada, 719). X-ray confirmation of a partial bowel obstruction would be required for any level of evaluation.

We propose a 60-percent evaluation for six or more episodes per year of partial obstruction of the bowel (confirmed by X-ray), with typical signs and symptoms (which may include, but are not limited to colicky abdominal pain, abdominal distention, borborygmi (audible rumbling bowel sounds), nausea, vomiting, and obstipation) (severe constipation)); a 30-percent evaluation for three to five episodes per year of partial obstruction of the bowel, with typical signs and symptoms; and a 10-percent evaluation for either of the following: One or two episodes per year of partial obstruction of the bowel, with typical signs and symptoms, or, in the absence of such episodes, pulling pain on body movement, if not attributable to another condition.

These criteria are in general agreement with those recommended by our consultants, but they exclude subjective terms such as ''frequent,'' ''occasional,'' and ''severe'' that the consultants suggested, in favor of more objective criteria in order to promote consistent evaluations.

A current note following diagnostic code 7301 states that ratings for adhesions will be considered when there is a history of operative or other traumatic or infectious (intraabdominal) process and at least two of the following: Disturbance of motility, actual partial obstruction, reflex disturbances, or presence of pain. We propose to revise this note to state that evaluation under diagnostic code 7301 requires a history of abdominal or pelvic surgery, infection, irradiation, trauma, or other known etiology for peritoneal adhesions. We propose to add a second note listing the typical signs and symptoms of partial bowel obstruction, for purposes of evaluation under diagnostic code 7301. This would simplify the evaluation criteria by eliminating the need to repeat the list of symptoms at each level. Our consultants recommended that we provide a note similar to the current note, with both causes and symptoms of adhesions listed, and we have basically done this, but divided the material into two notes, for the sake of clarity.

General Rating Formula for Ulcer Disease (Diagnostic Codes 7304–7306)

There are currently three diagnostic codes for ulcers: diagnostic code 7304 for gastric ulcers, diagnostic code 7305 for duodenal ulcers, and diagnostic code 7306 for marginal (gastrojejunal) ulcers. No specific evaluation criteria are provided for gastric ulcers, but they are ordinarily rated under the criteria for duodenal ulcers. Duodenal ulcers are currently evaluated at levels of 60, 40, 20, or 10 percent. A 60-percent evaluation is assigned if the condition is severe, with pain only partially relieved by ulcer therapy, and there is periodic vomiting, recurrent hematemesis or melena, with manifestations of anemia and weight loss, productive of definite impairment of health. A 40-percent evaluation is assigned if the condition is moderately severe, meaning that it is

less than severe but with impairment of health manifested by anemia and weight loss, or that there are recurrent incapacitating episodes averaging 10 days or more in duration at least four or more times a year. A 20-percent evaluation is assigned if the condition is moderate, with recurring episodes of severe symptoms two or three times a year averaging 10 days in duration, or with continuous moderate manifestations. A 10-percent evaluation is assigned if the condition is mild, with recurring symptoms once or twice yearly.

Marginal ulcers are currently evaluated under a separate set of criteria that are similar to those for duodenal ulcer, except that there is also a 100-percent evaluation level, to be assigned if the condition is pronounced, with periodic or continuous pain unrelieved by standard ulcer therapy with periodic vomiting, recurring melena or hematemesis, and weight loss, and the condition is totally incapacitating. A 60-percent evaluation is assigned if the condition is severe, with symptoms of the same type as pronounced but less pronounced and less continuous, with definite impairment of health. A 40-percent evaluation is assigned if the condition is moderately severe, with intercurrent episodes of abdominal pain at least once a month partially or completely relieved by ulcer therapy, or there are mild and transient episodes of vomiting or melena. A 20-percent evaluation is assigned if the condition is moderate, with episodes of recurring symptoms several times a year. A 10-percent evaluation is assigned if the condition is mild, with brief episodes of recurring symptoms once or twice yearly. Both sets of criteria for rating ulcer disease use subjective adjectives such as ''mild,'' ''moderate,'' and ''pronounced'' throughout the formulas.

Our consultants pointed out that while ulcers may vary in location, they produce the same array of symptoms, and do not differ in functional impairment. They suggested that all types of ulcers be evaluated under the same criteria: the presence of symptoms and their response or lack of response to treatment, the extent of incapacitating or recurring episodes, and whether there is recurrent hematemesis (vomiting blood) or melena, anemia, or weight loss. We propose to adopt, with some modifications, their recommendations regarding bases of evaluations and to evaluate all types of ulcer disease under the same criteria. We propose to provide a single rating formula for gastric ulcer (diagnostic code 7304), duodenal ulcer (diagnostic code 7305), and marginal (gastrojejunal) ulcer (diagnostic code 7306), based on the recommended criteria. We also propose to change the title of diagnostic code 7305 to ''duodenal ulcer or duodenitis'' in order to include duodenitis under this code, because these conditions commonly occur together and result in similar findings. We propose to provide evaluation levels of 100, 60, 30, and 10 percent. Our consultants suggested 60 percent as the highest level of evaluation, but, because our experience has shown that a number of veterans are totally disabled by severe ulcer disease, we propose to add a 100-percent level. These levels also differ from the current schedule by substituting a 30-percent level for the current 20- and 40-percent levels. This change will provide a clearer distinction between the 10-percent level and the next higher level (which we propose to be 30 percent instead of 20 percent), a factor that will promote more consistent evaluations, and will still be sufficient to accommodate the range of severity of ulcer disease.

We propose a 100-percent evaluation for either substantial weight loss, malnutrition, and anemia due to gastrointestinal bleeding; or for hospitalization three or more times per year for vomiting, refractory pain, gastrointestinal bleeding, perforation, obstruction, or penetration to liver, pancreas, or colon. We propose a 60-percent evaluation for either periodic or constant dyspepsia with substantial weight loss and anemia due to ulcer disease; or for hospitalization two times per year for vomiting, refractory pain, gastrointestinal bleeding, perforation, obstruction, or penetration to liver, pancreas, or colon. We propose a 30-percent evaluation for either periodic or constant dyspepsia with at least minor weight loss; or for hospitalization once per year for vomiting, refractory pain, gastrointestinal bleeding, perforation, obstruction, or penetration to liver, pancreas, or colon. We propose a 10-percent evaluation for recurring dyspepsia that requires continuous treatment with prescription medication for control.

We also propose to add a note under the general rating formula for ulcer disease stating that the diagnosis of ulcer disease or duodenitis requires confirmation on at least one occasion by imaging or endoscopy. Because the symptoms of ulcer disease are not specific, the note would assure that the diagnosis of ulcer disease is not based on symptoms alone.

Chronic Gastritis (Diagnostic Code 7307)

We propose to revise the title of diagnostic code 7307 from the current ''gastritis, hypertrophic (identified by gastroscope)'' to ''chronic gastritis (including but not limited to erosive, hypertrophic, hemorrhagic, bile reflux, alcoholic, and drug-induced gastritis)'' to indicate that there are several types of gastritis that may be evaluated under this code.

Gastritis is an inflammation of the gastric (stomach) mucosa. Common causes include Helicobacter pylori infection, non-steroidal anti-inflammatory drugs, alcohol, stress, and autoimmune phenomena (atrophic gastritis) (Merck, 117). While chronic gastritis is often asymptomatic (symptom-free), it may cause dyspepsia and sometimes gastro-intestinal bleeding with resulting anemia. A rare type of gastritis results in protein-losing gastropathy (disease of the stomach), in which hypoalbuminia (low albumin level in blood), diarrhea, weight loss, and edema may occur. Gastritis is currently evaluated at 60, 30, or 10 percent, with a 60-percent evaluation assigned when the condition is chronic, with severe hemorrhages or large ulcerated or eroded areas; a 30-percent evaluation when the condition is chronic, ''with multiple small eroded or ulcerated areas, and symptoms;'' and a 10-percent evaluation when the condition is chronic, ''with small nodular lesions, and symptoms.'' We propose to continue these evaluation levels, but to provide different criteria, based more on objective clinical findings, which are common indicators of disability, than on the pathologic appearance of the gastric mucosa.

We propose a 60-percent evaluation for any of the following: Periodic or continuous dyspepsia with anemia due to gastrointestinal bleeding; protein-losing gastropathy with substantial weight loss and peripheral edema; or hospitalization two or more times per year for gastrointestinal bleeding, intractable vomiting, or other complication of chronic gastritis. We propose a 30-percent evaluation for either of the following: Protein-losing gastropathy with at least minor weight loss, or hospitalization once per year for gastrointestinal bleeding, intractable vomiting, or other complication of chronic gastritis. We propose a 10-percent evaluation for dyspepsia that requires continuous treatment with prescription medication.

These proposed criteria are similar to those recommended by our consultants, but have been modified to remove

subjective terms, and for the sake of internal consistency. In order to document that gastritis, which is often hard to diagnose, is definitely present, we also propose to add a note stating that evaluation under diagnostic code 7307 requires that the diagnosis of chronic gastritis be confirmed on at least one occasion by endoscopy. The condition of ''gastritis, atrophic'' is listed in the current schedule at the end of the criteria for hypertrophic gastritis. It is followed by a statement that this is ''a complication of a number of diseases, including pernicious anemia,'' and a direction to rate the underlying condition. We propose to include this information in a second note under diagnostic code 7307, to provide clear guidance to the raters on how to evaluate atrophic gastritis.

Postgastrectomy Syndromes (Diagnostic Code 7308)

Postgastrectomy syndromes (diagnostic code 7308) are currently evaluated at levels of 60, 40, or 20 percent, based on frequency of episodes of symptoms. A 60-percent evaluation is assigned when the condition is severe, meaning that it is associated with nausea, sweating, circulatory disturbance after meals, diarrhea, hypoglycemic symptoms, and weight loss with malnutrition and anemia; a 40-percent evaluation when the condition is moderate, with less frequent episodes of epigastric disorders with characteristic mild circulatory symptoms after meals but with diarrhea and weight loss; and a 20-percent evaluation when the condition is mild, with infrequent episodes of epigastric distress with characteristic mild circulatory symptoms or continuous mild manifestations.

We propose to base evaluations of postgastrectomy syndromes on more objective criteria, such as the frequency of dumping syndrome (which is the common term for the group of symptoms that may occur following various types of surgery for ulcer disease), whether there is weight loss, malnutrition or anemia, and whether a restricted diet is needed. For the sake of simplicity, we propose to list the possible signs and symptoms of postgastrectomy syndromes in a note rather than listing all possible manifestations at every evaluation level.

Several types of problems may occur after gastrectomy, with the onset, frequency, and types of symptoms varying with the particular type of surgery performed (Merck, 123). One problem is the dumping syndrome. There are two types of dumping syndrome, an early type that occurs within 30 minutes of eating, and a late type that occurs 90 minutes to 3 hours after eating (''Harrison's Principles of Internal Medicine'' 1240 (Jean D. Wilson, M.D. *et al.* eds., 12th ed. 1991)). Although early and late types have different causes, their symptoms overlap. Rather than experiencing a dumping syndrome, some individuals experience only severe diarrhea as a major postgastrectomy problem. Others experience abdominal pain, bilious vomiting (vomiting of bile), anemia, and weight loss due to a condition called alkaline reflux gastritis (also called biliary gastritis or bile reflux gastritis); and some individuals have malabsorption and poor absorption of vitamins and minerals resulting in malnutrition and anemia as their most significant problems (Yamada, 1394).

Since the signs and symptoms of these postgastrectomy syndromes overlap, and ''dumping syndrome'' is the commonly used designation for postgastrectomy signs and symptoms, we propose to lump the various postgastrectomy syndromes together as ''dumping syndrome'' and to add a note under diagnostic code 7308 stating that for purposes of evaluation under diagnostic code 7308, the term ''dumping syndrome'' includes symptoms that are associated with any of the following postgastrectomy syndromes: Early and late types of dumping syndrome, postgastrectomy diarrhea, and alkaline reflux gastritis. These symptoms include any combination of weakness, dizziness, lightheadedness, diaphoresis (sweating), palpitations, tachycardia, postural hypotension, confusion, syncope (fainting), nausea, vomiting (often with bile), diarrhea, steatorrhea (fatty stools), borborygmi (audible rumbling bowel sounds), abdominal pain, anorexia (lack or loss of appetite), abdominal bloating, and belching. In order to include both types of postgastrectomy dumping syndromes, we also propose to state, in the same note, that symptoms may occur immediately after eating or up to three hours later.

We propose to provide evaluation levels of 100, 60, 30, and 10 percent, instead of the current 60, 40, and 20 percent. Our consultants suggested that we add a 100-percent evaluation level, since postgastrectomy syndromes may be severely disabling, and we propose to do so. As with gastritis, to promote consistent evaluations, we propose to substitute a 30-percent evaluation level for the 20- and 40-percent levels to provide a clearer distinction between adjacent levels. We also propose to add a 10-percent evaluation level for milder cases of dumping syndrome. We propose a 100-percent evaluation for dumping syndrome that occurs after most meals, with substantial weight loss, malnutrition, and anemia. We propose a 60-percent evaluation for dumping syndrome that occurs after most meals, with substantial weight loss and anemia. We propose a 30-percent evaluation for dumping syndrome that occurs daily or nearly so, despite treatment, with at least minor weight loss. We propose a 10-percent evaluation for intermittent dumping syndrome (occurring at least three times a week) requiring dietary restrictions.

Our consultants suggested criteria that retain the same subjective terms of ''infrequent,'' ''mild,'' and ''less frequent,'' as the current schedule. For example, our consultants recommended that a 20-percent evaluation be assigned for post-gastrectomy syndrome that is ''mild'' with ''infrequent'' episodes of epigastric distress with ''characteristic mild'' circulatory symptoms or continuous ''mild'' manifestations. We propose to use more specific terms such as ''after most meals'' and ''daily or nearly so,'' since making the criteria less ambiguous is one of the goals of the revision of the rating schedule. In order to make the criteria clear to everyone who uses the rating schedule, we propose to list the actual symptoms (many of which overlap) of hypoglycemia and circulatory disturbance in the note defining dumping syndrome, rather than use less clear terms such as ''hypoglycemic symptoms'' or ''circulatory symptoms,'' as the consultants suggested. We also propose a second note to direct raters to separately evaluate complications, such as osteomalacia, under an appropriate diagnostic code.

Gastric Emptying Disorders (Diagnostic Code 7309)

Diagnostic code 7309 is currently titled ''stomach, stenosis of'' and includes an instruction to ''[r]ate as for gastric ulcer'' (diagnostic code 7304), which in turn is usually rated as duodenal ulcer (diagnostic code 7305). We propose to make diagnostic code 7309 more inclusive by changing the title to ''gastric emptying disorders (including gastroparesis (delayed gastric emptying), and pyloric, gastric, and other motility disturbances)'' because all of these conditions, which are not uncommon and are not currently listed in the current rating schedule, may produce similar signs and symptoms.

We propose to provide evaluation levels of 100, 60, 30, and 10 percent for diagnostic code 7309. As our consultants pointed out, these conditions can be very debilitating. We

propose to base the evaluation on criteria specific to gastric emptying disorders—epigastric pain or fullness, anorexia (lack or loss of appetite), nausea, vomiting, gastroesophageal reflux, early satiety (feeling that hunger and thirst are satisfied), and abdominal bloating (Yamada, 1264). We propose to add a note listing the signs and symptoms of gastric emptying disorders, for purposes of evaluation under diagnostic code 7309.

We propose a 100-percent evaluation for daily or near-daily signs and symptoms with substantial weight loss and malnutrition. We propose a 60-percent evaluation for periodic or daily or near-daily signs and symptoms with substantial weight loss. We propose a 30-percent evaluation for periodic signs and symptoms with minor weight loss. We propose a 10-percent evaluation for periodic signs and symptoms without weight loss, but requiring continuous treatment with prescription medication. These criteria are specific to the disability and are clearer and more objective than those proposed by our consultants. While the consultants used similar symptoms, they also included modifiers like ''pronounced,'' ''severe,'' and ''moderate,'' which are subjective terms that we are trying to exclude from the rating schedule when possible, for the sake of consistent evaluations.

Injury of the Stomach (Diagnostic Code 7310)

Injury of the stomach, diagnostic code 7310, is currently evaluated under the criteria for peritoneal adhesions (diagnostic code 7301). We propose to retain that direction and to add an alternative direction, as recommended by our consultants, to evaluate as postgastrectomy syndromes (diagnostic code 7308) if the injury required a gastric resection.

Liver Disease

In a separate rulemaking, we previously revised the portion of § 4.114 that addresses liver disease, including injury of the liver (diagnostic code 7311), cirrhosis of the liver (diagnostic code 7312), deletion of residuals of abscess of liver (diagnostic code 7313), infectious hepatitis (diagnostic code 7345), benign new growths of the digestive system (7344), and malignant new growths of the digestive system, exclusive of skin growths (diagnostic code 7343). Following notice and comment, this rulemaking was published as a final rule on May 31, 2001 (66 FR 29486). We do not propose any further changes to those diagnostic codes.

Biliary Tract Disease or Injury (Diagnostic Code 7314)

Diagnostic code 7314 is currently titled ''cholecystitis, chronic'' and has evaluation levels of 30, 10, and zero percent. A 30-percent evaluation is assigned if the condition is severe, with frequent attacks of gall bladder colic; a 10-percent evaluation if the condition is moderate, with gall bladder dyspepsia, confirmed by X-ray technique, and with infrequent attacks (not over two or three a year) of gall bladder colic, with or without jaundice; and a zero-percent evaluation if the condition is mild.

Chronic cholelithiasis (diagnostic code 7315) and chronic cholangitis (diagnostic code 7316) are evaluated under the same criteria as chronic cholecystitis. All of these conditions are closely related and may co-exist, and can readily be evaluated under a single diagnostic code and set of evaluation criteria. In addition, diagnostic code 7318, ''Gall bladder, removal of,'' can result in signs and symptoms similar to those of the above three conditions. It is currently evaluated at 30, 10, or zero percent, under subjectively-defined criteria. A 30-percent evaluation is assigned if there are ''severe symptoms,'' a 10-percent evaluation if there are ''mild symptoms,'' and a zero-percent evaluation if the condition is nonsymptomatic. ''Gall bladder, injury of'' (diagnostic code 7317) is currently rated as peritoneal adhesions.

We, therefore, propose to revise the title of diagnostic code 7314 to the more inclusive ''Biliary tract disease or injury (chronic cholecystitis, cholelithiasis, choledocholithiasis, chronic cholangitis, status post-cholecystectomy, gall bladder or bile duct injury, biliary dyskinesia, cholesterolosis, polyps of gall bladder, sclerosing cholangitis, stricture or infection of the bile ducts, choledochal cyst)'' because all of these conditions are related and may produce similar effects. It is therefore appropriate to evaluate them under the same criteria. It is not uncommon for more than one of these conditions to be present at the same time, and using a single set of criteria would better allow an appropriate overall evaluation in those cases, since the signs and symptoms overlap and may be identical. Our consultants did not suggest combining these conditions under a single diagnostic code, as we are proposing, but did suggest evaluating them under the same criteria. The evaluation criteria we are proposing are similar to those they suggested, but would eliminate the subjective terms ''severe,'' ''moderate'' and ''mild''.

Although the current evaluation levels for these conditions are limited to 30, 10, and zero percent, we propose to provide evaluation levels of 100, 60, 30, and 10 percent for biliary tract disease or injury, to accommodate more severe cases, including those that are totally disabling. We propose to base evaluations on the frequency of acute attacks of signs and symptoms of biliary tract disease or injury per year; the frequency of hospitalizations for biliary tract disease or injury per year; the response to medical or surgical treatment; and whether liver failure is present. We propose to describe the usual signs and symptoms of biliary tract disease and injury in a note, as discussed below.

We propose a 100-percent evaluation for any of the following: Near-constant debilitating attacks of biliary tract disease or injury that are refractory to medical or surgical treatment; liver failure; or hospitalization three or more times per year for biliary tract disease or injury. We propose a 60-percent evaluation for either of the following: Six or more attacks of biliary tract disease or injury per year, partially responsive to treatment; or hospitalization two times per year for biliary tract disease or injury. We propose a 30-percent evaluation for either of the following: Three to five attacks of biliary tract disease or injury per year, or hospitalization once per year for biliary tract disease or injury. We propose a 10-percent evaluation for either of the following: One or two attacks of biliary tract disease or injury per year; or biliary tract pain occurring at least monthly, despite medical treatment. We propose to remove the zero-percent level as unnecessary (see § 4.31).

The proposed criteria would provide more objective criteria for evaluating these conditions and also provide a wider range of percentage evaluations, consistent with the potential disabling effects of these conditions.

We propose to add four notes under diagnostic code 7314, with the first stating that for purposes of evaluation under diagnostic code 7314, attacks of biliary tract disease or injury include any combination of such signs and symptoms as abdominal pain (including biliary colic), dyspepsia, jaundice, anorexia (lack or loss of appetite), nausea, vomiting, chills, and fever (Merck, 242–245). So that the presence of biliary tract disease is substantiated, and not based on symptoms alone, the second proposed note would state that evaluation under diagnostic code 7314 requires that the diagnosis of any of these conditions be confirmed by X-ray

or other imaging procedure, laboratory findings, or other objective evidence. The third proposed note would direct raters to separately evaluate peritoneal adhesions (diagnostic code 7301) if applicable, and combine (under the provisions of § 4.25) with an evaluation under diagnostic code 7314, as long as the same findings are not used to support more than one evaluation. This would assure that traumatic or postoperative manifestations due to adhesions would be properly evaluated. The fourth proposed note would direct raters to evaluate the cirrhotic phase of sclerosing cholangitis under diagnostic code 7312 (cirrhosis of liver), a more appropriate diagnostic code for evaluating that condition than 7314.

Since chronic cholelithiasis (current diagnostic code 7315), chronic cholangitis (current diagnostic code 7316), injury of gall bladder (current diagnostic code 7317), and removal of gall bladder (current diagnostic code 7318) would all be included in diagnostic code 7314, for reasons discussed above, we propose to delete the separate diagnostic codes for those conditions.

Disease or Injury of the Spleen

There is currently a reference to disease or injury of the spleen under diagnostic code 7318, directing raters to the hemic and lymphatic systems. We propose to remove that reference as unnecessary, since the spleen, although in the abdominal cavity, is part of the lymphatic, not the digestive system. Evaluation criteria for splenectomy (diagnostic code 7706) and healed injury of the spleen (diagnostic code 7707) are included in the hemic and lymphatic portion of the rating schedule (38 CFR 4.117), and both conditions are listed in the index to the rating schedule as part of the hemic and lymphatic systems.

Irritable Bowel Syndrome (Diagnostic Code 7319)

Diagnostic code 7319 is currently titled ''Irritable colon syndrome (spastic colitis, mucous colitis, *etc.*).'' We propose to retitle it ''Irritable bowel syndrome (irritable colon, spastic colitis, mucous colitis),'' since this is current terminology for the condition. The current evaluation levels are 30, 10, and zero percent. A 30-percent evaluation is assigned if the condition is severe, with diarrhea or alternating diarrhea and constipation, with more or less constant abdominal distress. A 10-percent evaluation is assigned if the condition is moderate, with frequent episodes of bowel disturbance with abdominal distress. A zero-percent evaluation is assigned if the condition is mild, with ''disturbances of bowel function with occasional episodes of abdominal distress.'' Our consultants suggested evaluation levels of 30 and 10 percent, with essentially the same criteria as the current ones, except for adding ''refractory to medical treatment'' to the criteria for 30 percent, and ''partially responsive to treatment'' to the criteria for 10 percent. We are proposing to remove the subjective terms ''severe,'' ''frequent,'' ''occasional,'' *etc.,* from the criteria and to base evaluation on more objective criteria, in order to decrease the reliance on ambiguous descriptive terms. We propose a 30-percent evaluation for daily or near-daily disturbances of bowel function (diarrhea, or alternating diarrhea and constipation), bloating, and abdominal cramping or pain, refractory to medical treatment, and a 10-percent evaluation for disturbances of bowel function (diarrhea, or alternating diarrhea and constipation), bloating, and abdominal cramping or pain that occur three or more times a month and that respond partially to medical treatment. We propose to remove the zero-percent level as unnecessary (see § 4.31). These proposed criteria would ensure consistency of evaluations and still be in keeping with our consultants' recommendations.

Amebiasis and Bacillary Dysentery

In the current rating schedule, diagnostic code 7321 is amebiasis, and diagnostic code 7322 is bacillary dysentery. Both conditions are uncommon today except as acute short-term illnesses. They ordinarily resolve without residuals because they are highly responsive to modern drug treatment. In accordance with our consultants' suggestion, we therefore propose to delete diagnostic code 7321 and diagnostic code 7322 as unnecessary.

Ulcerative Colitis (Diagnostic Code 7323)

Ulcerative colitis (diagnostic code 7323) is currently evaluated at 100, 60 30, or 10 percent. A 100-percent evaluation is assigned if the condition is pronounced, resulting in marked malnutrition, anemia, and general debility, or if there are serious complications, such as liver abscess. A 60-percent evaluation is assigned if the condition is severe, with numerous attacks a year and malnutrition, with the health only fair during remissions. A 30-percent evaluation is assigned if the condition is moderately severe, with frequent exacerbations; and a 10-percent evaluation is assigned if the condition is moderate, with infrequent exacerbations.

The most common symptoms of ulcerative colitis are abdominal pain and bloody diarrhea, but there may also be rectal pain, fever, tachycardia, anorexia, malaise, weakness, and other symptoms. In severe cases, there may be weight loss, malnutrition, anemia, and hypoalbuminemia. Common complications include perforation, stricture, hemorrhage, dehydration, fulminant (sudden and intense) colitis, and toxic megacolon (a severe distention of the colon that can be life threatening). Among other possible complications are liver disease, skin nodules, eye problems, colon cancer, and arthritis (Merck, 155–156 and *http://digestive.niddk.nih.gov/ddiseases/pubs/colitis/index.htm#symptoms,* National Digestive Diseases Information Clearinghouse, February 2006).

Our consultants suggested we continue evaluations based on frequency of episodes, attacks, and exacerbations, and they provided some timeframes for their frequency and duration. We propose to use their suggestions, in a modified form, removing the subjective language such as ''severe'' and ''marked'' that they included. We also further propose to specify the usual symptoms of ulcerative colitis in the criteria, with bloody diarrhea being the major symptom, and to include criteria based on the need for hospitalization for complications or continuous treatment with prescription medication. We propose a 100-percent evaluation for either of the following: malnutrition, substantial weight loss, anemia, and general debility with multiple attacks of colitis per year, with bloody diarrhea, abdominal or rectal pain, fever, and malaise; or hospitalization three or more times per year for complications such as hemorrhage, dehydration, obstruction, fulminant (sudden and intense) colitis, toxic megacolon, or perforation.

We propose a 60-percent evaluation for either of the following: substantial weight loss and anemia, with multiple attacks of colitis per year, with bloody diarrhea, abdominal or rectal pain, fever, and malaise; or hospitalization two times per year for complications such as hemorrhage, dehydration, obstruction, fulminant colitis, toxic megacolon, or perforation. We propose a 30-percent evaluation for either of the following: three or more attacks of colitis (each lasting 5 or more days) per year, with diarrhea with blood, pus, or mucous, and abdominal or rectal pain; or hospitalization one time per year for

complications such as hemorrhage, dehydration, obstruction, fulminant colitis, toxic megacolon, or perforation. We propose a 10-percent evaluation for either of the following: One or two attacks of colitis (each lasting 5 or more days) per year with diarrhea with blood, pus, or mucous, and abdominal or rectal pain; or continuous treatment with prescription medication either to control symptoms or to maintain remission.

We also propose to add a note directing raters to evaluate other complications, such as uveitis, ankylosing spondylitis, sclerosing cholangitis, *etc.,* separately under an appropriate diagnostic code. We propose to add a second note directing raters, if there has been a colon resection, to evaluate under diagnostic codes 7350 (colostomy or ileostomy) and 7329 (resection of large intestine), as applicable, and to combine the evaluations under the provisions of § 4.25, as long as the same findings are not used to support more than one evaluation.

Intestinal Parasitic Infections (Diagnostic Code 7324)

We propose to change the title of diagnostic code 7324 from ''distomiasis, intestinal or hepatic'' to ''parasitic infections of the intestinal tract'' because our consultants advised us that distomiasis (formerly used to refer to trematodes or flukes) is a term that is no longer used. The generic term ''parasitic infections'' includes all types of parasitic infections, not just trematodes or flukes. Parasitic infections that do not primarily affect the digestive tract are evaluated in the portion of the rating schedule that addresses Infectious Diseases, Immune Disorders and Nutritional Deficiencies. The current evaluation criteria, with levels of 30, 10, and zero percent, are based on whether there are ''severe,'' ''moderate,'' or ''mild'' symptoms, with no specific guidance as to the type of symptoms.

Our consultants suggested criteria of ''severe symptoms including diarrhea, abdominal distress, and weight loss, refractory to medical treatment'' for a 30-percent evaluation and ''moderate symptoms'' for a 10-percent evaluation. While more specific than the current criteria, they retain subjective language. We propose to remove the subjective terms and base evaluation on the presence of diarrhea (which commonly means more than three loose watery stools in one day (*http://digestive.niddk.nih.gov/ddiseases/pubs/diarrhea/,* National Digestive Diseases Information Clearinghouse, October 2003)), abdominal pain, and weight loss, and on whether continuous treatment with prescription medication is required. We propose to delete the zero-percent level, since a parasitic infection that does not meet the criteria for a ten-percent evaluation would be assigned a non-compensable evaluation, and this is sufficiently clear without the need for a zero-percent evaluation level (see § 4.31).

We propose to evaluate parasitic infections of the intestinal tract at 30 percent if there is daily diarrhea (occurring more than three times per day) and abdominal pain, with at least minor weight loss. We propose to evaluate them at 10 percent if diarrhea and abdominal pain occur, and they require continuous treatment with prescription medication for control. In addition, since parasitic infection of the gastrointestinal tract may result in a malabsorption syndrome, we propose to add a note directing raters to evaluate under proposed diagnostic code 7353 (malabsorption syndrome), if malabsorption is present, and doing so would result in a higher evaluation.

Chronic Diarrhea of Unknown Etiology (Diagnostic Code 7325)

Diagnostic code 7325 is currently titled ''Enteritis, chronic'' and directs that the condition be rated as irritable colon syndrome (diagnostic code 7319). At the suggestion of our consultants, we propose to revise the title to ''chronic diarrhea of unknown etiology'' because chronic enteritis is no longer considered a specific diagnostic entity. We also propose to provide evaluation criteria specific to this condition, in accordance with the recommendation of our consultants, since those for evaluating irritable colon syndrome (which include ''alternating constipation and diarrhea'') are not appropriate for evaluating chronic diarrhea.

We propose to provide evaluation levels of 60, 30, and 10 percent (our consultants recommended levels of 60 and 30 percent) based on the frequency of watery bowel movements, their requirement for and response to medical treatment, and on the number of episodes per year of fluid and electrolyte imbalance requiring parenteral (intravenous or intramuscular) hydration. We propose a 60-percent evaluation if there are five or more watery bowel movements daily, refractory to medical treatment, and three or more episodes per year of fluid and electrolyte imbalance requiring parenteral (intravenous or intramuscular) hydration. We propose a 30-percent evaluation if there are five or more watery bowel movements daily, partially responsive to medical treatment, and one or two episodes per year of fluid and electrolyte imbalance requiring parenteral (intravenous or intramuscular) hydration. We propose a 10-percent evaluation if the condition requires continuous treatment with prescription medication for control.

These criteria for evaluating chronic diarrhea of unknown etiology are both objective and specific to the disability, and are in general agreement with the suggestions of our consultants, although they recommended that we require at least six watery bowel movements per day, instead of five or more, as we are proposing. In our judgment, five or more watery bowel movements a day constitute a sufficient indication of severity of the major disabling symptom of this condition. The consultants also recommended a 60-percent evaluation for one episode of biochemical alteration, but it is our opinion that one episode would not be sufficiently disabling to warrant a 60-percent evaluation, in comparison to other disabilities evaluated at a 60-percent level. We propose instead that there be three or more episodes of fluid and electrolyte imbalance to warrant a 60-percent evaluation, and one or two episodes to warrant a 30-percent evaluation.

Crohn's Disease (Diagnostic Code 7326)

Diagnostic code 7326 is currently titled ''Enterocolitis, chronic'' and directs that the condition be rated as irritable colon syndrome (diagnostic code 7319), with evaluation levels of 30, 10, and zero-percent, but as suggested by our consultants, we propose to change the title to ''Crohn's disease,'' the current medical term for this condition, and to provide criteria more specific to the disabling effects of this disease. Our consultants pointed out that Crohn's disease can be very disabling, and we therefore propose to provide a broader range of evaluation levels—100, 60, 30, and 10 percent—in order to encompass the whole range of disabling effects that may result from this condition. The most common signs and symptoms of Crohn's disease, which is often episodic, include diarrhea, abdominal pain and tenderness, fever, anorexia, and weight loss; also there may be pallor, weakness, malnutrition, abscesses, fistula, bowel obstruction, and other complications, as pointed out by our consultants, and as found in standard medical books (Merck, 153; Yamada, 1599).

We propose a 100-percent evaluation for either of the following: multiple attacks or flareups of Crohn's disease per year with abdominal pain or tenderness, diarrhea, fever, anorexia

(lack or loss of appetite), and fatigue plus malnutrition, substantial weight loss, hypoalbuminemia, and anemia; or hospitalization three or more times per year for complications such as abscess, stricture, obstruction, or fistula.

We propose a 60-percent evaluation for any of the following: multiple attacks or flareups of Crohn's disease per year with abdominal pain or tenderness, diarrhea, fever, anorexia (lack or loss of appetite), and fatigue plus substantial weight loss and anemia; hospitalization two times per year for recurrent complications such as abscess, stricture, obstruction, or fistula; or constant or near-constant treatment with high dose systemic (oral or parenteral [intravenous or intramuscular]) corticosteroids.

We propose a 30-percent evaluation for any of the following: three or more attacks or flareups of Crohn's disease per year with abdominal pain or tenderness, diarrhea, fever, anorexia (lack or loss of appetite), and fatigue, plus at least minor weight loss; hospitalization one time per year for complications such as abscess, stricture, obstruction, or fistula; or three or more (but not constant) courses of treatment per year with high dose systemic (oral or parenteral [intravenous or intramuscular]) corticosteroids.

We propose a 10-percent evaluation for any of the following: One or two attacks or flareups of Crohn's disease per year with abdominal pain or tenderness, diarrhea, and fever; one or two courses of treatment per year with high dose systemic (oral or parenteral [intravenous or intramuscular]) corticosteroids; or continuous treatment with prescription medication other than high dose systemic (oral or parenteral [intravenous or intramuscular]) corticosteroids.

These criteria are more specific to Crohn's disease than those in the current rating schedule, and represent modifications of the criteria suggested by our consultants (for example, to remove subjective language). They would provide a clear and objective basis for evaluation, as well as a suitable range of evaluation levels.

We also propose to add a note directing raters to evaluate complications, such as external gastrointestinal fistula, arthritis, episcleritis (inflammation of the outer layers of the sclera of the eye), *etc.,* separately under an appropriate diagnostic code as long as the same findings are not used to support more than one evaluation (see § 4.14). We propose to add a second note, because bowel surgery is often needed, directing raters to evaluate under diagnostic code 7350 (colostomy or ileostomy) if an ostomy is present, and under diagnostic code 7328 (resection of the small intestine) or 7329 (resection of large intestine), if applicable, as long as the same findings are not used to support more than one evaluation.

Diverticulitis (Diagnostic Code 7327)

The current rating schedule does not provide specific criteria for diverticulitis, diagnostic code 7327, but directs that it be evaluated as either irritable colon syndrome (diagnostic code 7319), peritoneal adhesions (diagnostic code 7301), or ulcerative colitis (diagnostic code 7323), depending on the predominant disability picture. We propose to provide evaluation criteria specific to this condition, with evaluation levels of 100, 60, 30, and 10 percent, to reflect its range of severity. The most common signs and symptoms of diverticulitis are abdominal pain and tenderness, fever, and an elevated white blood count (Merck, 160; Yamada, 1737). There may also be peritoneal irritation, with or without bleeding; irregular defecation; and such complications as fistula formation, intestinal obstruction, abscess formation, or perforation. Milder attacks can be treated with antibiotics, bed rest, and a liquid diet as an outpatient, but more serious attacks may require hospitalization for intravenous antibiotics and other measures, and, sometimes, surgery.

We therefore propose a 100-percent evaluation for either of the following: near-constant signs and symptoms of diverticulitis, with abdominal pain and tenderness, fever, and irregular defecation (constipation, diarrhea, or alternating constipation and diarrhea); or hospitalization at least three times per year for complications such as abscess, perforation, obstruction, or fistula.

We propose a 60-percent evaluation for any of the following: six or more attacks of diverticulitis per year with abdominal pain and tenderness, fever, and irregular defecation (constipation, diarrhea, or alternating constipation and diarrhea), requiring outpatient treatment with a course of antibiotics, bed rest, and a liquid diet; hospitalization two times per year for complications such as abscess, perforation, obstruction, or fistula; or hospitalization three or more times per year for acute diverticulitis requiring intravenous antibiotics.

We propose a 30-percent evaluation for any of the following: three to five attacks of diverticulitis per year with abdominal pain and tenderness, fever, and irregular defecation (constipation, diarrhea, or alternating constipation and diarrhea), requiring outpatient treatment with a course of antibiotics, bed rest, and a liquid diet; hospitalization one time per year for complications such as abscess, perforation, obstruction, or fistula; or hospitalization once or twice per year for acute diverticulitis requiring intravenous antibiotics.

We propose a 10-percent evaluation for the following: One or two attacks of diverticulitis per year with abdominal pain and tenderness, fever, and irregular defecation (constipation, diarrhea, or alternating constipation and diarrhea), requiring a course of antibiotics.

We also propose to add a note to address evaluation after surgery, which is often needed to treat diverticulitis. The note would direct raters to evaluate under diagnostic code 7350 (colostomy or ileostomy) if an ostomy is present, and under diagnostic code 7329 (resection of large intestine), if applicable, as long as the same findings are not used to support more than one evaluation (see § 4.14).

These criteria are similar to those suggested by our consultants, but modified, to remove indefinite terms such as ''severe,'' ''moderate,'' and ''frequent,'' and to substitute criteria that are both more specific and more objective, in order to promote consistent evaluations.

Resection of Small Intestine (Diagnostic Code 7328)

Resection of the small intestine, diagnostic code 7328, currently has evaluation levels of 60, 40 and 20 percent, with criteria for the various levels based on the extent of interference with absorption and nutrition, the degree of impairment of health with either weight loss or inability to gain weight, and whether there are symptoms. A 60-percent evaluation is assigned if the condition shows marked interference with absorption and nutrition, manifested by severe impairment of health objectively supported by examination findings including material weight loss; a 40-percent evaluation if the condition produces definite interference with absorption and nutrition, manifested by impairment of health objectively supported by examination findings, including definite weight loss; and a 20-percent evaluation if the condition is symptomatic, with diarrhea, anemia, and inability to gain weight. These criteria contain indefinite criteria, such as ''material'' or ''definite'' weight loss and ''marked'' or ''definite'' interference with absorption. In addition, our consultants advised us that the current criteria, based partly on weight loss or inability to gain weight, are no longer

appropriate because the parenteral (intravenous or intramuscular) and supplemental nutrition now available will ordinarily allow body weight to be maintained. They pointed out that the type and frequency of nutritional support needed is related to the severity of the condition.

We therefore propose to provide evaluation criteria that are both more objective and more characteristic of the disabling effects of resection of the small intestine than the current criteria, in light of modern medicine. We propose that the condition be evaluated based on the need for oral or parenteral (intravenous or intramuscular) nutritional support and on the presence of diarrhea and other symptoms. Our consultants said that the need for total parenteral (intravenous or intramuscular) nutrition indicates a debilitating condition that would be totally disabling. We therefore propose a 100-percent evaluation if total parenteral (intravenous or intramuscular) nutrition is required. We propose a 60-percent evaluation for diarrhea, weakness, fatigue, abdominal cramps, and bloating, with anemia, requiring daily (oral) nutritional supplementation, plus parenteral (intravenous or intramuscular) nutrition for a total of at least 28 days per year; a 30-percent evaluation for diarrhea, weakness, fatigue, abdominal cramps, and bloating requiring daily (oral) nutritional supplementation plus parenteral (intravenous or intramuscular) nutrition for a total of at least 14 days, but less than 28 days per year; and a 10-percent evaluation for diarrhea, weakness, fatigue, abdominal cramps, and bloating requiring daily (oral) nutritional supplementation.

We propose to modify the current note under diagnostic code 7328. It now directs that the condition be rated under diagnostic code 7301, where residual adhesions constitute the predominant disability. We propose that the note instruct raters to separately evaluate peritoneal adhesions, diagnostic code 7301, if applicable, as long as the same findings are not used to support an evaluation both under diagnostic code 7301 and under diagnostic code 7328.

Resection of Large Intestine (Diagnostic Code 7329)

Resection of the large intestine, diagnostic code 7329, currently has evaluation levels of 40, 20, and 10 percent, based on the indefinite criteria of whether symptoms are ''severe'' and ''objectively supported by examination findings'' (for 40 percent), ''moderate'' (for 20 percent), or ''slight'' (for 10 percent). We propose to remove these subjective terms and provide more objective criteria based on the primary symptoms of diarrhea and abdominal pain and the number of complications, as recommended by our consultants. We propose that there be a broader range of evaluation levels, 100, 60, 30, and 10 percent, consistent with the range of severity of the condition.

We propose a 100-percent evaluation for multiple daily episodes of diarrhea and abdominal pain that are refractory to treatment, plus at least two hospitalizations per year for complications such as obstruction, fistula, or abscess; a 60-percent evaluation for multiple attacks of diarrhea and abdominal pain per year requiring medical treatment plus at least one hospitalization per year for complications such as obstruction, fistula, or abscess; a 30-percent evaluation for four or more attacks of diarrhea and abdominal pain per year requiring medical treatment; and a 10-percent evaluation for two or three attacks per year of diarrhea and abdominal pain requiring medical treatment. These criteria are more objective and would therefore promote more consistent evaluations, and they are consistent with the disabling effects that sometimes occur after large bowel resection. They are similar to the suggestions of our consultants, but with less subjective language and with modifications of the criteria at various levels, for the sake of internal consistency.

Although the current note following diagnostic code 7329 instructs raters to evaluate the condition as peritoneal adhesions, diagnostic code 7301, if adhesions are the predominant disability, we propose to direct raters to separately evaluate peritoneal adhesions (diagnostic code 7301), if applicable, and combine (under the provisions of § 4.25) with an evaluation under diagnostic code 7329, as long as the same findings are not used to support more than one evaluation. This is clearer and more appropriate, since evaluation under both cited diagnostic codes is feasible under certain circumstances (see § 4.14, Avoidance of pyramiding). We also propose to add a second note directing raters to evaluate under diagnostic code 7350 (colostomy or ileostomy), if applicable, and combine (under the provisions of § 4.25) with an evaluation under diagnostic code 7329, as long as the same findings are not used to support more than one evaluation.

External Gastrointestinal Fistula (Diagnostic Code 7330)

Diagnostic code 7330 is currently titled ''Intestine, fistula of, persistent, or after attempt at operative closure.'' External gastrointestinal fistulas (fistulas that drain from the gastrointestinal tract to the surface of the skin) other than fistulas from the intestine are not currently included in the rating schedule. Our consultants stated that the symptoms and complications of external gastrointestinal fistula include fluid discharge, skin problems, fluid and electrolyte imbalance, recurrent sepsis, and malnutrition. We propose to base the evaluation on such manifestations, regardless of the type of discharge, rather than solely on the presence and amount of the discharge. Only fecal discharge is currently evaluated under this diagnostic code, and the criteria do not take into account the type of treatment or the potential specific effects that might result from fecal or other types of discharges. As recommended by our consultants, we propose to expand the category of fistula of the intestine and change the title to ''external gastrointestinal fistula (including biliary, pancreatic, esophageal, gastric, and intestinal fistulas)'' in order to include all external fistulas of gastrointestinal origin. The current criteria are ''copious and frequent, fecal discharge'' for a 100-percent evaluation; ''constant or frequent, fecal discharge'' for a 60-percent evaluation; and ''slight infrequent, fecal discharge'' for a 30-percent evaluation. The current provision also directs that if healed, fistulas are to be rated as peritoneal adhesions. We propose to delete the ambiguous and subjective terms ''slight,'' ''frequent,'' and ''infrequent,'' and replace them with more objective and specific criteria, in order to assure more consistent evaluations. We also propose to delete the reference to fecal discharge because we are proposing that this diagnostic code include fistulas where the discharge may be bile, gastric fluid, etc., instead of fecal material. We also propose to delete the direction to rate healed fistulas as peritoneal adhesions, since our consultants said that adhesions are not a usual complication of fistulas.

Our consultants stated that the symptoms and complications of external gastrointestinal fistula include fluid discharge, skin problems, fluid and electrolyte imbalance, recurrent sepsis, and malnutrition. We propose to base the evaluation on such manifestations,

rather than simply on the extent and frequency of fecal discharge.

We propose a 100-percent evaluation for external gastrointestinal fistula if there is constant or near-constant copious discharge that cannot be contained, and any of the following is present: A need for total parenteral (intravenous or intramuscular) nutritional support, malnutrition, seven or more episodes per year of fluid and electrolyte imbalance requiring parenteral (intravenous or intramuscular) hydration, or two or more episodes per year of sepsis (a serious and sometimes life-threatening infection with a widespread inflammatory response). We propose a 60-percent evaluation for constant or near-constant copious discharge that cannot be contained, and with any of the following: Persistent skin breakdown, despite treatment, five or six episodes per year of fluid and electrolyte imbalance requiring parenteral (intravenous or intramuscular) hydration, or one episode of sepsis per year. We propose a 30-percent evaluation for constant or intermittent discharge with either of the following: Six or more episodes per year of skin breakdown requiring treatment, or two to four episodes per year of fluid and electrolyte imbalance requiring parenteral (intravenous or intramuscular) hydration. We propose a 10-percent evaluation for constant or intermittent discharge with either of the following: At least two, but less than six, episodes per year of skin breakdown requiring treatment, or one episode per year of fluid and electrolyte imbalance requiring parenteral (intravenous or intramuscular) hydration.

The proposed criteria are more precise and better take into account the actual disabling effects of a fistula. These changes would provide raters with clearly delineated objective criteria for evaluation and are in general agreement with revisions suggested by our consultants. Our consultants recommended that we direct raters to evaluate internal gastrointestinal fistulas (fistulas that drain from one area of the gastrointestinal tract to another) under the criteria for malabsorption (diagnostic code 7353) or other appropriate condition, depending on the particular findings, since malabsorption is a common effect of internal fistulas. We propose to add this direction in a note under diagnostic code 7330.

Tuberculous Peritonitis (Diagnostic Code 7331)

Diagnostic code 7331, ''peritonitis, tuberculous, active or inactive,'' currently directs that inactive tuberculous peritonitis be evaluated under §§ 4.88b or 4.89 (of this part). We propose to correct this reference because § 4.88b was redesignated § 4.88c in a separate rulemaking (59 FR 60902), which was published in the Federal Register on November 29, 1994. The correct section references should be 4.88c and 4.89. Otherwise, we propose no change to the rating criteria, but we do propose to simplify the title of this diagnostic code to ''Tuberculous peritonitis.''

Impaired Control of the Anal Sphincter (Diagnostic Code 7332)

Diagnostic code 7332 is currently titled ''Rectum and anus, impairment of sphincter control.'' We propose to change the title to ''Impaired control of the anal sphincter (anal incontinence)'' for more accuracy, because our consultants stated that inclusion of the rectum in this category is not appropriate, since the sphincter is actually an anal, rather than a rectal, structure. There are currently evaluation levels of 100, 60, 30, 10 and zero percent. A 100-percent evaluation is assigned if there is complete loss of sphincter control; a 60-percent evaluation if there is extensive leakage and fairly frequent involuntary bowel movements; a 30-percent evaluation if there are occasional involuntary bowel movements necessitating wearing of pad; a 10-percent evaluation if there is constant slight, or occasional moderate leakage; and a zero-percent evaluation if the condition is healed or slight, without leakage. These criteria contain numerous indefinite terms, such as ''extensive,'' ''frequent,'' ''occasional,'' and ''slight,'' that allow different individuals to make different interpretations of the criteria.

We propose to retain evaluation levels of 100, 60, 30, and 10 percent, but omit the zero-percent evaluation level as unnecessary (see § 4.31). We further propose to make the criteria more objective by basing them on the specific frequency of fecal soiling, the extent of inability to control solid or liquid feces, and the need for wearing absorbent material. We propose a 100-percent evaluation if there is complete inability to control solid and liquid feces; a 60-percent evaluation if there is daily fecal soiling and complete inability to control liquid feces; a 30-percent evaluation if there is fecal soiling that, although less than daily, is frequent enough or extensive enough to require daily wearing of absorbent material; and a 10-percent evaluation if there is fecal soiling that is intermittent, and not frequent enough or extensive enough to require daily wearing of absorbent material. We propose to remove the zero-percent level as unnecessary (see § 4.31). These more objective and condition-specific criteria would promote consistent evaluations of this disability and are in general agreement with, although more detailed than, the revisions suggested by our consultants. They also exclude the subjective terms such as ''pronounced'' and ''moderate'' that our consultants used. We also propose to add a note directing raters to evaluate under diagnostic code 7350 (colostomy or ileostomy) if an ostomy is present, since fecal incontinence may require a colostomy.

Stricture of the Anus (Diagnostic Code 7333)

Diagnostic code 7333 is currently titled ''Rectum and anus, stricture of.'' Because our consultants suggested that rectal strictures would be more appropriately evaluated with bowel strictures under diagnostic code 7349, we propose to remove rectal strictures from this diagnostic code and change the title to ''Stricture of the anus.'' The current evaluation criteria are ''requiring colostomy,'' for a 100-percent evaluation; ''great reduction of lumen, or extensive leakage,'' for a 50-percent evaluation; and ''moderate reduction of lumen, or moderate constant leakage,'' for a 30-percent evaluation. We propose to remove the indefinite terms, such as ''great,'' ''extensive,'' and ''moderate,'' and base the evaluation on objective criteria, such as the extent of reduction of the lumen, the frequency and extent of fecal soiling, and the necessity for daily wearing of absorbent material.

Because we are proposing a separate diagnostic code for the evaluation of colostomy and ileostomy, there is no longer a need to include colostomy in these criteria. We propose to change the current evaluation levels of 100, 50, and 30 percent to 100, 60, and 30 percent, and to add a 10-percent level, for the sake of more internal consistency. These are also the levels we propose to provide for diagnostic code 7332, and the type and range of disability due to this condition are very similar to those of disability due to impaired control of the anal sphincter. We propose a 100-percent evaluation if there is inability to open or completely close the anus, with complete inability to control liquid or solid feces. We propose a 60-percent evaluation if there is reduction of the lumen by at least 50 percent, with pain and prolonged straining during defecation, and complete inability to control liquid feces. We propose a 30-percent evaluation if there is reduction of the lumen, but by less than 50 percent, with straining during

defecation, and fecal incontinence that requires daily wearing of absorbent material; and a 10-percent evaluation if there is reduction of the lumen, with fecal soiling that is not frequent enough or extensive enough to require daily wearing of absorbent material.

Because a colostomy may be required for treatment of this condition, we also propose to add a note directing raters to evaluate under diagnostic code 7350 (colostomy or ileostomy), if an ostomy is present. In addition to proposing more objective criteria in order to promote consistency of evaluations, we have proposed criteria that are generally in agreement with our consultants' suggestions, excluding the subjective modifiers, such as ''moderate'' and ''occasional,'' that they used. These criteria are also internally consistent with the proposed criteria for evaluating impaired control of the anal sphincter.

Prolapse of Rectum (Diagnostic Code 7334)

Diagnostic code 7334, ''rectum, prolapse of,'' currently has evaluation levels of 50, 30, and 10 percent. A 50-percent evaluation is assigned if there is ''severe (or complete), persistent'' rectal prolapse. A 30-percent evaluation is assigned if there is ''moderate, persistent or frequently recurring'' rectal prolapse, and a 10-percent evaluation is assigned if there is mild rectal prolapse, ''with constant slight or occasional moderate leakage.'' These criteria require raters to subjectively determine whether the condition is ''mild,'' ''moderate,'' or ''severe,'' and what level of frequency the term ''frequently recurring'' implies.

Our consultants noted that incontinence is the major problem associated with prolapse of the rectum and that higher evaluation levels should be available for this condition. We therefore propose to provide levels of 100, 60, 30, and 10 percent, as we are proposing for diagnostic codes 7332 and 7333, the codes for other conditions that are also characterized primarily by fecal incontinence. We propose to remove the subjective language and base evaluation on more objective criteria, such as the frequency of prolapse, the presence of incontinence, and the extent of fecal soiling.

We propose a 100-percent evaluation for persistent prolapse with complete inability to control liquid or solid feces; a 60-percent evaluation for intermittent prolapse (occurring three or more times weekly) with complete inability to control liquid or solid feces during periods of prolapse; a 30-percent evaluation for intermittent prolapse (occurring three or more times weekly) without complete inability to control liquid or solid feces during periods of prolapse, but with difficulty in bowel evacuation and fecal soiling that is frequent enough or extensive enough to require daily wearing of absorbent material; and a 10-percent evaluation if there is intermittent prolapse with difficulty in bowel evacuation and fecal soiling that is not frequent enough or extensive enough to require daily wearing of absorbent material.

These criteria would promote more consistent evaluations, and they provide a range of evaluation levels consistent with the range of severity of this condition. Our consultants recommended criteria based on frequency of prolapse, whether or not there is incontinence, difficult evacuation, and soiling. However, they used numerous subjective terms, such as ''mild,'' ''moderate,'' ''severe,'' ''frequently,'' and ''occasional,'' and our proposed criteria represent a modification of their recommendations for the sake of objectivity and internal consistency with other digestive condition evaluations.

Our consultants also recommended that solitary rectal ulcer syndrome be included in this code. However, in our experience, this condition occurs too infrequently to warrant inclusion, and in addition, the symptoms of solitary rectal ulcer syndrome—altered bowel habits with blood and mucous in the stool, anorectal pain, a feeling of incomplete evacuation, and straining at defecation (Yamada, 1824)—are not entirely consistent with the condition-specific criteria we are proposing for rectal prolapse. If solitary rectal ulcer syndrome requires evaluation, it may be rated as an analogous condition under the evaluation criteria for prolapse of the rectum or other digestive condition in the rating schedule, depending on the particular signs and symptoms found.

Fistula in Ano (Diagnostic Code 7335)

Fistula in ano, diagnostic code 7335, is currently evaluated as impairment of sphincter control, diagnostic code 7332. The current evaluation criteria for impairment of sphincter control are not ideal for evaluating fistula in ano, however, because they do not take into account abscesses with pain and drainage, which our consultants pointed out are the primary disabling effects of fistulas. We therefore propose to provide a specific set of evaluation criteria based on these effects, with evaluation levels of 100, 60, 30, and 10 percent, the same levels as for other anal disabilities.

Fistula in ano may also be called anorectal fistula or anorectal abscess, and we propose to add those names to the title. We propose a 100-percent evaluation for fistula in ano with constant or near-constant abscesses with drainage and pain that are refractory to medical and surgical treatment; a 60-percent evaluation for four or more abscesses (each lasting a week or more) per year with drainage and pain; a 30-percent evaluation for three or more abscesses (each lasting less than a week) per year with drainage and pain ; and a 10-percent evaluation either for one or two abscesses (each lasting less than a week) per year with drainage and pain, or for a fistula with pain and discharge but without associated abscesses. We propose to delete the zero-percent evaluation as unnecessary for clarity (see § 4.31). These evaluation criteria are better suited and more appropriate for evaluating this disability because, in addition to being more objective, they are based on the usual disabling effects of fistula in ano. They represent modifications of the suggestions made by our consultants, faithful in substance, but with some changes made partly for the sake of internal consistency and partly to remove subjective terms.

Our consultants suggested we add a diagnostic code for the evaluation of other defecation disorders, such as Hirschprung's disease (congenital megacolon), anismus (paradoxical pelvic muscle contraction), levator spasm syndrome, functional constipation, and outlet obstruction. We do not propose to do so because these conditions are either uncommon in our experience, congenital in origin and likely to disqualify for military service, or have no organic basis. Any condition that requires evaluation for compensation purposes can be evaluated under existing codes as an analogous condition.

Hemorrhoids (Diagnostic Code 7336)

Hemorrhoids, external or internal, (diagnostic code 7336) are currently evaluated at 20, 10, or zero percent. A 20-percent evaluation is provided for ''persistent bleeding and with secondary anemia, or for fissures;'' a 10-percent evaluation for hemorrhoids that are ''large or thrombotic, irreducible, with excessive redundant tissue, evidencing frequent recurrences;'' and a zero-percent evaluation if they are ''mild or moderate.'' According to our consultants, external hemorrhoids are seldom chronically disabling, but can cause intermittent problems when they undergo thrombosis. Internal hemorrhoids may undergo frequent or permanent prolapse, thrombosis, and bleeding sufficient to cause anemia. The

current evaluation criteria under diagnostic code 7336 do not differentiate between internal and external hemorrhoids.

We propose to change the title of diagnostic code 7336 from ''hemorrhoids, external or internal'' to ''hemorrhoids,'' because the single term encompasses all types of hemorrhoids, and to provide criteria that apply in part to any type of hemorrhoids and in part only to either internal or external hemorrhoids. We propose to retain evaluation levels of 20 and 10 percent, but to remove the zero-percent evaluation criteria as unnecessary (see § 4.31). We also propose to remove subjective terms such as ''mild,'' ''moderate,'' ''excessive,'' and ''frequent'' that are in the current criteria and replace them with more objective criteria. We propose a 20-percent evaluation for either of the following: Persistent bleeding with anemia, or permanently prolapsed internal hemorrhoids with three or more episodes per year of thrombosis. We propose a 10-percent evaluation for either permanently or intermittently prolapsed internal hemorrhoids with one or two episodes per year of thrombosis, or for external hemorrhoids with three or more episodes per year of thrombosis. These criteria would provide raters with a clear, objective way to evaluate any type of hemorrhoids, while taking into account the differences in the disabling effects of external and internal hemorrhoids.

Hernia, Inguinal or Femoral (Diagnostic Code 7338)

Inguinal hernia, diagnostic code 7338, and femoral hernia, diagnostic code 7340, have similar disabling effects and are currently rated under the same criteria. There is no statistical need for VA purposes to retain separate diagnostic codes for each type of hernia, and we therefore propose to combine them under diagnostic code 7338, and retitle that diagnostic code ''Hernia, inguinal or femoral (both post-operative recurrent and non-operated).'' We propose to delete diagnostic code 7340. The issue of whether or not a hernia had been previously repaired is part of the current evaluation criteria, but we are proposing criteria that would apply to both initial and recurrent hernias because the potential signs and symptoms are the same. At the time the current evaluation criteria were developed, the repair of recurrent hernias, which is more difficult than the repair of initial hernias, was not as reliable or effective as it is with modern surgical techniques for hernia repair, such as the use of mesh to cover a hernia defect (first introduced in 1962 (*http://www.ednf.org/medical/content/view/321/38/,* Ehlers-Danlos National Foundation, 2006)) and surgical repair performed by laparoscopy (first described in 1990 (*http://www.rcsed.ac.uk/Journal/vol45_1/4510006.htm,* P. Ridings and D.S. Evans, J.R.Coll.Surg.Edinb., 45; 1: 29–32, February 2000)). Therefore, we do not propose to include the fact that a hernia is or is not recurrent in the evaluation criteria. Recurrent (or initial) hernias that cannot be repaired are encompassed by the evaluation criterion of ''cannot be corrected by surgery'' in proposed diagnostic code 7338 at the 60- and 30-percent evaluation levels, and complications resulting from the repair of any hernia can be evaluated separately.

The current evaluation levels are 60, 30, 10, and zero percent, and we propose to retain all but the zero-percent level. A 60-percent evaluation is now assigned for a hernia that is ''large, postoperative, recurrent, not well supported under ordinary conditions and not readily reducible, when considered inoperable;'' a 30-percent evaluation for a hernia that is ''small, postoperative recurrent, or unoperated irremediable, not well supported by truss, or not readily reducible;'' a 10-percent evaluation for a hernia that is ''postoperative recurrent, readily reducible and well supported by truss or belt;'' and a zero-percent evaluation both for a hernia that is ''not operated, but remediable'' and for one that is ''small, reducible, or without true hernia protrusion.''

We propose to remove the subjective terms and provide more objective criteria, for example, replacing ''large'' and ''small'' with the actual greatest diameter of the hernia, in order to remove ambiguity. Since both femoral and inguinal hernias may or may not be correctable by surgery (although not being correctable is less common with modern surgical and anesthetic techniques), may or may not be supportable by external devices, and may or may not be easily reducible, regardless of whether or not they have been operated, we propose to differentiate the criteria for 60- and 30-percent evaluations only on the basis of the size of the hernia. We propose a 60-percent evaluation for a hernia with all of the following: greatest diameter is 15 centimeters (5.91 inches) or more, cannot be corrected by surgery, and requires support but is not well supported by external devices or is not easily reducible; a 30-percent evaluation for a hernia with the same findings as for a 60-percent evaluation except for a greatest diameter that is less than 15 centimeters; and a 10-percent evaluation for a hernia with all of the following: is of any size, can be corrected by surgery, requires support and is supportable by external devices, and is easily reducible. We do not propose to retain a zero-percent level as it is not needed for clarity (*see* § 4.31).

In addition to being more objective, these criteria provide sharper distinctions between the levels of disability. There is currently a note under this diagnostic code directing raters to add 10 percent for bilateral involvement, provided the second hernia is compensable, and explaining that this means that the more severely disabling hernia is to be evaluated, and 10 percent only is to be added for the second hernia, if the latter is of compensable degree. In our judgment, two hernias, each of which meets the criteria for a 60-percent evaluation, for example, would be more disabling in combination than two hernias, one of which meets the criteria for a 60-percent evaluation, and the other for a 10-percent evaluation, although under current regulations they would be evaluated the same. We therefore propose to remove this note, and to replace it with a note directing that each hernia be separately evaluated and the evaluations combined (under the provisions of § 4.25).

Our consultants suggested evaluation levels for inguinal and femoral hernias of 80 10, and zero percent. We do not believe that this sequence of evaluation levels would allow adequate assessment of the potential disabling effects of femoral and inguinal hernias because of the very large gap between the 80- and 10-percent evaluation levels. In our judgment, some hernias would fall into a level of severity between these levels. In addition, based on our experience, including an 80-percent level is not warranted because there are very few veterans with hernias that are currently evaluated at a level higher than 30 percent. It is very unlikely that evaluations as high as 80 percent would be appropriate or necessary. For the exceptional case that might present a picture of disability more severe than is warranted under the proposed 60-percent upper limit of evaluation, 38 CFR 3.321(b)(1), which provides for extra-schedular evaluations in cases where an evaluation is inadequate because the condition presents such an unusual disability picture that applying the regular schedular standards would be impractical, provides a way to assign a higher evaluation. The consultants' suggested evaluation criteria also included subjective language such as

''moderate,'' ''mild,'' and ''small,'' and they retained the references to recurrent hernia. We have already explained why we are not basing evaluation on whether or not a hernia is recurrent. In addition, they suggested using pain as one of the criteria, but, in our judgment, the more objective criteria we are proposing would take pain, a subjective symptom, into account as part of the effects of a hernia (for example, as part of whether or not a hernia is supportable or reducible, and its size), and the more objective criteria would promote accurate and more consistent evaluations. For these reasons, we do not propose to adopt our consultants' suggestions for the evaluation of hernias.

Ventral Hernia, Postoperative (Diagnostic Code 7339)

Diagnostic code 7339 is currently titled ''Hernia, ventral, postoperative.'' We propose to retitle this diagnostic code as ''Ventral (incisional) hernia, and other abdominal hernias postoperative.'' ''Incisional'' is another term for ventral hernia, and other incisional hernias that might not be ventral (flank incisions, for example), would also be most appropriately evaluated under this diagnostic code. Ventral hernia is currently evaluated at levels of 100, 40, 20, and zero percent. A 100-percent evaluation is assigned if a ventral hernia is massive, persistent, and there is severe diastasis of recti muscles or extensive diffuse destruction or weakening of muscular and fascial support of the abdominal wall so as to be inoperable; a 40-percent evaluation if a hernia is large and not well supported by a belt under ordinary conditions; a 20-percent evaluation if a hernia is small and not well supported by a belt under ordinary conditions, or if there is a healed ventral hernia or postoperative wounds with weakening of the abdominal wall and there is an indication for a supporting belt; and a zero-percent evaluation if there are postoperative wounds that are healed, with no disability, and a belt is not indicated. These criteria contain the indefinite terms ''massive,'' ''large,'' and ''small,'' which could be interpreted differently by different people.

According to our consultants, whether or not a ventral hernia is supportable is more useful than size, which is currently used to distinguish between the 20- and 40-percent levels of disability. However, both to distinguish more clearly the levels of evaluation, and because, in our judgment, a large hernia that is not supportable is likely to interfere with activities more than a small non-supportable hernia, we propose to base evaluation in part on size, but also in part on whether or not the hernia is externally supportable. The presence of pain or incarceration (being irreducible) is also relevant to the extent of disability, according to our consultants. However, as discussed above under inguinal and femoral hernias, we consider pain to be included as part of the effects of other criteria we are proposing to use.

We propose evaluation levels of 100, 60, 30, and 10 percent for ventral hernia, instead of the current levels of 100, 40, 20, and zero percent. These levels would provide a range of evaluations appropriate to ventral hernias, and allow a clear distinction between the levels, while eliminating the large gap between 100 and 40 percent. In our opinion, some hernias would fall into the area between 100 and 40 percent levels of severity. The evaluation levels are also comparable to the proposed levels for inguinal and femoral hernia under diagnostic code 7338.

We propose to revise the criteria to make them less ambiguous and clearer for more ease of use and consistency of evaluations. For example, we propose to provide an evaluation of 100 percent for a hernia with a diameter of 30 or more centimeters, rather than employing the term ''massive''. In our judgment, a ventral hernia with a diameter of 30 centimeters (11.81 inches) or greater is a hernia of such size that it would be totally disabling if it cannot be repaired because of loss of tissue support. We also propose to remove the reference to diastasis of recti muscles because our consultants pointed out that diastasis recti is a congenital condition of the abdominal wall that is not necessarily accompanied by a hernia. We further propose to substitute ''refractory to further operative correction due to extensive loss of muscular and fascial support'' in lieu of considered ''inoperable'' to indicate that it must be the status of the hernia itself, rather than unrelated medical reasons, that makes the hernia unsuitable for surgical correction.

We therefore propose a 100-percent evaluation for a ventral hernia with both of the following: greatest diameter is 30 centimeters (11.81 inches) or more and is refractory to further operative correction due to extensive loss of muscular and fascial support. We propose a 60-percent evaluation for a ventral hernia with both of the following: greatest diameter is 20 centimeters (7.87 inches) or more and requires support but is not well supported by external devices or is not easily reducible. We propose a 30-percent evaluation for the same criteria as for a 60-percent evaluation except that it applies to a ventral hernia with greatest diameter less than 20 centimeters (7.87 inches), and a 10-percent evaluation for a ventral hernia of any size that requires support, and is supportable by external devices, and that is easily reducible. We also propose to delete the zero-percent level, with current criteria of postoperative wounds that are healed, with no disability, and a belt not indicated, since those criteria all indicate the absence of any disability and are not necessary for evaluation.

Visceroptosis

Our consultants noted that the term ''visceroptosis,'' the title of current diagnostic code 7342, is obsolete. This term was used to describe variations in positions of the organs in the body, which medical practitioners once considered to be significant. The differing positions of the organs are currently viewed as normal anatomical variations that are of no pathological significance. We therefore propose to delete diagnostic code 7342 from the schedule.

Gastroesophageal Reflux Disease (Diagnostic Code 7346)

Hiatal hernia is currently evaluated under diagnostic code 7346. According to our consultants, the most disabling manifestation of hiatal hernia is gastroesophageal reflux. To reflect this fact, we propose to change the title of diagnostic code 7346 from ''hernia hiatal'' to ''gastroesophageal reflux disease (GERD), hiatal hernia, esophagitis, lower esophageal (Schatzki's) ring.'' These conditions are closely related, and their symptoms overlap, so evaluating them under the same criteria is appropriate and would promote more consistent evaluations. The current evaluation levels are 60, 30, and 10 percent. We propose to retain these levels, and to add a zero-percent level for the sake of clarity. The current criteria under diagnostic code 7346 call for a 60-percent evaluation if there are ''symptoms of pain, vomiting, material weight loss[,] and hematemesis or melena with moderate anemia, or other symptom combinations productive of severe impairment of health;'' a 30-percent evaluation if there is persistently ''recurrent epigastric distress with dysphagia, pyrosis, and regurgitation, accompanied by substernal or arm or shoulder pain, productive of considerable impairment of health;'' and a 10-percent evaluation if there are two or more of the same symptoms as for the 30-percent evaluation, but of less severity.

These criteria rely on subjective interpretations of terms such as ''severe'' or ''considerable'' impairment of health, symptoms of ''less severity,'' and ''persistently recurrent'' symptoms and could lead to different interpretations by different individuals. We propose to remove the indefinite language and base evaluation on more objective criteria that are also more inclusive of the effects of this group of conditions than the current evaluation criteria. The proposed criteria would be based on such signs and symptoms as the presence of erosive reflux esophagitis, anemia, hemorrhage, weight loss, and pulmonary aspiration, and of certain symptoms such as pyrosis, retrosternal or arm or shoulder pain, dysphagia, and odynophagia.

We propose a 60-percent evaluation for erosive reflux esophagitis (inflammation and ulceration of the esophagus due to reflux of gastric contents into the esophagus) confirmed by endoscopy, imaging, or other laboratory procedure, with at least one of the following: anemia and substantial weight loss, one or more episodes per year of gastrointestinal hemorrhage, or two or more episodes per year of pulmonary aspiration (with bronchitis, pneumonia, or pulmonary abscess) due to regurgitation. We propose a 30-percent evaluation for confirmed erosive reflux esophagitis, with symptoms such as pyrosis (heartburn), retrosternal or arm or shoulder pain, regurgitation of gastric contents into the mouth, dysphagia (difficulty swallowing), and odynophagia (pain during swallowing) that are intractable despite treatment, or with one episode per year of pulmonary aspiration (with bronchitis, pneumonia, or pulmonary abscess) due to regurgitation. We propose a 10-percent evaluation for the same symptoms as for the 30-percent level, but that are largely controlled by continuous treatment with prescription medication; and a zero-percent evaluation for the same symptoms, but that are intermittent and that respond to dietary changes, lifestyle changes, or treatment with antacids or other nonprescription medications. In this case, we are proposing a zero-percent level because the criteria that are provided list items such as lifestyle and dietary changes that are not otherwise addressed in the criteria but that are used to treat these conditions, and it might be unclear to raters whether they warrant a zero- or a 10-percent evaluation. These criteria are in general agreement with the suggestions of our consultants, but with replacement of subjective language such as ''mild,'' ''moderate,'' and ''severe'' with more objective criteria.

We also propose to add a note directing that raters evaluate esophageal stricture, which may result from esophagitis, under the General Rating Formula for Residuals of mouth injuries (7200), Residuals of lip injuries (7201), Residuals of tongue injuries, including tongue loss (7202), Esophageal stricture (7203), Achalasia (cardiospasm) and other motor disorders of the esophagus (7204), and Esophageal diverticula (7205).

Pancreatitis, Total Pancreatectomy, and Partial Pancreatectomy (Diagnostic Code 7347)

Diagnostic code 7347, pancreatitis, is currently evaluated at levels of 100, 60, 30, or 10 percent. The criteria call for a 100-percent evaluation if there are frequently recurrent disabling attacks of abdominal pain with few pain free intermissions and with steatorrhea, malabsorption, diarrhea and severe malnutrition; a 60-percent evaluation if there are frequent attacks of abdominal pain, loss of normal body weight, and other findings showing continuous pancreatic insufficiency between acute attacks; a 30-percent evaluation if the condition is moderately severe, with at least 4–7 typical attacks of abdominal pain per year with good remission between attacks; and a 10-percent evaluation if there is at least one recurring attack of typical severe abdominal pain in the past year. We propose to evaluate pancreatitis on the basis of similar criteria, but to remove the indefinite adjectives ''frequent,'' ''severe,'' and ''moderately severe'' in favor of more objective criteria.

We propose a 100-percent evaluation if all of the following are present: daily or near-daily debilitating attacks of pancreatitis (to be defined in a note) with few pain-free intermissions; two or more signs of pancreatic insufficiency (such as steatorrhea, diabetes, malabsorption, diarrhea, and malnutrition); and unresponsive to medical treatment. We propose a 60-percent evaluation if the following is present: seven or more documented attacks of pancreatitis per year with at least one sign of pancreatic insufficiency (such as steatorrhea, diabetes, malabsorption, diarrhea, or malnutrition) between acute attacks. We propose a 30-percent evaluation if any of the following is present: three to six documented attacks of pancreatitis per year with at least one sign of pancreatic insufficiency (such as steatorrhea, diabetes, malabsorption, diarrhea, or malnutrition) between acute attacks; minimum evaluation following partial pancreatectomy, if symptomatic and requiring continuous treatment with prescription medication; or minimum evaluation following total pancreatectomy. We propose a 10-percent evaluation for one or two documented attacks of pancreatitis per year, and a zero-percent evaluation for partial pancreatectomy, if asymptomatic and not requiring continuous treatment with prescription medication. We are proposing to add the zero-percent evaluation level for asymptomatic partial pancreatectomy, since it might not be clear to raters what the evaluation would be in this case, and as recommended by our consultants.

Total pancreatectomy is disabling in that it requires the administration of pancreatic enzymes and insulin (''Textbook of Surgery'' 1096 (David C. Sabiston, Jr., M.D., ed., 14th ed. 1991)), but, according to our consultants, a partial pancreatectomy without residual symptoms and not requiring ongoing medical treatment is not disabling. These criteria are generally in accord with the suggestions of our consultants and are more objective and measurable than the current criteria. They would, therefore, promote consistent evaluations.

Including information about pancreatectomy in the criteria themselves makes the current note on that subject (note two under current diagnostic code 7347) unnecessary, and we propose to delete it. Current note one under diagnostic code 7347 states, ''Abdominal pain in this condition must be confirmed as resulting from pancreatitis by appropriate laboratory and clinical studies.'' We propose to retain that note, but to edit it, and to add a paragraph describing the signs and symptoms of an attack of pancreatitis. Note one would say that for purposes of evaluation under diagnostic code 7347, an attack of pancreatitis means abdominal pain, often very severe, and sometimes radiating through to the back, with any combination of nausea, vomiting, anorexia (lack or loss of appetite), fever, and abdominal tenderness and swelling. (Merck, 1129 and *http://digestive.niddk.nih.gov/ddiseases/pubs/pancreatitis/index.htm#acute,* National Digestive Diseases Information Clearinghouse, February 2004). These symptoms must be confirmed as resulting from pancreatitis by appropriate laboratory and clinical studies.

We propose to add a second note directing raters to evaluate complications, such as diabetes mellitus, external gastrointestinal fistula, and malabsorption, separately under an appropriate diagnostic code, as

long as the same findings are not used to support more than one evaluation.

Pyloroplasty With Vagotomy or Gastroenterostomy With Vagotomy (Diagnostic Code 7348)

Vagotomy with pyloroplasty or gastroenterostomy, diagnostic code 7348, is currently evaluated at 40, 30 or 20 percent. A 40-percent evaluation is assigned if there are demonstrably confirmative postoperative complications of stricture or continuing gastric retention; a 30-percent evaluation if there are symptoms and a confirmed diagnosis of alkaline gastritis, or of confirmed persisting diarrhea; and a 20-percent evaluation if there is recurrent ulcer with incomplete vagotomy. There is also a note directing raters to evaluate recurrent ulcer following complete vagotomy under diagnostic code 7305 (duodenal ulcer), with a minimum evaluation of 20 percent, and to rate dumping syndrome under diagnostic code 7308 (postgastrectomy syndromes). We propose to direct that this condition be evaluated as duodenal ulcer (diagnostic code 7305); gastritis (diagnostic code 7307); postgastrectomy syndromes (diagnostic code 7308); or gastric emptying disorders (diagnostic code 7309), depending upon symptoms and findings, in order to provide a wide range of objective evaluation criteria appropriate to the numerous signs and symptoms that may result from this disability, and to assure more consistent evaluations. This is in accord with recommendations by our consultants. With the directions for using this broader range of evaluation criteria, the note is not necessary, and we propose to remove it. In addition, since the major impairments from these conditions are ordinarily due to the gastric surgery, or to the combined effects of gastric surgery and vagotomy, rather than primarily due to the vagotomy, we propose to change the title to ''pyloroplasty with vagotomy or gastroenterostomy with vagotomy'' to indicate this.

Consultant-Recommended Conditions To Be Added

Our consultants suggested adding several conditions to the rating schedule—gastrointestinal hemorrhage, non-ulcerative dyspepsia, and porto-systemic shunting. Our experience has shown that these conditions do not occur commonly enough to warrant inclusion. Furthermore, the first two are signs or symptoms rather than diseases or injuries, and they may not be appropriate in the schedule for that reason. When necessary, digestive conditions not listed in the rating schedule can be evaluated under analogous codes.

Proposed Conditions To Be Added

We do propose to add four commonly occurring digestive conditions to the rating schedule: Bowel stricture, as diagnostic code 7349, colostomy or ileostomy, as diagnostic code 7350, pancreatic transplant, as diagnostic code 7352, and malabsorption syndrome, as diagnostic code 7353, as described below.

Bowel Stricture (Diagnostic Code 7349)

Currently, the only evaluation criteria in the rating schedule for stricture of the bowel are those provided under diagnostic code 7333, stricture of the rectum and anus. We are proposing to delete stricture of the rectum from diagnostic code 7333, as recommended by our consultants, and instead provide a new diagnostic code, diagnostic code 7349, ''Bowel stricture,'' for the evaluation of stricture of the bowel at any level, including the rectum. This would remove the need to evaluate a bowel stricture under an analogous code.

We propose to establish evaluation levels of 60, 30, and 10 percent for bowel strictures. These levels are the same as those we are proposing for peritoneal adhesions (Diagnostic Code 7301), and the evaluation criteria are also almost identical, because partial bowel obstruction due to peritoneal adhesions results in similar signs and symptoms as bowel stricture. We propose a 60-percent evaluation for six or more episodes per year of partial obstruction of the bowel (confirmed by an imaging procedure), with typical signs and symptoms; a 30-percent evaluation for three to five such episodes; and a 10-percent evaluation for one or two such episodes. As with peritoneal adhesions, we are proposing to add a note to list the typical signs and symptoms of bowel stricture. The note would state that they include colicky abdominal pain and at least one of the following other symptoms: Abdominal distention, borborygmi (audible rumbling bowel sounds), nausea, vomiting, and obstipation (severe constipation). These proposed criteria are specific to the condition, are objective, and are similar to criteria we are proposing to use to evaluate peritoneal adhesions, as recommended by our consultants.

Colostomy or Ileostomy (Diagnostic Code 7350)

In the current rating schedule, colostomy is mentioned only under diagnostic code 7333, stricture of the rectum and anus, where a 100-percent evaluation is assigned if a colostomy is required for that condition. Since a colostomy (an opening on the abdominal wall from the colon) may be required for many conditions, however, and is a common finding, we propose to establish a separate code, diagnostic code 7350, for the evaluation of either colostomy or ileostomy (an opening on the abdominal wall from the ileum), a related and also common condition, with evaluation criteria specific to these disabilities.

Individuals vary in the extent of disability they experience following ileostomy or colostomy. For example, following ileostomy, patients generally return to an active physical life and resume their previous work, and restriction of their activities may vary from mild to severe (Yamada, 799). Many patients with a colostomy, and some with an ileostomy, do not require a bag or appliance (Sabiston, 903; Yamada, 799). Some individuals, however, have persistent infection or other ostomy problems that may be very disabling. We therefore propose to base the evaluation on whether or not there is an ostomy complication and on whether or not the ostomy is continent.

We propose to provide evaluation levels of 100, 60, and 30 percent, in order to provide a range of appropriate evaluation levels. We propose a 100-percent evaluation for at least one ostomy complication (such as infection or signs of irritation of the peristomal area, prolapse, retraction, or stenosis) that is refractory to treatment; a 60-percent evaluation for incontinence, requiring the use of an external appliance or absorbent material; and a 30-percent evaluation if the individual is continent, with no external appliance or absorbent material required.

Pancreas Transplant (Diagnostic Code 7352)

We propose to add pancreatic transplant as diagnostic code 7352, because this surgical procedure has been developed since the current schedule went into effect and is done frequently enough to warrant inclusion. We propose a 100-percent evaluation following transplant surgery. We further propose the addition of a note explaining the requirement of a VA examination one year following hospital discharge. We propose to provide instructions to evaluate thereafter on residuals, based on the VA examination, and subject to the provisions of 38 CFR 3.105(e). Any proposed reduction would be based on the examination, and the notification process could begin only

after the examination had been reviewed. This gives the claimant current notice of any proposed action and the opportunity to present evidence showing that the proposed action should not be taken. We propose a minimum 30-percent evaluation for pancreatic transplant, because of the need for long-term immunosuppressive medication and its associated problems. The evaluation criteria we are proposing are the same as those used for kidney transplant (diagnostic code 7531) in the genitourinary section of the rating schedule, because both types of transplant require similar periods of convalescence and long-term immunosuppressive therapy following convalescence.

Malabsorption Syndrome (Diagnostic Code 7353)

Malabsorption syndrome (including celiac disease, small bowel bacterial overgrowth, Whipple's disease (intestinal lipodystrophy), and fistulous disorders) is a common syndrome that can result from a number of conditions and result in significant impairment, and we propose to add it as diagnostic code 7353, with evaluation levels of 100, 60, 30, and 10 percent. We propose a 100-percent evaluation if total parenteral (intravenous or intramuscular) nutritional support is required; a 60-percent evaluation for diarrhea, anemia, weakness, and fatigue requiring daily (oral) nutritional supplementation, plus parenteral (intravenous or intramuscular) nutrition for a total of at least 28 days per year; a 30-percent evaluation for diarrhea, weakness, and fatigue requiring daily (oral) nutritional supplementation, plus parenteral (intravenous or intramuscular) nutrition for a total of at least 14 days, but less than 28 days per year; and a 10-percent evaluation for diarrhea, weakness, and fatigue requiring daily (oral) nutritional supplementation. These are similar to the criteria proposed for small bowel resection (diagnostic code 7328) because the effects are similar. Our consultants recommended that the diagnosis of malabsorption syndrome be confirmed based on a fecal fat loss of 17mEq or greater per day. However, this is not the primary diagnostic test for every type of malabsorption syndrome, and we do not propose to require it.

Paperwork Reduction Act

This document contains no provisions constituting a collection of information under the Paperwork Reduction Act (44 U.S.C. 3501–3521).

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. This proposed rule would not affect any small entities. Only VA beneficiaries could be directly affected. Therefore, pursuant to 5 U.S.C. 605(b), this proposed rule is exempt from the initial and final regulatory flexibility analysis requirements of sections 603 and 604.

Executive Order 12866

Executive Order 12866 directs 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 Executive Order classifies a ''significant regulatory action,'' requiring review by the Office of Management and Budget (OMB), unless OMB waives such review, 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 the Executive Order.

The economic, interagency, budgetary, legal, and policy implications of this proposed rule has been examined and it has been determined to be a significant regulatory action under Executive Order 12866 because it is likely to result in a rule that may raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in the Executive Order.

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 an 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 given year. This proposed rule would have no such effect on State, local, and tribal governments, or on the private sector.

Catalog of Federal Domestic Assistance Numbers and Titles

The Catalog of Federal Domestic Assistance program numbers and titles for this proposal are 64.104, Pension for Non-Service-Connected Disability for Veterans, and 64.109, Veterans Compensation for Service-Connected Disability.

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. John R. Gingrich, Chief of Staff, Department of Veterans Affairs, approved this document on March 31, 2011, for publication.

List of Subjects in 38 CFR Part 4

Disability benefits, Pensions, Veterans.

Dated: June 20, 2011.

William F. Russo,

Deputy Director, Office of Regulation Policy & Management, Department of Veterans Affairs.

For the reasons set forth in the preamble, VA proposes to amend 38 CFR part 4, subpart B, as set forth below:

PART 4—SCHEDULE FOR RATING DISABILITIES

1. The authority citation for part 4 continues to read as follows:

Authority: 38 U.S.C. 1155, unless otherwise noted.

2. Revise § 4.110 to read as follows:

§ 4.110 Dyspepsia.

For purposes of evaluating conditions in § 4.114, ''dyspepsia'' means any combination of the following symptoms: Gnawing or burning epigastric or substernal pain that may be relieved by food (especially milk) or antacids, nausea, vomiting, anorexia (lack or loss of appetite), abdominal bloating, and belching. When there is obstruction of the outlet of the stomach (gastric outlet obstruction), dyspepsia may also include symptoms of gastroesophageal reflux (flow of stomach contents back into the esophagus), borborygmi (audible rumbling bowel sounds),

crampy pain, and obstipation (severe constipation).

§ 4.110 [Removed and Reserved]

3. Remove and reserve § 4.111.

4. In § 4.112, revise the section heading and add two sentences at the end of the paragraph to read as follows:

§ 4.112 Weight loss and malnutrition.

* * * ''Malnutrition'' means a deficiency state resulting from insufficient intake of one or multiple essential nutrients or the inability of the body to absorb, utilize, or retain such nutrients. It is characterized by failure of the body to maintain normal organ functions and healthy tissues.

5. Revise § 4.113 to read as follows:

§ 4.113 Evaluation of coexisting digestive conditions.

Separately evaluate two or more conditions in § 4.114 only if the signs and symptoms attributed to each are separable. If they are not, assign a single evaluation under the diagnostic code that best allows evaluation of the overall functional impairment resulting from both conditions.

Authority: (38 U.S.C. 1155)

6. Amend § 4.114 by:

a. Removing the introductory text.

b. Removing diagnostic codes 7315, 7316, 7317, 7318, 7321, 7322, 7337, 7340, and 7342.

c. Revising diagnostic codes 7200 through 7310, 7314 through 7339, and 7346 through 7348.

d. Adding diagnostic codes 7207, 7349, 7350, 7352, and 7353.

The revisions and additions read as follows:

§ 4.114 Schedule of ratings—Digestive system.

	Rating
7200 Residuals of mouth injuries.	
7201 Residuals of lip injuries.	
7202 Residuals of tongue injuries, including tongue loss.	
7203 Esophageal stricture.	
7204 Achalasia (cardiospasm) and other motor disorders of the esophagus (diffuse esophageal spasm, corkscrew esophagus, nutcracker esophagus, *etc.*).	
7205 Esophageal diverticula, including pharyngoesophageal (Zenker's), midesophageal, and epiphrenic types.	
General Rating Formula for:	
Residuals of mouth injuries (diagnostic code 7200),	
Residuals of lip injuries (diagnostic code 7201),	
Residuals of tongue injuries, including tongue loss (diagnostic code 7202),	
Esophageal stricture (diagnostic code 7203),	
Achalasia (cardiospasm) and other motor disorders of the esophagus (diagnostic code 7204), and	
Esophageal diverticulum (diagnostic code 7205):	
With any of the following	100
Tube feeding required;	
Diet restricted to liquid foods, with substantial weight loss, malnutrition, and anemia;	
Four or more episodes per year of pulmonary aspiration (with bronchitis, pneumonia, or pulmonary abscess) due to regurgitation or vomiting; or	
Inability to speak clearly enough to be understood.	
With any of the following	60
Diet restricted to liquid and soft solid foods, with substantial weight loss or anemia;	
Two to three episodes per year of pulmonary aspiration (with bronchitis, pneumonia, or pulmonary abscess) due to regurgitation or vomiting; or	
Inability to speak clearly enough to be understood at least half of the time but not all of the time.	
With any of the following	30
Diet restricted to liquid and soft solid foods with minor weight loss;	
Esophageal dilation carried out five or more times per year;	
Daily regurgitation or vomiting;	
One episode per year of pulmonary aspiration (with bronchitis, pneumonia, or pulmonary abscess) due to regurgitation or vomiting; or	
Inability to speak clearly enough to be understood at times, but less than half of the time;	
With any of the following	10
Diet restricted to liquid and soft solid foods;	
Esophageal dilation carried out one to four times per year;	
Heartburn (pyrosis) requiring continuous treatment with prescription medication and at least one of the following other symptoms: retrosternal chest pain, difficulty swallowing (dysphagia), or pain during swallowing (odynophagia);	
Partial tongue loss; or	
Impaired articulation for some words, but speech understandable.	
Note: Separately evaluate mouth and lip injuries under diagnostic code 7800 (Burn scar(s) of the head, face, or neck; scar(s) of the head, face, or neck due to other causes; or other disfigurement of the head, face, or neck), if applicable, and combine with an evaluation under this general rating formula, under the provisions of § 4.25..	
7207 Salivary gland (parotid, submandibular, sublingual) disease other than neoplasm:	
Xerostomia (dry mouth) with altered sensation of taste and difficulty with lubrication and mastication of food, resulting in either weight loss or increase in dental caries	20
With any of the following	10
Xerostomia (dry mouth) with altered sensation of taste and difficulty with lubrication and mastication of food, but without weight loss or increase in dental caries;	
Chronic inflammation of salivary gland with pain and swelling on eating;	
One or more salivary calculi; or	
Salivary gland stricture.	
With either of the following	0
Xerostomia (dry mouth) without difficulty in mastication of food; or	
Painless swelling of salivary gland.	

	Rating
Note (1): Evaluate facial nerve (cranial nerve VII) impairment under diagnostic code 8207 (Paralysis of seventh (facial) cranial nerve), and any disfigurement due to facial swelling under diagnostic code 7800 (Burn scar(s) of the head, face, or neck; scar(s) of the head, face, or neck due to other causes; or other disfigurement of the head, face, or neck).	
Note (2): Xerostomia (dry mouth) is a common symptom of Sjogren's syndrome, an autoimmune disorder that also causes keratoconjunctivitis sicca (dry eyes), and may affect other parts of the body. Evaluate xerostomia due to Sjogren's syndrome under diagnostic code 7207, keratoconjunctivitis sicca under the portion of the rating schedule that addresses Organs of Special Sense, and the effects of the syndrome, if any, on other body parts under appropriate diagnostic codes.	
7301 Peritoneal adhesions.	
Six or more episodes per year of partial obstruction of the bowel (confirmed by X-ray), with typical signs and symptoms	60
Three to five episodes per year of partial obstruction of the bowel (confirmed by X-ray), with typical signs and symptoms	30
One or two episodes per year of partial obstruction of the bowel (confirmed by X-ray), with typical signs and symptoms, or in the absence of such episodes, pulling pain on body movement, if not attributable to another condition	10
Note (1): Evaluation under diagnostic code 7301 requires a history of abdominal or pelvic surgery, infection, irradiation, trauma, or other known etiology for peritoneal adhesions.	
Note (2): For purposes of evaluation under diagnostic code 7301 typical signs and symptoms of partial obstruction of the bowel include colicky abdominal pain, and at least one of the following other symptoms: abdominal distention, borborygmi (audible rumbling bowel sounds), nausea, vomiting, and diarrhea.	
7304 Gastric ulcer.	
7305 Duodenal ulcer or duodenitis.	
7306 Marginal (gastrojejunal) ulcer.	
General Rating Formula for:	
Ulcer Disease (diagnostic code 7304, diagnostic code 7305, and diagnostic code 7306):	
With either of the following	100
Substantial weight loss, malnutrition, and anemia due to gastrointestinal bleeding; or	
Requiring hospitalization three or more times per year for vomiting, refractory pain, gastrointestinal bleeding, perforation, obstruction, or penetration to liver, pancreas, or colon.	
With either of the following	60
Periodic or constant dyspepsia with substantial weight loss and anemia due to gastrointestinal bleeding; or	
Hospitalization twice per year for vomiting, refractory pain, gastrointestinal bleeding, perforation, obstruction, or penetration to liver, pancreas, or colon.	
With either of the following	30
Periodic or constant dyspepsia with at least minor weight loss; or	
Hospitalization once per year for vomiting, refractory pain, gastrointestinal bleeding, perforation, obstruction, or penetration to liver, pancreas, or colon.	
Recurring dyspepsia that requires continuous treatment with prescription medication for control	10
Note: Evaluation under diagnostic codes 7304, 7305, or 7306 requires that the diagnosis of ulcer disease or duodenitis be confirmed on at least one occasion by imaging or endoscopy.	
7307 Chronic gastritis (including but not limited to erosive, hypertrophic, hemorrhagic, bile reflux, alcoholic, and drug-induced gastritis):	
With any of the following	60
Periodic or continuous dyspepsia with anemia due to gastrointestinal bleeding;	
Protein-losing gastropathy with substantial weight loss and peripheral edema; or	
Hospitalization two or more times per year for gastrointestinal bleeding, intractable vomiting, or other complication of chronic gastritis.	
With either of the following	30
Protein-losing gastropathy with at least minor weight loss; or	
Hospitalization once per year for gastrointestinal bleeding, intractable vomiting, or other complication of chronic gastritis.	
Dyspepsia that requires continuous treatment with prescription medication	10
Note (1): Evaluation under diagnostic code 7307 requires that the diagnosis of chronic gastritis be confirmed on at least one occasion by endoscopy.	
Note (2): Evaluate atrophic gastritis, which is a complication of a number of diseases, including pernicious anemia, as part of the underlying condition.	
7308 Postgastrectomy syndromes:	
Dumping syndrome that occurs after most meals, with substantial weight loss, malnutrition, and anemia	100
Dumping syndrome that occurs after most meals, with substantial weight loss and anemia	60
Dumping syndrome occurring daily or nearly so, despite treatment, with at least minor weight loss	30
Intermittent dumping syndrome (occurring at least three times a week) requiring dietary restrictions	10
Note (1): For purposes of evaluation under diagnostic code 7308, the term ''dumping syndrome'' includes symptoms that are associated with any of the following postgastrectomy syndromes: early and late types of dumping syndrome, postgastrectomy diarrhea, and alkaline reflux gastritis. These symptoms include any combination of weakness, dizziness, lightheadedness, diaphoresis (sweating), palpitations, tachycardia, postural hypotension, confusion, syncope (fainting), nausea, vomiting (often with bile), diarrhea, steatorrhea (fatty stools), borborygmi (audible rumbling bowel sounds), abdominal pain, anorexia (lack or loss of appetite), abdominal bloating, and belching. Symptoms may occur immediately after eating or up to three hours later.	
Note (2): Separately evaluate complications, such as osteomalacia, under an appropriate diagnostic code.	
7309 Gastric emptying disorders (including gastroparesis (delayed gastric emptying), and pyloric, gastric, and other motility disturbances):	
Daily or near-daily signs and symptoms with substantial weight loss and malnutrition	100
Periodic or daily or near-daily signs and symptoms with substantial weight loss	60
Periodic signs and symptoms with minor weight loss	30
Periodic signs and symptoms, without weight loss, but requiring continuous treatment with prescription medication	10
Note: For purposes of evaluation under diagnostic code 7309, the signs and symptoms of gastric emptying disorders include epigastric pain or fullness and at least one of the following other symptoms: anorexia (lack or loss of appetite), nausea, vomiting, gastroesophageal reflux, early satiety (feeling that hunger and thirst are satisfied), and abdominal bloating.	
7310 Residuals of injury of the stomach:	

	Rating
Evaluate as peritoneal adhesions (diagnostic code 7301), or, if the injury required a gastric resection, as postgastrectomy syndromes (diagnostic code 7308).	
* * * * * * *	
7314 Biliary tract disease or injury (chronic cholecystitis, cholelithiasis, choledocholithiasis, chronic cholangitis, status post-cholecystectomy, gall bladder or bile duct injury, biliary dyskinesia, cholesterolosis, polyps of gall bladder, sclerosing cholangitis, stricture or infection of the bile ducts, choledochal cyst):	
With any of the following	100
Near-constant debilitating attacks of biliary tract disease or injury that are refractory to medical or surgical treatment; Liver failure; or Hospitalization three or more times per year for biliary tract disease or injury.	
With either of the following	60
Six or more attacks of biliary tract disease or injury per year, partially responsive to treatment; or Hospitalization two times per year for biliary tract disease or injury.	
With either of the following	30
Three to five attacks of biliary tract disease or injury per year; or Hospitalization once per year for biliary tract disease or injury.	
With either of the following	10
One or two attacks of biliary tract disease or injury per year; or Intermittent biliary tract pain occurring at least monthly, despite medical treatment.	
Note (1): For purposes of evaluation under diagnostic code 7314, attacks of biliary tract disease or injury include any combination of such signs and symptoms as abdominal pain (including biliary colic), dyspepsia, jaundice, anorexia (lack or loss of appetite), nausea, vomiting, chills, and fever.	
Note (2): Evaluation under diagnostic code 7314 requires that the diagnosis of any of these conditions be confirmed by X-ray or other imaging procedure, laboratory findings, or other objective evidence.	
Note (3): Separately evaluate peritoneal adhesions (diagnostic code 7301), if applicable, and combine (under the provisions of § 4.25) with an evaluation under diagnostic code 7314, as long as the same findings are not used to support more than one evaluation (see § 4.14).	
Note (4): Evaluate the cirrhotic phase of sclerosing cholangitis under diagnostic code 7312 (cirrhosis of the liver).	
7319 Irritable bowel syndrome (irritable colon, spastic colitis, mucous colitis):	
Daily or near-daily disturbances of bowel function (diarrhea, or alternating diarrhea and constipation), bloating, and abdominal cramping or pain, refractory to medical treatment	30
Disturbances of bowel function (diarrhea, or alternating diarrhea and constipation), bloating, and abdominal cramping or pain that occur three or more times a month and that respond partially to medical treatment	10
7323 Ulcerative colitis:	
With either of the following	100
Malnutrition, substantial weight loss, anemia, and general debility with multiple attacks of colitis per year, with bloody diarrhea, abdominal or rectal pain, fever, and malaise. Hospitalization three or more times per year for complications such as hemorrhage, dehydration, obstruction, fulminant (sudden and intense) colitis, toxic megacolon (a severe distention of the colon that can be life threatening), or perforation.	
With either of the following	60
Substantial weight loss and anemia, with multiple attacks of colitis per year, with bloody diarrhea, abdominal or rectal pain, fever, and malaise; or Hospitalization two times per year for complications such as hemorrhage, dehydration, obstruction, fulminant (sudden and intense) colitis, toxic megacolon (a severe distention of the colon that can be life threatening), or perforation.	
With either of the following	30
Three or more attacks of colitis (each lasting 5 or more days) per year, with diarrhea with blood, pus, or mucus, and abdominal or rectal pain; or Hospitalization one time per year for complications such as hemorrhage, dehydration, obstruction, fulminant (sudden and intense) colitis, toxic megacolon (a severe distention of the colon that can be life threatening), or perforation.	
With either of the following	10
One or two attacks of colitis (each lasting 5 or more days) per year with diarrhea with blood, pus, or mucus, and abdominal or rectal pain; or Continuous treatment with prescription medication either to control symptoms or to maintain remission.	
Note (1): Separately evaluate other complications, such as uveitis, ankylosing spondylitis, and sclerosing cholangitis, under an appropriate diagnostic code.	
Note (2): If there has been a colon resection, evaluate under diagnostic codes 7350 (colostomy or ileostomy) and 7329 (resection of large intestine), as applicable, and combine the evaluations under the provisions of § 4.25, as long as the same findings are not used to support more than one evaluation (see § 4.14).	
7324 Parasitic infections of the intestinal tract:	
Daily diarrhea (occurring more than three times per day) and abdominal pain, with at least minor weight loss	30
Diarrhea and abdominal pain requiring continuous treatment with prescription medication for control	10
Note: If malabsorption is present, evaluate instead under diagnostic code 7353 (malabsorption syndrome), if doing so would result in a higher evaluation.	
7325 Chronic diarrhea of unknown etiology:	
Five or more watery bowel movements occurring daily, refractory to medical treatment, and with three or more episodes per year of fluid and electrolyte imbalance requiring parenteral (intravenous or intramuscular) hydration	60
Five or more watery bowel movements occurring daily, partially responsive to medical treatment, and with one or two episodes per year of fluid and electrolyte imbalance requiring parenteral (intravenous or intramuscular) hydration	30
Requiring continuous treatment with prescription medication for control	10
7326 Crohn's disease:	
With either of the following	100
Multiple attacks or flareups of Crohn's disease per year with abdominal pain or tenderness, diarrhea, fever, anorexia (lack or loss of appetite), and fatigue plus malnutrition, substantial weight loss, hypoalbuminemia, and anemia; or	

	Rating
Hospitalization three or more times per year for complications such as abscess, stricture, obstruction, or fistula.	
With any of the following	60
Multiple attacks or flareups of Crohn's disease per year with abdominal pain or tenderness, diarrhea, fever, anorexia (lack or loss of appetite), and fatigue plus substantial weight loss and anemia;	
Hospitalization two times per year for recurrent complications such as abscess, stricture, obstruction, or fistula; or	
Constant or near-constant treatment with high dose systemic (oral or parenteral [intravenous or intramuscular]) corticosteroids.	
With any of the following	30
Three or more attacks or flareups of Crohn's disease per year with abdominal pain or tenderness, diarrhea, fever, anorexia (lack or loss of appetite), and fatigue, plus at least minor weight loss;	
Hospitalization one time per year for complications such as abscess, stricture, obstruction, or fistula; or	
Three or more (but not constant) courses of treatment per year with high dose systemic (oral or parenteral [intravenous or intramuscular]) corticosteroids.	
With any of the following	10
One or two attacks or flareups of Crohn's disease per year with abdominal pain or tenderness, diarrhea, and fever;	
One or two courses of treatment per year with high dose systemic (oral or parenteral [intravenous or intramuscular]) corticosteroids;	
Continuous treatment with prescription medication other than high dose systemic (oral or parenteral [intravenous or intramuscular]) corticosteroids.	
Note (1): Separately evaluate complications, such as external gastrointestinal fistula, arthritis, episcleritis (inflammation of the outer layers of the sclera of the eye), *etc.,* under an appropriate diagnostic code as long as the same findings are not used to support more than one evaluation (see § 4.14).	
Note (2): Evaluate under diagnostic code 7350 (colostomy or ileostomy) if an ostomy is present, and under diagnostic code 7328 (resection of the small intestine) or 7329 (resection of large intestine), if applicable, as long as the same findings are not used to support more than one evaluation (see § 4.14).	
7327 Diverticulitis:	
With either of the following	100
Near-constant signs and symptoms of diverticulitis, with abdominal pain and tenderness, fever, and irregular defecation (constipation, diarrhea, or alternating constipation and diarrhea); or	
Hospitalization at least three times per year for complications such as abscess, perforation, obstruction, or fistula.	
With any of the following	60
Six or more attacks of diverticulitis per year with abdominal pain and tenderness, fever, and irregular defecation (constipation, diarrhea, or alternating constipation and diarrhea), requiring outpatient treatment with a course of antibiotics, bed rest, and a liquid diet;	
Hospitalization two times per year for complications such as abscess, perforation, obstruction, or fistula; or	
Hospitalization three or more times per year for acute diverticulitis requiring intravenous antibiotics.	
With any of the following	30
Three to five attacks of diverticulitis per year with abdominal pain and tenderness, fever, and irregular defecation (constipation, diarrhea, or alternating constipation and diarrhea), requiring outpatient treatment with a course of antibiotics, bed rest, and a liquid diet;	
Hospitalization one time per year for complications such as abscess, perforation, obstruction, or fistula; or	
Hospitalization once or twice per year for acute diverticulitis requiring intravenous antibiotics.	
With one or two attacks of diverticulitis per year with abdominal pain and tenderness, fever, and irregular defecation (constipation, diarrhea, or alternating constipation and diarrhea), requiring a course of antibiotics	10
Note: Evaluate under diagnostic code 7350 (colostomy or ileostomy) if an ostomy is present, and under diagnostic code 7329 (resection of large intestine), if applicable, as long as the same findings are not used to support more than one evaluation (see § 4.14).	
7328 Resection of small intestine:	
Requiring total parenteral (intravenous or intramuscular) nutritional support	100
Diarrhea, weakness, fatigue, abdominal cramps, and bloating, with anemia, requiring daily (oral) nutritional supplementation, plus parenteral (intravenous or intramuscular) nutrition for a total of at least 28 days per year	60
Diarrhea, weakness, fatigue, abdominal cramps, and bloating requiring daily (oral) nutritional supplementation, plus parenteral (intravenous or intramuscular) nutrition for a total of at least 14 days, but less than 28 days per year	30
Diarrhea, weakness, fatigue, abdominal cramps, and bloating requiring daily (oral) nutritional supplementation	10
Note: Separately evaluate peritoneal adhesions (diagnostic code 7301), if applicable, as long as the same findings are not used to support an evaluation both under diagnostic code 7301 and under diagnostic code 7328 (see § 4.14).	
7329 Resection of large intestine:	
Multiple daily episodes of diarrhea and abdominal pain that are refractory to treatment, plus at least two hospitalizations per year for complications such as obstruction, fistula, or abscess	100
Multiple attacks of diarrhea and abdominal pain per year requiring medical treatment, plus at least one hospitalization per year for complications such as obstruction, fistula, or abscess	60
Four or more attacks of diarrhea and abdominal pain per year requiring medical treatment	30
Two or three attacks of diarrhea and abdominal pain per year requiring medical treatment	10
Note (1): Separately evaluate peritoneal adhesions (diagnostic code 7301), if applicable, and combine (under the provisions of § 4.25) with an evaluation under diagnostic code 7329, as long as the same findings are not used to support more than one evaluation (see § 4.14).	
Note (2): Evaluate under diagnostic code 7350 (colostomy or ileostomy), if applicable, and combine (under the provisions of § 4.25) with an evaluation under diagnostic code 7329, as long as the same findings are not used to support more than one evaluation (see § 4.14).	
7330 External gastrointestinal fistula (including biliary, pancreatic, esophageal, gastric, and intestinal fistulas):	
Constant or near-constant copious discharge that cannot be contained, and with any of the following	100
Requiring total parenteral (intravenous or intramuscular) nutritional support;	
Malnutrition;	
Seven or more episodes per year of fluid and electrolyte imbalance requiring parenteral (intravenous or intramuscular) hydration; or	

	Rating
Two or more episodes per year of sepsis (a serious and sometimes life-threatening infection with a widespread inflammatory response).	
Constant or near-constant, copious discharge that cannot be contained, and with any of the following	60
Persistent skin breakdown, despite treatment;	
Five or six episodes per year of fluid and electrolyte imbalance requiring parenteral (intravenous or intramuscular) hydration; or	
One episode per year of sepsis (a serious and sometimes life-threatening infection with a widespread inflammatory response).	
Constant or intermittent discharge with either of the following	30
Six or more episodes per year of skin breakdown that require treatment; or	
Two to four episodes per year of fluid and electrolyte imbalance requiring parenteral (intravenous or intramuscular) hydration.	
Constant or intermittent discharge with either of the following	10
At least two, but less than six, episodes per year of skin breakdown requiring treatment;	
One episode per year of fluid and electrolyte imbalance requiring parenteral (intravenous or intramuscular) hydration.	
Note: Evaluate internal gastrointestinal fistulas (fistulas that drain from one area of the gastrointestinal tract to another) under the criteria for malabsorption (diagnostic code 7353) or other appropriate condition, depending on the particular findings.	
7331 Tuberculous peritonitis:	
Active	100
Inactive: Evaluate in accordance with §§ 4.88c or 4.89, whichever is applicable.	
7332 Impaired control of the anal sphincter (anal incontinence):	
Complete inability to control solid and liquid feces	100
Daily fecal soiling and complete inability to control liquid feces	60
Fecal soiling that, although less than daily, is frequent enough or extensive enough to require daily wearing of absorbent material	30
Fecal soiling that is intermittent, and not frequent enough or extensive enough to require daily wearing of absorbent material	10
Note: Evaluate under diagnostic code 7350 (colostomy or ileostomy), if an ostomy is present.	
7333 Stricture of the anus:	
Inability to open or completely close the anus, with complete inability to control liquid or solid feces	100
Reduction of the lumen by at least 50 percent, with pain and prolonged straining during defecation, and complete inability to control liquid feces	60
Reduction of the lumen, but by less than 50 percent, with straining during defecation, and fecal incontinence that requires daily wearing of absorbent material	30
Reduction of the lumen, with fecal soiling that is not frequent enough or extensive enough to require daily wearing of absorbent material	10
Note: Evaluate under diagnostic code 7350 (colostomy or ileostomy), if an ostomy is present.	
7334 Prolapse of rectum:	
Persistent prolapse with complete inability to control liquid or solid feces	100
Intermittent prolapse (occurring three or more times weekly): with complete inability to control liquid or solid feces during periods of prolapse	60
Intermittent prolapse (occurring three or more times weekly): without complete inability to control liquid or solid feces during periods of prolapse, but with difficulty in bowel evacuation and fecal soiling that is frequent enough or extensive enough to require daily wearing of absorbent material	30
Intermittent prolapse with difficulty in bowel evacuation and fecal soiling that is not frequent enough or extensive enough to require daily wearing of absorbent material	10
7335 Fistula in ano (anorectal fistula, anorectal abscess):	
Constant or near-constant abscesses with drainage and pain, refractory to medical and surgical treatment	100
Four or more abscesses (each lasting a week or more) per year with drainage and pain	60
Three or more abscesses (each lasting less than a week) per year with drainage and pain	30
One or two abscesses (each lasting less than a week) per year with drainage and pain, or; fistula with pain and discharge but without associated abscesses	10
7336 Hemorrhoids:	
With either of the following	20
Persistent bleeding with anemia; or	
Permanently prolapsed internal hemorrhoids with three or more episodes per year of thrombosis.	
With either of the following	10
Permanently or intermittently prolapsed internal hemorrhoids with one or two episodes per year of thrombosis; or	
External hemorrhoids with three or more episodes per year of Thrombosis.	
7338 Hernia, inguinal or femoral (both post-operative recurrent and non-operated):	
Hernia with all of the following	60
Greatest diameter is 15 centimeters (5.91 inches) or more;	
Cannot be corrected by surgery; and	
Requires support but is not well supported by external devices or is not easily reducible.	
Hernia with all of the following	30
Greatest diameter is less than 15 centimeters (5.91 inches);	
Cannot be corrected by surgery; and	
Requires support but is not well supported by external devices or is not easily reducible.	
Hernia with all of the following	10
Of any size;	
Can be corrected by surgery;	
Requires support and is supportable by external devices; and	
Easily reducible.	
Note: If there are bilateral hernias, evaluate each hernia separately, and combine (under the provisions of § 4.25).	
7339 Ventral (incisional) hernia, and other abdominal hernias postoperative:	
Hernia with both of the following	100
Greatest diameter is 30 centimeters (11.81 inches) or more; and	
Refractory to further operative correction due to extensive loss of muscular and fascial support.	

	Rating
Hernia with both of the following	60
Greatest diameter is 20 centimeters (7.87 inches) or more; and Requires support but is not well supported by external devices or not easily reducible.	
Hernia with both of the following	30
Greatest diameter is less than 20 centimeters (7.87 inches); and Requires support but is not well supported by external devices or not easily reducible.	
Hernia with all of the following	10
Of any size; Requires support and is supportable by external devices; and Easily reducible.	
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7346 Gastroesophageal reflux disease (GERD), hiatal hernia, esophagitis, lower esophageal (Schatzki's) ring:	
Erosive reflux esophagitis (inflammation and ulceration of the esophagus due to reflux of gastric contents into the esophagus) confirmed by endoscopy, imaging, or other laboratory procedure, with at least one of the following	60
Anemia and substantial weight loss; One or more episodes per year of gastrointestinal hemorrhage; or Two or more episodes per year of pulmonary aspiration (with bronchitis, pneumonia, or pulmonary abscess) due to regurgitation.	
Erosive reflux esophagitis (inflammation and ulceration of the esophagus due to reflux of gastric contents into the esophagus) confirmed by endoscopy, imaging, or other laboratory procedure, with either of the following	30
Symptoms such as pyrosis (heartburn), retrosternal or arm or shoulder pain, regurgitation of gastric contents into the mouth, dysphagia (difficulty swallowing), and odynophagia (pain during swallowing) that are intractable despite treatment; or One episode per year of pulmonary aspiration (with bronchitis, pneumonia, or pulmonary abscess) due to regurgitation.	
Symptoms such as pyrosis (heartburn), retrosternal or arm or shoulder pain, regurgitation of gastric contents into the mouth, dysphagia (difficulty swallowing), and odynophagia (pain during swallowing) that are largely controlled by continuous treatment with prescription medication	10
Intermittent symptoms such as pyrosis (heartburn), retrosternal or arm or shoulder pain, regurgitation of gastric contents into the mouth, dysphagia (difficulty swallowing), and odynophagia (pain during swallowing) that respond to dietary changes, lifestyle changes, or treatment with antacids or other nonprescription medications	0
Note: Evaluate esophageal strictures under the General Rating Formula for Residuals of mouth injuries (7200), Residuals of lip injuries (7201), Residuals of tongue injuries, including tongue loss (7202), Esophageal stricture (7203), Achalasia (cardiospasm) and other motor disorders of the esophagus (7204), and Esophageal diverticula (7205).	
7347 Pancreatitis, total pancreatectomy, and partial pancreatectomy:	
With all of the following	100
Daily or near-daily debilitating attacks of pancreatitis with few pain-free intermissions; Two or more signs of pancreatic insufficiency (such as steatorrhea, diabetes, malabsorption, diarrhea, and malnutrition); and Unresponsive to medical treatment.	
With the following	60
Seven or more documented attacks of pancreatitis per year with at least one sign of pancreatic insufficiency (such as steatorrhea, diabetes, malabsorption, diarrhea, or malnutrition) between acute attacks.	
With any of the following	30
Three to six documented attacks of pancreatitis per year with at least one sign of pancreatic insufficiency (such as steatorrhea, diabetes, malabsorption, diarrhea, or malnutrition) between acute attacks; Minimum evaluation following partial pancreatectomy, if symptomatic and requiring continuous treatment with prescription medication; or Minimum evaluation following total pancreatectomy.	
One or two documented attacks of pancreatitis per year	10
Partial pancreatectomy, if asymptomatic and not requiring continuous treatment with prescription medication	0
Note (1): For purposes of evaluation under diagnostic code 7347, an attack of pancreatitis means abdominal pain, often very severe, and sometimes radiating through to the back, with any combination of nausea, vomiting, anorexia (lack or loss of appetite), fever, and abdominal tenderness and swelling. Evaluation under diagnostic code 7347 requires that the attacks of abdominal pain and other symptoms be confirmed by appropriate laboratory and clinical studies as resulting from pancreatitis	
Note (2): Separately evaluate complications, such as diabetes mellitus, external gastrointestinal fistula, and malabsorption, as long as the same findings are not used to support more than one evaluation (see § 4.14).	
7348 Pyloroplasty with vagotomy or gastroenterostomy with vagotomy: Depending upon symptoms and findings, evaluate as: duodenal ulcer (diagnostic code 7305); gastritis (diagnostic code 7307); postgastrectomy syndromes (diagnostic code 7308); or gastric emptying disorders (diagnostic code 7309).	
7349 Bowel stricture:	
Six or more episodes per year of partial obstruction of the bowel (confirmed by an imaging procedure), with typical signs and symptoms	60
Three to five episodes per year of partial obstruction of the bowel (confirmed by an imaging procedure), with typical signs and symptoms	30
One or two episodes per year of partial obstruction of the bowel (confirmed by an imaging procedure), with typical signs and symptoms	10
Note: For purposes of evaluation under diagnostic code 7349, typical signs and symptoms of bowel stricture include colicky abdominal pain, and at least one of the following other symptoms: abdominal distention, borborygmi (audible rumbling bowel sounds), nausea, vomiting, and obstipation (severe constipation).	
7350 Colostomy or ileostomy:	
With at least one ostomy complication (such as infection or signs of irritation of the peristomal area, prolapse, retraction, or stenosis) that is refractory to treatment	100
Incontinent, requiring the use of an external appliance or absorbent material	60
Continent, not requiring external appliance or absorbent material	30

	Rating
* * * * * * *	
7352 Pancreas transplant:	
Following transplant surgery	100
Thereafter, evaluate on residuals. Minimum evaluation 30 percent.	
Note: The 100 percent rating shall be assigned as of the date of hospital admission for transplant surgery and shall continue with a mandatory VA examination one year following hospital discharge. Any change in evaluation shall be subject to the provisions of § 3.105(e) of this chapter.	
7353 Malabsorption syndrome (including celiac disease, small bowel bacterial overgrowth, Whipple's disease (intestinal lipodystrophy), and fistulous disorders):	
Requiring total parenteral (intravenous or intramuscular) nutritional support	100
Diarrhea, anemia, weakness, and fatigue requiring daily (oral) nutritional supplementation, plus parenteral (intravenous or intramuscular) nutrition for a total of at least 28 days per year	60
Diarrhea, weakness, and fatigue requiring daily (oral) nutritional supplementation plus parenteral (intravenous or intramuscular) nutrition for a total of at least 14 days, but less than 28 days per year	30
Diarrhea, weakness, and fatigue requiring daily (oral) nutritional supplementation	10
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Part III

Department of the Interior

Fish and Wildlife Service

50 CFR Part 32
2011–2012 Refuge-Specific Hunting and Sport Fishing Regulations; Proposed Rule

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 32

[Docket No. FWS–R9–NSR–2011–0038; 93270–1265–0000–4A]

RIN 1018–AX54

2011–2012 Refuge-Specific Hunting and Sport Fishing Regulations

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule.

SUMMARY: The Fish and Wildlife Service proposes to add one refuge to the list of areas open for hunting and/or sport fishing and increase the activities available at nine other refuges, along with pertinent refuge-specific regulations on other refuges that pertain to migratory game bird hunting, upland game hunting, big game hunting, and sport fishing for the 2011–2012 season.

DATES: We will accept comments received or postmarked on or before August 4, 2011.

ADDRESSES: You may submit comments by one of the following methods:

- *Electronically:* Go to the Federal eRulemaking Portal: *http://www.regulations.gov*. In the Enter Keyword or ID box, enter Docket No. FWS–R9–NSR–2011–0038, which is the docket number for this rulemaking. Then, click on the Search button. On the resulting screen, find the correct document and submit a comment by clicking on ''Submit a Comment.''
- *By hard copy:* Submit by U.S. mail or hand delivery: Public Comments Processing, Attn: FWS–R9–NSR–2011–0038; Division of Policy and Directives Management; U.S. Fish and Wildlife Service; 4401 N. Fairfax Drive, MS 2042–PDM; Arlington, VA 22203.

We will not accept e-mail or faxes. We will post all comments on *http://www.regulations.gov*. This generally means that we will post any personal information you provide us (see the Request for Comments section below for more information). For information on specific refuges' public use programs and the conditions that apply to them or for copies of compatibility determinations for any refuge(s), contact individual programs at the addresses/phone numbers given in ''Available Information for Specific Refuges'' under **SUPPLEMENTARY INFORMATION**

FOR FURTHER INFORMATION CONTACT: Leslie A. Marler, (703) 358–2397.

SUPPLEMENTARY INFORMATION: The National Wildlife Refuge System Administration Act of 1966 closes national wildlife refuges in all States except Alaska to all uses until opened. The Secretary of the Interior (Secretary) may open refuge areas to any use, including hunting and/or sport fishing, upon a determination that such uses are compatible with the purposes of the refuge and National Wildlife Refuge System (Refuge System or our/we) mission. The action also must be in accordance with provisions of all laws applicable to the areas, developed in coordination with the appropriate State fish and wildlife agency(ies), consistent with the principles of sound fish and wildlife management and administration, and otherwise in the public interest. These requirements ensure that we maintain the biological integrity, diversity, and environmental health of the Refuge System for the benefit of present and future generations of Americans.

We annually review refuge hunting and sport fishing programs to determine whether to include additional refuges or whether individual refuge regulations governing existing programs need modifications. Changing environmental conditions, State and Federal regulations, and other factors affecting fish and wildlife populations and habitat may warrant modifications to refuge-specific regulations to ensure the continued compatibility of hunting and sport fishing programs and to ensure that these programs will not materially interfere with or detract from the fulfillment of refuge purposes or the Refuge System's mission.

Provisions governing hunting and sport fishing on refuges are in title 50 of the Code of Federal Regulations in part 32 (50 CFR part 32). We regulate hunting and sport fishing on refuges to:

- Ensure compatibility with refuge purpose(s);
- Properly manage the fish and wildlife resource(s);
- Protect other refuge values;
- Ensure refuge visitor safety; and
- Provide opportunities for quality fish- and wildlife-dependent recreation.

On many refuges where we decide to allow hunting and sport fishing, our general policy of adopting regulations identical to State hunting and sport fishing regulations is adequate in meeting these objectives. On other refuges, we must supplement State regulations with more-restrictive Federal regulations to ensure that we meet our management responsibilities, as outlined in the ''Statutory Authority'' section. We issue refuge-specific hunting and sport fishing regulations when we open wildlife refuges to migratory game bird hunting, upland game hunting, big game hunting, or sport fishing. These regulations list the wildlife species that you may hunt or fish, seasons, bag or creel (container for carrying fish) limits, methods of hunting or sport fishing, descriptions of areas open to hunting or sport fishing, and other provisions as appropriate. You may find previously issued refuge-specific regulations for hunting and sport fishing in 50 CFR part 32. In this rulemaking, we are also proposing to standardize and clarify the language of existing regulations.

Statutory Authority

The National Wildlife Refuge System Administration Act of 1966 (16 U.S.C. 668dd–668ee, as amended by the National Wildlife Refuge System Improvement Act of 1997 [Improvement Act]) (Administration Act), and the Refuge Recreation Act of 1962 (16 U.S.C. 460k–460k–4) (Recreation Act) govern the administration and public use of refuges.

Amendments enacted by the Improvement Act, built upon the Administration Act in a manner that provides an ''organic act'' for the Refuge System, are similar to those that exist for other public Federal lands. The Improvement Act serves to ensure that we effectively manage the Refuge System as a national network of lands, waters, and interests for the protection and conservation of our Nation's wildlife resources. The Administration Act states first and foremost that we focus our Refuge System mission on conservation of fish, wildlife, and plant resources and their habitats. The Improvement Act requires the Secretary, before allowing a new use of a refuge, or before expanding, renewing, or extending an existing use of a refuge, to determine that the use is compatible with the purpose for which the refuge was established and the mission of the Refuge System. The Improvement Act established as the policy of the United States that wildlife-dependent recreation, when compatible, is a legitimate and appropriate public use of the Refuge System, through which the American public can develop an appreciation for fish and wildlife. The Improvement Act established six wildlife-dependent recreational uses as the priority general public uses of the Refuge System. These uses are: Hunting, fishing, wildlife observation and photography, and environmental education and interpretation.

The Recreation Act authorizes the Secretary to administer areas within the Refuge System for public recreation as an appropriate incidental or secondary use only to the extent that doing so is practicable and not inconsistent with

the primary purpose(s) for which Congress and the Service established the areas. The Recreation Act requires that any recreational use of refuge lands be compatible with the primary purpose(s) for which we established the refuge and not inconsistent with other previously authorized operations.

The Administration Act and Recreation Act also authorize the Secretary to issue regulations to carry out the purposes of the Acts and regulate uses.

We develop specific management plans for each refuge prior to opening it to hunting or sport fishing. In many cases, we develop refuge-specific regulations to ensure the compatibility of the programs with the purpose(s) for which we established the refuge and the Refuge System mission. We ensure initial compliance with the Administration Act and the Recreation Act for hunting and sport fishing on newly acquired refuges through an interim determination of compatibility made at or near the time of acquisition. These regulations ensure that we make the determinations required by these acts prior to adding refuges to the lists of areas open to hunting and sport fishing in 50 CFR part 32. We ensure continued compliance by the development of comprehensive conservation plans, specific plans, and by annual review of hunting and sport fishing programs and regulations.

Amendments to Existing Regulations

This document proposes to codify in the Code of Federal Regulations all of the Service's hunting and/or sport fishing regulations that are applicable at Refuge System units previously opened to hunting and/or sport fishing. We are doing this to better inform the general public of the regulations at each refuge, to increase understanding and compliance with these regulations, and to make enforcement of these regulations more efficient. In addition to now finding these regulations in 50 CFR part 32, visitors to our refuges will usually find them reiterated in literature distributed by each refuge or posted on signs.

We have cross-referenced a number of existing regulations in 50 CFR parts 26, 27, 28, and 32 to assist hunting and sport fishing visitors with understanding safety and other legal requirements on refuges. The redundancy is deliberate, with the intention of improving safety and compliance in our hunting and sport fishing programs.

TABLE 1—CHANGES FOR 2011–2012 HUNTING/FISHING SEASON

National wildlife refuge	State	Migratory bird hunting	Upland game hunting	Big game hunting	Fishing
Arapaho	CO	Already open	Already open	D (elk)	Already open.
Bayou Sauvage	LA	B	Closed	Closed	Already open.
Coldwater River	MS	B	B	B	Already open.
Crane Meadows	MN	Closed	Closed	A (deer/turkey)	Closed.
Currituck	NC	Already open	Closed	B	Closed.
Minnesota Valley	MN	C	C	C	Already open.
Northern Tallgrass Prairie	MN/IA	C/D	C/D	C	Closed.
Ouray	UT	Already open	D (turkey)	D (elk)	Already open.
Sherburne	MN	C	Already open	D (turkey)/C	Already open.
Trinity River	TX	Already open	C	C	Already open.

A = New refuge opened.
B = New activity on a refuge previously opened to other activities.
C = Refuge already open to activity but added new land/waters which increased activity.
D = Refuge already open to activity but added new species to hunt.

We are making an administrative change that correctly reflects that Trempealeau National Wildlife Refuge in the State of Wisconsin is closed to Upland Game Hunting. The refuge has never been open to that activity, and we are correcting the record with this change.

We are also adding Tishomingo Wildlife Management Unit in the State of Oklahoma to the list of refuges open to hunting and or fishing in 50 CFR part 32. We now correctly reflect how Tishomingo National Wildlife Refuge's (an overlay refuge where the land is owned by the U.S. Army Corps of Engineers) hunting opportunities differ from those of the Tishomingo Wildlife Management Unit. The Tishomingo National Wildlife Refuge, managed by refuge staff, is open only to big game hunting and sport fishing. The Tishomingo Wildlife Management Unit, managed by the Oklahoma Wildlife Conservation Department under a 1957 agreement entered into between the U.S. Army Corps of Engineers and the Secretary of the Interior, is open to all three hunting opportunities (migratory game bird, upland game, and big game) and sport fishing.

The changes for the 2011–12 hunting/fishing season noted in the chart above are each based on a complete administrative record which, among other detailed documentation, also includes a hunt plan, a compatibility determination, and the appropriate National Environmental Policy Act (NEPA; 42 U.S.C. 4321 *et seq.*) analysis, all of which were the subject of a public review and comment process. These documents are available upon request.

Fish Advisory

For health reasons, anglers should review and follow State-issued consumption advisories before enjoying recreational sport fishing opportunities on Service-managed waters. You can find information about current fish consumption advisories on the Internet at: *http://www.epa.gov/waterscience/fish/*.

Plain Language Mandate

In this proposed rule we made some of the revisions to the individual refuge units to comply with a Presidential mandate to use plain language in regulations; as such, these particular revisions do not modify the substance of the previous regulations. These types of changes include using ''you'' to refer to the reader and ''we'' to refer to the Refuge System, using the word ''allow'' instead of ''permit'' when we do not require the use of a permit for an activity, and using active voice (*i.e.,* ''We restrict entry into the refuge'' vs. ''Entry into the refuge is restricted'').

Request for Comments

You may submit comment and materials on this proposed rule by any one of the methods listed in the **ADDRESSES** section. We will not accept comments sent by e-mail or fax or to an address not listed in the **ADDRESSES** section. We will not consider hand-delivered comments that we do not receive, or mailed comments that are

not postmarked, by the date specified in the **DATES** section.

We will post your entire comment on *http://www.regulations.gov*. Before including 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. We will post all hardcopy comments on *http://www.regulations.gov.*

Public Comment

Department of the Interior policy is, whenever practicable, to afford the public a meaningful opportunity to participate in the rulemaking process. The process of opening refuges is done in stages, with the fundamental work being performed on the ground at the refuge and in the community where the program is administered. In these stages, the public is given other opportunities to comment, for example, on the comprehensive conservation plans and the compatibility determinations. The second stage is this document, when we publish the proposed rule in the **Federal Register** for additional comment, commonly for a 30-day comment period.

There is nothing contained in this annual regulation outside the scope of the annual review process where we determine whether individual refuges need modifications, deletions, or additions made to them. We make every attempt to collect all of the proposals from the refuges nationwide and process them expeditiously to maximize the time available for public review. We believe that a 30-day comment period, through the broader publication following the earlier public involvement, gives the public sufficient time to comment and allows us to establish hunting and fishing programs in time for the upcoming seasons. Many of these rules also relieve restrictions and allow the public to participate in recreational activities on a number of refuges. In addition, in order to continue to provide for previously authorized hunting opportunities while at the same time providing for adequate resource protection, we must be timely in providing modifications to certain hunting programs on some refuges.

We considered providing a 60-day, rather than a 30-day, comment period. However, we determined that an additional 30-day delay in processing these refuge-specific hunting and sport fishing regulations would hinder the effective planning and administration of our hunting and sport fishing programs. Such a delay would jeopardize enacting amendments to hunting and sport fishing programs in time for implementation this year and/or early next year, or shorten the duration of these programs.

Even after issuance of a final rule, we accept comments, suggestions, and concerns for consideration for any appropriate subsequent rulemaking.

When finalized, we will incorporate these regulations into 50 CFR part 32. Part 32 contains general provisions and refuge-specific regulations for hunting and sport fishing on refuges.

Clarity of This Rule

We are required by Executive Orders 12866 and 12988 and by the Presidential Memorandum of June 1, 1998, to write all rules in plain language. This means that each rule we publish must:

(a) Be logically organized;

(b) Use the active voice to address readers directly;

(c) Use clear language rather than jargon;

(d) Be divided into short sections and sentences; and

(e) Use lists and tables wherever possible.

If you feel that we have not met these requirements, send us comments by one of the methods listed in the **ADDRESSES** section. To better help us revise the rule, your comments should be as specific as possible. For example, you should tell us the numbers of the sections or paragraphs that are unclearly written, which sections or sentences are too long, the sections where you feel lists or tables would be useful, etc.

Regulatory Planning and Review

The Office of Management and Budget (OMB) has determined that this rule is not significant under Executive Order 12866 (E.O. 12866). OMB bases its determination on the following four criteria:

(a) Whether the rule will have an annual effect of $100 million or more on the economy or adversely affect an economic sector, productivity, jobs, the environment, or other units of the government.

(b) Whether the rule will create inconsistencies with other Federal agencies' actions.

(c) Whether the rule will materially affect entitlements, grants, use fees, loan programs, or the rights and obligations of their recipients.

(d) Whether the rule raises novel legal or policy issues.

Regulatory Flexibility Act

Under the Regulatory Flexibility Act (as amended by the Small Business Regulatory Enforcement Fairness Act [SBREFA] of 1996) (5 U.S.C. 601 *et seq.*), whenever a Federal agency is required to publish a notice of rulemaking for any proposed or final rule, it must prepare and make available for public comment a regulatory flexibility analysis that describes the effect of the rule on small entities (*i.e.,* small businesses, small organizations, and small government jurisdictions). However, no regulatory flexibility analysis is required if the head of an agency certifies that the rule would not have a significant economic impact on a substantial number of small entities. Thus, for a regulatory flexibility analysis to be required, impacts must exceed a threshold for ''significant impact'' and a threshold for a ''substantial number of small entities.'' See 5 U.S.C. 605(b). SBREFA amended the Regulatory Flexibility Act to require Federal agencies to provide a statement of the factual basis for certifying that a rule would not have a significant economic impact on a substantial number of small entities.

This proposed rule adds one national wildlife refuge to the list of refuges open to hunting and increases hunting activities on nine national wildlife refuges. As a result, visitor use for wildlife-dependent recreation on these national wildlife refuges will change. If the refuges establishing new programs were a pure addition to the current supply of such activities, it would mean an estimated increase of 4,750 user days (one person per day participating in a recreational opportunity) (Table 2). Because the participation trend is flat in these activities since 1991, this increase in supply will most likely be offset by other sites losing participants. Therefore, this is likely to be a substitute site for the activity and not necessarily an increase in participation rates for the activity.

TABLE 2—ESTIMATED CHANGE IN RECREATION OPPORTUNITIES IN 2011/2012

Refuge	Additional days	Additional expenditures
Arapaho	40	$4,337
Bayou Sauvage	672	72,865
Coldwater River	400	43,372
Crane Meadows	55	5,964
Currituck	400	43,372
Minnesota Valley	2,818	305,555
Northern Tallgrass Prairie	75	8,132
Ouray	100	10,843
Sherburne	50	5,421
Trinity River	140	15,180
Total	4,750	515,041

To the extent visitors spend time and money in the area of the refuge that they would not have spent there anyway, they contribute new income to the regional economy and benefit local businesses. Due to the unavailability of site-specific expenditure data, we use the national estimates from the 2006 National Survey of Fishing, Hunting, and Wildlife Associated Recreation to identify expenditures for food and lodging, transportation, and other incidental expenses. Using the average expenditures for these categories with the maximum expected additional participation of the Refuge System yields approximately $515,000 in recreation-related expenditures (Table 2). By having ripple effects throughout the economy, these direct expenditures are only part of the economic impact of these recreational activities. Using a national impact multiplier for hunting activities (2.67) derived from the report ''Economic Importance of Hunting in America'' yields a total economic impact of approximately $1.4 million (2010 dollars) (Southwick Associates, Inc., 2007). Using a local impact multiplier would yield more accurate and smaller results. However, we employed the national impact multiplier due to the difficulty in developing local multipliers for each specific region.

Since we know that most of the fishing and hunting occurs within 100 miles of a participant's residence, then it is unlikely that most of this spending would be ''new'' money coming into a local economy; therefore, this spending would be offset with a decrease in some other sector of the local economy. The net gain to the local economies would be no more than $1.4 million, and most likely considerably less. Since 80 percent of the participants travel less than 100 miles to engage in hunting and fishing activities, their spending patterns would not add new money into the local economy and, therefore, the real impact would be on the order of about $275,000 annually.

Small businesses within the retail trade industry (such as hotels, gas stations, taxidermy shops, bait and tackle shops, *etc.*) may be impacted from some increased or decreased refuge visitation. A large percentage of these retail trade establishments in the local communities around national wildlife refuges qualify as small businesses (Table 3). We expect that the incremental recreational changes will be scattered, and so we do not expect that the rule will have a significant economic effect on a substantial number of small entities in any region or nationally. As noted previously, we expect approximately $515,000 to be spent in total in the refuges' local economies. The maximum increase ($1.4 million if all spending were new money) at most would be less than 1 percent for local retail trade spending.

TABLE 3—COMPARATIVE EXPENDITURES FOR RETAIL TRADE ASSOCIATED WITH ADDITIONAL REFUGE VISITATION FOR 2011/2012

[Thousands, 2010 dollars]

Refuge/county(ies)	Retail trade in 2007 (2010 $)	Estimated maximum addition from new activities	Addition as % of total	Establishments in 2008	Establ. with < 10 emp in 2008
Arapaho:					
Jackson, CO	$23,099	$4.3	0.019	13	10
Bayou Sauvage:					
Orleans Parish, LA	3,241,340	72.9	0.002	1,201	983
Coldwater River:					
Tallahatchie, MS	67,735	21.7	0.032	40	34
Quitman, MS	29,478	21.7	0.074	21	18
Crane Meadows:					
Morrison, MN	430,771	6.0	0.001	135	94
Currituck:					
Currituck, NC	314,767	43.4	0.014	142	118
Minnesota Valley:					
Hennepin, MN	26,568,279	76.4	0	4,295	2,670
Carver, MN	962,544	76.4	0.008	223	143
Scott, MN	1,394,907	76.4	0.005	349	234
Dakota, MN	6,158,226	76.4	0.001	1,169	717
Northern Tallgrass Prairie:					
Jasper, IA	326,707	1.2	0	120	79

TABLE 3—COMPARATIVE EXPENDITURES FOR RETAIL TRADE ASSOCIATED WITH ADDITIONAL REFUGE VISITATION FOR 2011/2012—Continued

[Thousands, 2010 dollars]

Refuge/county(ies)	Retail trade in 2007 (2010 $)	Estimated maximum addition from new activities	Addition as % of total	Establishments in 2008	Establ. with < 10 emp in 2008
Kossuth, IA	233,531	1.2	0	99	78
Lincoln, MN	63,331	1.2	0.002	37	27
Lyon, MN	451,824	1.2	0	134	96
Otter Tail, MN	840,187	1.2	0	277	204
Rock, MN	130,128	1.2	0.001	47	33
Stevens, MN	202,798	1.2	0.001	53	34
Ouray:					
Unitah, UT	550,293	10.8	0.002	137	85
Sherburne:					
Sherburne, MN	1,006,876	5.4	0.001	207	134
Trinity River:					
Liberty, TX	778,776	15.2	0.002	200	143

With the small change in overall spending anticipated from this proposed rule, it is unlikely that a substantial number of small entities will have more than a small impact from the spending change near the affected refuges. Therefore, we certify that this proposed rule will not have a significant economic effect on a substantial number of small entities as defined under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). An initial/final Regulatory Flexibility Analysis is not required. Accordingly, a Small Entity Compliance Guide is not required.

Small Business Regulatory Enforcement Fairness Act

The proposed rule is not a major rule under 5 U.S.C. 804(2), the Small Business Regulatory Enforcement Fairness Act. We anticipate no significant employment or small business effects. This rule:

a. Would not have an annual effect on the economy of $100 million or more. The minimal impact would be scattered across the country and would most likely not be significant in any local area.

b. Would not cause a major increase in costs or prices for consumers; individual industries; Federal, State, or local government agencies; or geographic regions. This proposed rule would have only a slight effect on the costs of hunting opportunities for Americans. If the substitute sites are farther from the participants' residences, then an increase in travel costs would occur. The Service does not have information to quantify this change in travel cost but assumes that, since most people travel less than 100 miles to hunt, the increased travel cost would be small. We do not expect this proposed rule to affect the supply or demand for hunting opportunities in the United States and, therefore, it should not affect prices for hunting equipment and supplies, or the retailers that sell equipment.

c. Would not have significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of United States-based enterprises to compete with foreign-based enterprises. This proposed rule represents only a small proportion of recreational spending at national wildlife refuges. Therefore, this rule would have no measurable economic effect on the wildlife-dependent industry, which has annual sales of equipment and travel expenditures of $72 billion nationwide.

Unfunded Mandates Reform Act

Since this proposed rule would apply to public use of federally owned and managed refuges, it would not impose an unfunded mandate on State, local, or Tribal governments or the private sector of more than $100 million per year. The rule would not have a significant or unique effect on State, local, or Tribal governments or the private sector. A statement containing the information required by the Unfunded Mandates Reform Act (2 U.S.C. 1531 *et seq.*) is not required.

Takings (E.O. 12630)

In accordance with E.O. 12630, this proposed rule would not have significant takings implications. This regulation would affect only visitors at national wildlife refuges and describe what they can do while they are on a refuge.

Federalism (E.O. 13132)

As discussed in the Regulatory Planning and Review and Unfunded Mandates Reform Act sections above, this proposed rule would not have sufficient Federalism implications to warrant the preparation of a Federalism Assessment under E.O. 13132. In preparing this proposed rule, we worked with State governments.

Civil Justice Reform (E.O. 12988)

In accordance with E.O. 12988, the Office of the Solicitor has determined that the proposed rule would not unduly burden the judicial system and that it meets the requirements of sections 3(a) and 3(b)(2) of the Order. The regulation would clarify established regulations and result in better understanding of the regulations by refuge visitors.

Energy Supply, Distribution or Use (E.O. 13211)

On May 18, 2001, the President issued E.O. 13211 on regulations that significantly affect energy supply, distribution, and use. E.O. 13211 requires agencies to prepare Statements of Energy Effects when undertaking certain actions. Because this proposed rule would increase activities at nine refuges and open one new refuge, it is not a significant regulatory action under E.O. 12866 and is not expected to significantly affect energy supplies, distribution, and use. Therefore, this action is a not a significant energy action and no Statement of Energy Effects is required.

Consultation and Coordination With Indian Tribal Governments (E.O. 13175)

In accordance with E.O. 13175, we have evaluated possible effects on federally recognized Indian tribes and have determined that there are no effects. We coordinate recreational use

on national wildlife refuges with Tribal governments having adjoining or overlapping jurisdiction before we propose the regulations.

Paperwork Reduction Act

This regulation does not contain any information collection requirements other than those already approved by the Office of Management and Budget under the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*) (OMB Control Numbers are 1018–0102 and 1018–0140). See 50 CFR 25.23 for information concerning that approval. 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.

Endangered Species Act Section 7 Consultation

We comply with section 7 of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*), when developing Comprehensive Conservation Plans (CCPs) and step-down management plans (which would include hunting and/or fishing plans) for public use of refuges, and prior to implementing any new or revised public recreation program on a refuge as identified in 50 CFR 26.32. We have completed section 7 consultation on each of the affected refuges.

National Environmental Policy Act

We analyzed this proposed rule in accordance with the criteria of the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4332(C)), 43 CFR part 46, and 516 Departmental Manual (DM) 8.

A categorical exclusion from NEPA documentation applies to publication of proposed amendments to refuge-specific hunting and fishing regulations since they are technical and procedural in nature, and the environmental effects are too broad, speculative, or conjectural to lend themselves to meaningful analysis (43 CFR 46.210 and 516 DM 8). Concerning the actions that are the subject of this proposed rulemaking, we have complied with NEPA at the project level when developing each proposal. This is consistent with the Department of the Interior instructions for compliance with NEPA where actions are covered sufficiently by an earlier environmental document (516 DM 3.2A).

Prior to the addition of a refuge to the list of areas open to hunting and fishing in 50 CFR part 32, we develop hunting and fishing plans for the affected refuges. We incorporate these proposed refuge hunting and fishing activities in the refuge CCPs and/or other step-down management plans, pursuant to our refuge planning guidance in 602 Fish and Wildlife Service Manual (FW) 1, 3, and 4. We prepare these CCPs and step-down plans in compliance with section 102(2)(C) of NEPA, and the Council on Environmental Quality's regulations for implementing NEPA in 40 CFR parts 1500–1508. We invite the affected public to participate in the review, development, and implementation of these plans. Copies of all plans and NEPA compliance are available from the refuges at the addresses provided below.

Available Information for Specific Refuges

Individual refuge headquarters have information about public use programs and conditions that apply to their specific programs and maps of their respective areas. To find out how to contact a specific refuge, contact the appropriate Regional office listed below:

Region 1—Hawaii, Idaho, Oregon, and Washington. Regional Chief, National Wildlife Refuge System, U.S. Fish and Wildlife Service, Eastside Federal Complex, Suite 1692, 911 N.E. 11th Avenue, Portland, OR 97232–4181; Telephone (503) 231–6214.

Region 2—Arizona, New Mexico, Oklahoma, and Texas. Regional Chief, National Wildlife Refuge System, U.S. Fish and Wildlife Service, Box 1306, 500 Gold Avenue, Albuquerque, NM 87103; Telephone (505) 248–7419.

Region 3—Illinois, Indiana, Iowa, Michigan, Minnesota, Missouri, Ohio, and Wisconsin. Regional Chief, National Wildlife Refuge System, U.S. Fish and Wildlife Service, 1 Federal Drive, Federal Building, Fort Snelling, Twin Cities, MN 55111; Telephone (612) 713–5401. Crane Meadows National Wildlife Refuge, 19502 Iris Road, Little Falls, MN 56345; Telephone (320) 632–1575.

Region 4—Alabama, Arkansas, Florida, Georgia, Kentucky, Louisiana, Mississippi, North Carolina, South Carolina, Tennessee, Puerto Rico, and the Virgin Islands. Regional Chief, National Wildlife Refuge System, U.S. Fish and Wildlife Service, 1875 Century Boulevard, Atlanta, GA 30345; Telephone (404) 679–7166.

Region 5—Connecticut, Delaware, District of Columbia, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, Pennsylvania, Rhode Island, Vermont, Virginia, and West Virginia. Regional Chief, National Wildlife Refuge System, U.S. Fish and Wildlife Service, 300 Westgate Center Drive, Hadley, MA 01035–9589; Telephone (413) 253–8306.

Region 6—Colorado, Kansas, Montana, Nebraska, North Dakota, South Dakota, Utah, and Wyoming. Regional Chief, National Wildlife Refuge System, U.S. Fish and Wildlife Service, 134 Union Blvd., Lakewood, CO 80228; Telephone (303) 236–8145.

Region 7—Alaska. Regional Chief, National Wildlife Refuge System, U.S. Fish and Wildlife Service, 1011 E. Tudor Rd., Anchorage, AK 99503; Telephone (907) 786–3545.

Region 8—California and Nevada. Regional Chief, National Wildlife Refuge System, U.S. Fish and Wildlife Service, 2800 Cottage Way, Room W–2606, Sacramento, CA 95825; Telephone (916) 414–6464.

Primary Author

Leslie A. Marler, Management Analyst, Division of Conservation Planning and Policy, National Wildlife Refuge System is the primary author of this rulemaking document.

List of Subjects in 50 CFR Part 32

Fishing, Hunting, Reporting and recordkeeping requirements, Wildlife, Wildlife refuges.

For the reasons set forth in the preamble, we propose to amend title 50, chapter I, subchapter C of the Code of Federal Regulations as follows:

PART 32—[AMENDED]

1. The authority citation for part 32 continues to read as follows:

Authority: 5 U.S.C. 301; 16 U.S.C. 460k, 664, 668dd–668ee, and 715i.

§ 32.7 [Amended]

2. Amend § 32.7 by:

a. Adding, in alphabetical order, ''Crane Meadows National Wildlife Refuge'' in the State of Minnesota;

b. Revising the entry for ''Coldwater National Wildlife Refuge'' to read ''Coldwater River National Wildlife Refuge'' in the State of Mississippi;

c. Adding, in alphabetical order, ''Tishomingo Wildlife Management Unit'' in the State of Oklahoma; and

d. Removing the entry for ''Pettaquamscutt Cove National Wildlife Refuge'' and adding in alphabetical order an entry for ''John H. Chafee National Wildlife Refuge'' in the State of Rhode Island.

3. Amend § 32.20 by:

a. Revising paragraph B.8. under Choctaw National Wildlife Refuge; and

b. Revising Eufaula National Wildlife Refuge to read as follows:

§ 32.20 Alabama.

* * * * *

Choctaw National Wildlife Refuge

* * * * *

B. * * *

8. A hunter may only possess approved nontoxic shot (see § 32.2(k). We restrict hunting weapons to shotguns with shot size no larger than No. 6 or rifles no larger than .22 standard rimfire or legal archery equipment.

* * * * *

Eufaula National Wildlife Refuge

A. Migratory Game Bird Hunting. We allow hunting of mourning dove and Eurasian-collared dove, duck, and goose on designated areas of the refuge in accordance with State regulations subject to the following conditions:

1. You must possess and carry a signed refuge hunt permit (signed brochure) when hunting.

2. You may possess only approved nontoxic shotshells when hunting (see § 32.2(k)).

3. All youth hunters (age 15 and under) must remain within sight and normal voice contact of a properly licensed hunting adult age 21 or older. Youth hunters must possess and carry verification of passing a State-approved hunter education course. One adult may supervise no more than two youth hunters.

4. We allow duck and goose hunting in the Bradley and Kennedy units only by special permit (Waterfowl Lottery Application, FWS Form 3–2355) on/during selected days/times, during the State seasons. We close all other portions of the refuge to waterfowl hunting.

5. All waterfowl hunting opportunities are spaced-blind and assigned by lottery. Hunters wishing to participate in our waterfowl hunt must submit a Waterfowl Lottery Application (FWS Form 3–2355). Consult refuge brochure for details.

6. We limit the number of shotshells a hunter may possess to 25.

7. We prohibit damaging trees or other vegetation (see §§ 27.51 and 32.2(i) of this chapter).

8. Hunters must remove all stands/blinds at the end of each day's hunt (see § 27.93 of this chapter).

9. We allow access to the refuge for hunting from ½ hours before legal sunrise to 1½ hours after legal sunset.

10. We prohibit hunting by aid of or distribution of any feed, salt, other mineral, or electronic device, including game cameras (see § 32.2(h) and § 27.93 of this chapter).

11. We prohibit participation in organized drives.

12. We prohibit the use of horses, mules, or other livestock.

13. We require tree stand users to use a safety belt.

14. We prohibit the use of motorized watercraft in all refuge waters not directly connected to Lake Eufaula.

15. We prohibit the use of all air-thrust boats, including aircraft.

B. Upland Game Hunting. We allow hunting of squirrel and rabbit on designated areas of the refuge in accordance with State regulations subject to the following conditions:

1. Conditions A1, A2, A3, and A6 through A15 apply.

2. We allow squirrel and rabbit hunting on selected areas and days during the State seasons.

3. We prohibit the use of dogs (see § 26.21(b) of this chapter).

4. We allow only shotguns.

5. We prohibit the mooring or storing of boats from ½ hours after legal sunset to 1½ hours before legal sunrise (see § 27.93 of this chapter).

C. Big Game Hunting. We allow hunting of white-tailed deer and feral hog on designated areas of the refuge in accordance with State regulations subject to the following conditions:

1. Conditions A1, A6 through A15, and B5 apply.

2. We allow youth (ages 10 through 15) gun deer hunting in the Bradley Unit only by special permit (information obtained from Big/Upland Game Hunt Application, FWS Form 3–2356) during selected days/times.

3. All youth gun hunting opportunities are spaced-blind and assigned by lottery. Hunters wishing to participate in our youth gun hunt must submit a Big/Upland Game Hunt Application (FWS Form 3–2356). Consult the refuge brochure for details.

4. All youth hunters must remain within sight and normal voice contact of a properly hunting-licensed adult age 21 or older. Youth hunters must possess and carry verification of passing a State-approved hunter education course. One adult may supervise no more than one youth hunter.

5. We allow both archery deer and archery feral hog hunting on selected areas and days during the State archery deer season.

6. We close those portions of the refuge between Bustahatchee and Rood Creeks to archery hunting until November 1.

D. Sport Fishing. We allow fishing, including bowfishing, in designated areas of the refuge in accordance with State regulations subject to the following conditions:

1. Conditions A6, A15, and B5 apply.

2. We allow fishing on selected areas and days.

3. We allow shoreline access for fishing from ½ hour before legal sunrise to ½ hour after legal sunset.

4. We prohibit taking frog or turtle (see § 27.21 of this chapter) on all refuge lands and waters.

5. We adopt reciprocal license agreements between Alabama and Georgia for fishing in Lake Eufaula. Anglers fishing in waters not directly connected to Lake Eufaula must be properly licensed for the State in which they are fishing.

* * * * *

4. Amend § 32.22 by revising paragraph D.6.i. under Havasu National Wildlife Refuge to read as follows:

§ 32.22 Arizona.

* * * * *

Havasu National Wildlife Refuge

* * * * *

D. * * *

6. * * *

i. We prohibit entry of all motorized watercraft in all three bays as indicated by signs or regulatory buoys.

* * * * *

5. Amend § 32.23 as follows:

a. Under ''Bald Knob National Wildlife Refuge,'' revise paragraph A.22., add paragraph A.23., revise paragraph B.1., add paragraph B.12., and revise paragraphs C.1. and D.1.

b. Under ''Big Lake National Wildlife Refuge,'' revise paragraph B.15., add paragraphs B.17. and B.18., and revise paragraphs C.1., D. introductory text, and D.1.;

c. Under ''Cache River National Wildlife Refuge,'' add paragraphs A.22. and A.23., revise paragraph B.1., add paragraph B.12., and revise paragraphs C.1. and D.1.;

d. Under ''Felsenthal National Wildlife Refuge,'' revise paragraphs B.4., C.5., C.6., and C.13.;

e. Under ''Overflow National Wildlife Refuge, '' revise paragraph B.4.;

f. Under ''Pond Creek National Wildlife Refuge,'' revise paragraph B.4.;

g. Under ''Wapanocca National Wildlife Refuge,'' remove paragraph A.3., redesignate paragraphs A.4. through A.11. as paragraphs A.3. through A.10., revise newly redesignated paragraph A.10., add new paragraph A.11., revise paragraph B.1., add paragraph B.9, and revise paragraphs C.1. and D.1.; and

h. Under ''White River National Wildlife Refuge,'' revise paragraph B.2., C.5., C.12., and C.19..

The additions and revisions read as follows:

§ 32.23 Arkansas.

* * * * *

Bald Knob National Wildlife Refuge

A. * * *

22. We prohibit the possession or use of alcoholic beverages while hunting (see § 32.2(j)) and open alcohol containers on refuge roads, ATV trails, boat ramps, and parking areas.

23. We prohibit loaded hunting firearms or muzzleloaders in or on a vehicle, ATV, or boat while under power (see § 27.42(b) of this chapter). We define ''loaded'' as shells in the firearm or ignition device on the muzzleloader.

B. * * *

1. Conditions A1, A5, A10 through A12, and A16 through A23 apply.

* * * * *

12. We prohibit transportation, possession, or release of live hog on the refuge.

C. * * *

1. Conditions A1, A5, A10 through A12, A16 through A23, and B8 through B12 apply.

* * * * *

D. * * *

1. Conditions A10, A18 through A23, B11, and C16 apply.

* * * * *

Big Lake National Wildlife Refuge

* * * * *

B. * * *

15. We prohibit the possession or use of alcoholic beverages while hunting (see § 32.2(j)) or open alcohol containers on refuge roads, ATV trails, boat ramps, and parking areas.

* * * * *

17. We prohibit loaded hunting firearms or muzzleloaders in or on a vehicle, ATV, or boat while under power (see § 27.42(b) of this chapter). We define ''loaded'' as shells in the firearm or ignition device on the muzzleloader.

18. We prohibit transportation, possession, or release of live hog on the refuge.

C. * * *

1. Conditions B1, B3 through B5, and B9 through B18 apply.

* * * * *

D. Sport Fishing. We allow fishing and frogging on designated areas of the refuge in accordance with State regulations subject to the following conditions:

1. Conditions B9 and B11 through B17 apply.

* * * * *

Cache River National Wildlife Refuge

A. * * *

22. We prohibit the possession or use of alcoholic beverages while hunting (see § 32.2(j)) or open alcohol containers on refuge roads, ATV trails, boat ramps, and parking areas.

23. We prohibit loaded hunting firearms or muzzleloaders in or on a vehicle, ATV, or boat while under power (see § 27.42(b) of this chapter). We define ''loaded'' as shells in the firearm or ignition device on the muzzleloader.

B. * * *

1. Conditions A1, A5, A9 through A11, and A15 through A23 apply.

* * * * *

12. We prohibit transportation, possession, or release of live hog on the refuge.

C. * * *

1. Conditions A1, A5, A9 through A11, A15 through A23, B6 through B9, B11, and B12 apply.

* * * * *

D. * * *

1. Conditions A9, A17, A19, A21 through A23, and B11 apply.

* * * * *

Felsenthal National Wildlife Refuge

* * * * *

B. * * *

4. We prohibit possession of lead ammunition except that you may possess rimfire rifle lead ammunition no larger than .22 caliber for upland game hunting. We prohibit possession of shot larger than that legal for waterfowl hunting. During the deer and turkey hunts, hunters may possess lead ammunition legal for taking deer and turkey. We prohibit buckshot for gun deer hunting.

* * * * *

C. * * *

5. We allow muzzleloader deer hunting during the October State Muzzleloader season for this deer management zone. The refuge will conduct one 4-day quota modern gun hunt for deer, typically in November. The refuge also may conduct one mobility-impaired hunt for deer typically in early November.

* * * * *

6. The quota muzzleloader and modern gun deer hunt bag limit is two deer, one doe and one buck, or two does on each hunt, one antlered and one antlerless as defined by State law. See refuge brochure for specific bag limit information.

* * * * *

13. The refuge will conduct no more than three quota permit spring turkey gun hunts and no more than two 3-day quota spring turkey hunts (typically in April). Specific hunt dates and application procedures will be available at the refuge office in January. We restrict hunt participants to those selected for a quota permit, except that one nonhunting adult age 21 or older possessing a valid hunting license must accompany the youth hunter age 15 and younger.

* * * * *

Overflow National Wildlife Refuge

* * * * *

B. * * *

4. When upland game hunting, we prohibit possession of lead ammunition except that you may possess rimfire rifle lead ammunition no larger than .22 caliber. We prohibit possession of shot larger than that legal for waterfowl hunting. During the deer and turkey hunts, we allow possession of lead ammunition legal for taking deer and turkey. We prohibit buckshot for gun deer hunting.

* * * * *

Pond Creek National Wildlife Refuge

* * * * *

B. * * *

4. We prohibit possession of lead ammunition when hunting except that you may possess rimfire rifle lead ammunition no larger than .22 caliber for upland game hunting. We prohibit possession of shot larger than that legal for waterfowl hunting. During the deer and turkey hunts, we allow possession of lead ammunition legal for taking deer and turkey. We prohibit buckshot for gun deer hunting.

* * * * *

Wapanocca National Wildlife Refuge

A. * * *

10. We prohibit the possession or use of alcoholic beverages while hunting (see § 32.2(j)) and open alcohol containers on refuge roads, ATV trails, boat ramps, and parking areas.

11. We prohibit loaded hunting firearms or muzzleloaders in or on a vehicle, ATV, or boat while under power (see § 27.42(b) of this chapter). We define ''loaded'' as shells in the firearm or ignition device on the muzzleloader.

B. * * *

1. Conditions A1 through A11 apply.

* * * * *

9. We prohibit transportation, possession, or release of live hog on the refuge.

C. * * *

1. Conditions A1 through A11, B4, and B6 through B9 apply.

* * * * *

D. * * *

1. Conditions A3, A5, A9 through A11, B6, and B7 apply. We allow fishing

from March 1 through October 31 from ½ hour before legal sunrise to ½ hour after legal sunrise.

* * * * *

White River National Wildlife Refuge

* * * * *

B. * * *

2. We allow hunting of rabbit and squirrel on the North Unit from September 1 until February 28.

C. * * *

5. The gun deer hunt will begin in November and will continue for a period of 3 days of quota hunting in the North and South Units, and 4 days of nonquota hunting in the North and/or South Units with annual season dates, bag limits, and areas provided in the annual refuge user brochure/permit.

* * * * *

12. We prohibit the placement or hunting with the aid of bait, salt, or ingestible attractant (see § 32.2(h)).

* * * * *

19. We prohibit firearms deer hunting on the Kansas Lake Area after October 30 and all other types of hunting after November 30.

* * * * *

6. Amend § 32.25 by revising ''Arapaho National Wildlife Refuge'' to read as follows:

§ 32.25 Colorado.

* * * * *

Arapaho National Wildlife Refuge

A. Migratory Game Bird Hunting. We allow hunting of migratory game birds on designated areas of the refuge in accordance with State regulations subject to the following conditions:

1. All migratory bird hunting closes annually on December 31.

2. We prohibit use of, or hunting over, bait (see § 32.2(h)).

3. We allow use of only portable stands and blinds that the hunter must remove following each day's hunt (see § 27.93 of this chapter).

4. Hunters must retrieve spent shotgun shells.

5. We prohibit hunting 200 feet (60 m) from any public use road, designated parking area, or designated public use facility located within the hunt area.

B. Upland Game Hunting. We allow hunting of upland game on designated areas of the refuge in accordance with State regulations subject to the following conditions:

1. All upland game hunting closes annually on December 31.

2. You may possess only approved nontoxic shot while hunting (see § 32.2(k)).

3. Conditions A2, A4, and A5 apply.

C. Big Game Hunting. We allow hunting of antelope and elk on designated areas of the refuge in accordance with State regulations subject to the following conditions:

1. Conditions A2, A3, and A5 apply.

2. Hunters must use only firearms and ammunition allowed by State law for legal hunting of elk or antelope.

3. Hunters must follow State law for use of hunter orange.

4. Elk hunters:

i. Must possess a refuge-specific license (State license) to hunt elk.

ii. Must attend a scheduled prehunt information meeting prior to hunting.

iii. Youth hunters must be age 12 by the hunt date but not yet age 18 at the time of the hunt application.

iv. Disabled hunters must meet Colorado State Department of Wildlife (CDOW) criteria for, and be on the State's list of, hunters with disabilities.

v. We will make selections via the CDOW hunt selection process. Hunters holding valid tags (controlled by the State) for the unit the refuge is located within may write requesting a special tag to hunt within the refuge.

D. Sport Fishing. We allow fishing on designated areas of the refuge on the Illinois River in accordance with State regulations subject to the following conditions:

1. We prohibit fishing between June 1 and July 31 each year.

2. We allow fishing only from legal sunrise to legal sunset.

3. We prohibit ice fishing on the refuge (there is no specific date, but when the river freezes over, fishing closes).

* * * * *

7. Amend § 32.28 by:

a. Revising paragraphs A.1. and A.4. through A.17., adding paragraph A.18., and revising paragraph D.8. under Arthur R. Marshall Loxahatchee National Wildlife Refuge;

b. Revising paragraph A. and D.1., and adding paragraph D.17. of Merritt Island National Wildlife Refuge;

c. Adding paragraph A.4. and revising paragraphs B.4. and D.10. under St. Marks National Wildlife Refuge;

d. Revising paragraphs C.2. and C.8., removing paragraph C.9., redesignating paragraphs C.10. through C.22. as paragraphs C.9. through C.21., and revising newly redesignated paragraphs C.9. and C.15. under St. Vincent National Wildlife Refuge; and

e. Revising paragraphs A.2., A.3., A.5., A.6., A.9., A.10., A.11., A.13., adding paragraph A.14., revising paragraphs D.1., D.3., D.4., and adding paragraphs D.6. and D.7. under Ten Thousand Islands National Wildlife Refuge.

The additions and revisions read as follows:

§ 32.28 Florida.

* * * * *

Arthur R. Marshall Loxahatchee National Wildlife Refuge

A. Migratory Game Bird Hunting.

* * *

1. You must possess and carry a signed refuge waterfowl hunt permit (signed brochure) while hunting. These brochures are available at the refuge visitor center and on the refuge's Web site (*http://www.fws.gov/loxahatchee/).*

* * * * *

4. We prohibit the taking of any other wildlife (see § 27.21 of this chapter).

5. We do not open to hunting on Mondays, Tuesdays, and Christmas Day.

6. We allow hunting on the refuge from ½ hour before legal sunrise to 1 p.m. Hunters may enter the refuge no earlier than 4 a.m. and must be off the refuge by 3 p.m.

7. Hunters may only enter and leave the refuge at the Headquarters Area (Boynton Beach) and the Hillsboro Area (Boca Raton).

8. The possession and use of firearms shall be in accordance with all applicable Federal and State laws and regulations (see §§ 27.41 and 27.42 of this chapter).

9. We allow only temporary blinds of native vegetation. We prohibit the taking, removing, or destroying of refuge vegetation (see § 27.51 of this chapter).

10. Hunters must remove decoys and other personal property (see § 27.93 of this chapter) from the hunting area each day.

11. We encourage the use of dogs to retrieve dead or wounded waterfowl. Dogs must remain under the immediate control of the owner at all times (see § 26.21(b) of this chapter). We prohibit pets at all other times.

12. Hunters must complete a Migratory Bird Hunt Report (FWS Form 3–2361) and place it in an entrance fee canister each day prior to exiting the refuge.

13. All youth hunters age 15 and younger must remain within sight and normal voice contact of an adult age 21 or older, who possesses a valid hunting license. Youth hunters must have completed a hunter education course.

14. We allow only boats equipped with factory-manufactured-water-cooled outboard motors, electric motors, and nonmotorized boats. We prohibit boats with air-cooled engines, airboats, fan boats, hovercraft, and personal watercraft (Jet Skis, Jet Boats, Wave Runners, etc.).

15. There is a 35 mph speed limit in all waters of the refuge. A 500-foot (150-meter) Idle Speed Zone is at each of the refuge's three boat ramps.

16. We require all boats operating outside of the main perimeter canals (the L–40 Canal, L–39 Canal, L–7 Canal, and L–101 Canal) in interior areas of the refuge and within the hunt area, to fly a 12-inch by 12-inch (30-cm x 30-cm) orange flag 10 feet (3 m) above the vessel's waterline.

17. We prohibit motorized vehicles of any type on the levees and undesignated routes (see § 27.31 of this chapter).

18. For emergencies or to report violations, contact law enforcement personnel at 1–800–307–5789. Law enforcement officers may be monitoring VHF Channel 16.

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D. Sport Fishing. * * *

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8. Conditions A4, A8, A14 through A17, and A19 apply.

* * * * *

Merritt Island National Wildlife Refuge

A. Migratory Game Bird Hunting. We allow hunting of duck and coot on designated areas of the refuge in accordance with State regulations subject to the following conditions:

1. Persons possessing, transporting, or carrying firearms on national wildlife refuges must comply with all provisions of Federal, State, and local law. Persons may only use (discharge) firearms in accordance with refuge regulations (see § 27.42 of this chapter and part 32).

2. Hunters must possess and carry a current, signed Merritt Island National Wildlife Refuge hunt permit (signed brochure) at all times while hunting waterfowl on the refuge.

3. Hunters must possess and carry (or hunt within 30 yards [27 m] of a hunter who possesses) a valid refuge waterfowl hunting quota permit while hunting in areas 1 or 4 from the beginning of the regular waterfowl season through December 31. No more than four hunters will hunt using a single valid refuge waterfowl hunting quota permit.

4. We allow hunting on Wednesdays, Saturdays, Sundays, and all Federal holidays, including Thanksgiving, Christmas, and New Year's Day, that fall within the State's waterfowl season.

5. We allow hunting in four designated areas of the refuge as delineated in the refuge hunting regulations map. We prohibit hunters to enter the normal or expanded restricted areas of the Kennedy Space Center.

6. We allow hunting of only waterfowl on refuge-established hunt days from the legal shooting time (½ hour before legal sunrise) until 1 p.m.

7. We allow entrance to the refuge no earlier than 4 a.m. for the purpose of waterfowl hunting.

8. We require all hunters to successfully complete a State-approved hunter education course.

9. We require an adult, age 21 or older, to supervise hunters age 15 and younger.

10. We prohibit accessing a hunt area from Black Point Wildlife Drive. We prohibit leaving vehicles parked on Black Point Wildlife Drive, Playalinda Beach Road, or Scrub Ridge Trail (see § 27.31 of this chapter).

11. We prohibit construction of permanent blinds (see § 27.92 of this chapter) or digging into dikes.

12. We prohibit hunting or shooting within 15 feet (4.5 m) or shooting from any portion of a dike, dirt road, or railroad grade.

13. We prohibit hunting or shooting within 150 yards (135 m) of SR 402, SR 406, any paved road right-of-way, or any road open to vehicle traffic. We prohibit shooting over any dike or roadway.

14. All hunters must stop at posted refuge waterfowl check stations and report statistical hunt information on the Migratory Bird Hunt Report (FWS Form 3–2361) to refuge personnel.

15. Hunters may not possess more than 25 shells in one hunt day.

* * * * *

D. Sport Fishing. * * *

1. Anglers must possess and carry a current, signed refuge fishing permit (signed brochure) at all times while fishing on the refuge.

* * * * *

17. Persons possessing, transporting, or carrying firearms on national wildlife refuges must comply with all provisions of Federal, State, and local law. Persons may only use (discharge) firearms in accordance with refuge regulations (see § 27.42 of this chapter and part 32).

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St. Marks National Wildlife Refuge

A. Migratory Game Bird Hunting.

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4. Hunters may access the hunt area by boat.

B. Upland Game Hunting. * * *

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4. You must unload all hunting firearms for transport in vehicles (uncap muzzleloaders).

* * * * *

D. Sport Fishing. * * *

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10. The interior ponds and lakes on the Panacea Unit are open year-round for bank fishing. We open vehicle access to these areas from March 15 through May 15 each year. Ponds and lakes that anglers access from County Road 372 are open year-round for fishing and boating.

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St. Vincent National Wildlife Refuge

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C. Big Game Hunting. * * *

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2. We restrict hunting to three periods: Sambar deer, raccoon, and feral hog (primitive weapons); white-tailed deer, raccoon, feral hog (archery); and white-tailed deer, raccoon, and feral hog (primitive weapons). Contact the refuge office for specific dates. Hunters may check-in and set up camp sites and stands on the day prior to the scheduled hunt as specified in the brochure. Hunters must leave the island and remove all equipment by the date and time specified in the brochure.

* * * * *

8. You may retrieve game from the closed areas only if accompanied by a refuge staff member or a refuge officer.

9. We limit hunting weapons to primitive weapons on the sambar deer hunt and the primitive weapons white-tailed deer hunt. We limit the archery hunt to bow and arrow. Weapons must meet all State regulations. We prohibit crossbows during refuge hunts except with State permit.

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15. Hunting weapons must have the caps removed from muzzleloaders and arrows quivered before and after legal shooting hours.

* * * * *

Ten Thousand Islands National Wildlife Refuge

A. Migratory Game Bird Hunting.

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* * * * *

2. We allow hunting only on Wednesdays, Saturdays, Sundays, and Federal holidays that fall within the State's waterfowl season, including: Thanksgiving, Christmas, and New Year's Day.

3. Hunters must possess and carry a valid, signed refuge permit (signed brochure) at all times while hunting on the refuge.

* * * * *

5. Hunters may enter the refuge from the south side of U.S. 41. We allow hunting from ½ hour before legal sunrise until 12 p.m. Hunters may enter the refuge no earlier than 4 a.m. and must remove all decoys, guns, blinds, and other related equipment (see § 27.93 of this chapter) by 1 p.m. daily.

6. We prohibit hunting within 100 yards (90 m) of the south edge of U.S. 41 and the area posted around Marsh Trail extending south from U.S. 41.

* * * * *

9. Hunters may only take duck and coot with a shotgun (no larger than a 10 gauge). We prohibit target practice on the refuge (see § 27.42 of this chapter).

10. We prohibit air-thrust boats, hovercraft, personal watercraft (jet skis, jet boats, and wave runners), and off-road vehicles at all times. We limit vessels to a maximum of a 25 hp outboard motor.

11. We require all commercial guides to purchase, possess, and carry a refuge Special Use Permit (FWS Form 3–1383).

* * * * *

13. We allow youth hunt days in accordance with State regulations. Hunters age 15 or younger may hunt only with a nonhunting adult age 18 or older. Youth hunters must remain within sight and sound of the nonhunting adult. Youth hunters must have completed a hunter education course.

14. Persons possessing, transporting, or carrying firearms on national wildlife refuges must comply with all provisions of Federal, State, and local law. Persons may only use (discharge) firearms in accordance with refuge regulations (see § 27.42 of this chapter and part 32).

* * * * *

D. Sport Fishing. * * *

1. We prohibit air-thrust boats, hovercraft, personal watercraft (jet skis, jet boats, and wave runners), and off-road vehicles in the freshwater and brackish marsh area south of U.S. 41. We limit vessels to a maximum of 25 hp outboard motor.

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3. We only allow crabbing for recreational use in the freshwater and brackish marsh area of the refuge. You may use a dip or landing net, drop net, or hook and line.

4. We prohibit commercial fishing and the taking of snake, turtle, frog, and other wildlife (see § 27.21 of this chapter) in the freshwater and brackish marsh area of the refuge.

* * * * *

6. Anglers and crabbers must attend their lines at all times.

7. We require all commercial guides operating in the freshwater and brackish marsh area of the refuge to purchase, possess, and carry a refuge Special Use Permit (FWS Form 3–1383).

* * * * *

8. Amend § 32.29 by:

a. Revising paragraphs C.1., C.9., C.11., and C.13., and adding paragraph C.20. under Blackbeard Island National Wildlife Refuge;

b. Revising paragraphs C.3., C.9., C.11., and C.12., and adding paragraph C.20. under Harris Neck National Wildlife Refuge;

c. Revising paragraphs C.5., C.7., C.10., C.11., and adding paragraph C.12. under Savannah National Wildlife Refuge; and

d. Revising paragraphs C.1., C.5., C.6., C.8., and C.9., and adding paragraph C.21. under Wassaw National Wildlife Refuge.

The additions and revisions read as follows:

§ 32.29 Georgia.

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Blackbeard Island National Wildlife Refuge

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C. Big Game Hunting. * * *

1. Hunters must possess and carry a signed refuge hunting regulations brochure on their person at all times. They may obtain hunt information and refuge hunting brochures at the Savannah Coastal Refuges Complex headquarters.

* * * * *

9. For hunting, we allow only bows in accordance with State regulations.

* * * * *

11. You may take five deer (no more than two antlered), and we will issue State bonus tags for two of these. There is no bag limit on feral hog.

* * * * *

13. Hunters must be on their stands from ½ hour before legal sunrise until 9 a.m. and from 2 hours before legal sunset until ½ hour after legal sunset.

* * * * *

20. We prohibit the use of trail or game cameras.

* * * * *

Harris Neck National Wildlife Refuge

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C. Big Game Hunting. * * *

* * * * *

3. Hunters must be on their stands from ½ hour before legal sunrise until 9 a.m. and from 2 hours before legal sunset until ½ hour after legal sunset.

* * * * *

9. During the archery hunt, we allow only bows in accordance with State regulations.

* * * * *

11. Hunters may take five deer (no more than two antlered), and we will issue State bonus tags for two of these. There is no bag limit for feral hog.

12. During the gun hunt, we allow only shotguns (20 gauge or larger; slugs only) and bows in accordance with State regulations.

* * * * *

20. We prohibit the use of trail or game cameras.

* * * * *

Savannah National Wildlife Refuge

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C. Big Game Hunting. * * *

* * * * *

5. We allow only shotguns (20 gauge or larger; slugs only), center-fire rifles (.22 caliber or larger), muzzleloaders, and bows for deer and hog hunting throughout the designated hunt area during the November gun hunt and the March hog hunt.

* * * * *

7. Hunters may take five deer (no more than two antlered). There is no bag limit on feral hog.

* * * * *

10. We allow turkey hunting during a special 3-week turkey hunt in April. Turkey hunters may harvest only three gobblers.

11. We allow shotguns with only #2 shot or smaller and bows, in accordance with State regulations, for turkey hunting. We prohibit the use of slugs or buckshot during turkey hunts.

12. We prohibit the use of trail or game cameras.

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Wassaw National Wildlife Refuge

* * * * *

C. Big Game Hunting. * * *

1. Hunters must possess and carry a signed refuge hunting regulations brochure on their person at all times. They may obtain hunt information and refuge hunting brochures at the Savannah Coastal Refuges Complex headquarters.

* * * * *

5. Hunters may take five deer (no more than two antlered), and we will issue State bonus tags for two of these. There is no bag limit on feral hog.

6. Hunters must be on their stands from ½ hour before legal sunrise until 9 a.m. and from 2 hours before legal sunset until ½ hour after legal sunset.

* * * * *

8. We allow only bows and muzzleloading rifles, in accordance with State regulations, during primitive weapons hunt.

9. When hunting, we allow only shotguns (20 gauge or larger; slug only), center-fire rifles (.22 caliber or larger), bows, and primitive weapons, in accordance with State regulations, during the gun hunt.

* * * * *

21. We prohibit the use of trail or game cameras.

* * * * *

9. Amend § 32.32 by:

a. Revising the entry for Crab Orchard National Wildlife Refuge; and

b. Revising paragraphs B.3. and D.3. under Port Louisa National Wildlife Refuge, to read as follows:

§ 32.32 Illinois.

* * * * *

Crab Orchard National Wildlife Refuge

A. Migratory Game Bird Hunting. We allow hunting of waterfowl on designated areas of the refuge in accordance with State regulations subject to the following conditions:

1. We require a refuge hunt brochure permit that is available at the refuge office and in brochure dispensers at multiple locations throughout the refuge. You must carry this signed permit when hunting on the refuge.

2. We prohibit hunting in the restricted use area of Crab Orchard Lake and areas posted closed to hunting as described in the hunting brochure.

3. We prohibit hunting within 50 yards (45 m) of all designated public use facilities, including but not limited to: parking areas, picnic areas, campgrounds, marinas, boat ramps, public roads, and established hiking trails listed in the refuge trails brochure.

4. Hunters must remove all boats, decoys, blinds, blind materials, stands, platforms, and other personal equipment (see §§ 27.93 and 27.94 of this chapter) brought onto the refuge at the end of each day's hunt.

5. We prohibit the construction or use of permanent blinds, stands, platforms, or scaffolds (see § 27.92 of this chapter).

6. Waterfowl hunting blinds must be a minimum of 200 yards (180 m) apart. Hunters must anchor boat blinds on the shore or anchor them a minimum of 200 yards (180 m) away from any shoreline.

7. An adult age 21 or older must supervise youth hunters under age 16, and youth hunters must remain in sight of and normal voice contact with the adult.

8. We prohibit the use of paint, flagging, reflectors, tacks, or other manmade materials to mark trails or hunting locations (see § 27.93 of this chapter).

9. We allow the use of hunting dogs during the hunting season, provided the dogs are under the immediate control of the hunter at all times.

10. We allow waterfowl hunting on the eastern shoreline in Grassy Bay.

11. Waterfowl hunters may hunt in the ''controlled waterfowl hunting area'' up to 3 days prior to Canada goose season.

12. We allow waterfowl hunting in the ''controlled waterfowl hunting area'' (as displayed in the refuge hunting brochure) during the Canada goose season subject to the following conditions:

i. Waterfowl hunters must attend a special drawing on the day of the hunt.

ii. We allow hunting ½ hour before legal sunrise to posted closing times.

iii. Hunters must hunt from assigned refuge blinds or markers. We allow water blind hunters to hunt from a boat immediately adjacent to their blind/marker.

iv. All hunters must report their harvest at the end of the day's hunt using the Waterfowl Harvest Report (FWS Form 3–2361).

B. Upland Game Hunting. We allow hunting of squirrel, rabbit, bobwhite quail, raccoon, opossum, red fox, grey fox, and coyote on designated areas of the refuge in accordance with State regulations subject to the following conditions:

1. Conditions A1 through A5 and A7 through A9 apply.

2. We prohibit upland game hunting in the ''controlled waterfowl hunting area'' during the Canada goose hunting season, except we allow furbearer hunting from legal sunset to legal sunrise.

3. We prohibit hunters using rifles or handguns with ammunition larger than .22 caliber rimfire, except they may use black powder firearms up to and including .40 caliber.

4. We allow the use of .22 and .17 caliber rimfire lead ammunition for the taking of small game and furbearers during open season.

5. We prohibit target practice or any nonhunting discharge of firearms (see § 27.42 of this chapter).

C. Big Game Hunting. We allow hunting of white-tailed deer and turkey on designated areas of the refuge in accordance with State regulations subject to the following conditions:

1. Conditions A1 through A5 and A7, A8, and B4 apply.

2. We require all deer and turkey hunters using the ''restricted use area'' (as described in the hunting brochure) to check-in at the refuge visitor center prior to hunting.

3. We allow the use of legal-sized lead ammunition (see current Illinois hunting digest) for the taking of deer and turkey.

4. We prohibit the use of handguns for the taking of deer in the restricted use area.

5. We prohibit the use of ''deer drives'' for the taking or attempting to take deer. We define a ''deer drive'' as a hunter(s) moving through an area with the intent of displacing one or more deer in the direction of another hunter(s).

6. We allow deer hunting with archery equipment only in the following areas:

i. In the ''controlled waterfowl hunting area'';

ii. On all refuge lands north of Illinois State Route 13; and

iii. In the area north of the Crab Orchard Lake emergency spillway and west of Crab Orchard Lake.

D. Sport Fishing. We allow sport fishing on designated areas of the refuge in accordance with State regulations subject to the following conditions:

1. On Crab Orchard Lake west of Wolf Creek Road:

i. Anglers may fish from boats all year.

ii. Anglers must remove all trotlines/jugs from legal sunrise until legal sunset from the Friday immediately prior to Memorial Day through Labor Day.

2. On Crab Orchard Lake east of Wolf Creek Road:

i. Anglers may fish from boats March 15 through September 30.

ii. Anglers may fish all year at the Wolf Creek and Route 148 causeways.

3. Anglers must check and remove fish from all jugs and trotlines daily.

4. We prohibit using stakes to anchor any trotlines and anchoring trotlines from any object on the shoreline.

5. Anglers must tag all jugs and trotlines with their name and address.

6. We prohibit anglers using jugs or trotlines with any flotation device that has previously contained any petroleum-based material or toxic substances.

7. Anglers must attach a buoyed device that is visible on the water's surface to all trotlines.

8. Anglers may use all legal noncommercial fishing methods, except they may not use any underwater breathing apparatus.

9. On A–41, Bluegill, Managers, Honkers, and Vistors Ponds:

i. Anglers may fish only from legal sunrise to legal sunset March 15 through September 30.

ii. We prohibit anglers from using boats or flotation devices.

10. Anglers may not submerge any pots or similar object to take or locate any fish.

11. Organizers of all fishing events must possess a Fishing/Shrimping/Crabbing Application (FWS Form 3–2358).

12. We prohibit anglers from fishing within 250 yards (225 m) of an occupied waterfowl hunting blind.

13. We restrict motorboats on all refuge waters to slow speeds leaving

''no wake'' within 150 feet (45 m) of any shoreline, swimming area, marina entrance, boat ramp, causeway tunnel, and any areas indicated on the lake zoning map in the refuge fishing brochure.

14. We prohibit the use of boat motors of more than ''10 horse power'' on Devils Kitchen and Little Grassy Lakes.

15. We prohibit the use of gas-powered motors in the southeastern section of Devils Kitchen Lake (consult lake zoning map in the refuge fishing brochure).

16. We prohibit the use of trotlines/jugs on all refuge waters outside of Crab Orchard Lake.

17. Specific creel and size limits apply on various refuge waters as listed in the Crab Orchard Fishing Brochure and the annual Illinois fishing digest.

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Port Louisa National Wildlife Refuge

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B. Upland Game Hunting. * * *

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3. We allow hunting in designated areas on the Horseshoe Bend Division from September 1 until September 15 and December 1 until February 28. We allow spring turkey hunting.

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D. Sport Fishing. * * *

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3. We close the following Divisions to all public access: Louisa Division—September 15 until January 1; Horseshoe Bend Division—September 15 until December 1; Keithsburg Division—September 15 until January 1.

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10. Amend § 32.33 by revising paragraphs B.2. and B.4., adding paragraphs B.6. and B.7., revising paragraphs C.2. and C.8., and adding paragraphs C.9. and D.5. under Muscatatuck National Wildlife Refuge, to read as follows:

§ 32.33 Indiana.

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Muscatatuck National Wildlife Refuge

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B. Upland Game Hunting. * * *

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2. We allow the use of hunting dogs only for hunting rabbit, quail, and squirrel provided the dogs are under the immediate control of the hunter at all times (see § 26.21(b) of this chapter).

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4. Hunters must use nontoxic shot in shotguns.

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6. We require all hunters except turkey hunters to wear hunter orange.

7. We require all hunters to display a game harvest report (FWS Form 3–2359), with name and date filled in, on their vehicle dashboard while hunting. Hunters may pick up reports at registration boxes, complete the reports, and leave them there before departing the refuge.

C. Big Game Hunting. * * *

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2. You must possess and carry a State-issued refuge hunting permit to hunt deer during the State early archery season in October, the muzzleloader season, and the youth hunting weekend.

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8. We allow only spring turkey hunting on the refuge, and hunters must possess a State-issued hunting permit.

9. We allow archery deer hunting in November except during youth hunting weekend.

D. Sport Fishing. * * *

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5. We prohibit lead sinkers. We allow sinkers made of nontoxic materials.

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11. Amend § 32.34 by:

a. Revising paragraph C.6., adding paragraph C.12, revising the introductory text of paragraph D., and revising paragraphs D.1., D.2., and D.5. under DeSoto National Wildlife Refuge; and

b. Revising the entry for Northern Tallgrass Prairie National Wildlife Refuge.

These additions and revisions read as follows:

§ 32.34 Iowa.

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DeSoto National Wildlife Refuge

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C. Big Game Hunting. * * *

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6. We prohibit the use of a crossbow as archery equipment unless the hunter has obtained a State-issued disability crossbow permit.

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12. We prohibit participation in organized deer drives.

D. Sport Fishing. We allow sport fishing in DeSoto National Wildlife Refuge in accordance with the States of Iowa and Nebraska regulations subject to the following conditions:

1. We allow ice fishing in DeSoto Lake from January 2 through the end of February.

2. We allow the use of pole and line or rod and reel fishing in DeSoto Lake from April 15 through October 14.

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5. We allow the use of portable ice fishing shelters on a daily basis from January 2 through the end of February.

* * * * *

Northern Tallgrass Prairie National Wildlife Refuge

A. Migratory Game Bird Hunting. Except for those units adjacent to Neal Smith National Wildlife Refuge, we allow hunting of duck, goose, merganser, coot, rail (Virginia and sora only), woodcock, and snipe on designated areas in accordance with State regulations subject to the following conditions:

1. Hunters may possess only approved nontoxic shot while in the field (see § 32.2(k)).

2. Hunters may construct temporary blinds using manmade materials only. We prohibit bringing plants or their parts onto the refuge.

3. We prohibit the construction or use of permanent blinds, stands, or scaffolds (see § 27.93 of this chapter).

4. We prohibit leaving boats, decoys, or other personal property unattended at any time.

5. Hunters must remove boats, decoys, portable or temporary blinds, materials brought onto the refuge, and other personal property at the end of each day's hunt (see §§ 27.93 and 27.94 of this chapter).

6. We allow the use of hunting dogs, provided that the dogs remain under the immediate control of the hunter at all times during the State-approved hunting season (see § 26.21(b) of this chapter).

7. We prohibit the use of motorized watercraft.

8. We prohibit camping.

B. Upland Game Hunting. Except for those units adjacent to Neal Smith National Wildlife Refuge, we allow the hunting of ring-necked pheasant, bobwhite quail, gray partridge, rabbit (cottontail and jack), squirrel (fox and gray), groundhog, raccoon, opossum, fox (red and gray), coyote, badger, striped skunk, and crow on designated areas of the refuge in accordance with State regulations subject to the following conditions:

1. Shotgun hunters may possess only approved nontoxic shot while in the field (see § 32.2(k)).

2. We allow the use of dogs for upland game bird hunting only, provided the dogs remain under the immediate control of the hunter at all times during the State-approved hunting season (see § 26.21(b) of this chapter).

3. We prohibit the use of dogs for hunting furbearers.

4. Conditions A7 and A8 apply.

C. Big Game Hunting. Except for those units adjacent to Neal Smith National

Wildlife Refuge, we allow the hunting of deer and turkey on designated areas of the refuge in accordance with State regulations subject to the following conditions:

1. We allow the use of temporary stands, blinds, platforms, or ladders. Hunters may construct blinds using manmade materials only. We prohibit bringing plants or their parts onto the refuge.

2. We prohibit the construction or use of permanent blinds, stands, scaffolds, or ladders (see § 27.93 of this chapter).

3. Hunters must remove boats, decoys, portable or temporary blinds, stands, platforms, ladders, materials brought onto the refuge, and other personal property at the end of each day's hunt (see § 27.93 of this chapter).

4. Conditions A7 and A8 apply.

D. Sport Fishing. [Reserved]

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12. Amend § 32.36 by revising paragraphs A.11. and B.6. under Clarks River National Wildlife Refuge to read as follows:

§ 32.36 Kentucky.

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Clarks River National Wildlife Refuge

A. Migratory Game Bird Hunting.

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11. We prohibit the use of any electronic call or other electronic device used for producing or projecting vocal sounds of any wildlife species with the exception of electronic calls used during the refuge coyote hunt starting at legal sunrise on the first Monday following the end of deer archery season and closing at legal sunset on the Friday 2 weeks prior to the beginning of youth turkey season.

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B. Upland Game Hunting. * * *

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6. You may hunt coyote under Statewide regulations starting at legal sunrise on the first Monday following the end of deer archery season and closing at legal sunset on the Friday 2 weeks prior to the beginning of youth turkey season. Hunters may also take coyote during any daytime refuge hunt for other wildlife species with weapons, ammunition, and equipment legal for that species only.

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13. Amend § 32.37 by:

a. Revising paragraphs A.1., C.2., and C.12. under Bayou Cocodrie National Wildlife Refuge;

b. Revising paragraphs A., D.2., and D.6. through D.8., and removing paragraph D.10. under Bayou Sauvage National Wildlife Refuge;

c. Revising the introductory text of paragraph A., revising paragraphs A.2., A.3., A.7., C.2., and C.3. under Bayou Teche National Wildlife Refuge;

d. Revising the introductory text of paragraph A., revising paragraphs A.7., B.1., B.4., and D.6. under Big Branch Marsh National Wildlife Refuge;

e. Revising paragraphs A.6. through A.8. and A10. through A.15., adding paragraphs A.16. and A.17., revising paragraphs B., C.1., C.3., C.8., and D.2. under Bogue Chitto National Wildlife Refuge;

f. Revising paragraphs A.12., and C.2. through C.4., adding paragraphs C.5. and C.6. under Cameron Prairie National Wildlife Refuge;

g. Revising paragraph A.11. under Delta National Wildlife Refuge;

h. Revising paragraphs A.4. and B.2. under Grand Cote National Wildlife Refuge;

i. Revising paragraphs A.14. and C.2. through C.8., adding paragraph C.9., revising paragraphs D.1. and D.10. through D.14., and adding paragraphs D.15. through D.18. under Lacassine National Wildlife Refuge;

j. Revising paragraphs A.2. under Lake Ophelia National Wildlife Refuge;

k. Revising the introductory text of paragraph A., revising paragraphs A.3., A.4., and A.6., adding paragraphs A.8. through A.12., revising paragraphs C.1. and C.4. through C.6., adding paragraphs C.7. and C.8., and revising paragraph D.5. under Mandalay National Wildlife Refuge;

l. Revising paragraph A.10. under Red River National Wildlife Refuge; and

m. Revising paragraph A.16. under Sabine National Wildlife Refuge.

These additions and revisions read as follows:

§ 32.37 Louisiana.

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Bayou Cocodrie National Wildlife Refuge

A. Migratory Game Bird Hunting.

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1. We require a $15 annual Public Use Permit (signature required) for all hunters and anglers age 16 and older. We waive the fee for individuals age 60 and older. The user must sign and carry the permit.

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C. Big Game Hunting. * * *

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2. The bag limit is one antlered or one antlerless deer per day. Hunters must check out each deer harvested according to the instructions posted at a designated check station prior to leaving the refuge. The State season limit and tagging regulations apply.

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12. There is a $5 application fee per person for the lottery gun hunt application.

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Bayou Sauvage National Wildlife Refuge

A. Migratory Game Bird Hunting. We allow hunting of migratory game birds on designated areas of the refuge in accordance with State regulations subject to the following conditions:

1. We consider all waterfowl and coot hunting to be youth hunts. Youths, age 15 or younger, must accompany an adult age 21 or older. The youth must be capable of and must actively participate in such hunt by the possession and/or firing of a legal weapon during such hunt for the express purpose of harvesting game.

2. Each adult may supervise no more than two youths, and no more than one adult may supervise each youth during the course of any hunt. Youth must remain within normal voice contact of the adult who is supervising them. Adults accompanying youth on refuge hunts may participate by hunting but may not harvest more than their own daily bag limit. Youth must harvest their own bag limits.

3. We allow waterfowl (ducks, geese) and coot hunting until 12 p.m. (noon) on Thursday, Friday, Saturday, and Sunday, including early teal season, youth waterfowl hunt season, or other such special seasons which may be promulgated by law or statute. We shall close the refuge to waterfowl and coot hunting during any segment of goose season that extends beyond the regular duck season.

4. Hunters may not enter the refuge prior to 4 a.m. on the day of the hunt and must exit the refuge with all equipment and materials (see § 27.93 of this chapter) no later than 1 p.m.

5. We only allow hunting on those portions of the refuge that lie outside of the confines of the hurricane protection levee system.

6. Specific State regulations apply during the State Youth Waterfowl Hunting Days (i.e., adults may not hunt), except adults must be age 21 or older.

7. Hunters must possess and carry a valid refuge hunt permit (signed brochure).

8. We allow dogs only to locate, point, and retrieve while hunting.

9. We allow only nontoxic shot while hunting (see § 32.2(k)).

10. We prohibit hunting within 200 feet (60 m) of any road, railroad, levee,

water control structure, designated public use trail, designated parking area, and other designated public use facilities.

11. We require hunters to comply with State regulations regarding the completion of a Hunter Safety Course.

12. Persons possessing, transporting, or carrying firearms on national wildlife refuges must comply with all provisions of State and local law. Persons may only use (discharge) firearms in accordance with refuge regulations (see § 27.42 of this chapter and specific refuge regulations in part 32).

13. We prohibit air-thrust boats, aircraft, mud boats, and air-cooled propulsion engines on the refuge.

14. We prohibit motorized boats on all levees.

15. We prohibit any person or group to act as a hunting/angling guide, outfitter, or in any other capacity that any other individual(s) pays or promises to pay directly or indirectly for services rendered to any other person or persons hunting/angling on the refuge, regardless of whether such payment is for guiding, outfitting, lodging, or club membership.

16. We prohibit the use of open fires.

17. We prohibit camping.

18. We prohibit target shooting on the refuge.

19. We prohibit the use of any type of material used as flagging or trail markers, except bright eyes.

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D. Sport Fishing. * * *

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2. We allow sport fishing and shell fishing year-round on designated areas of the refuge. We close the remainder of the refuge from November 1 through January 31.

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6. We prohibit feeding of any wildlife within the refuge.

7. We prohibit all commercial finfishing and shell fishing.

8. Conditions A12 through A19 apply.

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Bayou Teche National Wildlife Refuge

A. Migratory Game Bird Hunting. We allow hunting of migratory game birds and waterfowl on designated areas of the refuge in accordance with State regulations subject to the following conditions:

* * * * *

2. We prohibit hunting in and/or shooting into or across any agricultural field, roadway, or canal.

3. An adult at least age 21 must supervise youth hunters age 15 and younger during all hunts. One adult may supervise two youths during small game hunts and migratory bird hunts but may supervise only one youth during big game hunts. Youth must remain within normal voice contact of the adult who is supervising them. Parents or adult guardians are responsible for ensuring that hunters under age 16 do not engage in conduct that would constitute a violation of refuge regulations.

* * * * *

7. We prohibit parking, walking, or hunting within 150 feet (45 m) of any active oil well site, production facility, or equipment. We also prohibit hunting within 150 feet (45 m) of any public road, refuge road, building, residence, or designated public facility.

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C. Big Game Hunting. * * *

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2. We allow archery deer hunting from the start of the State archery season until January 31. Hunters may take deer of either sex in accordance with State-approved archery equipment and regulations. The State season limits apply. The following units are open to archery deer hunting: Centerville, Bayou Sale, North Bend East, North Bend West, and Garden City. We close refuge archery hunting on those days that the refuge deer gun hunts occur.

3. We allow hunting only in the Centerville, Garden City, Bayou Sale, North Bend East, and North Bend West Units. We do not open the Bayou Sale Unit for all big game firearm hunts.

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Big Branch Marsh National Wildlife Refuge

A. Migratory Game Bird Hunting. We allow hunting of duck, coot, goose, snipe, rail, gallinule, and woodcock on designed areas of the refuge during the State season for those species in accordance with State regulations subject to the following conditions:

* * * * *

7. An adult age 21 or older must supervise youth hunters age 15 or younger during all hunts. One adult may supervise two youths during small game and migratory bird hunts but may supervise only one youth during big game hunts. Youth must remain within normal voice contact of the adult who is supervising them. Parents or adult guardians are responsible for ensuring that hunters under age 16 do not engage in conduct that would constitute a violation of refuge regulations.

* * * * *

B. Upland Game Hunting. * * *

1. We allow upland game hunting during the open State season using only approved nontoxic shot (see § 32.2(k)) size 4 or smaller or .17 or .22 caliber rimfire rifles.

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4. Conditions A5 through A10 and A12 through A17 apply.

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D. Sport Fishing. * * *

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6. Conditions A6, A8, A9, and A13 (angling guides) through A17 apply.

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Bogue Chitto National Wildlife Refuge

A. Migratory Game Bird Hunting.

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6. An adult at least age 21 must supervise youth hunters age 15 or younger during all hunts. One adult may supervise two youths during small game hunts and migratory bird hunts but may supervise only one youth during big game hunts. Youth must remain within normal voice contact of the adult who is supervising them. Parents or adult guardians are responsible for ensuring that hunters under age 16 do not engage in conduct that would constitute a violation of refuge regulations.

7. We prohibit hunting within 150 feet (45 m) from the centerline of any public road, refuge road, designated or maintained trail, building, residence, designated public facility, or from or across aboveground oil or gas or electric facilities. We prohibit hunting in refuge-designated closed areas, which we post on the refuge and identify in the refuge hunt permits (see § 27.31 of this chapter).

8. For the purpose of hunting, we prohibit possession of slugs, buckshot, rifle, or pistol ammunition unless otherwise specified.

* * * * *

10. We prohibit any person or group to act as a hunting guide, outfitter, or in any other capacity that any other individual(s) pays or promises to pay directly to indirectly for services rendered to any other person or persons hunting on the refuge, regardless of whether such payment is for guiding, outfitting, lodging, or club membership.

11. We prohibit horses, trail cameras, and ATVs.

12. You may possess only approved nontoxic shot while hunting on the refuge (see § 32.2(k)).

13. We prohibit the use of any type of material used as flagging or trail markers, except bright eyes.

14. We prohibit the use or possession of alcohol while hunting (see § 32.2(j)).

15. We prohibit possession or distribution of bait while in the field and hunting with the aid of bait,

including any grain, salt, minerals, or any nonnaturally occurring food attractant, on the refuge (see § 32.2(h)).

16. We prohibit target shooting on the refuge.

17. Persons possessing, transporting, or carrying firearms on national wildlife refuges must comply with all provisions of State and local law. Persons may only use (discharge) firearms in accordance with refuge regulations (see § 27.42 of this chapter and specific refuge regulations in part 32).

B. Upland Game Hunting. We allow hunting of squirrel, rabbit, raccoon, and opossum on designated areas of the refuge in accordance with State regulations subject to the following conditions:

1. We allow use of dogs for rabbit, squirrel, raccoon, and opossum on specific dates listed in the refuge hunt brochure.

2. We will close the refuge to hunting (except waterfowl) and camping when the Pearl River reaches 15.5 feet (4.65 m) on the Pearl River Gauge at Pearl River, Louisiana.

3. We prohibit the take of feral hog during any upland game hunts.

4. All hunters (including archery hunters and small game hunters) except waterfowl hunters must wear and display 400 square inches (2,600 cm^2) of unbroken hunter orange as the outermost layer of clothing on the chest and back and a hunter-orange cap during deer gun, primitive firearm, and special temporary hog gun seasons. We require hunters participating in dog season for squirrels and rabbits to wear a hunter-orange cap. All other hunters, including archers (while on the ground), except waterfowl hunters also must wear a hunter-orange cap during the dog season for squirrels and rabbits. Deer hunters hunting from concealed ground blinds must display a minimum of 400 square inches (2,600 cm^2) of hunter orange above or around their blinds which is visible from 360 degrees.

5. Conditions A5 through A17 apply, except you may use .17- and .22-caliber rifles, and the nontoxic shot in your possession while hunting must be size 4 or smaller.

C. Big Game Hunting. * * *

1. Conditions A5 through A11, A13 through A17, B2, B4, and B5 (except A12) apply.

* * * * *

3. We allow archery deer and hog hunting during the open State deer archery season. You may take deer of either sex in accordance with State-approved archery equipment and regulations. The State season limits apply.

* * * * *

8. You may take hog as incidental game while participating in the refuge archery, primitive weapon, and general gun deer hunts except where specified otherwise. We list specific dates for the special hog hunts in January, February, and March in the refuge hunt brochure. During the special hog hunts in February you must use trained hog-hunting dogs to aid in the take of hog. During the special hog hunts you may take hog from ½ hour before legal sunrise until ½ hour after legal sunset, and you must use pistol or rifle ammunition not larger than .22 caliber rimfire or shotgun with nontoxic shot to take the hog after it has been caught by dogs. During the special temporary experimental hog hunt in March, you may use any legal firearm. A8 applies during special hog hunts in February.

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D. Sport Fishing. * * *

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2. Conditions A9 and A11 apply.

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Cameron Prairie National Wildlife Refuge

A. Migratory Game Bird Hunting. * * *

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12. An adult at least age 21 must supervise youth hunters age 15 or younger during all hunts. One adult may supervise two youths during migratory bird hunts but may supervise only one youth during big game hunts. Youth must remain within normal voice contact of the adult who is supervising them. Parents or adult guardians are responsible for ensuring that hunters under age 16 do not engage in conduct that would constitute a violation of refuge regulations.

* * * * *

C. Big Game Hunting. * * *

* * * * *

2. We allow only portable deer stands. Hunters may place deer stands on the refuge 1 day before the white-tail deer archery season and must remove them from the refuge within 1 day after the season closes. Hunters may place only one deer stand on the refuge, and deer stands must have the owner's name, address, and phone number clearly printed on the stand. Hunters must place stands in a nonhunting position at ground level when not in use.

3. Conditions A3, A5 through A7, and A9 through A12 apply.

4. Each hunter must complete and turn in a Big Game Harvest Report (FWS Form 3–2359) available from a self-clearing check station after each hunt.

5. We prohibit entrance to the hunting area earlier than 4 a.m. Hunters must leave no later than 1 hour after legal sunset.

6. We prohibit possession or distribution of bait or hunting with the aid of bait, including any grail, salt, minerals, or other feed or any nonnaturally occurring attractant on the refuge (see § 32.2(h)).

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Delta National Wildlife Refuge

A. Migratory Game Bird Hunting. * * *

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11. An adult at least age 21 must supervise youth hunters age 15 or younger during all hunts. One adult may supervise two youths during small game and migratory game bird hunts but may supervise only one youth during big game hunts. Youth must remain within normal voice contact of the adult who is supervising them. Parents or adult guardians are responsible for ensuring that hunters under age 16 do not engage in conduct that would constitute a violation of refuge regulations.

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Grand Cote National Wildlife Refuge

A. Migratory Game Bird Hunting. * * *

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4. Hunters may use shotguns and possess only approved nontoxic shot for hunting migratory game birds.

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B. Upland Game Hunting. * * *

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2. We allow the use of only shotguns and rifles that are .22 magnum caliber rimfire or less for upland game hunting. You may possess only approved nontoxic shot in shotguns while hunting (see § 32.2(k)).

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Lacassine National Wildlife Refuge

A. Migratory Game Bird Hunting. * * *

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14. An adult at least age 21 must supervise youth hunters age 15 or younger during all hunts. One adult may supervise two youths during migratory game bird hunts but may supervise only one youth during big game hunts. Youth must remain within normal voice contact of the adult who is supervising them. Parents or adult guardians are responsible for ensuring that hunters under age 16 do not engage in conduct that would constitute a violation of refuge regulations.

* * * * *

C. Big Game Hunting. * * *

* * * * *

2. We allow only portable deer stands. Hunters may place deer stands on the refuge 1 day before the deer archery season and must remove them from the refuge within 1 day after the season closes. Hunters may place only one deer stand on the refuge, and deer stands must have the owner's name, address, and phone number clearly printed on the stand. Hunters must place stands in a nonhunting position at ground level when not in use.

3. Conditions A2 and A5 through A14 apply.

4. We prohibit entrance to the hunting area earlier than 4 a.m. Hunters must leave no later than 1 hour after legal sunset.

5. We prohibit hunting in the headquarters area along Nature Road and along the Lacassine Pool Wildlife Drive (see refuge map).

6. We allow boats of all motor types with 40 hp or less in Lacassine Pool.

7. We prohibit boats in Lacassine Pool and Unit D from October 16 through March 14. We prohibit boats in Units A and C.

8. We prohibit possession or distribution of bait or hunting with the aid of bait, including any grain, salt minerals, or other feed or any nonnaturally occurring attractant on the refuge (see § 32.2(h)).

9. Each hunter must complete and turn in a Big Game Harvest Report (FWS Form 3–2359) available from a self-clearing check station, after each hunt.

D. Sport Fishing. * * *

1. Conditions A6, A7, A10, A13 (fishing guide), C6, and C7 apply.

* * * * *

10. We prohibit boat and bank fishing in Lacassine Pool, Unit D, Streeter's Area, and refuge waters from October 16 through March 14.

11. We prohibit all boat motors, excluding trolling motors, in refuge marshes outside Lacassine Pool. We prohibit air-thrust boats, ATVs, and UTVs (utility vehicle) on the refuge (see § 27.31(f) of this chapter) unless otherwise allowed.

12. We prohibit all mechanized equipment, including motorized boats, within the designated wilderness area.

13. We allow fishing only with rod and reel or pole and line in refuge waters. We prohibit possession of any other type of fishing gear, including limb lines, gill nets, jug lines, yo-yos, or trotlines.

14. We allow only recreational crabbing with cotton hand lines or drop nets up to 24 inches (60 cm) outside diameter. We prohibit using floats on crab lines.

15. The daily limit of crabs is 5 dozen (60) per boat or vehicle, regardless of the number of people thereon.

16. Anglers must attend all lines, nets, and bait and remove same from the refuge when through fishing (see § 27.93 of this chapter).

17. Anglers can travel the refuge by boat from 1 hour before legal sunrise until 1 hour after legal sunset in order to access fishing areas. We prohibit fishing activities before legal sunrise and after legal sunset.

18. We prohibit the taking of turtle (see § 27.21 of this chapter).

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Lake Ophelia National Wildlife Refuge

A. Migratory Game Bird Hunting. * * *

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2. Hunters may use shotguns and possess only approved nontoxic shot for hunting migratory game birds.

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Mandalay National Wildlife Refuge

A. Migratory Game Bird Hunting. We allow hunting of duck, goose, moorhen, gallinule, and coot in designated areas of the refuge in accordance with State regulations subject to the following conditions:

* * * * *

3. An adult at least age 21 must supervise youth hunters age 15 or under during all hunts. One adult may supervise two youths during small game and migratory game bird hunts. An adult may supervise only one youth during big game hunts. Youth must remain within normal voice contact of the adult who is supervising them. Parents or adult guardians are responsible for ensuring that hunters under age 16 do not engage in conduct that would constitute a violation of refuge regulations.

4. All hunters must possess and carry a signed hunt brochure (on the front cover) while hunting on refuge. The brochure is free and available on at the refuge office or online at *http://www.fws.gov/boguechitto/.* All hunters must check-in and check out at a refuge self-clearing check station. Each hunter must list their name on the self-clearing check station form (Migratory Bird Hunt Report, FWS Form 3–2361) and deposit the form at a refuge self-clearing check station prior to hunting. Hunters must report all game taken on the refuge when checking out by using the self-clearing check station form.

* * * * *

6. Persons possessing, transporting, or carrying firearms on national wildlife refuges must comply with all provisions of State and local law. Persons may only use (discharge) firearms in accordance with refuge regulations (see § 26.42 of this chapter and specific refuge regulations in part 32). Hunters may only possess approved nontoxic shot while hunting on the refuge (see § 32.2(k)).

* * * * *

8. We prohibit possession or distribution of bait while in the field and hunting with the aid of bait, including any grain, salt minerals, or any nonnaturally occurring food attractant on the refuge (see § 32.2(h)).

9. We prohibit target shooting on the refuge.

10. We prohibit any person or group to act as a hunting guide, outfitter, or in any other capacity that any other individual(s) pays or promises to pay directly or indirectly for services rendered to any other person or persons hunting on the refuge, regardless of whether such payment is for guiding, outfitting, lodging, or club membership.

11. We prohibit horses and ATVs.

12. We prohibit the use of any type of material used as flagging or trail markers except bright eyes (see § 27.94 of this chapter).

* * * * *

C. Big Game Hunting. * * *

1. We open the refuge to hunting of deer and hog only during the State archery season, except prior to 12 p.m. (noon) on Wednesdays and Saturdays during State waterfowl seasons when we close areas north of the Intracoastal Waterway to hunting of big game.

* * * * *

4. We prohibit trail cameras.

5. We prohibit the use of deer decoys.

6. We only allow portable stands. Hunters may erect temporary deer stands 1 day prior to the start of deer archery season. Hunters must remove all deer stands within 1 day after the archery deer season closes. Hunters may place only one deer stand on a refuge. Deer stands must have the owner's name, address, and phone number clearly printed on the stand. Hunters must place stands in a nonhunting position when not in use (see § 27.93 and 27.94 of this chapter).

7. We prohibit dogs and driving deer.

8. Conditions A3, A4, and A6 through A12 apply.

D. Sport Fishing. * * *

* * * * *

5. Conditions A6, A7, and A9 apply.

* * * * *

Red River National Wildlife Refuge

A. Migratory Game Bird Hunting. * * *

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10. Hunters may possess only approved nontoxic shotgun ammunition for hunting on the refuge (see § 32.2(k)).

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Sabine National Wildlife Refuge

A. Migratory Game Bird Hunting.

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16. An adult at least age 21 must supervise youth hunters under age 16 during all hunts. One adult may supervise two youths during migratory game bird hunts but may supervise two youths during migratory game bird hunts. Youth must remain within normal voice contact of the adult who is supervising them. Parents or adult guardians are responsible for ensuring that hunters under age 16 do not engage in conduct that would constitute a violation of refuge regulations.

* * * * *

14. Amend § 32.38 by revising paragraphs A.1., A.2., and C.3. under Moosehorn National Wildlife Refuge to read as follows:

§ 32.38 Maine.

* * * * *

Moosehorn National Wildlife Refuge

A. Migratory Game Bird Hunting.

* * *

1. We require every hunter to possess and carry a personally signed Migratory Bird Hunt Application (FWS Form 3–2357). Permits and regulations are available from the refuge in person during normal business hours (8 a.m. to 4:30 p.m. Monday through Friday; closed on holidays) or by contacting the Project Leader at (207) 454–7161 or by mail (Moosehorn National Wildlife Refuge, 103 Headquarters Road, Baring, Maine 04694).

2. You must annually complete a Migratory Bird Hunt Report (FWS Form 3–2361) and submit it by mail or in person at the refuge headquarters no later than 2 weeks after the close of the hunting season in March. If you do not comply with this requirement, we may suspend your future hunting privileges on Moosehorn National Wildlife Refuge.

* * * * *

C. Big Game Hunting. * * *

* * * * *

3. We allow bear hunting during the State Prescribed Season.

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15. Amend § 32.39 by revising paragraphs A.1., A.9., A.9.iii., A.9.v., A.10.i., and A.11. through A.13., removing paragraph A.14., revising paragraphs B.1. and B.3. through B.9., adding paragraph B.10., revising paragraphs C.1., C.6., and C.9. through C.15., adding paragraph C.16., revising paragraphs D.1. through D.6., D.9., removing paragraph D.12., redesignating paragraphs D.13. through D.19. as paragraphs D.12. through D.18., and revising newly redesignated paragraph D.17.iii. under Patuxent Research Refuge, to read as follows:

§ 32.39 Maryland.

* * * * *

Patuxent Research Refuge

A. Migratory Game Bird Hunting.

* * *

1. We require a Refuge Hunt Application (PRR Hunt Form #1). We issue permits through our Cooperating Association, Meade Natural Heritage Association (MNHA), at the refuge Hunting Control Station (HCS). MNHA charges a fee for each permit. Contact refuge headquarters for more information.

* * * * *

9. We prohibit hunting on or across any road (paved, gravel, dirt, opened and/or closed) within 50 yards (45 m) of a road (paved, gravel, dirt, opened and/or closed), within 150 yards (135 m) of any building or shed, and within 25 yards (22.5 m) from any designated ''No Hunting'' and ''Safety Zone'' areas, except:

* * * * *

iii. You may hunt waterfowl (goose/duck) from any refuge permanent photo/hunt blind.

* * * * *

v. You may hunt from the roadside for waterfowl in the designated posted portion of Wildlife Loop at Bailey Marsh.

* * * * *

10. * * *

i. You must wear a solid-colored-fluorescent-hunter orange that must be visible 360° while carrying-in and carrying-out equipment (e.g., portable blinds).

* * * * *

11. We allow the taking of only Canada goose during the Canada goose early resident season and late Canada goose migratory Atlantic population seasons.

12. We prohibit hunting of goose, duck, and dove during the early deer muzzleloader seasons that occur in October and all deer firearms seasons including the Youth Firearms Deer Hunts.

13. We require waterfowl hunters to use retrieving dogs while hunting duck and goose within 50 yards (45 m) of the following impounded waters: Blue Heron Pond, Lake Allen, New Marsh, and Wood Duck Pond.

i. We require dogs to be under the immediate control of their owner at all times (see § 26.21(b) of this chapter).

ii. Law enforcement officers may seize or dispatch dogs running loose or unattended (see § 28.43 of this chapter).

B. Upland Game Hunting. * * *

1. Conditions A1 through A10i apply.

* * * * *

3. We prohibit hunting of upland game during the deer muzzleloader and firearms seasons, including the Youth Firearms Deer Hunts.

4. We prohibit the use of dogs to hunt upland game.

5. Spring turkey hunters are exempt from wearing the hunter orange.

6. We allow the use of a bow and arrow for turkey hunting.

7. We require turkey hunters to use #4, #5, or #6 nontoxic shot or vertical bows.

8. We select turkey hunters by a computerized lottery for youth, disabled, mobility impaired, and general public hunts. We require documentation for disabled and mobility-impaired hunters.

9. We require turkey hunters to show proof they have attended a turkey clinic sponsored by the National Wild Turkey Federation.

10. We require turkey hunters to pattern their weapons prior to hunting. Contact refuge headquarters for more information.

C. Big Game Hunting. * * *

1. Conditions A1 through A10i apply.

* * * * *

6. We require bow hunters to wear a minimum of 250 square inches (1,625 cm^2) of fluorescent orange when moving to and from the deer stand or their hunting spot and while tracking or dragging out their deer. We do not require bow hunters to wear solid-colored-fluorescent hunter orange when positioned to hunt except during the North Tract Youth Firearms Deer Hunts, the muzzleloader seasons, and the firearms seasons, when they must wear it at all times.

* * * * *

9. You must use portable tree stands that are at least 10 feet (3 m) off the ground and equipped with a full-body safety harness while hunting at Schafer Farm, Central Tract, and South Tract. You must wear the full-body safety harness while in the tree stand. We will make limited accommodations for disabled hunters for Central Tract lottery hunts.

10. We allow the use of ground blinds on North Tract only.

11. We prohibit the use of dogs to hunt or track wounded bear.

12. If you wish to track wounded deer beyond 1½ hours after legal sunset, you

must gain consent from a refuge law enforcement officer. We prohibit tracking 2½ hours after legal sunset. You must make a reasonable effort to retrieve the wounded deer. This may include next-day tracking except Sundays and Federal holidays.

13. We prohibit deer drives or anyone taking part in any deer drive. We define a ''deer drive'' as an organized or planned effort to pursue, drive chase, or otherwise frighten or cause deer to move in the direction of any person or persons who are part of the organized or planned hunt and known to be waiting for the deer. We also prohibit organized deer drives without a standing hunter.

14. North Tract: We allow shotgun, muzzleloader, and bow hunting in accordance with the following: Conditions C1 through C13 apply.

15. Central Tract: Headquarters/MR Lottery Hunt: We only allow shotgun and bow hunting in accordance with the following: Conditions C1 through C13 apply (except C3i).

16. South Tract: We allow shotgun, muzzleloader, and bow hunting in accordance with the following:

i. Conditions C1 through C13 apply.

ii. You must access South Tract hunting areas A, B, and C off Springfield Road through the Old Beltsville Airport; and South Tract hunting area D from MD Rt. 197 through Gate #4. You must park in designated parking areas.

iii. We prohibit driving or parking along the entrance and exit roads to and from the National Wildlife Visitor Center, and parking in the visitor center parking lot when checked in to hunt any area.

D. Sport Fishing. * * *

1. We require all anglers, age 16 and older, to present their current Maryland State fishing license and complete the Fishing/Shrimping/Crabbing Application (FWS Form 3–2358). Anglers age 18 and older will receive a free Patuxent Research Refuge Fishing Vehicle Parking Pass. Organized groups must complete the Fishing/Shrimping/Crabbing Application (FWS Form 3–2358), and the group leader must stay with the group at all times while fishing.

2. We publish the Refuge Fishing Regulations, which includes the daily and yearly creel limits and fishing dates, in early January. We provide a copy of the regulations with your free Fishing Vehicle Parking Pass, and we require you to know the specific fishing regulations.

3. Anglers must carry a copy of their Maryland State fishing license in the field.

4. Anglers must display a copy of the Fishing Vehicle Parking Pass in the vehicle windshield.

5. We require anglers, age 17 or younger, to have a parent or guardian cosign the Fishing/Shrimping/Crabbing Application (FWS Form 3–2358). We will not issue a Fishing Vehicle Parking Pass to anglers age 17 or younger.

6. An adult age 21 or older possessing a Fishing Vehicle Parking Pass must accompany anglers age 17 or younger, and they must maintain visual contact with each other within a 50-yard (45 m) distance.

* * * * *

9. Anglers may take three youths, age 15 or younger, to fish under their Fishing Vehicle Parking Pass and in their presence and control.

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17. * * *

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iii. Anglers age 18 and older must complete an Emergency Contact Information/warning/waiver form (North Tract Warning PRR Hunt Form #2) prior to receiving a free North Tract Vehicle Access Pass. Anglers must display the North Tract Vehicle Access Pass in the vehicle windshield at all times and return the Pass to the North Tract Visitor Contact Station at the end of each visit.

* * * * *

16. Amend § 32.40 by:

a. Revising paragraphs A.2., A.4., A.8., and A9., adding paragraphs A.12. and A.13., revising paragraph B., redesignating paragraphs C.4. through C.10. as paragraphs C.5. through C.11., adding a new paragraph C.4., revising newly redesignated paragraphs C.5. and C.10., removing newly redesignated paragraph C.11., revising paragraphs D.6. and D.7., and removing paragraph D.9. under Assabet River National Wildlife Refuge;

b. Revising paragraphs A.1., A.4., A.5., A.9., and A.10., adding paragraph A.13., and revising paragraphs C.3., C.4. and C.9. under Great Meadows National Wildlife Refuge;

c. Revising paragraphs A.3., A.6., A.10., and A.11., adding paragraph A.14., revising paragraphs B.2., B.4., C.4., C.5., and C.10., removing paragraph C.11., and revising the introductory text of paragraph D. under Oxbow National Wildlife Refuge.

These additions and revisions read as follows:

§ 32.40 Massachusetts.

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Assabet River National Wildlife Refuge

A. Migratory Game Bird Hunting.

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2. We require a Migratory Bird Hunt Application (FWS Form 3–2357). We limit the number of migratory game bird hunters allowed to hunt on the refuge. If the number of applications received is greater than the number of permits available, we will issue permits by random selection.

* * * * *

4. We prohibit use of motorized vehicles on the refuge. The refuge will provide designated parking areas for hunters. Hunters must display issued hunter parking permits (generated from the Migratory Bird Hunt Application, FWS Form 3–2357) on their dashboards when parked in designated refuge parking areas.

* * * * *

8. We prohibit marking any tree or other refuge feature with flagging, paint, or any other substance. Hunters may use reflective tacks, which we require hunters to remove by the end of their permitted season.

9. You may begin scouting hunting areas on Sundays only beginning 1 month prior to the opening day of your permitted season. We require possession of refuge permits (Migratory Bird Hunt Application, FWS Form 3–2357) while scouting.

* * * * *

12. One nonhunting companion may accompany each permitted hunter. We prohibit nonhunting companions from hunting, but they may assist in other means. All companions must carry identification and stay close enough to the hunter to speak to them without raising their voice.

13. We prohibit construction or use of any permanent structure while hunting on the refuge. Hunters must remove all temporary blinds each day (see §§ 27.93 and 27.94 of this chapter).

B. Upland Game Hunting. We allow hunting of upland game on designated areas of the refuge in accordance with State regulations subject to the following conditions:

1. We allow shotgun hunting for ruffed grouse, cottontail rabbit, and gray squirrel within those portions of the refuge located north of Hudson Road, except those areas north of Hudson Road designated as ''archery only'' hunting on the current refuge hunting map. These archery only hunting areas north of Hudson Road are those portions of the refuge that are external to Patrol Road from its southern intersection with White Pond Road, northwest and then east, to its intersection with Old Marlborough Road.

2. We require a Big/Upland Game Hunt Application (FWS Form 3–2356). We limit the number of upland game hunters allowed to hunt on the refuge. If the number of applications received is greater than the number of permits available, we will issue permits by random selection.

3. Conditions A3, A4, A6 through A13 apply.

4. You may possess only approved nontoxic shot while in the field (see § 32.2(k)).

5. During seasons when it is legal to hunt deer with a shotgun or muzzleloader, we require all hunters, including archers and small game hunters, to wear a minimum of 500 square inches (3,250 cm^2) of solid-orange clothing or material in a conspicuous manner on their chest, back, and head. During all other times, if you are hunting ruffed grouse, squirrel, or cottontail rabbit on the refuge, you must wear a minimum of a solid-orange hat.

C. Big Game Hunting. * * *

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4. We require a Big/Upland Game Hunt Application (FWS Form 3–2356). We limit the number of big game hunters allowed to hunt on the refuge. If the number of applications received is greater than the number of permits available, we will issue permits by random selection.

5. Conditions A3, A4, A6 through A10, and A12 apply.

* * * * *

10. You may use temporary tree stands and/or ground blinds while engaged in hunting deer during the applicable archery, shotgun, or muzzleloader deer seasons or while hunting turkey. We allow hunters to keep one tree stand or ground blind on each refuge during the permitted season. Hunters must mark ground blinds with the hunter's permit number. Hunters must mark tree stands with the hunter's permit number in such a fashion that all numbers are visible from the ground. Hunters must remove all temporary tree stands and ground blinds by the 15th day after the end of the hunter's permitted season.

D. Sport Fishing. * * *

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6. We allow fishing on Puffer Pond from legal sunrise to legal sunset.

7. We prohibit ice fishing on the refuge.

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Great Meadows National Wildlife Refuge

A. Migratory Game Bird Hunting.

* * *

1. We require refuge permits (information taken from OMB-approved form). We limit the number of waterfowl hunters allowed to hunt on the refuge. If the number of applications received to hunt waterfowl is greater than the number of permits available, we will issue permits by random selection.

* * * * *

4. We prohibit construction or use of any permanent structure while hunting on the refuge. You must remove all temporary blinds each day (see §§ 27.93 and 27.94 of this chapter).

5. We prohibit use of motorized vehicles on the refuge. The refuge will provide designated parking areas for hunters. Hunters must display parking permits (information taken from OMB-approved forms) on the dashboard when parked in designated refuge parking areas.

* * * * *

9. We prohibit marking any tree or other refuge feature with flagging, paint, or any other substance. Hunters may use reflective tacks which they must remove by the end of the hunter's permitted season (see § 27.93 of this chapter).

10. You may begin scouting hunting areas on Sundays only beginning 1 month prior to the opening day of your permitted season. We require possession of refuge permits (information taken from OMB-approved forms) while scouting. We prohibit the use of dogs during scouting.

* * * * *

13. We allow one nonhunting companion to accompany each permitted hunter. We prohibit nonhunting companions from hunting, but they can assist in other means. All companions must carry identification and stay close enough to the hunter to speak to them without raising their voice.

* * * * *

C. Big Game Hunting. * * *

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3. We require refuge permits (information taken from OMB-approved forms). We limit the number of deer hunters allowed to hunt on the refuge. If the number of applications received to hunt deer on the refuge is greater than the number of permits available, we will issue permits by random selection.

4. Conditions A3, A5, A7 through A11, and A13 apply.

* * * * *

9. You may use temporary tree stands and/or ground blinds while engaged in hunting deer during the applicable archery season. We allow hunters to keep one tree stand or ground blind on each refuge during the permitted season. Hunters must mark ground blinds with their permit number. Hunters must mark tree stands with their permit number in such a fashion that all numbers are visible from the ground. Hunters must remove all temporary tree stands and ground blinds by the 15th day after the end of the permitted deer season (see § 27.93 of this chapter).

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Oxbow National Wildlife Refuge

A. Migratory Game Bird Hunting.

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3. We require refuge permits (information taken from OMB-approved forms). We limit the number of waterfowl hunters allowed to hunt on the refuge. If the number of applications received to hunt waterfowl is greater than the number of permits available, we will issue permits by random selection.

* * * * *

6. We prohibit use of motorized vehicles on the refuge. The refuge will provide designated parking areas for hunters. Hunters must display issued hunter parking permits (information taken from OMB-approved forms) on the dashboard when parked in designated refuge parking areas.

* * * * *

10. We prohibit marking any tree or other refuge feature with flagging, paint, or any other substance. Hunters may use reflective tacks and must remove them by the end of the hunter's permitted season (see § 27.93 of this chapter).

11. You may begin scouting hunting areas on Sundays only beginning 1 month prior to the opening day of your permitted season. We require possession of refuge permits while scouting. We prohibit the use of dogs during scouting.

* * * * *

14. One nonhunting companion may accompany each permitted hunter. We prohibit nonhunting companions from hunting, but they can assist in other means. All companions must carry identification and stay close enough to the hunter to speak to them without raising their voice.

B. Upland Game Hunting. * * *

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2. We require a Big/Upland Game Hunt Application (FWS Form 3–2356). We limit the number of upland game hunters allowed to hunt on the refuge. If the number of applications received to hunt upland game is greater than the number of permits available, we will issue permits by random selection.

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4. Conditions A4 through A6 and A8 through A14 apply.

* * * * *

C. Big Game Hunting. * * *

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4. We require refuge permits (information taken from OMB-approved form). We limit the number of deer and turkey hunters allowed to hunt on the refuge. If the number of applications received to hunt those species is greater than the number of permits available, we will issue permits by random selection.

5. Conditions A4, A6, A8 through A12, and A14 apply.

* * * * *

10. You may use temporary tree stands and/or ground blinds while engaged in hunting deer during the applicable archery, shotgun, or muzzleloader deer seasons or while hunting turkey. We allow hunters to keep one tree stand or ground blind on each refuge during the permitted season. Hunters must mark ground blinds with their permit number. Hunters must mark tree stands with their permit number in such a fashion that all numbers are visible from the ground. Hunters must remove all temporary tree stands and ground blinds by the 15th day after the end of the permitted season.

D. Sport Fishing. We allow sport fishing along the Nashua River in accordance with State regulations.

* * * * *

17. Amend § 32.42 by:

a. Adding an entry for Crane Meadows National Wildlife Refuge;

b. Revising introductory paragraphs A., B., and C. under Litchfield Wetland Management District;

c. Adding paragraph A.7, B.5., and D.4. under Minnesota Valley National Wildlife Refuge;

d. Revising the introductory text of paragraphs A. and B., revising paragraph B.4., and removing paragraphs B.5., B.6., and C.3. under Northern Tallgrass Prairie National Wildlife Refuge; and

e. Revising paragraph A.5., revising the introductory text of paragraph C., revising paragraphs C.1. through C.6., and adding paragraph C.7. under Sherburne National Wildlife Refuge.

The additions and revisions read as follows:

§ 32.42 Minnesota.

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Crane Meadows National Wildlife Refuge

A. Migratory Game Bird Hunting. [Reserved]

B. Upland Game Hunting. [Reserved]

C. Big Game Hunting. We allow hunting of white-tailed deer and turkey on designated areas of the refuge in accordance with State regulations subject to the following conditions:

1. We allow archery deer hunting for youth hunters and firearms deer hunting for persons with disabilities.

2. We allow turkey hunting for youth hunters and persons with disabilities during the State spring turkey season.

3. We prohibit the construction or use of permanent blinds, platforms, or ladders (see § 27.93 of this chapter).

4. Hunters must remove all stands from the refuge at the end of each day's hunt.

5. Hunters must dismantle hunting blinds, platforms, and ladders made from natural vegetation at the end of each day.

6. We prohibit the possession of hunting firearms or archery equipment on areas closed to white-tailed deer or turkey hunting.

7. We prohibit deer pushes or deer drives in the areas closed to deer hunting.

8. We prohibit entry to hunting areas earlier than 2 hours before legal shooting hours (½ hour before legal sunrise).

9. We prohibit camping.

10. Turkey hunters may possess only approved nontoxic shot while in the field.

11. Hunters must unload, case, and break down hunting weapons when transporting them on refuge roads.

D. Sport Fishing. [Reserved]

* * * * *

Litchfield Wetland Management District

A. Migratory Game Bird Hunting. We allow hunting of migratory game birds throughout the district except we prohibit hunting on that part of the Phare Lake Waterfowl Production Area in Renville County that lies within the Phare Lake State Game Refuge. All hunting is in accordance with State regulations subject to the following conditions:

* * * * *

B. Upland Game Hunting. We allow upland game hunting throughout the district except we prohibit hunting on that part of the Phare Lake Waterfowl Production Area in Renville County that lies within the Phare Lake State Game Refuge. All hunting is in accordance with State regulations subject to the following condition: Conditions A4 and A5 apply.

C. Big Game Hunting. We allow big game hunting throughout the district except we prohibit hunting on that part of the Phare Lake Waterfowl Production Area in Renville County that lies within the Phare Lake State Game Refuge. All hunting is in accordance with State regulations subject to the following conditions:

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Minnesota Valley National Wildlife Refuge

A. Migratory Game Bird Hunting.

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7. We prohibit falconry.

B. Upland Game Hunting. * * *

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5. Condition A7 applies.

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D. Sport Fishing * * *

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4. We prohibit taking of any turtle species by any method.

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Northern Tallgrass Prairie National Wildlife Refuge

A. Migratory Game Bird Hunting. We allow hunting of duck, goose, merganser, moorhen, coot, rail (Virginia and sora only), woodcock, common snipe, and mourning dove in accordance with State regulations subject to the following conditions:

* * * * *

B. Upland Game Hunting. We allow hunting of ring-necked pheasant, Hungarian partridge, rabbit (cottontail and jack), snowshoe hare, squirrel (fox and gray), raccoon, opossum, fox (red and gray), badger, coyote, striped skunk, and crow on designated areas of the refuge in accordance with State regulations subject to the following conditions:

* * * * *

4. Conditions A7 and A8 apply.

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Sherburne National Wildlife Refuge

A. Migratory Game Bird Hunting.

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5. We prohibit hunting during the State Special Goose Hunt.

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C. Big Game Hunting. We allow hunting of white-tailed deer and turkey on designated areas of the refuge in accordance with State regulations subject to the following conditions:

1. We allow turkey hunting for youth hunters and persons with disabilities during the State spring turkey season.

2. We prohibit the construction or use of permanent blinds, platforms, or ladders.

3. Hunters must remove all stands from the refuge at the end of each day's hunt (see § 27.93 of this chapter).

4. Hunters must dismantle hunting blinds, platforms, and ladders made from natural vegetation at the end of each day.

5. We prohibit the possession of hunting firearms or archery equipment on areas closed to white-tailed deer and turkey hunting.

6. We prohibit deer pushes or deer drives in the areas closed to deer hunting.

7. Conditions A4 and A7 apply.

* * * * *

18. Amend § 32.43 by:

a. Revising the Coldwater National Wildlife Refuge heading and paragraphs A., B., and C. under it; and

b. Revising paragraph D.9. under Noxubee National Wildlife Refuge to read as follows:

§ 32.43 Mississippi.

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Coldwater River National Wildlife Refuge

A. Migratory Game Bird Hunting. We allow hunting of migratory waterfowl and coot on designated areas of the refuge in accordance with State regulations subject to the following conditions:

1. Youth hunters age 15 and younger must possess and carry a hunter safety course card or certificate. Each youth hunter must remain within sight and normal voice contact of an adult age 21 or older. Hunters born after January 1, 1972, also must carry a Hunter Education Safety course card or certificate. All hunters age 16 and older must possess and carry a valid, signed refuge hunting permit (name and address), certifying that he or she understands and will comply with all regulations. Hunters may obtain permits at the North Mississippi Refuges Complex Headquarters, 2776 Sunset Drive, Grenada, MS 38901 or by mail from the above address.

2. We restrict all public use to 2 hours before legal sunrise to 2 hours after legal sunset. We prohibit entering or remaining on the refuge before or after hours.

3. We allow hunting of migratory game birds only on Wednesdays, Fridays, Saturdays, and Sundays from ½ hour before legal sunrise and ending at 12 p.m. (noon). Hunters must remove all decoys, blind material (see § 27.93 of this chapter), litter (see § 27.94 of this chapter), and harvested waterfowl from the area no later than 1 p.m. each day. After duck, merganser, and coot season closes, we allow hunting of goose in accordance with the Light Goose Conservation Order daily beginning ½ hour before legal sunrise and ending at legal sunset.

4. Each hunter must obtain a Migratory Bird Harvest Report Card (FWS Form 3–2361) available at each refuge information station and follow the printed instructions on the form. You must display the form in plain view on the dashboard of your vehicle so that the personal information is readable. Prior to leaving the refuge, you must complete the reverse side of the form and deposit it at one of the refuge information stations. Include all game harvested, and if you harvest no game, report ''0.''

5. We may close certain areas of the refuge for sanctuary or administrative purposes. We will mark such areas with ''No Hunting'' or ''Area Closed'' signs.

6. Waterfowl hunters may leave boats meeting all State registration requirements on refuge water bodies throughout the waterfowl season. You must remove boats (see § 27.93 of this chapter) within 72 hours after the season closes.

7. We restrict motor vehicle use to roads designated as vehicle access roads on the refuge map (see § 27.31 of this chapter). We prohibit blocking access to any road or trail entering the refuge (see § 27.31(h) of this chapter).

8. All hunters or persons on the refuge for any reason while in the field during any open refuge hunting season must wear a minimum of 500 square inches (3,250 cm^2) of visible, unbroken, fluorescent-orange-colored material above the waistline. The only exception to this is waterfowl hunters who may remove the fluorescent-orange material once positioned to hunt. Waterfowl hunters must comply while walking/boating to and from the actual hunting area.

9. We allow dogs on the refuge only when specifically authorized for hunting. We encourage the use of dogs to retrieve dead or wounded waterfowl. Dogs must remain in the immediate control of their handlers at all times (see § 26.21(b) of this chapter).

10. We prohibit cutting or removing trees and other vegetation (see § 27.51 of this chapter). We prohibit the use of flagging, paint, blazes, tacks, or other types of markers.

11. We prohibit ATVs (see § 27.31(f) of this chapter), horses, and mules on the refuge.

B. Upland Game Hunting. We allow hunting of squirrel, rabbit, nutria, and raccoon on designated areas of the refuge in accordance with State regulations subject to the following conditions:

1. Conditions A1, A4 (substitute Upland/Small Game/Furbearer Report [FWS Form 3–2362] for Migratory Bird Hunt Report), A5, A7, A10, and A11 apply.

2. We restrict all public use to 2 hours before legal sunrise and to 2 hours after legal sunset. We prohibit entering or remaining on the refuge before or after hours. We may make exceptions for raccoon hunters possessing a Special Use Permit (FWS Form 3–1383). Contact the refuge office for details.

3. When hunting, we allow only shotguns with approved nontoxic shot (see § 32.2(k)), .17 or .22-caliber rimfire rifles, or archery equipment without broadheads.

4. All hunters or persons on the refuge for any reason during any open-refuge hunting season must wear a minimum of 500 square inches (3,250 cm^2) of visible, unbroken, fluorescent-orange-colored material above the waistline.

5. We allow dogs on the refuge only when specifically authorized for hunting. Dogs must remain in the immediate control of their handlers at all times (see § 26.21(b) of this chapter). Consult the refuge hunting brochure for specific seasons.

C. Big Game Hunting. We allow hunting of white-tailed deer and feral hog on designated areas of the refuge in accordance with State regulations subject to the following conditions:

1. Conditions A1, A2, A4 (substitute Big Game Harvest Report [FWS Form 3–2359] for Migratory Bird Hunt Report), A5, A7, A11, and B4 apply.

2. We prohibit dogs while hunting deer. Hunters may only use dogs to hunt hog during designated hog seasons.

3. We prohibit use or possession of any drug or device for employing such drug for hunting (see § 32.2(g)).

4. We prohibit drives for deer.

5. We prohibit hunting or shooting across any open, fallow, or planted field from ground level or on or across any public road, public highway, railroad, or their rights-of-way during all general gun and primitive weapon hunts.

6. Hunters may erect portable deer stands 2 weeks prior to the opening of archery season on the refuge and must remove them (see § 27.93 of this chapter) by January 31. We prohibit the use of flagging, paint, blazes, tacks, or other types of markers.

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Noxubee National Wildlife Refuge

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D. Sport Fishing. * * *

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9. We require anglers to possess and carry a signed, no-cost, refuge hunting,

fishing, and public use permit (signed brochure) when fishing on the refuge.

* * * * *

19. Amend § 32.44 by:

a. Revising paragraphs B. and C. under Big Muddy National Wildlife Refuge; and

b. Revising paragraphs A., C., and D. under Swan Lake National Wildlife Refuge.

The additions and revisions read as follows:

§ 32.44 Missouri.

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Big Muddy National Wildlife Refuge

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B. Upland Game Hunting. We allow upland game hunting on designated areas of the refuge in accordance with State regulations subject to the following conditions:

1. You may possess only approved nontoxic shot (see § 32.2(k)).

2. We allow upland game hunting on the 131-acre mainland unit of Boone's Crossing with archery methods only. On Johnson Island, we allow hunting of game animals during Statewide seasons using archery methods or shotguns using shot no larger than a BB.

3. We allow upland game hunting on the Cora Island Unit only to shotguns with shot no larger than a BB.

C. Big Game Hunting. We allow hunting of deer and turkey on designated areas of the refuge in accordance with State regulations subject to the following conditions:

1. We prohibit the construction or use of permanent blinds, platforms, or ladders at any time.

2. We prohibit hunting over or placing on the refuge any salt or other mineral blocks (see § 32.2(h)).

3. We allow only portable tree stands from September 1 through January 31. Hunters must place their full name and address on their stands.

4. We restrict deer hunters on the Boone's Crossing Unit, including Johnson Island, to archery methods only.

5. The Cora Island Unit is open to deer hunting for archery methods only.

6. We prohibit trapping on all areas of the refuge.

7. You may possess only approved nontoxic shot while hunting on the refuge; this includes turkey hunting (see § 32.2(k)).

* * * * *

Swan Lake National Wildlife Refuge

A. Migratory Game Bird Hunting. We allow hunting of goose on designated areas of the refuge in accordance with State regulations subject to the following conditions:

1. We require Missouri Department of Conservation ''Green Card'' permits while hunting on the refuge in addition to all other required Federal and State license, stamps, and permits.

2. Hunters must check-in and out at the Refuge Hunter Check Station (use Missouri Department of Conservation form) before and after hunting.

3. Goose hunting is open only on Wednesdays, Fridays, Saturdays, Sundays, and all Federal holidays during the late goose season. We close to goose hunting during the refuge-managed deer hunts.

4. Hunting hours end at 1 p.m. on Units S1, S2, S3, T1, T3, V1, W1, and W2. Hunters using these units must have all equipment removed and be out of the units by 1 p.m. (see § 27.93 of this chapter).

5. We allow snow goose hunting in all units every day of the week during the designated Spring Conservation Order Season. Hunters may not check-in before 4 a.m. during the Conservation Order Season and must be off of the refuge by closing hours.

6. Hunters may hunt only in the designated areas they are assigned at the check station. We restrict hunters in Units A7, R1, and R4 to hunting from the permanent blinds. Hunters may hunt anywhere in all other units inside the designated unit by the use of temporary blinds or layout boats.

7. We allow game retrieval outside of designated hunting areas. We prohibit possession of hunting firearms while outside of the designated area except for going to and from parking areas.

8. We require that hunters leash or kennel hunting dogs when outside the hunting unit.

9. We restrict hunting units to parties no larger than four.

10. We prohibit driving vehicles into units. We allow hand-pulled carts. Hunters must park vehicles in designated parking areas for the unit to which they are assigned for hunting.

11. We prohibit cutting of woody vegetation (see § 27.51 of this chapter) on the refuge for blinds.

* * * * *

C. Big Game Hunting. We allow hunting of deer on designated areas of the refuge in accordance with State regulations subject to the following conditions:

1. We require a Missouri Department of Conservation Permit, along with Missouri Department of Conservation hunter identification tags and parking permits to hunt during the managed deer hunt.

2. We require hunters to participate in a prehunt orientation for managed deer hunts.

3. You must check-in each morning and out each evening of the hunt at the Refuge Hunter Check Station (use Missouri Department of Conservation form).

4. You may not access the refuge across the boundary from neighboring private or public lands, and you must hunt in your designated area only.

5. We allow entry onto the refuge 1 hour prior to shooting hours (defined by State regulations) during managed deer hunts. You must be off the refuge 1 hour after shooting hours.

6. We prohibit shooting from or across refuge roads open to public vehicle use.

7. We allow use of portable tree stands and blinds during managed deer hunts. We require all stands and blinds to have the hunter's name, address, and phone number attached. Hunters must mark enclosed hunting blinds and stands with hunter orange visible from all sides.

8. We prohibit hunting over or placing on the refuge any salt or other mineral blocks (see § 32.2(h)).

D. Sport Fishing. We allow sport fishing on all designated areas of the refuge in accordance with State regulations subject to the following conditions:

1. We allow fishing on the refuge only during refuge open hours.

2. The Taylor Point area of Elk Creek is open to fishing year-round during daylight hours. Anglers may access this area by a refuge road (FHWA Route 100) off of State Highway E. The area open to fishing year-round is 300 feet (90 m) upstream and 300 feet downstream of the parking lot along the banks of Elk Creek. In addition, Elk Creek is open to fishing year-round 300 feet downstream and upstream from the bridge on State Highway E. We close all fishing during the refuge-managed deer hunts.

3. We allow only nonmotorized boats on refuge waters with the exception of the Silver Lake impoundment. Anglers may use motor boats on the Silver Lake impoundment. No wake applies to all waters on the refuge.

4. Anglers must remove all boats from the refuge at the end of each day (see § 27.93 of this chapter).

* * * * *

20. Amend § 32.46 by revising paragraph A.1., the introductory text of paragraph C., and paragraphs D.2. through D.5., and adding paragraphs D.6. and D.7. under Boyer Chute National Wildlife Refuge to read as follows:

§ 32.46 Nebraska.

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Boyer Chute National Wildlife Refuge

A. Migratory Game Bird Hunting.

* * *

1. Hunters may access the refuge from 1½ hours before legal sunrise until 1 hour after legal sunset along the immediate shoreline and including the high bank of the Missouri River. You may access the hunting area by water or, if by land, only within the public use area of the Island Unit.

* * * * *

C. Big Game Hunting. We allow hunting of white-tailed deer in accordance with State regulations subject to the following condition: You must possess and carry a refuge access permit (signed brochure) at all times while in the hunting area. Hunters may enter the hunting areas only within the dates listed on the refuge access permit.

D. Sport Fishing. * * *

* * * * *

2. We allow boating at no-wake speeds, not to exceed 5 mph (8 km), on side or back channels. We prohibit all watercraft in the Boyer Chute waterway or other areas as posted.

3. We prohibit the use of trotlines, float lines, bank lines, or setlines.

4. We prohibit ice fishing.

5. We prohibit digging or seining for bait.

6. We prohibit the take or possession of turtles or frogs.

7. Anglers may use no more than two lines and two hooks per line.

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21. Amend § 32.47 by revising paragraphs A.2. and D.1. under Sheldon National Wildlife Refuge to read as follows:

§ 32.47 Nevada.

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Sheldon National Wildlife Refuge

A. Migratory Game Bird Hunting.

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2. We only allow nonmotorized boats or boats with electric motors.

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D. Sport Fishing. * * *

1. We only allow nonmotorized boats or boats with electric motors.

* * * * *

22. Amend § 32.50 by revising paragraphs C.5., C.8., C.9., C.10., C.14., and C.15. under Bosque del Apache National Wildlife Refuge to read as follows:

§ 32.50 New Mexico.

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Bosque del Apache National Wildlife Refuge

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C. Big Game Hunting. * * *

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5. We prohibit hunting from a vehicle.

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8. We allow bearded Rio Grande turkey hunting for youth in two areas of the refuge: The north hunting area and the south hunting area. We provide maps with the refuge permit (Big/Upland Game Hunt Application, FWS Form 3–2356), which each hunter must carry, that show these areas in detail.

9. Drawn hunters must possess and carry their selection letter/permit (Big/Upland Game Hunt Application, FWS Form 3–2356) for hunting of bearded Rio Grande turkey. The permit is available only to youth hunters and is available through a lottery drawing. You must postmark applications by March 1 of each year. A $6 nonrefundable application fee must accompany each hunt application.

10. We allow hunting of bearded Rio Grande turkey for youth hunters only on dates determined by refuge staff. Drawn hunters must report to refuge headquarters by 4:45 a.m. each hunt day. Legal hunting hours run from ½ hour before legal sunrise to ½ hour after legal sunset.

* * * * *

14. We allow the use of temporary ground blinds only for turkey hunts, and hunters must remove them from the refuge daily (see § 27.93 of this chapter). It is unlawful to mark any tree or other refuge structure with paint, flagging tape, ribbon, cat-eyes, or any similar marking device.

15. We allow youth hunters only one legally harvested bearded Rio Grande turkey per hunt.

* * * * *

23. Amend § 32.52 by:

a. Adding paragraphs A.6. and A.7. under Cedar Island National Wildlife Refuge;

b. Removing paragraph A.5. and redesignating paragraph A.6. as A.5., and revising paragraph C. under Currituck National Wildlife Refuge;

c. Revising paragraphs C.1. and D.1. under Mackay Island National Wildlife Refuge;

d. Revising paragraph A.1., removing paragraph A.10., redesignating paragraphs A.11. and A.12. as paragraphs A.10. and A.11. and revising newly redesignated paragraphs A.10. and A.11., revising paragraphs C.1., C.4., and C.8., adding paragraphs C.11. through C.13., revising the introductory text of paragraph D.1., and revising paragraphs D.3., D.6.i., and D.6.iii. under Mattamuskeet National Wildlife Refuge;

e. Redesignating paragraphs D.1. through D.4. as paragraphs D.2. through D.5. and adding a new paragraph D.1. under Pee Dee National Wildlife Refuge;

f. Revising paragraphs A.1. through A.6., A.12., B.4., C., and D.1. under Pocosin National Wildlife Refuge; and

g. Revising paragraph A.6. and adding paragraphs A.7. and A.8. under Swanquarter National Wildlife Refuge.

The additions and revisions read as follows:

§ 32.52 North Carolina.

* * * * *

Cedar Island National Wildlife Refuge

A. Migratory Game Bird Hunting.

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6. Each youth hunter must remain within sight and normal voice contact of an adult age 21 or older. An adult may directly supervise up to two youth hunters age 15 or younger who must have successfully completed a State-approved hunter safety course and possess and carry proof of certification.

7. We open the refuge to daylight use only, except that we allow hunters to enter and remain in open hunting areas from 1 hour before legal shooting time until 1 hour after legal shooting time.

* * * * *

Currituck National Wildlife Refuge

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C. Big Game Hunting. We allow hunting of deer and feral hog on limited dates in designated areas of the refuge in accordance with State regulations subject to the following conditions:

1. We require a refuge hunting permit (signed brochure) that hunters must sign and carry while hunting on the refuge.

2. Each hunter must pay an annual $12.50 hunt permit fee.

3. We allow the use of shotguns, muzzleloading rifles/shotguns, pistols, and bows in designated units. We prohibit the use of all other rifles and crossbows.

4. Hunters may take two deer per day; there is no daily limit on feral hog.

5. Hunters must wear a minimum of 500 square inches (3,250 cm^2) of hunter-orange material above the waist that is visible from all directions.

6. We prohibit the marking of trees and vegetation (see § 27.51 of this chapter) with blazes, flagging, or other marking devices.

7. We allow hunters on the refuge from 1 hour before legal sunrise to 1 hour after legal sunset.

8. We allow the use of portable tree stands, but hunters must remove them daily (see § 27.93 of this chapter).

9. Hunters may access the refuge by foot, boat, and/or vehicle, but we prohibit hunting from a boat or vehicle.

10. An adult at least age 21 may supervise only one youth under age 16. The youth must be within sight and normal voice contact of the adult.

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Mackay Island National Wildlife Refuge

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C. Big Game Hunting. * * *

1. We require a Refuge Deer Hunting Permit (signed brochure) that hunters must sign and carry while hunting on the refuge.

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D. Sport Fishing. * * *

1. We allow fishing only from legal sunrise to legal sunset from March 15 through October 15 with the exception that we allow fishing along the Marsh Causeway year-round. The 0.3 Mile Loop Trail and the terminus of the canal immediately adjacent to the Visitor Center are open year-round, but we close them during the Refuge Permit Deer Hunts (signed brochure).

* * * * *

Mattamuskeet National Wildlife Refuge

A. Migratory Game Bird Hunting. * * *

1. We require refuge-issued permits (name and address) that you must validate at the refuge headquarters, sign, possess, and carry while hunting.

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10. We allow the taking of only Canada goose during the State September Canada goose season subject to the following conditions:

i. We allow hunting Monday through Saturday during the State season.

ii. The hunter must possess and carry a validated refuge permit (name and address) while hunting.

iii. We close the following areas to hunting of Canada goose: Impoundments MI–4, MI–5, and MI–6; in Rose Bay Canal, Outfall Canal, Lake Landing Canal, and Waupoppin Canal; 150 feet (45 m) from the mouth of the canals where they enter Lake Mattamuskeet; and 150 yards (135 m) from State Route 94.

iv. We allow portable blinds, but hunters must remove them daily (see § 27.93 of this chapter).

11. Each youth hunter age 15 or younger must remain within sight and normal voice contact of an adult age 21 or older. Youth hunters must have completed a State-certified hunter safety course and possess and carry the form or certificate. An adult may directly supervise up to two youth hunters age 15 or younger.

* * * * *

C. Big Game Hunting. * * *

1. The hunter must possess and carry a signed, validated refuge permit (name and address) while hunting.

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4. Hunters may take deer with shotgun, bow and arrow, crossbow, or muzzleloading rifle/shotgun.

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8. We allow the use of only portable blinds and deer stands. Hunters with a valid permit (name and address) may erect one portable blind or stand the day before the start of their hunt and must remove it at the end of the second day of that 2-day hunt (see § 27.93 of this chapter). Any stands or blinds left overnight on the refuge must have a tag with the hunter's name, address, and telephone number.

* * * * *

11. We prohibit the use of all-terrain vehicles (ATVs) or off-highway vehicles (OHVs) (see § 27.31(f) of this chapter).

12. We require consent from refuge personnel to enter and retrieve legally taken game animals from closed areas including ''No Hunting Zones.''

13. We allow the use of only biodegradable-type flagging. We prohibit affixing plastic flagging, dots, glow tacks, reflectors, or other materials to refuge vegetation (see § 27.51 of this chapter).

D. Sport Fishing. * * *

1. We are open to sport fishing, bow fishing, and crabbing from March 1 through October 31 from ½ hour before legal sunrise to ½ hour after legal sunset, except we allow bank fishing and crabbing year-round from:

* * * * *

3. We allow motorized and nonmotorized fishing boats, canoes, and kayaks March 1 through October 31. We prohibit airboats, sailboats, Jet Skis, and windboards.

* * * * *

6. * * *

i. We allow only five handlines and hand-activated traps per person. Owners must be in attendance, and anglers must remove all handlines and traps daily.

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iii. Anglers may only take or possess 12 crabs per person per day.

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Pee Dee National Wildlife Refuge

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D. Sport Fishing. * * *

1. We require all anglers to possess and carry a signed refuge Sport Fishing Permit (signed brochure) and government-issued picture ID while fishing in refuge waters.

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Pocosin Lakes National Wildlife Refuge

A. Migratory Game Bird Hunting. * * *

1. We prohibit hunting on the Davenport and Deaver tracts (which include the area surrounding the Headquarters/Visitor Center and the Scuppernong River Interpretive Boardwalk), the Pungo Shop area, New Lake, refuge lands between Lake Phelps and Shore Drive, that portion of the Pinner Tract east of SR 1105, the portion of Western Road between the intersection with Seagoing Road and the gate to the south, and the unnamed road at the southern boundary of the refuge land located west of Pettigrew State Park's Cypress Point Access Area. During November, December, January, and February, we prohibit all public entry on the Pungo and New Lakes, Duck Pen Road (except that portion that forms the Duck Pen Wildlife Trail and Pungo Lake Observation point when the trail and observation point are open), and the Pungo Lake, Riders Creek, and Dunbar Road banding sites.

2. We require consent from refuge personnel to enter and retrieve legally taken game animals from closed areas including ''No Hunting Zones.''

3. We require all hunters to possess and carry a signed, self-service refuge general hunting permit (signed brochure) while hunting on the refuge.

4. We open the refuge for daylight use only (legal sunrise to legal sunset), except that we allow hunters to enter and remain in open hunting areas from 1½ hours before legal shooting time until 1½ hours after legal shooting time except on the Pungo Unit (see condition C6).

5. We allow the use of all-terrain vehicles (ATVs) only on designated ATV roads (see § 27.31 of this chapter) and only to transport hunters and their equipment to hunt and scout. We allow ATV use only on the ATV roads at the following times:

i. When we open the ATV road and surrounding area to hunting;

ii. One week prior to the ATV road and surrounding area opening to hunting; and

iii. On Sundays, when we open the ATV road and surrounding area for hunting the following Monday.

6. Persons may only use (discharge) firearms in accordance with refuge regulations (50 CFR 27.42 and specific regulations in part 32). We prohibit hunting, taking, and attempting to take any wildlife from a vehicle while the passenger area is occupied or when the

engine is running except that we allow hunting from ATVs and other similarly classed vehicles (where they are authorized) and boats as long as they are stationary and the engine is turned off.

* * * * *

12. While hunting, we require youth hunters under age 16 to possess and carry proof that they successfully passed a State-approved hunter education course. Youth hunters may only hunt under the direct supervision of a licensed hunter over age 21. One licensed hunter over age 21 may supervise up to two migratory game bird youth hunters at a time.

B. Upland Game Hunting. * * *

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4. We prohibit the hunting of raccoon and opossum during, 5 days before, and 5 days after the State bear seasons. Outside of these periods, we allow the hunting of raccoon and opossum at night but only while possessing a Big/Upland Game Hunt Application (FWS Form 3–2356).

* * * * *

C. Big Game Hunting. We allow hunting of deer, turkey, and feral hog on designated areas of the refuge in accordance with State regulations subject to the following conditions:

1. Conditions A1 through A7 apply.

2. You may hunt spring turkey only if you possess and carry a valid permit (Big/Upland Game Hunt Application (FWS Form 3–2356)). The permits are valid only for the dates and areas shown on the permit. We require an application and a fee for these permits and hold a drawing, when necessary, to select the permittees.

3. We allow the use of only shotguns, muzzleloaders, and bow and arrow for deer and feral hog hunting. We allow hunters to take feral hog in any area that is open to hunting deer using only those weapons that we authorize for taking deer except that hunters may take feral hog with bow and arrow, muzzleloader, and shotgun on the Frying Pan Unit whenever the area is open to hunting any game species with firearms.

4. You may possess only approved nontoxic shot (see § 32.2(k)) while hunting turkeys on the Pungo Unit.

5. We allow deer hunting only with shotgun and muzzleloader on the Pungo Unit while possessing a valid permit from the North Carolina Wildlife Resources Commission for the Pocosin Lakes National Wildlife Refuge—Pungo Unit—either sex deer special hunts that we hold in late September and October. We require a fee that validates the State permit to participate in these special hunts.

6. During the special hunts described in C5, we allow only permitted hunters on the Pungo Unit from 1½ hours before legal sunrise until 1½ hours after legal sunset.

7. Prior to December 1, we allow deer hunting with bow and arrow on the Pungo Unit during all State deer seasons, except during the muzzleloading season and except during the special hunts described in C5.

8. Hunters must wear 500 square inches (3,250 cm^2) of fluorescent-orange material above the waist that is visible from all sides while hunting deer and feral hog in any area open to hunting these species with firearms.

9. We allow the use of only portable deer stands (tree climbers, ladders, tripods, etc.). Hunters may use ground blinds, chairs, buckets, and other such items for hunting, but we require that you remove all of these items at the end of each day (see § 27.93 of this chapter), except that hunters with a valid permit for the special hunts described in condition C5 may install one deer stand on the Pungo Unit the day before the start of their hunt and leave it until the end of their hunt. Hunters must tag any stands left overnight on the refuge with their name, address, and telephone number.

10. While hunting, we require youth hunters under age 16 to possess and carry proof that they successfully passed a State-approved hunter education course. Youth hunters may only hunt under the direct supervision of a licensed hunter age 21 or older. A licensed hunter age 21 or older may only supervise one big game youth hunter at a time.

11. We prohibit the use of dogs to track, chase, or in any way assist with the take of big game.

D. Sport Fishing. * * *

1. We allow fishing in Pungo Lake and New Lake only from March 1 through October 31, except that we close Pungo Lake and the entire Pungo Unit to fishing during the special hunts described in condition C5.

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Swanquarter National Wildlife Refuge

A. Migratory Game Bird Hunting. * * *

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6. We allow hunting only during the State waterfowl season occurring in November, December, and January.

7. Each youth hunter must remain within sight and normal voice contact of an adult age 21 or older. An adult may directly supervise up to two youth hunters age 15 or younger who must have successfully completed a State-approved hunter safety course and possess and carry proof of certification.

8. We open the refuge to daylight use only (legal sunrise to legal sunset), except that we allow hunters to enter and remain in open hunting areas from 1 hour before legal shooting time until 1 hour after legal shooting time.

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24. Amend § 32.53 by revising paragraph B.10. under Upper Souris National Wildlife Refuge to read as follows:

§ 32.53 North Dakota.

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Upper Souris National Wildlife Refuge

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B. Upland Game Hunting. * * *

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10. Hunters may possess only approved nontoxic shot for all upland game hunting as identified in § 20.21(j) of this chapter.

* * * * *

25. Amend § 32.55 by:

a. Revising paragraph B.2. under Deep Fork National Wildlife Refuge;

b. Revising paragraphs A.1., A.5., A.11., and A.12. under Sequoyah National Wildlife Refuge;

c. Revising the entry for Tishomingo National Wildlife Refuge; and

d. Adding an entry for Tishomingo Wildlife Management Unit.

The additions and revisions read as follows:

§ 32.55 Oklahoma.

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Deep Fork National Wildlife Refuge

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B. Upland Game Hunting. * * *

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2. We allow shotguns, .22 and .17 caliber rimfire rifles, and pistols for rabbit and squirrel hunting. Hunters must possess nontoxic shot when using a shotgun (see § 32.2(k)).

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Sequoyah National Wildlife Refuge

A. Migratory Game Bird Hunting. * * *

1. We require an annual refuge permit (Special Use Permit; FWS Form 3–1383) for all hunting. The hunter must possess and carry the signed permit while hunting. We require hunters to abide by all terms and conditions listed on the permit.

* * * * *

5. Hunters must use only legal shotguns and possess only approved nontoxic shot for migratory bird hunting. Persons possessing, transporting, or carrying firearms on national wildlife refuges must comply

with all provisions of State and local law. Persons may only use (discharge) firearms in accordance with refuge regulations (50 CFR 27.42 and specific refuge regulations in part 32).

* * * * *

11. We prohibit hunters entering the Sandtown Bottom Unit prior to 5 a.m. during the hunting season. Until 7 a.m., the entrance is through the headquarters gate only, at which time hunters may enter the Sandtown Bottom Unit through any other access point on the refuge. Hunters must leave the Sandtown Bottom Unit by 1 hour after legal sunset.

12. We prohibit alcoholic beverages on all refuge lands.

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Tishomingo National Wildlife Refuge

A. Migratory Game Bird Hunting. [Reserved]

B. Upland Game Hunting. [Reserved]

C. Big Game Hunting. We allow hunting of white-tailed deer on designated areas of the refuge in accordance with State regulations subject to the following conditions:

1. Refuge bonus deer gun hunts are by special permit (issued by the Oklahoma State Department of Wildlife Conservation) only; we prohibit prehunt scouting or use of camera-monitoring devices.

2. We prohibit baiting (see § 32.2(h)).

3. We allow camping in compliance with conditions set out by the refuge.

D. Sport Fishing. We allow sport fishing on designated areas of the refuge in accordance with State regulations subject to the following conditions:

1. Anglers may bank and wade fish with pole and line or rod and reel year-round in areas open for public fishing access.

2. Anglers may use boats from March 1 through September 30 in designated waters (see refuge map).

3. Anglers may ''no-wake'' boat fish during the boating season with line and pole or rod and reel, except in areas designated as Sanctuary Zones.

4. Anglers may use trotlines and other set tackle only in the Cumberland Pool (designated areas), Rock Creek, and between the natural banks of the Washita River. Anglers may only use set tackle with anchored floats.

5. We prohibit use of limblines, throwlines, juglines, and yo-yos.

6. We prohibit use of any containers (jugs, bottles) as floats.

7. Anglers may night fish from a boat (during boating season) in the Cumberland Pool, except in the Sanctuary Zones. Anglers may night fish at the Headquarters area, Sandy Creek Bridge, Murray 23, and Nida Point.

8. Anglers may take bait only for personal use while fishing on the refuge in accordance with State law. We prohibit bait removal from the refuge for commercial sales. We also prohibit release of bait back into the water.

9. We prohibit bow fishing.

10. We prohibit take of fish by use of hands (noodling).

11. We prohibit take of frog, turtle, or mussel.

12. We prohibit swimming, water sports, personal watercraft, and airboats.

13. Condition C3 applies.

Tishomingo Wildlife Management Unit

A. Migratory Game Bird Hunting. We allow hunting of mourning dove and waterfowl on the Tishomingo Wildlife Management Unit of Tishomingo National Wildlife Refuge in accordance with State regulations.

B. Upland Game Hunting. We allow hunting of quail, squirrel, turkey, and rabbit on the Tishomingo Wildlife Management Unit of Tishomingo National Wildlife Refuge in accordance with State regulations.

C. Big Game Hunting. We allow hunting of white-tailed deer on the Tishomingo Wildlife Management Unit of Tishomingo National Wildlife Refuge in accordance with State regulations.

D. Sport Fishing. We allow sport fishing on the Tishomingo Wildlife Management Unit of Tishomingo National Wildlife Refuge in accordance with State regulations.

* * * * *

26. Amend § 32.56 by:

a. Adding paragraph A.4. under Bandon Marsh National Wildlife Refuge;

b. Revising Cold Springs National Wildlife Refuge;

c. Revising paragraph A. under Lewis and Clark National Wildlife Refuge;

d. Revising the entry for McKay Creek National Wildlife Refuge;

e. Revising the entry for Umatilla National Wildlife Refuge; and

f. Revising paragraphs C. and D. under William L. Finley National Wildlife Refuge.

The additions and revisions read as follows:

§ 32.56 Oregon.

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Bandon Marsh National Wildlife Refuge

A. Migratory Game Bird Hunting.

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4. Persons possessing, transporting, or carrying firearms on national wildlife refuges must comply with all provisions of State and local law. Persons may only use (discharge) firearms in accordance with refuge regulations (see § 27.42 of this chapter and specific regulations in part 32).

* * * * *

Cold Springs National Wildlife Refuge

A. Migratory Game Bird Hunting. We allow hunting of goose, duck, coot, dove, and snipe on designated areas of the refuge in accordance with State regulations subject to the following conditions:

1. We prohibit overnight camping and/or parking.

2. You may possess only approved nontoxic shot for hunting (see § 32.2(k)).

3. We prohibit discharge of any firearm within ¼ mile (396 m) of any maintained building or Federal facility, such as, but not limited to, a structure designed for storage, human occupancy, or shelter for animals.

4. We allow only portable blinds and temporary blinds constructed of nonliving natural materials. Hunters must remove all decoys and other equipment (see § 27.93 of this chapter) at the end of each day.

5. We allow hunting only on Tuesdays, Thursdays, Saturdays, Sundays, Thanksgiving Day, Christmas Day, and New Year's Day.

6. We reserve parking lot F solely for Memorial Marsh Unit waterfowl hunters.

7. We require waterfowl hunting parties to space themselves a minimum of 200 yards (180 m) apart in the free roam area along the reservoir shoreline.

8. We allow only nonmotorized boats or boats with electric motors within that portion of the reservoir open to hunting.

9. On the Memorial Marsh Unit, we allow hunting only from numbered field blind sites, and hunters must park their vehicles only at the numbered post corresponding to the numbered field blind site they are using (see § 27.31 of this chapter). Selection of parking sites/numbered posts is on a first-come, first-served basis at parking lot F. We prohibit free-roam hunting or jump shooting, and you must remain within 100 feet (30 m) of the numbered field blind post unless retrieving birds or setting decoys. We allow a maximum of four persons per blind site.

B. Upland Game Hunting. We allow hunting of upland game birds on designated areas of the refuge in accordance with State regulations subject to the following conditions:

1. Conditions A1, A2, and A3 apply.

2. We allow hunting from 12 p.m. (noon) to legal sunset on Tuesdays, Thursdays, Saturdays, Sundays, Thanksgiving Day, and Christmas Day.

C. Big Game Hunting. [Reserved]

D. Sport Fishing. We allow fishing on designated areas of the refuge in accordance with State regulations subject to the following conditions:

1. Condition A1 applies.

2. In the Cold Springs Reservoir, we allow fishing only from March 1 through September 30.

3. We allow use of only nonmotorized boats and boats with electric motors.

* * * * *

Lewis and Clark National Wildlife Refuge

A. Migratory Game Bird Hunting. We allow hunting of goose, duck, coot, and snipe on the designated areas of the refuge in accordance with State regulations subject to the following conditions:

1. You may possess only approved nontoxic shot for hunting (see § 32.2(k)).

2. We prohibit hunting on all exposed lands on Miller Sands Island and its partially enclosed lagoon, as posted. We prohibit hunting inside the diked portion of Karlson Island, as posted.

3. We prohibit permanent blinds. You must remove all personal property, including decoys and boats, by 1 hour after legal sunset (see §§ 27.93 and 27.94 of this chapter).

* * * * *

McKay Creek National Wildlife Refuge

A. Migratory Game Bird Hunting. We allow hunting of goose, duck, coot, and snipe on designated areas of the refuge in accordance with State regulations subject to the following conditions:

1. We prohibit overnight camping and/or parking.

2. We prohibit possession of toxic shot for hunting (see § 32.2(k)).

3. We prohibit discharge of any firearm within ¼ mile (396 m) of any maintained building or Federal facility, such as, but not limited to, a structure designed for storage, human occupancy, or shelter for animals.

4. We only allow portable blinds and temporary blinds constructed of nonliving natural materials. Hunters must remove all decoys and other equipment (see § 27.93 of this chapter) at the end of each day.

5. We require waterfowl hunting parties to space themselves a minimum of 200 yards (180 m) apart.

6. We prohibit the use of boats.

B. Upland Game Hunting. We allow hunting of upland game birds on designated areas of the refuge in accordance with State regulations subject to the following conditions:

1. Conditions A1, A2, and A3 apply.

2. On the opening weekend of the hunting season, we require all hunters to possess and carry a special refuge permit (name/address/phone number).

C. Big Game Hunting. [Reserved]

D. Sport Fishing. We allow fishing on designated areas of the refuge in accordance with State regulations subject to the following conditions:

1. Condition A1 applies.

2. We allow fishing from March 1 through September 30.

* * * * *

Umatilla National Wildlife Refuge

A. Migratory Game Bird Hunting. We allow hunting of goose, duck, coot, and snipe on designated areas of the refuge in accordance with State regulations subject to the following conditions:

1. We prohibit overnight camping and/or parking.

2. We prohibit possession of toxic shot for hunting (see § 32.2(k)).

3. We prohibit discharge of any firearm within ¼ mile (396 m) of any maintained building or Federal facility, such as, but not limited to, a structure designed for storage, human occupancy, or shelter for animals.

4. We allow only portable blinds and temporary blinds constructed of nonliving natural materials. Hunters must remove all decoys and other equipment (see § 27.93 of this chapter) at the end of each day.

5. On the McCormack Unit, we allow hunting subject to the following conditions:

i. The McCormack Unit is a fee-hunt area only open to hunting on Wednesdays, Saturdays, Sundays, Thanksgiving Day, and New Year's Day during State waterfowl seasons.

ii. We require hunters to stop at the check station to obtain a special refuge permit (name/address/phone number) that you must possess and carry, to pay a recreation user fee, and to obtain a blind assignment before hunting.

iii. We allow hunting only from assigned blind sites and require hunters to remain within 100 feet (30 m) of marked blind sites unless retrieving birds.

iv. Hunters may only possess up to 25 shot shells per day.

6. On the Boardman Unit, we require waterfowl hunting parties to space themselves a minimum of 200 yards (180 m) apart.

7. We close all islands within the Columbia River to all access.

B. Upland Game Hunting. We allow hunting of upland game birds on designated areas of the refuge in accordance with State regulations subject to the following conditions:

1. Conditions A1, A2, A3, and A7 apply.

2. We allow hunting of upland game from 12 p.m. (noon) to legal sunset of each hunt day.

3. On the McCormack Fee Hunt Unit, we allow hunting only on Wednesdays, Saturdays, Sundays, Thanksgiving Day, and New Year's Day.

4. On the McCormack Unit, we require all hunters to possess and carry a special refuge permit (name/address/phone number).

C. Big Game Hunting. We allow hunting of deer on designated areas of the refuge in accordance with State regulations subject to the following conditions:

1. Conditions A1, A2, A3, and A7 apply.

2. We allow hunting by special permit only (issued by the State).

D. Sport Fishing. We allow fishing on designated areas of the refuge in accordance with State regulations subject to the following conditions:

1. Conditions A1 and A7 apply.

2. We allow fishing on refuge impoundments and ponds from February 1 through September 30.

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William L. Finley National Wildlife Refuge

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C. Big Game Hunting. We allow hunting of deer on designated areas of the refuge in accordance with State regulations subject to the following conditions:

1. We allow shotgun and archery hunting on designated dates from ½ hour before legal sunrise until ½ hour after legal sunset.

2. We allow shotguns using only buckshot or slugs.

3. We prohibit overnight camping and after-hours parking on the refuge.

4. We prohibit hunting from refuge structures, observation blinds, or boardwalks.

5. All vehicles must remain parked in designated areas.

6. Hunters may use portable or climbing deer stands and must remove stands daily (see § 27.93 of this chapter). We prohibit driving or screwing nails, spikes, or other objects into trees or hunting from any tree into which such an object has been driven (see § 32.2(i)). We prohibit limbing of trees.

7. All hunters must complete a Big Game Harvest Report (FWS Form 3–2359) available at the designated self-service hunt kiosks located on the refuge.

8. Persons possessing, transporting, or carrying firearms on national wildlife refuges must comply with all provisions of State and local law. Persons may only use (discharge) firearms in accordance

with refuge regulations (see § 27.42 of this chapter and specific refuge regulations in part 32).

D. Sport Fishing. We allow fishing on designated areas of the refuge in accordance with State regulations subject to the following conditions:

1. We allow fishing on Muddy Creek from the beginning of the State trout season in April through October 31.

2. We prohibit the use of boats.

27. Amend § 32.57 by revising paragraphs A.2. through A.4., B.2., and C. under Erie National Wildlife Refuge to read as follows:

§ 32.57 Pennsylvania.

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Erie National Wildlife Refuge

A. Migratory Game Bird Hunting.

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2. We require all hunters to possess and carry on their person a signed refuge hunt permit (signed brochure).

3. We only allow nonmotorized boats for waterfowl hunting in permitted areas.

4. We require that hunters remove all boats, blinds, cameras, and decoys from the refuge within 1 hour after legal sunset (see §§ 27.93 and 27.94 of this chapter).

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B. Upland Game Hunting. * * *

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2. Conditions A1, A2, A4, and A5 apply.

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C. Big Game Hunting. We allow hunting of deer, bear, and turkey on designated areas of the refuge in accordance with State regulations subject to the following conditions:

1. Condition A1 applies. We also allow spring turkey hunting in accordance with State regulations.

2. Conditions A2 through A5 apply.

3. We prohibit organized deer drives in hunt area B of the Sugar Lake Division. We define a ''drive'' as three or more persons involved in the act of chasing, pursuing, disturbing, or otherwise directing deer so as to make the animal more susceptible to harvest.

4. We require any person hunting bear off-refuge to obtain a refuge Special Use Permit (FWS Form 3–1383) to track a wounded bear that may have entered the refuge.

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28. Amend § 32.60 by:

a. Revising paragraphs C.9. and C.13. and adding paragraph C.17. of Pinckney Island National Wildlife Refuge; and

b. Revising paragraphs A.2., A.3., A.4., and B.2., adding paragraph B.4., revising paragraphs C.1., C.7., and C.13., and removing paragraphs C.19. through C.24. of Waccamaw National Wildlife Refuge.

The additions and revisions read as follows:

§ 32.60 South Carolina.

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Pinckney Island National Wildlife Refuge

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C. Big Game Hunting. * * *

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9. Hunters must be on their stands from ½ hour before legal sunrise until 9 a.m. and from 2 hours before legal sunset until ½ hour after legal sunset.

* * * * *

13. You may take five deer (no more than two antlered).

* * * * *

17. We prohibit the use of trail or game cameras.

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Waccamaw National Wildlife Refuge

A. Migratory Game Bird Hunting.

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2. Each youth hunter age 15 and younger must remain within sight, within normal voice contact, and under supervision of an adult age 21 or older. The adult must comply with all State and Federal hunting license requirements and possess a signed refuge hunting permit (signed brochure).

3. We allow waterfowl hunting only until 12 p.m. (noon) each Saturday and Wednesday during the State waterfowl season. Hunters may enter the refuge no earlier than 5 a.m. on hunt days and must be off the refuge by 2 p.m.

4. We allow scouting Monday through Friday during the waterfowl season. Hunters must be off the refuge by 2 p.m.

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B. Upland Game Hunting. * * *

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2. We allow hunting only in designated areas and only on days designated annually by the refuge within the State season.

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4. We prohibit shooting any game from a boat except waterfowl.

C. Big Game Hunting. * * *

1. Conditions A1, A2, A9, A10, B2, and B4 apply.

* * * * *

7. We allow scouting all year during daylight hours except during the State waterfowl season. During the waterfowl season, the same regulations that apply to scouting for waterfowl (A4) apply to scouting for big game species. We prohibit the use of trail cameras and other scouting devices.

* * * * *

13. You must hunt deer and feral hog from an elevated hunting stand.

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29. Amend § 32.62 by:

a. Revising paragraph C.4. under Lower Hatchie National Wildlife Refuge; and

b. Revising paragraphs B.1. and C.4. under Reelfoot National Wildlife Refuge to read as follows:

§ 32.62 Tennessee.

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Lower Hatchie National Wildlife Refuge

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C. Big Game Hunting. * * *

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4. Hunters may possess lead shot while deer hunting on the refuge (see § 32.2(k)).

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Reelfoot National Wildlife Refuge

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B. Upland Game Hunting. * * *

1. The refuge is a day-use area only (legal sunrise to legal sunset), with the exception of legal hunting activities.

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C. Big Game Hunting. * * *

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4. Hunters may possess lead shot while deer hunting on the refuge (see § 32.2 (k)).

* * * * *

30. Amend § 32.63 by:

a. Adding paragraph C.10. under Balcones Canyonlands National Wildlife Refuge;

b. Adding paragraph A.5. under Big Boggy National Wildlife Refuge;

c. Adding paragraph A.7., revising paragraphs D.1. and D.2., and adding D.7. of Brazoria National Wildlife Refuge;

d. Revising paragraphs C.1., C.2., C.3., C.6., C.7., C.8., C.15., C.16., and C.17. under Laguna Atascosa National Wildlife Refuge;

e. Revising paragraph A.3., adding paragraph A.6., revising paragraph D.2., and adding paragraph D.3. under San Bernard National Wildlife Refuge; and

f. Revising paragraphs B.1., B.2., and B.4. through B.8., adding paragraph B.9., and revising paragraph C.1., redesignating paragraphs C.2. and C.3. as paragraphs C.3. and C.4., adding a new paragraph C.2., and removing paragraphs C.5. and C.6. under Trinity River National Wildlife Refuge.

The additions and revisions read as follows:

§ 32.63 Texas.

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Balcones Canyonlands National Wildlife Refuge

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C. Big Game Hunting. * * *

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10. Hunters must exit the refuge no later than 1½; hours after legal sunset.

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Big Boggy National Wildlife Refuge

A. Migratory Game Bird Hunting. * * *

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5. Persons possessing, transporting, or carrying firearms on national wildlife refuges must comply with all provisions of State and local law. Persons may only use (discharge) firearms in accordance with refuge regulations (see § 27.42 of this chapter and specific refuge regulations in part 32).

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Brazoria National Wildlife Refuge

A. Migratory Game Bird Hunting. * * *

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7. Persons possessing, transporting, or carrying firearms on national wildlife refuges must comply with all provisions of State and local law. Persons may only use (discharge) firearms in accordance with refuge regulations (see § 27.42 of this chapter and specific refuge regulations in part 32).

* * * * *

D. Sport Fishing. * * *

1. We allow fishing only on Nick's Lake, Salt Lake, and Lost Lake.

2. We allow access for shore fishing at Bastrop Bayou, Clay Banks, and Salt Lake Public Fishing Areas; we prohibit the use or possession of alcoholic beverages in all Public Fishing Areas.

* * * * *

7. Persons possessing, transporting, or carrying firearms on national wildlife refuges must comply with all provisions of State and local law. Persons may only use (discharge) firearms in accordance with refuge regulations (see § 27.42 of this chapter and specific refuge regulations in part 32).

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Laguna Atascosa National Wildlife Refuge

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C. Big Game Hunting. * * *

1. We require hunters to pay a fee and obtain a refuge hunt permit (name and address only). We issue replacement permits for an additional nominal fee. All hunt fees are nonrefundable. We require the hunter to possess and carry a signed and dated refuge hunt permit.

2. We allow archery and firearm hunting on designated units of the refuge. Units 1, 2, 3, 5, 6, and 8 are open to archery hunting during designated dates. Units 2, 3, 5, and 8 are open to firearm hunting during designated dates. We close the following areas to hunting: Adolph Thomae, Jr. County Park in Unit 3, posted ''No Hunting Zones'' within all hunt units, La Selva Verde Tract (Armstrong), Waller Tract, Tocayo (COHYCO, Inc.) Tract, Frieze Tract, Escondido Tract, Sendero del Gato, Resaca de la Gringa, Bahia Grande Unit, South Padre Island Unit, and the Boswell Tract.

3. We offer hunting during specific portions of the State hunting season. We determine specific deer hunt dates annually, and they usually fall within October, November, December, and January. We may provide special feral hog and nilgai antelope hunts to reduce populations at any time during the year.

* * * * *

6. An adult age 17 or older must accompany and remain within sight and normal voice contact of each youth hunter, ages 9 through 16. Hunters must be at least age 9.

7. We allow the use of only longbows, compound bows, and recurved bows during the archery hunt. We allow the use of only shoulder-fired muzzleloaders, rifles, and crossbows during the firearm hunt. Persons possessing, transporting, or carrying firearms on national wildlife refuges must comply with all provisions of State and local law. Persons may only use (discharge) firearms in accordance with refuge regulations (see § 27.42 of this chapter and specific refuge regulations in part 32). Muzzleloader firearms must be .40 caliber or larger, and modern rifles must be centerfired and .22 caliber or larger. We prohibit loaded authorized hunting firearms (see § 27.42 of this chapter) in the passenger compartment of a motor vehicle. We define ''loaded'' as having rounds in the chamber or magazine or a firing cap on a muzzleloading firearm. We prohibit target practice or ''sighting-in'' on the refuge.

8. We allow a scouting period prior to the commencement of the refuge deer hunting season. A permitted hunter and a limit of two nonpermitted individuals may enter the hunt units during the scouting period. We allow access to the units during the scouting period from legal sunrise to legal sunset. You must clearly display the refuge-issued Hunter Vehicle Validation Tags/Scouting Permits (name, address, and phone number; available from the refuge office) face up on the vehicle dashboard when hunting and scouting.

* * * * *

15. We prohibit killing or wounding an animal covered in this section and intentionally or knowingly failing to make a reasonable effort to retrieve and include it in the hunter's bag limit.

16. We prohibit use of or hunting from any type of watercraft or floating device.

17. Hunters must receive authorization from a refuge employee to enter closed refuge areas to retrieve harvested game.

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San Bernard National Wildlife Refuge

A. Migratory Game Bird Hunting. * * *

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3. We require hunters to use the Waterfowl Lottery Application (FWS Form 3–2355) and payment of fees for the Sergent Permit Waterfowl Hunt Area. Hunters must abide by all terms and conditions set by the permits.

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6. Persons possessing, transporting, or carrying firearms on national wildlife refuges must comply with all provisions of State and local law. Persons may only use (discharge) firearms in accordance with refuge regulations (see § 27.42 of this chapter and specific refuge regulations in part 32).

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D. Sport Fishing. * * *

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2. We allow access for shore fishing at Cedar Lake Creek Public Fishing Area; we prohibit the use or possession of alcoholic beverages in all Public Fishing Areas.

3. Persons possessing, transporting, or carrying firearms on national wildlife refuges must comply with all provisions of State and local law. Persons may only use (discharge) firearms in accordance with refuge regulations (see § 27.42 of this chapter and specific refuge regulations in part 32).

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Trinity River National Wildlife Refuge

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B. Upland Game Hunting. * * *

1. We require hunters to possess a refuge permit (signed brochure) and pay a fee for the hunt application. For information concerning the hunts, contact the refuge office. The hunter must carry the nontransferable permit at all times while hunting.

2. We will offer a limited season upland game squirrel and rabbit hunt. We require refuge permits and hunters

must turn in the Upland/Small Game/Furbearer Report (FWS Form 3–2362) by the date specified on the permit. Failure to submit the report will render the hunter ineligible for the next year's limited upland game hunt. Drawings will be either by lottery or on a first-come-first-served basis. We will describe hunt units in maps and written directions.

* * * * *

4. All units are walk-in only. We prohibit hunters using dogs, feeders, baiting, campsites, fires, horses, bicycles, and all-terrain vehicles (except on designated units which allow ATV use for hunters with disabilities). We provide access for hunters with disabilities. Please contact the refuge office for additional information.

5. Persons possessing, transporting, or carrying firearms on national wildlife refuges must comply with all provisions of State and local law. Persons may only use (discharge) firearms in accordance with refuge regulations (see § 27.42 of this chapter and specific refuge regulations in part 32). Units will have a hunting type of weapon restriction (long gun, shotgun, or archery) due to safety concerns.

6. Youth hunters age 12 through 17 must hunt with a permitted adult age 18 or older and be within sight and normal voice contact of the adult.

7. For safety we require a minimum distance between hunt parties of 200 yards (180 m). Hunters must visibly wear 400 square inches (2,600 cm^2) of hunter orange above the waist and a hunter-orange hat or cap.

8. We require hunters to park only in the assigned parking area at each hunt unit. They may enter the refuge no earlier than 4:30 a.m. We will allow hunting from ½ hour before legal sunrise to legal sunset only during the days specified on the permit.

9. Hunters may place no more than one temporary stand on the refuge. Hunters may place the stand during the scouting week before the hunt begins and must remove it the day the hunt ends. Hunters must remove all flagging or markers the day the hunt ends. We prohibit the use of paint for marking. Hunters must label blinds with the name of the permit holder. We prohibit hunting or erection of blinds along refuge roads or main trails.

C. Big Game Hunting. * * *

1. We will offer limited (shortened) seasons for big game hunting of deer and feral hog. The limited hunts are during the archery, general, and muzzleloader State seasons. We require refuge permits (signed refuge brochure) and Big Game Harvest Report (FWS Form 3–2359). Hunters must turn in both forms by the date specified on the permit. Failure to submit the Harvest Report will render the hunter ineligible for the next year's limited big game hunt. Drawings are by lottery. We will describe hunt units in maps and provide written directions.

2. Conditions B3 through B9 apply.

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31. Amend § 32.64 by revising paragraphs A.10., B., and C. of Ouray National Wildlife Refuge to read as follows:

§ 32.64 Utah.

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Ouray National Wildlife Refuge

A. Migratory Game Bird Hunting.

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10. Persons possessing, transporting, or carrying firearms on national wildlife refuges must comply with all provisions of State and local law. Persons may only use (discharge) firearms in accordance with refuge regulations (see § 27.42 of this chapter and part 32).

B. Upland Game Hunting. We allow hunting of pheasant and turkey in accordance with State regulations subject to the following conditions:

1. We allow pheasant and turkey hunting within designated areas.

2. We prohibit hunting on the islands and sandbars within the Green River.

3. We allow turkey hunting for youth hunters under age 14 during the general-season, youth-only turkey hunt season.

C. Big Game Hunting. We allow hunting of deer and elk in accordance with State regulations subject to the following conditions:

1. We allow deer and elk hunting within designated areas.

2. We prohibit hunting on the islands and sandbars within the Green River.

3. We allow use of portable tree stands and hunting blinds. Hunters must remove all tree stands and blinds no later than the last day of the hunting season for which they have a permit (see § 27.93 of this chapter).

4. We allow elk hunting for youth hunters under age 14 only prior to October 1.

5. We allow elk hunting during the Uintah Basin Extended Archery Elk Hunt starting on October 1.

6. We prohibit elk hunting during the general season any-legal-weapon (rifle) and muzzleloader-bull-elk hunts.

7. We allow elk hunting during limited late season antlerless elk (after December 1), hunter depredation pool, and other disabled/youth elk hunts in accordance with State and refuge regulations.

* * * * *

32. Amend § 32.67 by:

a. Revising the entry for Columbia National Wildlife Refuge;

b. Revising the entry for Conboy Lake National Wildlife Refuge;

c. Revising the entry for McNary National Wildlife Refuge;

d. Revising the entry for Toppenish National Wildlife Refuge; and

e. Revising the entry Umatilla National Wildlife Refuge.

The revisions read as follows:

§ 32.67 Washington.

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Columbia National Wildlife Refuge

A. Migratory Game Bird Hunting. We allow hunting of goose, duck, coot, and snipe on designated areas of the refuge in accordance with State regulations subject to the following conditions:

1. Except for Soda Lake Campground, we prohibit overnight parking and/or camping.

2. You may possess only approved nontoxic shot for hunting (see § 32.2(k)).

3. We prohibit discharge of any firearm within ¼ mile (396 m) of any maintained building or Federal facility, such as, but not limited to, a structure designed for storage, human occupancy, or shelter for animals.

4. We only allow portable blinds and temporary blinds constructed of nonliving natural materials. Hunters must remove all decoys and other equipment (see § 27.93 of this chapter) at the end of each day.

5. We allow hunting only on Wednesdays, Saturdays, Sundays, and Federal holidays on Marsh Unit 1 and Farm Units 226–227.

6. Prior to entering the Farm Unit 226–227 hunt area, we require you to possess and carry a special refuge permit (name/address/phone number), pay a recreation user fee, and obtain a blind assignment.

B. Upland Game Hunting. We allow hunting of upland game birds on designated areas of the refuge in accordance with State regulations subject to the following conditions:

1. Conditions A1, A2, and A3 apply.

2. We allow hunting of only upland game birds during State upland game seasons that run concurrently with the State waterfowl season.

3. We allow hunting from 12 p.m. (noon) to legal sunset on Wednesdays, Saturdays, Sundays, and Federal holidays in Marsh Unit 1.

C. Big Game Hunting. We allow hunting of deer on designated areas of the refuge in accordance with State

regulations subject to the following conditions:

1. Conditions A1, A2, and A3 apply.

2. We allow hunting only during State deer seasons that run concurrently with the State waterfowl season.

D. Sport Fishing. We allow fishing on designated areas of the refuge in accordance with State regulations subject to the following conditions:

1. Condition A1 applies.

2. On waters open to fishing, we allow fishing only from April 1 to September 30, with the exception of Falcon, Heron, Goldeneye, Corral, Blythe, Chukar, and Scaup Lakes that are open year-round.

3. We allow frogging during periods when we allow fishing on designated waters.

Conboy Lake National Wildlife Refuge

A. Migratory Game Bird Hunting. We allow hunting of goose, duck, coot, and snipe on designated areas of the refuge in accordance with State regulations subject to the following conditions:

1. We prohibit overnight camping and/or parking.

2. You may possess only approved nontoxic shot for hunting (see § 32.2(k)).

3. We prohibit discharge of any firearm within ¼ mile (396 m) of any maintained building or Federal facility, such as, but not limited to, a structure designed for storage, human occupancy, or shelter for animals.

4. We allow only portable blinds and temporary blinds constructed of nonliving natural materials. Hunters must remove all decoys and other equipment at the end of each day (see § 27.93 of this chapter).

B. Upland Game Hunting. [Reserved]

C. Big Game Hunting. We allow hunting of deer on designated areas of the refuge in accordance with State regulations subject to the following conditions: Conditions A1, A2, and A3 apply.

D. Sport Fishing. [Reserved]

* * * * *

McNary National Wildlife Refuge

A. Migratory Game Bird Hunting. We allow hunting of goose, duck, coot, dove, and snipe on designated areas of the refuge in accordance with State regulations subject to the following conditions:

1. We prohibit overnight camping and/or parking.

2. You may possess only approved nontoxic shot for hunting (see § 32.2(k)).

3. We prohibit discharge of any firearm within ¼ mile (396 m) of any maintained building or Federal facility, such as, but not limited to, a structure designed for storage, human occupancy, or shelter for animals.

4. We allow only portable blinds and temporary blinds constructed of nonliving natural materials. Hunters must remove all decoys and other equipment (see § 27.93 of this chapter) at the end of each day.

5. On the McNary Fee Hunt Area (McNary Headquarters Unit), we allow hunting subject to the following conditions:

i. The McNary Fee Hunt Area (McNary Headquarters Unit) is only open on Wednesdays, Saturdays, Sundays, Thanksgiving Day, and New Year's Day.

ii. We require hunters to possess and carry a special refuge permit (name/address/phone number), pay a recreation user fee, and obtain a blind assignment before hunting.

iii. We allow hunting only from assigned blind sites and require hunters to remain within 100 feet (30 m) of marked posts unless retrieving birds or setting decoys.

iv. We prohibit the hunting of dove.

v. Hunters may only possess up to 25 shot shells per day.

6. On the Peninsula Unit, we allow hunting subject to the following conditions:

i. On the east shoreline of the Peninsula Unit, we allow hunting only from established numbered blind sites, assigned on a first-come, first-served basis. We require hunters to remain within 100 feet (30 m) of marked posts unless retrieving birds or setting decoys.

ii. On the west shoreline of the Peninsula Unit, we require hunters to space themselves a minimum of 200 yards (180 m) apart.

7. We close Strawberry Island in the Snake River to all access.

8. We close Badger and Foundation Islands in the Columbia River to all access.

B. Upland Game Hunting. We allow hunting of upland game birds on designated areas of the refuge in accordance with State regulations subject to the following conditions:

1. Conditions A1, A2, A3, A7, and A8 apply.

2. On the McNary Fee Hunt Area (McNary Headquarters Unit), we allow hunting on Wednesdays, Saturdays, Sundays, Thanksgiving Day, and New Year's Day. We prohibit hunting before 12 p.m. (noon) on each hunt day.

3. On the Peninsula Unit, we prohibit hunting before 12 p.m. (noon) on goose hunt days.

C. Big Game Hunting. We allow hunting of deer only on the Stateline, Juniper Canyon, and Wallula Units in accordance with State regulations subject to the following conditions.

1. Conditions A1, A2, A3, A7, and A8 apply.

2. On the Wallula Unit, we allow hunting with shotgun and archery only.

D. Sport Fishing. We allow fishing on designated areas of the refuge in accordance with State regulations subject to the following conditions: Conditions A1, A7, and A8 apply.

* * * * *

Toppenish National Wildlife Refuge

A. Migratory Game Bird Hunting. We allow hunting of goose, duck, coot, dove, and snipe on designated areas of the refuge in accordance with State regulations subject to the following conditions:

1. We prohibit overnight camping and/or parking.

2. You may possess only approved nontoxic shot for hunting (see § 32.2(k)).

3. We prohibit discharge of any firearm within ¼ mile (396 m) of any maintained building or Federal facility, such as, but not limited to, a structure designed for storage, human occupancy, or shelter for animals.

4. We allow only portable blinds and temporary blinds constructed of nonliving natural materials. Hunters must remove all decoys and other equipment (see § 27.93 of this chapter) at the end of each day.

5. We allow dove hunting only on the Chloe, Webb, Petty, Halvorson, Chambers, and Isiri Units.

6. On the Pumphouse and Robbins Road Units, hunters may only possess up to 25 shot shells per day.

7. On the Petty, Isiri, Chamber, and Chloe Units, we allow hunting 7 days a week subject to the following condition: We require hunting parties to space themselves a minimum of 200 yards (180 m) apart.

8. On the Halvorson and Webb Units, we allow hunting only on Wednesdays, Saturdays, Sundays, Thanksgiving Day, Christmas Day, and New Year's Day. On these units, we allow hunting only from designated field pits, and we prohibit jump shooting.

9. On the Robbins Road Unit, we allow hunting only on Tuesdays, Thursdays, Saturdays, Sundays, Thanksgiving Day, Christmas Day, and New Year's Day.

10. On the Robbins Road and Pumphouse Units, we allow hunting only from numbered field blind sites, and hunters must park their vehicles only at the numbered post corresponding to the numbered field blind site they are using (see § 27.31 of this chapter). Selection of parking sites/numbered posts is on a first-come, first-served basis at the designated parking lot. We prohibit free-roam hunting or jump shooting, and you must remain within 100 feet (30 m) of the numbered

field blind post unless retrieving birds or setting decoys. We allow a maximum of four persons per blind site.

B. Upland Game Hunting. We allow hunting of upland game birds on designated areas of the refuge in accordance with State regulations subject to the following conditions:

1. Conditions A1 through A3 apply.

2. We allow hunting of upland game from 12 p.m. (noon) to legal sunset of each hunt day.

3. On the Halvorson and Webb Units, we allow hunting only on Wednesdays, Saturdays, Sundays, Thanksgiving Day, Christmas Day, and New Year's Day.

4. On the Robbins Road Unit, we allow hunting only on Tuesdays, Thursdays, Saturdays, Sundays, Thanksgiving Day, Christmas Day, and New Year's Day.

C. Big Game Hunting. [Reserved]

D. Sport Fishing. [Reserved]

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Umatilla National Wildlife Refuge

A. Migratory Game Bird Hunting. We allow hunting of goose, duck, coot, dove, and snipe on designated areas of the refuge in accordance with State regulations subject to the following conditions:

1. We prohibit overnight camping and/or parking.

2. You may possess only approved nontoxic shot for hunting (see § 32.2(k)).

3. We prohibit discharge of any firearms within ¼ mile (396 m) of any maintained building or Federal facility, such as, but not limited to, a structure designed for storage, human occupancy, or shelter for animals.

4. We only allow portable blinds and temporary blinds constructed of nonliving natural materials. You must remove all decoys and other equipment (see § 27.93 of this chapter) at the end of each day.

5. On the Paterson and Whitcomb Units, we allow hunting only on Wednesdays, Saturdays, Sundays, Thanksgiving Day, Christmas Day, and New Year's Day.

6. In the refuge ponds within the Paterson Unit, we allow only nonmotorized boats and boats with electric motors.

7. On the Ridge Unit, we allow only shoreline hunting and prohibit hunting from boats.

8. We require waterfowl hunting parties to space themselves a minimum of 200 yards (180 m) apart.

9. We close all islands within the Columbia River to all access.

B. Upland Game Hunting. We allow hunting of upland game birds on designated areas of the refuge in accordance with State regulations subject to the following conditions:

1. Conditions A1, A2, A3, A5, and A9 apply.

2. We allow hunting of upland game from 12 p.m. (noon) to legal sunset of each hunt day.

C. Big Game Hunting. We allow hunting of deer on designated areas of the refuge in accordance with State regulations subject to the following conditions:

1. Conditions A1, A2, A3, and A9 apply.

2. We allow hunting by special permit only (issued by the State).

D. Sport Fishing. We allow fishing on designated areas of the refuge in accordance with State regulations subject to the following conditions:

1. Conditions A1 and A9 apply.

2. We allow fishing on refuge impoundments and ponds from February 1 through September 30.

* * * * *

33. Amend § 32.68 by revising paragraphs A.2. and A.4., adding paragraph A.8., and revising paragraphs B.1., C.1., and C.2. uner Canaan Valley National Wildlife Refuge to read as follows:

§ 32.68 West Virginia.

* * * * *

Canaan Valley National Wildlife Refuge

A. Migratory Game Bird Hunting.

* * *

* * * * *

2. We allow hunting on most refuge lands with the following exceptions: the area surrounding the refuge headquarters, areas marked as safety zones, areas marked as no hunting zones, areas marked as closed to all public entry, or within 500 feet (150 m) of any dwelling in accordance with State regulations.

* * * * *

4. The refuge opens 1 hour before legal sunrise and closes 1 hour after legal sunset, including parking areas. We prohibit camping. We prohibit overnight parking except by Special Use Permit (FWS Form 3–1383) on Forest Road 80.

* * * * *

8. We prohibit hunters from leaving decoys and other personal property on the refuge (see § 27.93 of this chapter).

B. Upland Game Hunting. * * *

1. Conditions A1 (Upland/Small Game/Furbearer Report; FWS Form 3–2362), A2, A4, A6, and A7 apply.

* * * * *

C. Big Game Hunting. * * *

1. Conditions A1 (Big Game Harvest Report; FWS Form 3–2359), A2, A4, A6, A7, and B4 apply.

2. You may only enter the refuge on foot. You may use hand-powered, wheeled carts for transporting big game.

* * * * *

34. Amend § 32.69 Wisconsin by:

a. Adding paragraph C.6. and revising paragraph D. under Horicon National Wildlife Refuge;

b. Removing paragraph C.2., redesignating paragraphs C.3. through C.11. as paragraphs C.2. through C.10., revising newly redesignated paragraph C.6., adding new paragraph C.11., and revising paragraph D. under Necedah National Wildlife Refuge; and

c. Revising paragraphs B. and D. of Trempealeau National Wildlife Refuge. These additions and revisions read as follows:

§ 32.69 Wisconsin.

* * * * *

Horicon National Wildlife Refuge

* * * * *

C. Big Game Hunting. * * *

* * * * *

6. Any ground blind used during any gun deer season must display at least 144 square inches (936 cm^2) of solid-blaze-orange material visible from all directions.

D. Sport Fishing. We allow fishing on designated areas of the refuge in accordance with State regulations subject to the following conditions:

1. We allow only bank fishing.

2. We prohibit the use of fishing weights or lures containing lead.

* * * * *

Necedah National Wildlife Refuge

* * * * *

C. Big Game Hunting. * * *

* * * * *

6. Refuge Area 2 is open to deer hunting during State archery, gun, and muzzleloader seasons, except for any early antlerless-only hunts.

* * * * *

11. Any ground blind used during any gun deer season must display at least 144 square inches (936 cm^2) of solid-blaze-orange material visible from all directions.

D. Sport Fishing. We allow fishing in designated waters of the refuge at designated times subject to the following conditions:

1. We allow use of nonmotorized boats in Sprague-Goose pools only when these pools are open to fishing.

2. We allow motorized boats in Suk Cerney Pool.

3. We allow fishing by hook and line only.

* * * * *

Trempealeau National Wildlife Refuge

* * * * *

B. Upland Game Hunting. [Reserved]

* * * * *

D. Sport Fishing. We allow fishing on designated areas of the refuge from legal sunrise to legal sunset in accordance with State laws for inland waters subject to the following conditions:

1. We allow boats propelled by hand or electric motors only on refuge pools. We do not prohibit the possession of other watercraft motors, only their use. We do not restrict gasoline-powered motors on the navigable channel of the Trempealeau River.

2. We prohibit harvest of turtle, snake, frog, or any other reptile or amphibian (see § 27.21 of this chapter).

3. We prohibit the release of live bait.

4. We prohibit night-lighting, archery, spearing, or netting of fish.

5. We prohibit fishing within 200 feet (60 m) of a water control structure as per State regulation.

6. Anglers must remove ice fishing shelters from the refuge at the end of each day.

* * * * *

Dated: June 17, 2011.

Rachel Jacobson,

Acting Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 2011–15970 Filed 7–1–11; 8:45 am]

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Part IV

Department of Housing and Urban Development

24 CFR Part 17
HUD Debt Collection: Revisions and Update to the Procedures for the Collection of Claims; Proposed Rule

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

24 CFR Part 17

[Docket No. FR–5166–P–01]

RIN 2501–AD36

HUD Debt Collection: Revisions and Update to the Procedures for the Collection of Claims

AGENCY: Office of the Chief Financial Officer, HUD.

ACTION: Proposed rule.

SUMMARY: This proposed rule would revise and update HUD's regulations governing the procedures for the collection of claims by HUD. This proposed rule would primarily revise HUD's debt collection regulations to implement the Debt Collection Improvement Act of 1996 (DCTA) and the revised Federal Claims Collection Standards (FCCS). The DCTA and FCCS generally apply to the collection of nontax debt owed to the Federal Government and require referral of all eligible delinquent nontax debt to the Department of the Treasury for collection by centralized offset and to a designated debt collection center for debt servicing when a debt becomes 180 days delinquent. This proposed rule would also update and make technical corrections to HUD's salary offset provisions to conform to the changes made to HUD's debt collection regulations.

DATES: *Comment Due Date:* September 6, 2011.

ADDRESSES: Interested persons are invited to submit comments regarding this proposed rule to the Regulations Division, Office of General Counsel, 451 Seventh Street, SW., Room 10276, Department of Housing and Urban Development, Washington, DC 20410–0001. Communications must refer to the above docket number and title. There are two methods for submitting public comments.

1. *Submission of Comments by Mail.* Comments may be submitted by mail to the Regulations Division, Office of General Counsel, Department of Housing and Urban Development, 451 Seventh Street, SW., Room 10276, Washington, DC 20410–0001.

2. *Electronic Submission of Comments.* Interested persons may submit comments electronically through the Federal eRulemaking Portal at *http://www.regulations.gov.* HUD strongly encourages commenters to submit comments electronically. Electronic submission of comments allows the commenter maximum time to prepare and submit a comment, ensures timely receipt by HUD, and enables HUD to make them immediately available to the public. Comments submitted electronically through the *http://www.regulations.gov* website can be viewed by other commenters and interested members of the public. Commenters should follow the instructions provided on that site to submit comments electronically.

Note: To receive consideration as public comments, comments must be submitted through one of the two methods specified above. Again, all submissions must refer to the docket number and title of the rule. *No Facsimile Comments.* Facsimile (FAX) comments are not acceptable.

Public Inspection of Public Comments. All comments and communications properly submitted to HUD will be available for public inspection and copying between 8 a.m. and 5 p.m. weekdays at the above address. Due to security measures at the HUD Headquarters building, an advance appointment to review the public comments must be scheduled by calling the Regulations Division at 202–708–3055 (this is not a toll-free number). Individuals with speech or hearing impairments may access this number via TTY by calling the Federal Information Relay Service at 800–877–8339. Copies of all comments submitted are available for inspection and downloading at *http://www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: Scott Moore, Financial Operations Analyst, Financial Policy and Procedures Division, Office of the Chief Financial Officer, Department of Housing and Urban Development, 451 Seventh Street, SW., Room 3210, Washington, DC 20410; telephone number 202–402–2277 (this is not a toll-free number). Persons with hearing or speech challenges may access this number via TTY by calling the toll-free Federal Information Relay Service at 1–800–877–8339.

SUPPLEMENTARY INFORMATION:

I. Background

Introduction

The Debt Collection Improvement Act of 1996 (DCIA), Public Law 104–134, 110 Stat. 1321, 1358 (approved April 26, 1996) (codified in scattered sections of 31 U.S.C. ch. 37), consolidated within the Department of the Treasury responsibility for the collection of most delinquent nontax debts owed to the Federal Government. Prior to passage of the DCIA, the Department of the Treasury, through its Financial Management Service, assisted the Office of Management and Budget in providing Federal agencies with guidance on collecting nontax debt owed to the government. Methods for agencies' collection of nontax debt include administrative offset, which is authorized at 31 U.S.C. 3716, and tax refund offset under 26 U.S.C. 6402(d), 31 U.S.C. 3720A, and implementing regulations at 31 CFR 285.2. The passage of the DCIA represented a comprehensive effort to reform the management of federal nontax receivables, while responding to the increase in the amount of delinquent nontax debt owed to the United States. The DCIA is implemented through the Treasury's regulations promulgated at 31 CFR part 285 and the revised Federal Claims Collection Standards (FCCS), issued jointly by the Secretary of the Treasury and the Attorney General, which are codified at 31 CFR parts 900 through 904.[1]

The DCIA and FCCS establish a framework for improved Federal Governmentwide debt collection by centralizing the management of debts that are over 180 days delinquent within the Department of the Treasury and by providing federal agencies with more effective debt collection tools, including recovery through centralized administrative offsets and administrative wage garnishments. Generally, the DCIA requires federal agencies to take prompt action to recover debts, aggressively monitor all accounts, properly screen potential borrowers in the case of credit programs, and resolve the outstanding debt through a variety of options, including referring the debt to the Department of Justice for litigation, notifying the Department of the Treasury of all debts that are 180 days delinquent for purposes of offset, and, unless exempt by law, transferring all eligible debts that are over 180 days delinquent to a designated debt collection center. To further facilitate the collection of debts, the 10-year statute of limitations that applied to collection of debt through administrative offset under the DCIA was eliminated by Congress in 2008 (Pub. L. 110–234, sec. 14219) through amendment to 31 U.S.C. 3716(e).

[1] The Federal Claims Collection Standards (FCCS) are issued jointly by the Secretary of the Treasury and the Attorney General. These regulations prescribe the standards for the administrative collection, compromise, termination of agency collection, and the referral to the Department of Justice for litigation of civil claims by the Federal Government for money or property.

The Treasury Offset Program and Cross-Servicing

The Treasury Offset Program (TOP) is a centralized debt collection program that matches information about delinquent debts with information about payments being disbursed by federal and state disbursing officials, including the Department of the Treasury, the Department of Defense and the U.S. Postal Service payment files. When an eligible match occurs, the payment to the debtor is intercepted, and the payment is offset up to the amount of the debt or up to the maximum amount allowed by law. Cross-servicing is the designated debt collection center operated by the Treasury Department.

In order to effectively collect debts referred by federal agencies, the Department of the Treasury takes all appropriate steps to collect the debt on behalf of the agency to which the debt is owed. As part of that process, it issues demand letters, conducts telephone follow-up, initiates skip tracing, refers debts for administrative offset, performs administrative wage garnishment, and refers debts to the Department of Justice and to private collection agencies.

II. This Proposed Rule—Proposed Amendments to Part 17

The purpose of this proposed rule is to revise and replace HUD's regulations in subpart C of 24 CFR part 17, which govern the procedures for the collection of claims by the government, to conform to the DCIA and the revised FCCS, which apply to the collection of debt owed to HUD. The revised regulations in subpart C of part 17 would be further grouped under four headings. The first heading, General Provisions, would include the purpose and scope of, as well as definitions that apply to, subpart C. The second heading, Administrative Offset and Other Actions, would include the procedures that apply when HUD seeks satisfaction of debts owed to HUD by administrative offset of nonsalary payments by the Federal Government and when HUD takes other administrative actions for nonpayment of debt. The third heading, Administrative Wage Garnishment, would include the procedures that apply when HUD seeks to satisfy a debt owed to HUD out of the debtor's compensation from an employer other than the Federal Government. The fourth heading, Salary Offset, would include procedures that apply in certain cases when HUD seeks to satisfy a debt owed to it through offset of the salary of a Federal Government employee.

The revisions proposed by this rule primarily apply to regulations under the second heading under subpart C, Administrative Offset and Other Actions, to conform to the DCIA and the revised FCCS, which apply to the collection of debt owed to HUD. As part of this streamlining effort, this proposed rule would eliminate provisions in HUD regulations that no longer conform to the DCIA and FCCS or that simply repeat requirements under the DCIA and FCCS. The revisions in this proposed rule will enable HUD to streamline its procedures for collecting debts, consequently enabling it to collect debts more efficiently, in less time, and with less costs incurred. HUD estimates that a substantial amount of debt will be transferred to the Department of the Treasury for debt collection through cross-servicing or TOP. By transferring debt to an agency with significant expertise and infrastructure to operate as a debt collector, HUD will benefit by decreasing its expenditures of time and funds on debt collection.

This proposed rule also eliminates throughout subpart C references to the 10-year statute of limitations for administrative offset that Congress repealed in 2008 (the 10-year limitation for tax refund offset, which was not required by statute following an earlier amendment of the Debt Collection Act of 1982 (see Pub. L. 110–234, section 14219, 22 Stat. 923 (approved May 22, 2008)), was repealed by regulation on December 28, 2009 (see 74 FR 68537)). Finally, this proposed rule redesignates, updates, and makes technical corrections to provisions under the fourth heading under subpart C, Salary Offset, to conform to the changes made to HUD's regulations under the heading Administrative Offset and Other Actions.

The revisions proposed to be made to HUD's regulations in subpart C of 24 CFR part 17 are as follows:

A. General Provisions

1. Purpose and Scope

Proposed § 17.61 addresses the general purpose and scope of subpart C, cross-references the FCCS, and cites other statutes and regulations that remain applicable to the collection of debt owed to HUD. Proposed § 17.61(a) provides that HUD will undertake debt collection pursuant to the DCIA and the revised FCCS, and such other additional provisions as noted in subpart C. Proposed § 17.61(b) provides that, while generally applicable to the collection of all federal debt, the DCIA does not preclude other authority to collect, settle, compromise, or close claims; for example, the authority to take such action under Title I and section 204(g) of Title II of the National Housing Act (12 U.S.C. 1703(c)(2) and 1710(g)) and the authority to take such action against debts arising out of the business operations of the Government National Mortgage Association. This rule acknowledges, at § 17.61(b), such other authorities. Proposed 17.61(c) describes the organization of subpart C.

2. Definitions

Proposed § 17.63 contains the definitions of ''Department or HUD,'' ''Office,'' ''Secretary,'' ''Office of Appeals,'' ''Treasury,'' and ''United States.'' The definition of ''Department or HUD'' is provided to include a person authorized to act for HUD. This definition will allow for flexibility in the administrative assignment of responsibility within HUD for debt collection activities. The definitions solely applicable to the Department's salary offset procedures are contained at § 17.83(f).

B. Administrative Offset and Other Actions

1. Demand and Notice of Intent To Collect

Proposed § 17.65 contains the procedures HUD will follow when notifying the debtor that an amount is past due and payable to the Department. With respect to the timing of actions taken under the DCIA, although a 180-day delinquency triggers the requirement to transfer a debt, a federal agency is not required to wait until that threshold is reached and may transfer a delinquent debt sooner. The implementing regulations issued jointly by the Treasury Department and the Department of Justice require that federal agencies ''aggressively collect all debts,'' (see 31 CFR 901.1(a)) and specifically provide that ''[a]gencies should consider referring debts that are less than 180 days delinquent to Treasury or to Treasury-designated 'debt collection centers' to accomplish efficient, cost effective debt collection.'' (See 31 CFR 901.1(d)).

To address the Treasury's mandate of aggressive debt collection, proposed § 17.65 codifies the Department's current practice, consistent with the DCIA and 31 CFR parts 900–904, of providing appropriate notice to the debtor and referring unpaid debts to the Treasury Department for collection.

2. Review of Departmental Records Related to the Debt

Proposed § 17.67 outlines the process for debtors who intend to inspect or copy departmental records related to the debt, as allowed under the Treasury's

regulations at 31 CFR 901.3. Proposed § 17.67 requires the debtor to send a letter to HUD stating his or her intention to review the departmental records and requires HUD to respond to the debtor with information concerning the location and time that such records may be inspected or copied. HUD may charge the debtor a reasonable fee to compensate for the cost of providing a copy of the departmental records relating to the debt.

3. Procedures and Standards for Review and Collection of Claims

Proposed § 17.69 permits a debtor to request review of a determination that an amount is past due and payable to the Department. The debtor must notify the HUD Office of Appeals (OA) that he or she intends to present evidence showing that all or part of the debt is not past due. The OA must make a determination based upon a review of the evidence and, as appropriate, provide an oral hearing. In order to request a hearing, proposed § 17.71 requires the debtor to file the request with the OA. The hearing procedures set forth in 24 CFR part 26 will apply to hearings in administrative offset cases.

Proposed § 17.73 requires an administrative judge of the OA to issue a written decision that includes the supporting rationale concerning whether a debt is past due and legally enforceable. Such a written decision constitutes final agency action. If a determination by an administrative judge of the OA is made in HUD's favor, HUD may refer the debt to the Treasury Department for collection.

In addition to offering debtors due process protections, including the opportunity for review within HUD, proposed §§ 17.75 and 17.79 also permit HUD to postpone or withdraw referral of the debt to the Treasury Department and provide for a stay of the offset when the debtor exercises his or her right to review HUD's initial determination that the debtor owes to HUD an amount which is past due and enforceable.

4. Administrative Actions for Nonpayment of Debt

Proposed § 17.79 requires HUD to take administrative action against a contractor, grantee, or other participant in a HUD-sponsored program if such contractor, grantee, or other participant fails to pay its debt to HUD within a reasonable time after demand. HUD must refer such party to the Office of General Counsel for investigation and possible debarment or suspension, and, in the case of fraud or suspected fraud, refer such party to HUD's Office of Inspector General for investigation. However, the failure to pay HUD within a reasonable time after demand is not a prerequisite for referral for fraud or suspected fraud. Depending on the outcome of a referral to the Office of General Counsel or Office of Inspector General, proposed § 17.79 also requires HUD to ensure that such party is placed on the Excluded Parties List System, which is maintained by the General Services Administration.

C. Administrative Wage Garnishment

Proposed § 17.81 of subpart C permits HUD to collect a debt by using administrative wage garnishment. Section 17.81 authorizes HUD to use the regulations in 31 CFR 285.11 to collect money from a debtor's disposable pay to satisfy delinquent debt owed to HUD. To the extent that 31 CFR 285.11 does not apply, HUD is governed by its hearing procedures in 24 CFR part 26.

D. Salary Offset

Proposed §§ 17.83 through 17.113 of subpart C contain HUD's procedures to implement salary offset. This proposed rule redesignates the salary offset provisions and makes technical changes to the cross-references contained within. It more specifically describes the applicability of HUD's salary offset provisions in § 17.83(b), in recognition of the fact that salary offset is now generally carried out through centralized procedures by the Treasury Department's Financial Management Service. (See 5 CFR 550.1108 and 31 CFR 285.7.) Section 17.83(d) is revised to reference the employee's right to propose a repayment agreement in lieu of offset, which the Secretary may accept upon balancing of the Department's interest in collecting the debt against hardship to the employee under § 17.99. (Financial hardship may also be a factor that the hearing official considers under § 17.91 in reviewing the Secretary's proposed offset schedule.) The proposed rule makes five additional changes.

First, proposed § 17.89(d) requires the Department to include, in its Notice of Intent to Offset Salary, an explanation of the Department's requirements concerning interest. Prior to the proposed rule, the Department's requirements contained an exception if payments were excused in accordance with § 17.72. However, because this proposed rule revises HUD's debt collection regulations to implement the DCIA, § 17.72 is no longer applicable. As such, proposed § 17.89(d) requires that HUD provide an explanation of the interest, penalties, and administrative costs, including a statement that such assessments must be made unless excused in accordance with the FCCS.

Second, proposed § 17.101(c) provides that, if the employee retires or resigns before collection of the amount of the indebtedness is complete, the remaining indebtedness will be collected from the employee under the procedures for collecting claims owed to the Department, as provided in §§ 17.61 through 17.69 of this proposed rule. Prior to the proposed rule, the Department collected remaining indebtedness according to the procedures for administrative offset under §§ 17.100 through 17.118, which have subsequently been amended by this proposed rule.

Third, proposed § 17.103 would clarify that debts for travel advances and training expenses will be collected in a lump sum, rather than in installments. Collection of such debts in lump sum is in conformance with 5 U.S.C. 4108, 5 U.S.C. 5705, and Financial Management Service guidance. (See Managing Federal Receivables, May 2005, p. 6–41.)

Fourth, proposed § 17.107 requires that the Department charge interest on indebtedness in accordance with the FCCS. Previously, the salary offset regulations required interest to be collected in accordance with § 17.72. However, because this proposed rule revises HUD's debt collection regulations to implement the DCIA, § 17.72 is no longer applicable.

Finally, the 10-year statute of limitations previously implemented in § 17.114 is eliminated in accordance with Section 14219(a) of the Food, Conservation, and Energy Act of 2008 (Pub. L. 110–234, approved May, 22, 2008), which amended the Debt Collection Improvement Act at 31 U.S.C. 3716(e) to remove the statute of limitations.

III. Findings and Certifications

Environmental Impact

This proposed rule does not direct, provide for assistance or loan and mortgage insurance for, or otherwise govern or regulate, real property acquisition, disposition, leasing, rehabilitation, alteration, demolition, or new construction; or establish, revise, or provide for standards for construction or construction materials, manufactured housing, or occupancy. Accordingly, under 24 CFR 50.19(c)(1), this proposed rule is categorically excluded from environmental review under the National Environmental Policy Act of 1969 (42 U.S.C. 4321).

Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*) generally requires an agency to conduct a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. This proposed rule revises HUD's regulations at 24 CFR part 17, subpart C, which govern HUD's procedures for the collection of claims owed to HUD or to another federal agency. These revisions to HUD's regulations are mandated by the DCIA, which directs federal agencies to update their regulations, and are directed to all entities, small or large, in addition to individuals such as federal employees. The revisions impose no significant economic impact on a substantial number of small entities. Therefore, the undersigned certifies that this rule will not have a significant impact on a substantial number of small entities.

Notwithstanding HUD's view that this rule will not have a significant effect on a substantial number of small entities, HUD specifically invites comments regarding any less burdensome alternatives to this rule that will meet HUD's objectives as described in this preamble.

Federalism

Executive Order 13132 (entitled ''Federalism'') prohibits an agency from publishing any rule that has federalism implications if the rule either imposes substantial direct compliance costs on state and local governments and is not required by statute, or the rule preempts state law, unless the agency meets the consultation and funding requirements of section 6 of the Executive Order. This rule does not have federalism implications and does not impose substantial direct compliance costs on state and local governments nor preempts state law within the meaning of the Executive Order.

Unfunded Mandates Reform Act

Title II of the Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) (UMRA) establishes requirements for federal agencies to assess the effects of their regulatory actions on state, local, and tribal governments and the private sector. This rule will not impose any federal mandates on any state, local, or tribal governments or the private sector within the meaning of UMRA.

List of Subjects in 24 CFR Part 17

Administrative practice and procedure, Claims, Government employees, Income taxes, Wages.

Accordingly, for the reasons described in the preamble, HUD proposes to amend 24 CFR part 17 to read as follows:

PART 17—ADMINISTRATIVE CLAIMS

1. The authority citation for part 17 continues to read as follows:

Authority: 5 U.S.C. 5514; 31 U.S.C. 3701, 3711, 3716–3720E; and 42 U.S.C. 3535(d).

2. Revise subpart C to read as follows:

Subpart C—Procedures for the Collection of Claims by the Government

General Provisions

17.61 Purpose and scope.
17.63 Definitions.

Administrative Offset and Other Actions

17.65 Demand and notice of intent to collect.
17.67 Review of departmental records related to the debt.
17.69 Review within HUD of a determination that an amount is past due and legally enforceable.
17.71 Request for hearing.
17.73 Determination of the HUD Office of Appeals.
17.75 Postponements, withdrawals, and extensions of time.
17.77 Stay of referral for offset.
17.79 Administrative actions for nonpayment of debt.

Administrative Wage Garnishment

17.81 Administrative wage garnishment.

Salary Offset

17.83 Scope and definitions.
17.85 Coordinating offset with another federal agency.
17.87 Determination of indebtedness.
17.89 Notice requirements before offset.
17.91 Request for a hearing.
17.93 Result if employee fails to meet deadlines.
17.95 Written decision following a hearing.
17.97 Review of departmental records related to the debt.
17.99 Written agreement to repay debt as an alternative to offset.
17.101 Procedures for salary offset: when deductions may begin.
17.103 Procedures for salary offset: types of collection.
17.105 Procedures for salary offset: methods of collection.
17.107 Procedures for salary offset: imposition of interest.
17.109 Nonwaiver of rights.
17.111 Refunds.
17.113 Miscellaneous provisions: correspondence with the Department.

Subpart C—Procedures for the Collection of Claims by the Government

General Provisions

§ 17.61 Purpose and scope.

(a) *In general.* HUD will undertake debt collection pursuant to this subpart in accordance with the Debt Collection Improvement Act of 1996, codified in scattered sections of 31 U.S.C. chapter 37; the revised Federal Claims Collection Standards, codified at 31 CFR parts 900 through 904; the Treasury debt collection regulations set forth in 31 CFR part 285; and such additional provisions as provided in this subpart.

(b) *Applicability of other statutes and regulations.* (1) Nothing in this subpart precludes the authority under statutes and regulations other than those described in this subpart to collect, settle, compromise, or close claims, including, but not limited to:

(i) Debts incurred by contractors under contracts for supplies and services awarded by HUD under the authority of subpart 32.6 of the Federal Acquisition Regulation (FAR);

(ii) Debts arising out of the business operations of the Government National Mortgage Association; and

(iii) Debts arising under Title I or section 204(g) of Title II of the National Housing Act (12 U.S.C. 1701 *et seq.*).

(2) This subpart is not applicable to tax debts or to any debt for which there is an indication of fraud or misrepresentation, unless the debt is returned by the Department of Justice to HUD for handling.

(c) *Scope.* Sections 17.65 through 17.79, under the heading Administrative Offset and Other Actions, includes the procedures that apply when HUD seeks satisfaction of debts owed to HUD by administrative offset of payments by the Federal Government other than federal salary payments, and when HUD takes other administrative actions for nonpayment of debt. Section 17.81, under the heading Administrative Wage Garnishment, includes the procedures that apply when HUD seeks to satisfy a debt owed to HUD out of the debtor's compensation from an employer other than the Federal Government. Sections 17.83 through 17.113, under the heading Salary Offset, include procedures that apply when HUD or another federal agency seeks to satisfy a debt owed to it through offset of the salary of a current federal employee.

§ 17.63 Definitions.

As used in this subpart:

Department or HUD means the Department of Housing and Urban Development, and includes a person authorized to act for HUD.

Office means the organization of each Assistant Secretary of HUD or other HUD official at the Assistant Secretary level, and each Field Office.

Office of Appeals or OA means the HUD Office of Appeals within the HUD Office of Hearings and Appeals.

Secretary means the Secretary of HUD.

Treasury means the Department of the Treasury.

United States includes an agency of the United States.

Administrative Offset and Other Actions

§ 17.65 Demand and notice of intent to offset.

HUD will make written demand upon the debtor pursuant to the requirements of 31 CFR 901.2 and send written notice of intent to offset to the debtor pursuant to the requirements of 31 CFR 901.3 and 31 CFR part 285, subpart A. The Secretary shall mail the demand and notice of intent to offset to the debtor, at the most current address that is available to the Secretary. HUD may refer the debt to the Treasury for collection and shall request that the amount of the debt be offset against any amount payable by the Treasury as a federal payment, at any time after 60 days from the date such notice is sent to the debtor.

§ 17.67 Review of departmental records related to the debt.

(a) *Notification by the debtor.* A debtor who intends to inspect or copy departmental records related to the debt pursuant to 31 CFR 901.3 must, within 20 calendar days after the date of the notice in § 17.65, send a letter to HUD, at the address indicated in the notice of intent to offset, stating his or her intention. A debtor may also request, within 20 calendar days from the date of such notice, that HUD provide the debtor with a copy of departmental records related to the debt.

(b) *HUD's response.* In response to a timely notification by the debtor as described in paragraph (a) of this section, HUD shall notify the debtor of the location and the time when the debtor may inspect or copy departmental records related to the debt. If the debtor requests that HUD provide a copy of departmental records related to the debt, HUD shall send the records to the debtor within 10 calendar days from the date that HUD receives the debtor's request. HUD may charge the debtor a reasonable fee to compensate for the cost of providing a copy of the departmental records related to the debt.

§ 17.69 Review within HUD of a determination that an amount is past due and legally enforceable.

(a) *Notification by the debtor.* A debtor who receives notice of intent to offset pursuant to § 17.65 has the right to a review of the case and to present evidence that all or part of the debt is not past due or not legally enforceable. The debtor may send a copy of the notice with a letter notifying the Office of Appeals of his or her intention to present evidence. Failure to give this notice shall not jeopardize the debtor's right to present evidence within the 60 calendar days provided for in paragraph (b) of this section. If the Office of Appeals has additional procedures governing the review process, a copy of the procedures shall be mailed to the debtor after the request for review is received and docketed by the Office of Appeals.

(b) *Submission of evidence.* If the debtor wishes to submit evidence showing that all or part of the debt is not past due or not legally enforceable, the debtor must submit such evidence to the Office of Appeals within 60 calendar days after the date of the notice of intent to offset. Failure to submit evidence will result in a dismissal of the request for review by the OA.

(c) *Review of the record.* After timely submission of evidence by the debtor, the OA will review the evidence submitted by the Department that shows that all or part of the debt is past due and legally enforceable. The decision of an administrative judge of the OA will be based on a preponderance of the evidence as to whether there is a debt that is past due and whether it is legally enforceable. The administrative judge of the OA shall make a determination based upon a review of the evidence that comprises the written record, except that the OA may order an oral hearing if the administrative judge of the OA finds that:

(1) An applicable statute authorizes or requires the Department to consider a waiver of the indebtedness and the waiver determination turns on credibility or veracity; or

(2) The question of indebtedness cannot be resolved by review of the documentary evidence.

(d) *Previous decision by an administrative judge of the Office of Appeals.* The debtor is not entitled to a review of the Department's intent to offset if an administrative judge of the OA has previously issued a decision on the merits that the debt is past due and legally enforceable, except when the debt has become legally unenforceable since the issuance of that decision, or the debtor can submit newly discovered material evidence that the debt is presently not legally enforceable.

§ 17.71 Request for hearing.

The debtor shall file a request for a hearing with the OA at the address specified in the notice or at such other address as the OA may direct in writing to the debtor.

§ 17.73 Determination of the HUD Office of Appeals.

(a) *Determination.* An administrative judge of the OA shall issue a written decision that includes the supporting rationale for the decision. The decision of the administrative judge of the OA concerning whether a debt or part of a debt is past due and legally enforceable is the final agency decision with respect to the past due status and enforceability of the debt.

(b) *Copies.* Copies of the decision of the administrative judge of the OA shall be distributed to HUD's General Counsel, HUD's Chief Financial Officer (CFO), or other appropriate HUD program official, the debtor, and the debtor's attorney or other representative, if any.

(c) *Notification to the Department of the Treasury.* If the decision of the administrative judge of the OA affirms that all or part of the debt is past due and legally enforceable, HUD shall notify the Treasury after the date that the determination of the OA has been issued under paragraph (a) of this section and a copy of the determination has been received by HUD's CFO or other appropriate HUD program official. No referral shall be made to the Treasury if the review of the debt by an administrative judge of the OA subsequently determines that the debt is not past due or not legally enforceable.

§ 17.75 Postponements, withdrawals, and extensions of time.

(a) *Postponements and withdrawals.* HUD may, for good cause, postpone or withdraw referral of the debt to the Treasury.

(b) *Extensions of time.* At the discretion of an administrative judge of the OA, time limitations required in these procedures may be extended in appropriate circumstances for good cause.

§ 17.77 Stay of referral for offset.

If the debtor timely submits evidence in accordance with § 17.69(b), the referral to the Treasury in § 17.65 shall be stayed until the date of the issuance of a written decision by an administrative judge of the OA that determines that a debt or part of a debt is past due and legally enforceable.

§ 17.79 Administrative actions for nonpayment of debt.

(a) *Referrals for nonpayment of debt.* When a contractor, grantee, or other participant in a program sponsored by HUD, fails to pay its debt to HUD within

a reasonable time after demand, HUD shall take such measures to:

(1) Refer such contractor, grantee, or other participant to the Office of General Counsel for investigation of the matter and possible suspension or debarment pursuant to 2 CFR part 2424, 2 CFR 180.800, and subpart 9.4 of the Federal Acquisition Regulation (FAR); and

(2) In the case of matters involving fraud or suspected fraud, refer such contractor, grantee, or other participant to the Office of Inspector General for investigation. However, the failure to pay HUD within a reasonable time after demand is not a prerequisite for referral for fraud or suspected fraud.

(b) *Excluded Parties List System (EPLS).* Depending upon the outcome of the referral in paragraph (a), HUD shall take such measures to insure that the contractor, grantee, or other participant is placed on the EPLS.

(c) *Report to the Treasury.* The failure of any surety to honor its obligations in accordance with 31 U.S.C. 9304 shall be reported to the Chief Financial Officer, who shall inform the Treasury.

Administrative Wage Garnishment

§ 17.81 Administrative wage garnishment.

(a) *In general.* HUD may collect a debt by using administrative wage garnishment pursuant to 31 CFR 285.11. To the extent that situations arise that are not covered by 31 CFR 285.11, those situations shall be governed by 24 CFR part 26, subpart A.

(b) *Hearing official.* Any hearing required to establish HUD's right to collect a debt through administrative wage garnishment shall be conducted by an administrative judge of the OA under 24 CFR part 26, subpart A of part 26.

Salary Offset

§ 17.83 Scope and definitions.

(a) The provisions set forth in §§ 17.83 through 17.113 are the Department's procedures for the collection of delinquent nontax debts by salary offset of a federal employee's pay to satisfy certain debts owed the government, including centralized salary offsets in accordance with 31 CFR part 285.

(b)(1) This section and §§ 17.85 through 17.99 apply to collections by the Secretary through salary offset from current employees of the Department and other agencies who owe debts to the Department; and

(2) This section, § 17.85, and §§ 17.101 through 17.113 apply to HUD's offset of pay to current employees of the Department and of other agencies who owe debts to HUD or other agencies under noncentralized salary offset procedures, in accordance with 5 CFR 550.1109.

(c) This subpart does not apply to debts or claims arising under the Internal Revenue Code of 1954 (26 U.S.C. 1–9602), the Social Security Act (42 U.S.C. 301–1397f), the tariff laws of the United States, or to any case where collection of a debt by salary offset is explicitly provided for or prohibited by another statute.

(d) This subpart identifies the types of salary offset available to the Department, as well as certain rights provided to the employee, which include a written notice before deductions begin, the opportunity to petition for a hearing, receiving a written decision if a hearing is granted, and the opportunity to propose a repayment agreement in lieu of offset. These employee rights do not apply to any adjustment to pay arising out of an employee's election of coverage or a change in coverage under a federal benefits program requiring periodic deductions from pay, if the amount to be recovered was accumulated over four pay periods or less.

(e) Nothing in this subpart precludes the compromise, suspension, or termination of collection actions where appropriate under the Department's regulations contained elsewhere in this subpart (see 24 CFR 17.61 through 17.79).

(f) As used in the salary offset provisions at §§ 17.83 through 17.113:

Agency means:

(i) An Executive department, military department, Government corporation, or independent establishment as defined in 5 U.S.C. 101, 102, 103, or 104, respectively;

(ii) The United States Postal Service; or

(iii) The Postal Regulatory Commission.

Debt means an amount owed to the United States and past due, from sources which include loans insured or guaranteed by the United States and all other amounts due the United States from assigned mortgages or deeds of trust, direct loans, advances, repurchase demands, fees, leases, rents, royalties, services, sale of real or personal property, overpayments, penalties, damages, interest, fines and forfeitures (except those arising under the Uniform Code of Military Justice), and all other similar sources.

Determination means the point at which the Secretary or his designee decides that the debt is valid.

Disposable pay means that part of current basic pay, special pay, incentive pay, retired pay, retainer pay, or in the case of an employee not entitled to basic pay, other authorized pay remaining after deductions required by law. Deductions from pay include:

(i) Amounts owed by the individual to the United States;

(ii) Amounts withheld for federal employment taxes;

(iii) Amounts properly withheld for federal, state, or local income tax purposes, if the withholding of the amount is authorized or required by law and if amounts withheld are not greater than would be the case if the individual claimed all dependents to which he or she were entitled. The withholding of additional amounts under 26 U.S.C. 3402(i) may be permitted only when the individual presents evidence of tax obligation that supports the additional withholding;

(iv) Amounts deducted as health insurance premiums, including, but not limited to, amounts deducted from civil service annuities for Medicare where such deductions are requested by the Health Care Financing Administration;

(v) Amounts deducted as normal retirement contributions, not including amounts deducted for supplementary coverage. Amounts withheld as Survivor Benefit Plan or Retired Serviceman's Family Protection Plan payments are considered to be normal retirement contributions. Amounts voluntarily contributed toward additional civil service annuity benefits are considered to be supplementary;

(vi) Amounts deducted as normal life insurance premiums from salary or other remuneration for employment, not including amounts deducted for supplementary coverage. Both Servicemembers' Group Life Insurance and ''Basic Life'' Federal Employees' Group Life Insurance premiums are considered to be normal life insurance premiums; all optional Federal Employees' Group Life Insurance premiums and life insurance premiums paid for by allotment, such as National Service Life Insurance, are considered to be supplementary;

(vii) Amounts withheld from benefits payable under title II of the Social Security Act where the withholding is required by law;

(viii) Amounts mandatorily withheld for the U.S. Soldiers' and Airmen's Home; and

(ix) Fines and forfeitures ordered by a court-martial or by a commanding officer.

Employee means a current employee of a federal agency, including a current member of the Armed Forces or Reserve of the Armed Forces of the United States.

Pay means basic pay, special pay, income pay, retired pay, retainer pay,

or, in the case of an employee not entitled to basic pay, other authorized pay.

Salary offset means a deduction from the pay of an employee without his or her consent to satisfy a debt. Salary offset is one type of administrative offset that may be used by the Department in the collection of claims.

Waiver means the cancellation, remission, forgiveness, or nonrecovery of a debt allegedly owed by an employee of an agency as permitted or required by 5 U.S.C. 5584, 10 U.S.C. 2774, 32 U.S.C. 716, or 5 U.S.C. 8346(b), or any other law.

§ 17.85 Coordinating offset with another federal agency.

(a) *When HUD is owed the debt.* When the Department is owed a debt by an employee of another agency, the other agency shall not initiate the requested offset until the Department provides the agency with a written certification that the debtor owes the Department a debt (including the amount and basis of the debt and the due date of the payment) and that the Department has complied with this subpart.

(b) *When another agency is owed the debt.* The Department may use salary offset against one of its employees who is indebted to another agency if requested to do so by that agency. Such a request must be accompanied by a certification by the requesting agency that the person owes the debt (including the amount) and that the employee has been given the procedural rights required by 5 U.S.C. 5514 and 5 CFR part 550, subpart K.

§ 17.87 Determination of indebtedness.

In determining that an employee is indebted to HUD, the Secretary will review the debt to make sure that it is valid and past due.

§ 17.89 Notice requirements before offset.

Except as provided in § 17.83(d), deductions will not be made unless the Secretary first provides the employee with a minimum of 30 calendar days written notice. This Notice of Intent to Offset Salary (Notice of Intent) will state:

(a) That the Secretary has reviewed the records relating to the claim and has determined that a debt is owed, the amount of the debt, and the facts giving rise to the debt;

(b) The Secretary's intention to collect the debt by means of deduction from the employee's current disposable pay account until the debt and all accumulated interest are paid in full;

(c) The amount, frequency, approximate beginning date, and duration of the intended deductions;

(d) An explanation of the Department's requirements concerning interest, penalties, and administrative costs, including a statement that such assessments must be made unless excused in accordance with the Federal Claims Collection Standards as provided in 31 CFR 901.9 (although this information may alternatively be provided in the demand notice pursuant to 24 CFR 17.65);

(e) The employee's right to inspect and copy Department records relating to the debt or, if the employee or his or her representative cannot personally inspect the records, to request and receive a copy of such records;

(f) The employee's right to enter into a written agreement with the Secretary for a repayment schedule differing from that proposed by the Secretary, so long as the terms of the repayment schedule proposed by the employee are agreeable to the Secretary;

(g) The right to a hearing, conducted in accordance with subpart A of part 26 of this chapter by an administrative law judge of the Department or a hearing official of another agency, on the Secretary's determination of the debt, the amount of the debt, or percentage of disposable pay to be deducted each pay period, so long as a petition is filed by the employee as prescribed by the Secretary;

(h) That the timely filing of a petition for hearing will stay the collection proceedings (See § 17.91);

(i) That a final decision on the hearing will be issued at the earliest practical date, but not later than 60 calendar days after the filing of the petition requesting the hearing, unless the employee requests and the hearing officer grants a delay in the proceedings;

(j) That any knowingly false or frivolous statements, representations, or evidence may subject the employee to:

(1) Disciplinary procedures appropriate under 5 U.S.C. Ch. 75, 5 CFR part 752, or any other applicable statutes or regulations;

(2) Penalties under the False Claims Act, 31 U.S.C. 3729–3731, or any other applicable statutory authority; or

(3) Criminal penalties under 18 U.S.C. 286, 287, 1001, and 1002 or any other applicable statutory authority.

(k) Any other rights and remedies available to the employee under statutes or regulations governing the program for which the collection is being made;

(l) Unless there are applicable contractual or statutory provisions to the contrary, that amounts paid on or deducted for the debt which are later waived or found not owed to the United States will be promptly refunded to the employee; and

(m) The method and time period for requesting a hearing, including the address of the Office of Appeals to which the request must be sent.

§ 17.91 Request for a hearing.

(a) Except as provided in paragraph (d) of this section, an employee must file a petition for a hearing that is received by the Office of Appeals not later than 20 calendar days from the date of the Department's notice described in § 17.89 if an employee wants a hearing concerning—

(1) The existence or amount of the debt; or

(2) The Secretary's proposed offset schedule.

(b) The petition must be signed by the employee, must include a copy of HUD's Notice of Intent to Offset Salary, and should admit or deny the existence of or the amount of the debt, or any part of the debt, briefly setting forth any basis for a denial. If the employee objects to the percentage of disposable pay to be deducted from each check, the petition should state the objection and the reasons for it. The petition should identify and explain with reasonable specificity and brevity the facts, evidence, and witnesses that the employee believes support his or her position.

(c) Upon receipt of the petition, the Office of Appeals will send the employee a copy of the Salary Offset Hearing Procedures Manual of the Department of Housing and Urban Development.

(d) If the employee files a petition for hearing later than the 20 calendar days as described in paragraph (a) of this section, the hearing officer may accept the request if the employee can show that the delay was because of circumstances beyond his or her control or because of failure to receive notice of the filing deadline (unless the employee has actual notice of the filing deadline).

§ 17.93 Result if employee fails to meet deadlines.

An employee waives the right to a hearing, and will have his or her disposable pay offset in accordance with the Secretary's offset schedule, if the employee:

(a) Fails to file a petition for a hearing as prescribed in § 17.91; or

(b) Is scheduled to appear and fails to appear at the hearing.

§ 17.95 Written decision following a hearing.

Written decisions provided after a request for a hearing will include:

(a) A statement of the facts presented to support the nature and origin of the alleged debt;

(b) The hearing officer's analysis, findings, and conclusions, in light of the hearing, concerning the employee's or the Department's grounds;

(c) The amount and validity of the alleged debt; and

(d) The repayment schedule, if applicable.

§ 17.97 Review of departmental records related to the debt.

(a) *Notification by employee.* An employee who intends to inspect or copy departmental records related to the debt must send a letter to the Secretary stating his or her intention. The letter must be received by the Secretary within 20 calendar days of the date of the Notice of Intent.

(b) *Secretary's response.* In response to timely notice submitted by the debtor as described in paragraph (a) of this section, the Secretary will notify the employee of the location and time when the employee may inspect and copy Department records related to the debt.

§ 17.99 Written agreement to repay debt as alternative to salary offset.

(a) *Notification by employee.* The employee may propose, in response to a Notice of Intent, a written agreement to repay the debt as an alternative to salary offset. Any employee who wishes to do this must submit a proposed written agreement to repay the debt, which is received by the Secretary within 20 calendar days of the date of the Notice of Intent.

(b) *Secretary's response.* In response to timely notice by the debtor as described in paragraph (a) of this section, the Secretary will notify the employee whether the employee's proposed written agreement for repayment is acceptable. It is within the Secretary's discretion to accept a repayment agreement instead of proceeding by offset. In making this determination, the Secretary will balance the Department's interest in collecting the debt against hardship to the employee. If the debt is delinquent and the employee has not disputed its existence or amount, the Secretary will accept a repayment agreement instead of offset only if the employee is able to establish that offset would result in undue financial hardship or would be against equity and good conscience.

§ 17.101 Procedures for salary offset: When deductions may begin.

(a) Deductions to liquidate an employee's debt will be by the method and in the amount stated in the Secretary's Notice of Intent to collect from the employee's current pay.

(b) If the employee filed a petition for hearing with the Secretary before the expiration of the period provided for in § 17.91, then deductions will begin after:

(1) The hearing officer has provided the employee with a hearing; and

(2) The hearing officer has issued a final written decision in favor of the Secretary.

(c) If an employee retires or resigns before collection of the amount of the indebtedness is completed, the remaining indebtedness will be collected according to the procedures for the collection of claims under §§ 17.61 through 17.79.

§ 17.103 Procedures for salary offset: Types of collection.

A debt will be collected in a lump sum or in installments. Collection will be by lump-sum collection unless the debt is for other than travel advances and training expenses, and the employee is financially unable to pay in one lump sum, or the amount of the debt exceeds 15 percent of disposable pay. In these cases, deduction will be by installments.

§ 17.105 Procedures for salary offset: Methods of collection.

(a) *General.* A debt will be collected by deductions at officially established pay intervals from an employee's current pay account, unless the employee and the Secretary agree to alternative arrangements for repayment. The alternative arrangement must be in writing, signed by both the employee and the Secretary.

(b) *Installment deductions.* Installment deductions will be made over a period not greater than the anticipated period of employment. The size and frequency of installment deductions will bear a reasonable relation to the size of the debt and the employee's ability to pay. However, the amount deducted for any period will not exceed 15 percent of the disposable pay from which the deduction is made, unless the employee has agreed in writing to the deduction of a greater amount. If possible, the installment payment will be sufficient in size and frequency to liquidate the debt in 3 years. Installment payments of less than $25 per pay period or $50 a month will be accepted only in the most unusual circumstances.

(c) *Sources of deductions.* The Department will make deductions only from basic pay, special pay, incentive pay, retired pay, retainer pay, or, in the case of an employee not entitled to basic pay, other authorized pay.

§ 17.107 Procedures for salary offset: Imposition of interest.

Interest will be charged in accordance with the Federal Claims Collection Standards as provided in 31 CFR 901.9.

§ 17.109 Nonwaiver of rights.

So long as there are no statutory or contractual provisions to the contrary, no employee involuntary payment (of all or a portion of a debt) collected under this subpart will be interpreted as a waiver of any rights that the employee may have under 5 U.S.C. 5514 or any other provision of contract or law.

§ 17.111 Refunds.

The Department will refund promptly to the appropriate individual amounts offset under this subpart when:

(a) A debt is waived or otherwise found not owing the United States (unless expressly prohibited by statute or regulation); or

(b) The Department is directed by an administrative or judicial order to refund amounts deducted from the employee's current pay.

§ 17.113 Miscellaneous provisions: Correspondence with the Department.

The employee shall file a request for a hearing with the Clerk, OA, 409 3rd Street, SW., 2nd Floor, Washington, DC 20024, on official work days between the hours of 8:45 a.m. and 5:15 p.m. (or such other address as HUD may provide by notice from time to time). All other correspondence shall be submitted to the Departmental Claims Officer, Office of the Chief Financial Officer, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410 (or such other officer or address as HUD may provide by notice from time to time). Documents may be filed by personal delivery or mail.

Dated: June 1, 2011.

Shaun Donovan,

Secretary.

[FR Doc. 2011–16499 Filed 7–1–11; 8:45 am]

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Part V

Department of Defense
General Services Administration
National Aeronautics and Space Administration

48 CFR Chapter 1
Federal Acquisition Regulation; Final Rules

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Chapter 1

[Docket FAR 2011–0076, Sequence 5]

Federal Acquisition Regulation; Federal Acquisition Circular 2005–53; Introduction

AGENCIES: Department of Defense (DoD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Summary presentation of final and interim rules.

SUMMARY: This document summarizes the Federal Acquisition Regulation (FAR) rules agreed to by DoD, GSA, and NASA in this Federal Acquisition Circular (FAC) 2005–53. A companion document, the *Small Entity Compliance Guide* (SECG), follows this FAC. The FAC, including the SECG, is available via the Internet at *http://www.regulations.gov.*

DATES: For effective dates and comment dates, see separate documents, which follow.

FOR FURTHER INFORMATION CONTACT: The analyst whose name appears in the table below in relation to each FAR case. Please cite FAC 2005–53 and the specific FAR case numbers. For information pertaining to status or publication schedules, contact the Regulatory Secretariat at (202) 501–4755.

SUPPLEMENTARY INFORMATION:

LIST OF RULES IN FAC 2005–53

Item	Subject	FAR case	Analyst
I	Equal Opportunity for Veterans	2009–007	McFadden.
II	Unique Procurement Instrument Identifier	2009–023	Morgan.
III	Uniform Suspension and Debarment Requirement	2009–036	Jackson.
IV	Extension of Sunset Date for Protests of Task and Delivery Orders (Interim)	2011–015	Lague.
V	Encouraging Contractor Policies to Ban Text Messaging While Driving	2009–028	Clark.
VI	TINA Interest Calculations	2009–034	Chambers.

Summaries for each FAR rule follow. For the actual revisions and/or amendments made by these FAR cases, refer to the specific item numbers and subject set forth in the documents following these item summaries. FAC 2005–53 amends the FAR as specified below:

Item I—Equal Opportunity for Veterans (FAR Case 2009–007)

The interim rule, published September 29, 2010, is adopted as final with minor changes. A definition from the clause at FAR 52.222–35 for ''executive and senior management'' is added to FAR subpart 22.13. The interim rule implemented Department of Labor regulations on equal opportunity provisions for various categories of military veterans.

Item II—Unique Procurement Instrument Identifier (FAR Case 2009–023)

This final rule amends the FAR to define the requirement for an agency unique procurement instrument identifier (PIID) and, to extend the requirement for using PIIDs to solicitations, contracts, and related procurement instruments.

This final rule adds two new definitions at 4.001, revises 4.605(a), and adds a new FAR subpart 4.16—Unique Procurement Instrument Identifiers, to prescribe policies and procedures for assigning PIIDs. The Government expects that these changes will reduce data errors and interoperability problems across the Federal Government's business processes which were created by inconsistent and non-unique PIID assignment and use. These changes will not impose new requirements on small businesses, as the rule only addresses internal Government policy and procedures.

Item III—Uniform Suspension and Debarment Requirement (FAR Case 2009–036)

This rule adopts as final, with minor changes, an interim rule which implemented section 815 of the National Defense Authorization Act for Fiscal Year 2010, Public Law 111–84. The law requires that suspension and debarment requirements flow down to all subcontracts except contracts for commercially available off-the-shelf items, and in the case of commercial items, first-tier subcontracts only.

This requirement protects the Government against contracting with entities at any tier who are debarred, suspended, or proposed for debarment. This rule does not have a significant impact on the Government, contractors, or any automated systems.

Item IV—Extension of Sunset Date for Protests of Task and Delivery Orders (FAR Case 2011–015) (Interim)

This interim rule amends the FAR to implement section 825 of the Ike Skelton National Defense Authorization Act for Fiscal Year 2011 (Pub. L. 111–383). Section 825 extends the sunset date for protests against awards of task or delivery orders by DoD, NASA, and the Coast Guard from May 27, 2011 to September 30, 2016. The sunset date for protests against the award of task or delivery orders by other Federal agencies remains May 27, 2011. With this change, contractors will no longer be able to protest task or delivery orders awarded by agencies other than DoD, NASA, and the Coast Guard. There is no effect on Government automated systems.

Item V—Encouraging Contractor Policies To Ban Text Messaging While Driving (FAR Case 2009–028)

This final rule adopts, with changes, the interim rule published in the **Federal Register** at 75 FR 60264 on September 29, 2010, to implement Executive Order 13513 (October 1, 2009), published in the **Federal Register** at 74 FR 51225 on October 6, 2009, entitled ''Federal Leadership on Reducing Text Messaging while Driving.'' This final rule revises FAR clause 52.223–18 to encourage the adoption and enforcement of policies that ban text messaging while driving company-owned or -rented vehicles or Government-owned vehicles; or privately-owned vehicles when on official Government business or when performing any work for or on behalf of the Government. The final rule also revises the language in the clause to

encourage contractors to conduct initiatives such as: (1) Establishment of new rules and programs or re-evaluation of existing programs to prohibit text messaging while driving, and (2) education, awareness, and other outreach programs to inform employees about the safety risks associated with texting while driving. This requirement applies to all solicitations and contracts.

Item VI—TINA Interest Calculations (FAR Case 2009–034)

DoD, GSA, and NASA are publishing a final rule amending the FAR to revise the clauses at FAR 52.214–27, FAR 52.215–10, and FAR 52.215–11 to require compound interest calculations be applied to Government overpayments as a result of defective cost or pricing data.

Dated: June 28, 2011.

Laura Auletta,

Acting Director, Office of Governmentwide Acquisition Policy, Office of Acquisition Policy.

Federal Acquisition Circular (FAC) 2005–53 is issued under the authority of the Secretary of Defense, the Administrator of General Services, and the Administrator for the National Aeronautics and Space Administration.

Unless otherwise specified, all Federal Acquisition Regulation (FAR) and other directive material contained in FAC 2005–53 is effective July 5, 2011, except for Items I, II, III, V and VI which are effective August 4, 2011.

Dated: June 27, 2011.

Richard Ginman,

Director, Defense Procurement and Acquisition Policy.

Dated: June 28, 2011.

Joseph A. Neurauter,

Senior Procurement Executive/Deputy CAO, Office of Acquisition Policy, U.S. General Services Administration.

Dated: June 22, 2011.

William P. McNally,

Assistant Administrator for Procurement, National Aeronautics and Space Administration.

[FR Doc. 2011–16671 Filed 7–1–11; 8:45 am]

BILLING CODE 6820–EP–P

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Parts 1, 22, and 52

[FAC 2005–53; FAR Case 2009–007; Item I; Docket 2010–0101, Sequence 1]

RIN 9000–AL67

Federal Acquisition Regulation; Equal Opportunity for Veterans

AGENCIES: Department of Defense (DoD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Final rule.

SUMMARY: DoD, GSA, and NASA have adopted as final, with changes, an interim rule amending the Federal Acquisition Regulation (FAR) to implement Department of Labor (DOL) regulations on equal opportunity provisions for various categories of military veterans. The interim rule revised coverage and definitions of veterans covered under the Vietnam Era Veterans' Readjustment Assistance Act of 1972 and included new reporting requirements established under that Act and the Jobs for Veterans Act.

DATES: *Effective Date:* August 4, 2011.

FOR FURTHER INFORMATION CONTACT: Ms. Clare McFadden, Procurement Analyst, at (202) 501–0044, for clarification of content. For information pertaining to status or publication schedules, contact the Regulatory Secretariat at (202) 501–4755. Please cite FAC 2005–53, FAR Case 2009–007.

SUPPLEMENTARY INFORMATION:

I. Background

DoD, GSA, and NASA published an interim rule in the **Federal Register** at 75 FR 60249 on September 29, 2010, to implement DOL regulations on equal opportunity provisions for various categories of military veterans. The interim rule revised coverage and definitions of veterans covered under the Vietnam Era Veterans' Readjustment Assistance Act of 1972 and included new reporting requirements established under that Act and the Jobs for Veterans Act. The comment period closed November 29, 2010. One respondent submitted comments in response to the interim rule.

II. Discussion and Analysis of Public Comments

The Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council (the Councils) reviewed the comments in development of the final rule. A discussion of the comments and the changes made to the rule as a result of those comments are provided as follows:

A. Definitions

Comment: The respondent recommended inclusion of the definition of ''Executive and Senior Management,'' as defined in the FAR clause 52.222–35, Equal Opportunity for Veterans, in the definitions section of FAR subpart 22.13.

Response: The Councils have added the definition to FAR 22.1301.

Comment: The respondent recommended a change to the definition of the term ''other protected veteran.''

Response: The FAR rule is implementing the DOL rule and does not have the latitude to expand the meaning of the DOL definition. (*See* the August 8, 2007, final rule of the Office of Federal Contract Compliance Programs, Department of Labor, 60–300.2 (p), 72 FR 44393.)

B. Delete References to the VETS–100 Form

Comment: The respondent recommends deleting all references to the VETS–100 Form and the date of December 1, 2003, to allow contractors to submit all reports on the VETS–100A Form.

Response: While understanding the rationale for the recommendation, the Councils are again bound by the DOL rule.

C. Date of FAR Clause 52.244–6

Comment: The respondent recommended that the FAR clause 52.244–6 date should be updated to reflect the OCT 2010 change made to the clause subsequent to the interim rule.

Response: When an interim rule is finalized, the final rule automatically retains any intervening changes to the FAR baseline, such as clause dates. No further change is required.

III. Executive Orders 12866 and 13563

Executive Orders (E.O.s) 12866 and 13563 direct agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). E.O. 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. This is a significant

regulatory action and, therefore, was subject to review under section 6(b) of E.O. 12866, Regulatory Planning and Review, dated September 30, 1993. This rule is not a major rule under 5 U.S.C. 804.

IV. Regulatory Flexibility Act

The Department of Defense, the General Services Administration, and the National Aeronautics and Space Administration certify that this final rule will not have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.,* because contractors are already required to annually track and report their veteran workforces on the VETS–100 Form in accordance with the Vietnam Era Veterans' Readjustment Assistance Act of 1972, as amended by the Jobs for Veterans Act. This rule implemented a new form, VETS–100A that simply includes the revised categories of veterans for reporting purposes.

V. Paperwork Reduction Act

The final rule does not contain any information collection requirements that require the approval of the Office of Management and Budget under the Paperwork Reduction Act (44 U.S.C. chapter 35).

List of Subjects in 48 CFR Parts 1, 22, and 52

Government procurement.

Dated: June 28, 2011.

Laura Auletta,

Acting Director, Office of Governmentwide Acquisition Policy, Office of Acquisition Policy.

Accordingly, the interim rule amending 48 CFR parts 1, 22, and 52, which was published in the **Federal Register** at 75 FR 60249, September 29, 2010, is adopted as final with the following changes:

PART 22—APPLICATION OF LABOR LAWS TO GOVERNMENT ACQUISITIONS

■ 1. The authority citation for 48 CFR part 22 continues to read as follows:

Authority: 40 U.S.C. 121(c); 10 U.S.C. chapter 137; and 42 U.S.C. 2473(c).

■ 2. Amend section 22.1301 by adding, in alphabetical order, the definition ''Executive and senior management'' to read as follows:

22.1301 Definitions.

* * * * *

Executive and senior management means—

(1) Any employee—

(i) Compensated on a salary basis at a rate of not less than $455 per week (or $380 per week, if employed in American Samoa by employers other than the Federal Government), exclusive of board, lodging, or other facilities;

(ii) Whose primary duty consists of the management of the enterprise in which the individual is employed or of a customarily recognized department or subdivision thereof;

(iii) Who customarily and regularly directs the work of two or more other employees; and

(iv) Who has the authority to hire or fire other employees or whose suggestions and recommendations as to the hiring or firing and as to the advancement and promotion or any other change of status of other employees will be given particular weight; or

(2) Any employee who owns at least a bona fide 20-percent equity interest in the enterprise in which the employee is employed, regardless of whether the business is a corporate or other type of organization, and who is actively engaged in its management.

* * * * *

[FR Doc. 2011–16672 Filed 7–1–11; 8:45 am]

BILLING CODE 6820–EP–P

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Part 4

[FAC 2005–53; FAR Case 2009–023; Item II; Docket 2010–0094, Sequence 1]

RIN 9000–AL70

Federal Acquisition Regulation; Unique Procurement Instrument Identifier

AGENCIES: Department of Defense (DoD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Final rule.

SUMMARY: DoD, GSA, and NASA are issuing a final rule amending the Federal Acquisition Regulation (FAR) to standardize use of unique Procurement Instrument Identifiers (PIID) throughout the Government. The lack of consistent agency policies and procedures for PIIDs subjected users of contract data, including the Federal Government, contractors, and the public, to potential duplicate, overlapping, or conflicting information from the different Federal agencies.

DATES: *Effective Date:* August 4, 2011.

FOR FURTHER INFORMATION CONTACT: Mr. Karlos Morgan, Procurement Analyst, at (202) 501–2364 for clarification of content. For information pertaining to status or publication schedules, contact the Regulatory Secretariat at (202) 501–4755. Please cite FAC 2005–53, FAR Case 2009–023.

SUPPLEMENTARY INFORMATION:

I. Background

DoD, GSA, and NASA published a proposed rule in the **Federal Register** at 75 FR 50731 on August 17, 2010, to standardize the use of unique PIIDs throughout the Government. Four respondents submitted comments on the proposed rule.

II. Discussion and Analysis of the Public Comments

The Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council (the Councils) reviewed the public comments in the development of the final rule. A discussion of the comments and the changes made to the rule as a result of those comments are provided as follows:

A. Agency and Office Identifier

Comment: A respondent provided a suggestion that the prescribed identifiers include not only an agency identifier, but an office identifier as well.

Response: At this time, not all agencies have an office-unique identifier. However, as data standardization efforts progress, this may be a future area of consideration.

B. Amendments

Comment: A respondent suggested that the term ''amendments'' be removed from the proposed FAR 4.605, as ''amendments'' are not reported to the Federal Procurement Data System (FPDS).

Response: ''Amendments'' will be removed from the identified part, and replaced with ''solicitations'', because solicitation numbers are included in FPDS contract action reports.

C. Consistent Government Format

Comment: Two respondents requested a consistent format for the PIIDs across the Government.

Response: At this time it is not cost effective to transition all Federal agencies to a single PIID format across the Government.

D. Linkage of Old and New PIIDs

Comment: A respondent suggested adding language to proposed FAR 4.1601(f) to require linking any new PIID assigned to an award to the old originating PIID.

Response: Language was added to FAR 4.1601(f) as suggested.

E. New Contractor Identification

Comment: Two respondents suggested the creation of a new contractor identification system within the public domain.

Response: This request is out of scope for this case.

III. Executive Orders 12866 and 13563

Executive Orders (E.O.s) 12866 and 13563 direct agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). E.O. 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. This is not a significant regulatory action and, therefore, was not subject to review under section 6(b) of E.O. 12866, Regulatory Planning and Review, dated September 30, 1993. This rule is not a major rule under 5 U.S.C. 804.

IV. Regulatory Flexibility Act

The Department of Defense, the General Services Administration, and the National Aeronautics and Space Administration certify that this final rule will not have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.,* because it will not impose new requirements on industry. It only provides internal Government policies and procedures.

V. Paperwork Reduction Act

The final rule does not contain any information collection requirements that require the approval of the Office of Management and Budget under the Paperwork Reduction Act (44 U.S.C. chapter 35).

List of Subjects in 48 CFR Part 4

Government procurement.

Dated: June 28, 2011.

Laura Auletta,

Acting Director, Office of Governmentwide Acquisition Policy, Office of Acquisition Policy.

Therefore, DoD, GSA, and NASA amend 48 CFR part 4 as follows:

PART 4—ADMINISTRATIVE MATTERS

■ 1. The authority citation for 48 CFR part 4 continues to read as follows:

Authority: 40 U.S.C. 121(c); 10 U.S.C. chapter 137; and 42 U.S.C. 2473(c).

■ 2. Add section 4.001 to read as follows:

4.001 Definitions.

As used in this part—

Procurement Instrument Identifier (PIID) means the Government-unique identifier for each solicitation, contract, agreement, or order. For example, an agency may use as its PIID for procurement actions, such as delivery and task orders or basic ordering agreements, the order or agreement number in conjunction with the contract number (see 4.1602).

Supplementary procurement instrument identifier means the non-unique identifier for a procurement action that is used in conjunction with the Government-unique identifier. For example, an agency may use as its PIID for an amended solicitation, the Government-unique identifier for a solicitation number (*e.g.,* N0002309R0009) in conjunction with a non-unique amendment number (*e.g.,* 0001). The non-unique amendment number represents the supplementary PIID.

■ 3. Amend section 4.605 by revising paragraph (a) to read as follows:

4.605 Procedures.

(a) *Procurement Instrument Identifier (PIID).* Agencies shall have in place a process that ensures that each PIID reported to FPDS is unique Governmentwide, for all solicitations, contracts, blanket purchase agreements, basic agreements, basic ordering agreements, or orders in accordance with 4.1601, and will remain so for at least 20 years from the date of contract award. Other pertinent PIID instructions for FPDS reporting can be found at *https://www.fpds.gov.*

* * * * *

■ 4. Add subpart 4.16 to read as follows:

Subpart 4.16—Unique Procurement Instrument Identifiers

Sec.

4.1600 Scope of subpart.
4.1601 Policy.
4.1602 Identifying the PIID and supplementary PIID.

Subpart 4.16—Unique Procurement Instrument Identifiers

4.1600 Scope of subpart.

This subpart prescribes policies and procedures for assigning unique Procurement Instrument Identifiers (PIID) for each solicitation, contract, agreement, or order and related procurement instrument.

4.1601 Policy.

(a) *Procurement Instrument Identifier (PIID).* Agencies shall have in place a process that ensures that each PIID used to identify a solicitation or contract action is unique Governmentwide, and will remain so for at least 20 years from the date of contract award.

(b) Agencies must submit their proposed identifier format to the General Services Administration's Integrated Acquisition Environment Program Office, which maintains a registry of the agency-unique identifier schemes.

(c) The PIID shall consist of alpha characters in the first positions to indicate the agency, followed by alpha-numeric characters according to agency procedures.

(d) The PIID shall be used to identify all solicitation and contract actions. The PIID shall also be used to identify solicitation and contract actions in designated support and reporting systems (*e.g.,* Federal Procurement Data System, Past Performance Information Retrieval System), in accordance with regulations, applicable authorities, and agency policies and procedures.

(e) Agencies shall not change the PIID, unless the conditions in paragraph (f) of this section exist.

(f) If continued use of a PIID is not possible or is not in the Government's best interest solely for administrative reasons (*e.g.,* for implementations of new agency contracting systems), the contracting officer may assign a new PIID by issuing a modification. The modification shall clearly identify both the original and the newly assigned PIID.

4.1602 Identifying the PIID and supplementary PIID.

(a) *Identifying the PIID in solicitation and contract award documentation (including forms and electronic generated formats).* Agencies shall include all PIIDs for all related procurement actions as identified in paragraphs (a)(1) through (5) of this section.

(1) *Solicitation.* Identify the PIID for all solicitations. For amendments to

solicitations, identify a supplementary PIID, in conjunction with the PIID for the solicitation.

(2) *Contracts and purchase orders.* Identify the PIID for contracts and purchase orders.

(3) *Delivery and task orders.* For delivery and task orders placed by an agency under a contract (*e.g.,* indefinite delivery indefinite quantity (IDIQ) contracts, multi-agency contracts (MAC), Governmentwide acquisition contracts (GWACs), or Multiple Award Schedule (MAS) contracts), identify the PIID for the delivery and task order and the PIID for the contract.

(4) *Blanket purchase agreements and basic ordering agreements.* Identify the PIID for blanket purchase agreements issued in accordance with 13.303, and for basic agreements and basic ordering agreements issued in accordance with subpart 16.7. For blanket purchase agreements issued in accordance with subpart 8.4 under a MAS contract, identify the PIID for the blanket purchase agreement and the PIID for the MAS contract.

(i) *Orders.* For orders against basic ordering agreements or blanket purchase agreements issued in accordance with 13.303, identify the PIID for the order and the PIID for the blanket purchase agreement or basic ordering agreement.

(ii) *Orders under subpart 8.4.* For orders against a blanket purchase agreement established under a MAS contract, identify the PIID for the order, the PIID for the blanket purchase agreement, and the PIID for the MAS contract.

(5) *Modifications.* For modifications to actions described in paragraphs (a)(2) through (4) of this section, and in accordance with agency procedures, identify a supplementary PIID for the modification in conjunction with the PIID for the contract, order, or agreement being modified.

(b) *Placement of the PIID on forms.* When the form (including electronic generated format) does not provide spaces or fields for the PIID or supplementary PIID required in paragraph (a) of this section, identify the PIID in accordance with agency procedures.

(c) *Additional agency specific identification information.* If agency procedures require additional identification information in solicitations, contracts, or other related procurement instruments for administrative purposes, identify it in such a manner so as to separate it clearly from the PIID.

[FR Doc. 2011–16673 Filed 7–1–11; 8:45 am]

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DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Parts 9 and 52

[FAC 2005–53; FAR Case 2009–036; Item III; Docket 2010–0109, Sequence 1]

RIN 9000–AL75

Federal Acquisition Regulation; Uniform Suspension and Debarment Requirement

AGENCIES: Department of Defense (DoD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Final rule.

SUMMARY: DoD, GSA, and NASA have adopted as final, with changes, the interim rule amending the Federal Acquisition Regulation (FAR) to implement section 815 of the National Defense Authorization Act for Fiscal Year 2010. Section 815 extends the flow down of limitations on subcontracting with entities that have been debarred, suspended, or proposed for debarment.

DATES: *Effective Date:* August 4, 2011.

FOR FURTHER INFORMATION CONTACT: Mr. Michael O. Jackson, Procurement Analyst, at (202) 208–4949 for clarification of content. For information pertaining to status or publication schedules, contact the Regulatory Secretariat at (202) 501–4755. Please cite FAC 2005–53, FAR Case 2009–036.

SUPPLEMENTARY INFORMATION:

I. Background

DoD, GSA, and NASA published an interim rule in the **Federal Register** at 75 FR 77739 on December 13, 2010, to implement section 815 of the National Defense Authorization Act for Fiscal Year 2010 (Pub. L. 111–84). Section 815 amends section 2455(c)(1) of the Federal Acquisition Streamlining Act of 1994 (FASA) (31 U.S.C. 6101 note) by amending the definition of ''procurement activities'' to include subcontracts at any tier, except—

- It does not include subcontracts for commercially available off-the-shelf items (COTS); and
- In the case of commercial items, such term includes only the first-tier subcontracts.

This has the effect, except for commercial items and COTS items, of expanding the requirement of section 2455(a), which states that ''No agency shall allow a party to participate in any procurement * * * activity if any agency has debarred, suspended, or otherwise excluded * * * that party from participation in a procurement * * * activity.''

Therefore, the interim rule amended the FAR clause at 52.209–6, Protecting the Government's Interest When Subcontracting with Contractors Debarred, Suspended, or Proposed for Debarment, by flowing down the requirements for the contractor or higher-tier subcontractor to check whether a subcontractor beyond the first tier is debarred, suspended, or proposed for debarment, with the stated dollar threshold and exceptions for commercial items and COTS items. As in the current clause, the contractor and higher-tier subcontractors must also notify the contracting officer in writing before entering into a subcontract with a party that is debarred, suspended, or proposed for debarment, providing the contractor's knowledge of the reasons for the subcontractor being on the Excluded Parties Systems List, and the compelling reasons for doing business with the subcontractor, as well as the systems and procedures the contractor has established to ensure that it is fully protecting the Government's interests. The contracting officer will now have more visibility into whether lower- tier subcontractors have been debarred, suspended, or proposed for debarment. Because commercial contracts must now flow the requirement down to the first tier, the clause was added to FAR 52.212–5, Contract Terms and Conditions Required to Implement Statutes or Executive Orders—Commercial Items.

The comment period closed on February 11, 2011. Three respondents submitted comments on the interim rule.

II. Discussion/Analysis of the Public Comments

The Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council (the Councils) reviewed the public comments in the development of the final rule. A discussion of the comments and the changes made to the rule as a result of those comments are provided as follows:

A. Dollar Threshold in FAR 9.405–2

Comment: One respondent recommended a rewrite of FAR 9.405–2 to clarify that the notification requirement does not apply to subcontracts under $30,000.

Response: The Councils agree and have incorporated the requested change.

B. Definition of COTS Item

Comment: One respondent recommended deletion of the definition of COTS item from paragraph (a) of the FAR clause 52.209–6. The rationale is that the term is defined in FAR 2.101 and is therefore unnecessary in the clause.

Response: The Councils have retained the definition of COTS item in the clause. Although the clause at FAR 52.202–1, Definitions, provides for the applicability of definitions in FAR 2.101 to words or terms used in a solicitation provision or contract clause, unless the solicitation provides a different definition, or certain other exceptions apply, it is common practice to include the definition of important terms in solicitation provisions and contract clauses, for clarity and ease of use.

C. Applicability to Commercial Items

Comment: Two respondents supported the interim rule but hoped that the Councils will eliminate the exceptions for commercial item and COTS item acquisition contracts.

Response: The statute specifically stated that contracts for COTS items are exempt and that for contracts for commercial items, the requirements only flow to the first-tier subcontracts. The rule implements the statutory requirements.

Comment: One respondent suggested that the following rewording of the clause flowdown in FAR 52.209–6(e) to ''make the exceptions clearer'':

- ''*Subcontracts.* The Contractor shall include the requirements of this clause, including this paragraph (e) (appropriately modified for the identification of the parties), in each subcontract that—
  - Exceeds $30,000 in value; and
  - Is not a subcontract for commercially available off-the-shelf items or commercial items.''

According to the respondent, if the subcontract is for COTS or commercial items, the clause will not flow down to any subcontractor, because the prime contractor is responsible for determining the suspension and debarment status of only first-tier commercial item subcontractors and the prime contractor is not responsible for determining the suspension and debarment status for COTS subcontractors.

Response: According to the statute, the prohibition on subcontracting with entities that have been debarred, suspended, or proposed for debarment applies to subcontractors at any tier, other than subcontractors for COTS items, except that in the case of a contract for commercial items, such term includes only first-tier subcontracts.

The difference between the revised language proposed by the respondent and the language that was proposed in the **Federal Register** is in the treatment of a subcontract for a commercial item. Both versions will arrive at the same result with regard to a prime contract for a commercial item and the first-tier subcontracts under that commercial contract. In such case, each first-tier subcontract (over $30,000 and not a COTS item) will have to disclose whether at time of subcontract award it, or its principals, is debarred, suspended, or proposed for debarment.

However, with regard to subcontracts for the acquisition of a commercial item (which were not specifically addressed by the statute), the proposed rule implemented the statute to also apply to the subcontract one tier below a commercial subcontract for the acquisition of a commercial item, whereas the proposed revision does not apply the requirements of the statute to a subcontract under a commercial subcontract. The Councils consider the language of the proposed rule to be a reasonable interpretation of the statutory intent, by requiring all commercial contractors (whether a prime contractor or a higher-tier subcontractor), to get the reports of the next-tier subcontractors, but not be required to flow the requirement down to the next tier. To adopt the interpretation of the respondent would narrow the ability of agencies to determine if a subcontractor has been debarred, suspended, or proposed for debarment because agencies would have no visibility into the debarment/suspension status of any subcontract that was one level below a subcontract for the acquisition of a commercial item. This appears to be contrary to the intent of the statute.

D. Compelling Reason

Comment: One respondent believes that the Councils should provide a clarification of the term ''compelling reason'' as it appears in FAR 9.405–2(b) and 52.209–6(b). FAR 9.405–2(b) and the clause at 52.209–6(b) state that contractors shall not enter into subcontracts in excess of $30,000, other than a subcontract for a COTS item, with a contractor that has been debarred, suspended, or proposed for debarment, unless there is a compelling reason to do so.

Response: The Councils believe this request is outside the scope of this case. The term ''compelling reason'' was not instituted with the current FAR case, which simply removed applicability to COTS items and extended flowdown of the requirement to lower-tier subcontracts.

E. Applicability in FAR 52.212–5 and FAR 52.213–4

Comment: One respondent requested that both parentheticals indicating applicability be removed from the listing of the clause 52.209–6 in FAR 52.212–5 (commercial items) and 52.213–4 (simplified acquisition). The rationale of the respondent is that the directives are not complete and are not used in most clauses contained in these clauses. In addition, the respondent states that FAR 52.209–6 already states when the clause is applicable and applicability to subcontracts is covered in FAR 52.209–6(e).

Response: With regard to FAR 52.212–5, the contracting officer indicates if the clause applies to the acquisition of commercial items. The respondent is correct that no parenthetical indication of applicability is appropriate, unless the clause is applicable to the acquisition of commercial items, but is not applicable to the acquisition of COTS items (*e.g.,* FAR 52.223–9, Estimate of Percentage of Recovered Material). However, indication of inapplicability to subcontracts for COTS items is not appropriate. That is covered in the FAR clause itself, once it is decided that the clause is applicable to the prime contract. The Councils have removed both parentheticals from the listing of FAR 52.209–6 in the FAR clause 52.212–5 in the final rule.

However, with regard to the FAR clause 52.213–4, the Councils do not agree that there should be no parenthetical indication of applicability for the listed clauses. Unless the clause is required in all contracts, each of the clauses listed in paragraph (b) of FAR 52.213–4 indicates applicability parenthetically. However, this indication of applicability should be to the prime contract, not the subcontract. Therefore, the statement of inapplicability to subcontracts for the acquisition of COTS items has been deleted from the final rule.

III. Executive Orders 12866 and 13563

Executive Orders (E.O.s) 12866 and 13563 direct agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). E.O. 13563 emphasizes the

importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. This is not a significant regulatory action and, therefore, was not subject to review under section 6(b) of E.O. 12866, Regulatory Planning and Review, dated September 30, 1993. This rule is not a major rule under 5 U.S.C. 804.

IV. Regulatory Flexibility Act

The Department of Defense, the General Services Administration, and the National Aeronautics and Space Administration certify that this final rule will not have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.* The interim rule removed requirements relating to subcontracts for COTS items. In the case of commercial items, the requirement extends only to the first-tier subcontracts. This rule will impact small entities that are awarded a lower-tier subcontract for a non-COTS item that exceeds $30,000, in that these entities must now disclose to the higher-tier subcontractor whether they are debarred, suspended, or proposed for debarment. Although a substantial number of small entities may be impacted by this rule, the impact is not significant. It will probably take only minimal time to include the required information with an offer. For the other impact of the rule, which will require the higher-tier subcontractor to provide an explanation if desiring to subcontract with an entity that has been debarred, suspended, or proposed for debarment, DoD, GSA, and NASA have determined that this will not impact a substantial number of small entities, because it should be a rare occurrence that a subcontractor would potentially jeopardize performance or integrity by knowingly contracting with an entity that is debarred, suspended, or proposed for debarment. No public comments were received with regard to the impact of this rule on small entities.

V. Paperwork Reduction Act

This rule affects the certification and information collection requirements in the provisions at FAR case 2009–036 currently approved under OMB Control Number 9000–0094 in accordance with the Paperwork Reduction Act (44 U.S.C. chapter 35). The impact, however, is negligible because the change in burden hours is so slight.

List of Subjects in 48 CFR Parts 9 and 52

Government procurement.

Dated: June 28, 2011.

Laura Auletta,

Acting Director, Office of Governmentwide Acquisition Policy, Office of Acquisition Policy.

Accordingly, the interim rule amending 48 CFR parts 9 and 52, which was published in the **Federal Register** at 75 FR 77739, December 13, 2010, is adopted as final with the following changes:

■ 1. The authority citation for 48 CFR parts 9 and 52 continues to read as follows:

Authority: 40 U.S.C. 121(c); 10 U.S.C. chapter 137; and 42 U.S.C. 2473(c).

PART 9—CONTRACTOR QUALIFICATIONS

9.405–2 [Amended]

■ 2. Amend section 9.405–2 by removing from paragraph (b) introductory text, in the third sentence, ''to subcontract'' and adding ''to enter into a subcontract in excess of $30,000'' in its place.

PART 52—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

■ 3. Amend section 52.212–5 by revising the date of the clause and paragraph (b)(6) to read as follows:

52.212–5 Contract Terms and Conditions Required to Implement Statutes or Executive Orders—Commercial Items.

* * * * *

Contract Terms and Conditions Required to Implement Statutes or Executive Orders—Commercial Items (AUG 2011)

* * * * *

(b) * * *

(6) 52.209–6, Protecting the Government's Interest When Subcontracting with Contractors Debarred, Suspended, or Proposed for Debarment. (Dec 2010) (31 U.S.C. 6101 note).

* * * * *

■ 4. Amend section 52.213–4 by revising the date of the clause and paragraph (b)(2)(i) to read as follows:

52.213–4 Terms and Conditions—Simplified Acquisitions (Other Than Commercial Items).

* * * * *

Terms and Conditions—Simplified Acquisitions (Other Than Commercial Items) (AUG 2011)

* * * * *

(b) * * *

(2) * * *

(i) 52.209–6, Protecting the Government's Interest When Subcontracting with Contractors Debarred, Suspended, or Proposed for Debarment (Dec 2010) (Applies to contracts over $30,000).

* * * * *

[FR Doc. 2011–16674 Filed 7–1–11; 8:45 am]

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DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Part 16

[FAC 2005–53; FAR Case 2011–015; Item IV; Docket 2011–0015, Sequence 1]

RIN 9000–AM08

Federal Acquisition Regulation; Extension of Sunset Date for Protests of Task and Delivery Orders

AGENCIES: Department of Defense (DoD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Interim rule.

SUMMARY: DoD, GSA, and NASA are issuing an interim rule amending the Federal Acquisition Regulation (FAR) to implement section 825 of the Ike Skelton National Defense Authorization Act for Fiscal Year 2011. The statute extends the sunset date for protests against the award of task or delivery orders by DoD, NASA, and the Coast Guard from May 27, 2011, to September 30, 2016.

DATES: *Effective Date:* July 5, 2011.

Comment Date: Interested parties should submit written comments to the Regulatory Secretariat on or before September 6, 2011 to be considered in the formulation of a final rule.

ADDRESSES: Submit comments identified by FAC 2005–53, FAR Case 2011–015, by any of the following methods:

- *Regulations.gov: http://www.regulations.gov.* Submit comments via the Federal eRulemaking portal by inputting ''FAR Case 2011–015'' under the heading ''Enter Keyword or ID'' and selecting ''Search.'' Select the link ''Submit a Comment'' that corresponds with ''FAR Case 2011–015.'' Follow the instructions provided at the ''Submit a Comment'' screen. Please include your name, company name (if any), and ''FAR Case 2011–015'' on your attached document.
- *Fax:* (202) 501–4067.
- *Mail:* General Services Administration, Regulatory Secretariat (MVCB), *Attn:* Hada Flowers, 1275 First

Street, NE., 7th Floor, Washington, DC 20417.

Instructions: Please submit comments only and cite FAC 2005–53, FAR Case 2011–015, in all correspondence related to this case. All comments received will be posted without change to *http://www.regulations.gov,* including any personal and/or business confidential information provided.

FOR FURTHER INFORMATION CONTACT: Ms. Deborah Lague, Procurement Analyst, at (202) 694–8149, for clarification of content. For information pertaining to status or publication schedules, contact the Regulatory Secretariat at (202) 501–4755. Please cite FAC 2010–53, FAR Case 2011–015.

SUPPLEMENTARY INFORMATION:

I. Background

DoD, GSA, and NASA are publishing this interim rule amending the FAR to implement section 825 of the Ike Skelton National Defense Authorization Act for Fiscal Year 2011 (Pub. L. 111–383, enacted January 7, 2011). Section 825 amends 10 U.S.C. 2304c(e) to extend the sunset date for protests against the award of task and delivery orders from May 27, 2011, to September 30, 2016, but only for Title 10 agencies, *i.e.,* DoD, NASA, and the Coast Guard. There has been no comparable change to Title 41, so the sunset date for protests against the award of task and delivery orders by other agencies remains May 27, 2011. With this change, contractors will no longer be able to protest task or delivery orders awarded by agencies other than DoD, NASA, and the Coast Guard. There is no effect on Government automated systems.

II. Executive Orders 12866 and 13563

Executive Orders (E.O.s) 12866 and 13563 direct agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). E.O. 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. This is not a significant regulatory action and, therefore, was not subject to review under section 6(b) of E.O. 12866, Regulatory Planning and Review, dated September 30, 1993. This rule is not a major rule under 5 U.S.C. 804.

III. Regulatory Flexibility Act

The change may have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act 5 U.S.C. 601, *et seq.*. The Initial Regulatory Flexibility Analysis (IRFA) is summarized as follows:

This rule was initiated to implement section 825 of the Ike Skelton National Defense Authorization Act for Fiscal Year 2011 (Pub. L. 111–383), enacted January 7, 2011. Section 825 amends 10 U.S.C. 2304c(e) to extend the sunset date for protests against the award of task or delivery orders by DoD, NASA, and the Coast Guard from May 27, 2011, to September 30, 2016.

Prior to the National Defense Authorization Act for Fiscal Year 2008, there was no authority for protests against the award of task or delivery orders under indefinite-delivery contracts. That statute, however, amended Titles 10 and 41 to allow protests against the award, or proposed award, of a task or delivery order by any Federal agency if (a) the protest is on the grounds that the order increases the scope, period, or maximum value of the contract, or (b) the order is valued at over $10 million.

This protest authority has been in effect for the past 2½ years. Section 825 extended the sunset date for Title 10 agencies (DoD, NASA, and the Coast Guard). However, there has not been a similar change to the Title 41 authority, so the sunset date remains May 27, 2011, for all other agencies.

The authority to file protests against the award of task or delivery orders is relatively new, and there is little data available, as such protests may be filed with the agency or General Accountability Office (GAO). Section 843 of Pub. L. 110–181 gave the Comptroller General of the United States the exclusive jurisdiction of a protest of an order valued in excess of $10 million. Data on agency-level protests is not compiled outside the agency concerned, so we had to base our estimate on the total number of protests filed at the GAO in Fiscal Years 2009 and 2010. The data was extracted from GAO's latest report to the Congress. Only Fiscal Years 2009 and 2010 protest numbers were used because the authority to protest against task or delivery orders did not exist prior to that time.

Offerors can protest to the agency or to the GAO. Assuming that one-half of all protests are filed with the GAO and the other half are filed with the agency, then the average number of protests filed per fiscal year would be 4,300 (see below):

Fiscal Year 2009 protests to GAO	2,000
Fiscal Year 2010 protests to GAO	2,300
	4,300
Divided by	2
Average annual GAO protests	2,150
Multiplied by	2
Estimated total number of protests	4,300

Protests may be filed against the award of contracts as well as certain task or delivery orders. There are few prohibitions on the grounds for protests against the award of a contract. However, protests against the award of a task or delivery order are limited to (a) a protest on the grounds that the order increases the scope, period, or maximum value of the contract; or (b) a protest of an order valued in excess of $10 million. Therefore, it is reasonable to assume that less than 50 percent of the total number of protests filed is against the award of a task or delivery order. A generous estimate is approximately one-fourth, or 1,075. Likewise, only a percentage of the protests against the award of a task or delivery order are made by small businesses. Even if we assume that percentage to be one-half, then the number of protests filed by small businesses against the award of a task or delivery order is estimated to be 539.

# of protests of task/delivery orders by small businesses	539
% of protests sustained	x .03
# of task/delivery orders protests sustained	16

The number 16 represents the number of small business task or delivery order protests sustained in a fiscal year. However, this number is representative of protests against awards by all Government agencies, not just DoD, NASA, and the Coast Guard. If the

assumption is made that half of the protests sustained are on DoD, NASA, or Coast Guard task or delivery orders, then it can be estimated that extending the sunset date for protests against task or delivery order awards by Title 10 agencies will result in an additional 8 awards to small businesses per fiscal year that the protest authority remains in effect.

There is no requirement for small entities to submit any information under this provision. Therefore, no professional skills are necessary on the part of small entities for compliance, and the cost to small entities associated with this provision is $0.

The rule does not duplicate, overlap, or conflict with any other Federal rules.

There are no practical alternatives that will accomplish the objectives of the interim rule, *i.e.,* implementation of a statutory mandate.

The Regulatory Secretariat has submitted a copy of the IRFA to the Chief Counsel for Advocacy of the Small Business Administration. A copy of the IRFA may be obtained from the Regulatory Secretariat. DoD, GSA, and NASA invite comments from small business concerns and other interested parties on the expected impact of this rule on small entities.

DoD, GSA, and NASA will also consider comments from small entities concerning the existing regulations in the subpart affected by this rule in accordance with 5 U.S.C. 610. Interested parties must submit such comments separately and should cite 5 U.S.C. 610 (FAC 2005–53, FAR Case 2011–015) in correspondence.

IV. Paperwork Reduction Act

The interim rule does not contain any information collection requirements that require the approval of the Office of Management and Budget under the Paperwork Reduction Act (44 U.S.C. chapter 35).

V. Determination To Issue an Interim Rule

A determination has been made under the authority of the Secretary of Defense (DoD), the Administrator of General Services (GSA), and the Administrator of the National Aeronautics and Space Administration (NASA) that urgent and compelling reasons exist to promulgate this interim rule without prior opportunity for public comment. This action is necessary because the Ike Skelton National Defense Authorization Act for Fiscal Year 2011 (Pub. L. 111–383) was enacted on January 7, 2011, and requires the extension of the sunset date for the affected agencies to be published in the FAR prior to the expiration of the previous sunset date, May 27, 2011. However, pursuant to 41 U.S.C. 1707 and FAR 1.501–3(b), DoD, GSA, and NASA will consider public comments received in response to this interim rule in the formation of the final rule.

List of Subjects in 48 CFR Part 16

Government procurement.

Dated: June 28, 2011.

Laura Auletta,

Acting Director, Office of Governmentwide Acquisition Policy, Office of Acquisition Policy.

Therefore, DoD, GSA, and NASA amend 48 CFR part 16 as set forth below:

PART 16—TYPES OF CONTRACTS

■ 1. The authority citation for 48 CFR part 16 continues to read as follows:

Authority: 40 U.S.C. 121(c); 10 U.S.C. chapter 137; and 42 U.S.C. 2473(c).

■ 2. Amend section 16.505 by revising paragraph (a)(9)(ii) to read as follows:

16.505 Ordering.

* * * * *

(a) * * *

(9) * * *

(ii) The authority to protest the placement of an order under this subpart expires on September 30, 2016, for DoD, NASA and the Coast Guard (10 U.S.C. 2304a(d) and 2304c(e)), and on May 27, 2011, for other agencies (41 U.S.C. 4103(d) and 4106(f)).

* * * * *

[FR Doc. 2011–16675 Filed 7–1–11; 8:45 am]

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DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Parts 23 and 52

[FAC 2005–53; FAR Case 2009–028; Item V; Docket 2010–0097, Sequence 1]

RIN 9000–AL64

Federal Acquisition Regulation; Encouraging Contractor Policies To Ban Text Messaging While Driving

AGENCIES: Department of Defense (DoD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Final rule.

SUMMARY: DoD, GSA, and NASA have adopted as final, with changes, the interim rule amending the Federal Acquisition Regulation (FAR) to implement Executive Order (E.O.) 13513, dated October 1, 2009, entitled ''Federal Leadership on Reducing Text Messaging while Driving.''

DATES: *Effective Date:* August 4, 2011.

FOR FURTHER INFORMATION CONTACT: Mr. William Clark, Procurement Analyst, at (202) 219–1813, for clarification of content. For information pertaining to status or publication schedules, contact the Regulatory Secretariat at (202) 501–4755. Please cite FAC 2005–53, FAR Case 2009–028.

SUPPLEMENTARY INFORMATION:

I. Background

DoD, GSA, and NASA published an interim rule in the **Federal Register** at 75 FR 60264 on September 29, 2010, to amend the FAR to implement E.O. 13513 (October 1, 2009), published in the **Federal Register** at 74 FR 51225 on October 6, 2009, entitled ''Federal Leadership on Reducing Text Messaging while Driving.'' The rule requires Government agencies to encourage Federal contractors and subcontractors to adopt and enforce policies that ban text messaging while driving. This requirement applies to all solicitations and contracts entered into on or after September 29, 2010. The interim rule encouraged contracting officers to modify existing contracts to include the FAR clause 52.223–18, Contractor Policy to Ban Text Messaging While Driving. The clause in the interim rule indicated that Federal contractors should adopt and enforce policies banning text messaging while driving company-owned or -rented vehicles or Government-owned vehicles; or privately-owned vehicles when on official Government business or when performing any work for or on behalf of the Government. The interim rule clause also indicated that Federal contractors should conduct initiatives such as—

(1) Establishing new rules and programs or re-evaluating existing programs to prohibit text messaging while driving; and

(2) Education, awareness, and other outreach programs to inform employees about the safety risks associated with texting while driving.

As a result of public comments, the Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council (the Councils) changed ''should'' to ''encouraged to'' in this final rule clause. The revised language better aligns with the intent of the Executive Order. A corresponding change has been made to the clause title. Five respondents submitted comments on the interim rule.

II. Discussion and Analysis of the Public Comments

The Councils reviewed the public comments in the development of the final rule. A discussion of the comments and the changes made to the rule as a result of those comments are provided as follows:

Comments: A respondent recommended that the clause should not be adopted and incorporated into the FAR because it does not mandate that contractors perform any action and does not include any enforcement language. Another respondent commented that it would be a much stronger stance to make it mandatory that all Federal contractors and subcontractors ''enforce'' these policies in states with text-messaging bans.

Response: The purpose of this rule is to implement E.O. 13513, which requires each Federal agency only to encourage contractors and subcontractors to adopt and enforce policies that ban texting while driving. The Executive Order does not include enforcement provisions.

Comment: A respondent recommended that the final rule be modified to include the Federal Motor Carrier Safety Administration (FMCSA) definitions of electronic device, texting, and driving at 49 CFR 390.5 and 49 CFR 392.80.

Response: The FMCSA regulations are more restrictive than FAR 52.223–18, which only encourages the adoption of policies to ban text messaging while driving. The FAR rule does not include enforcement methods or consequences for not adopting policies, unlike the FMCSA regulations. The Department of Transportation (DOT) was consulted regarding this comment, and DOT agreed that no changes to the definitions are required.

Comment: A respondent stated that the provisions at 41 U.S.C. 430 and 431 are intended to limit the clauses that are to be applied to contractors that sell commercial items to the Government so that commercial item contracts reflect customary commercial terms and conditions to the extent practicable. The respondent recommended that the final rule exempt commercial and commercially available off-the-shelf contracts and limit application of the rule to subcontracts over $25,000.

Response: This rule requires each Federal agency only to encourage adoption and enforcement policies that ban texting while driving. Implementing such policies in any contract or subcontract is not mandatory. In addition, 41 U.S.C. 430 (renumbered as 41 U.S.C. 1906) and 41 U.S.C. 431 (renumbered as 41 U.S.C. 1907) do not address waiver of Executive orders.

Comment: A respondent noted that this rule will improve the safety of our roads and provides Government contractors with a better understanding of the risks associated with texting while driving.

Response: Noted.

Comment: One respondent suggested that because the rule is not mandatory, the title of FAR clause 52.223–18 should begin with ''Encouragement of,'' and the introductory paragraph at FAR 52.223–18(c) should begin with ''The Contractor is encouraged to'' instead of ''The Contractor should.''

Response: The Councils agree that the recommended changes better represent the purpose of the rule. The final rule reflects the recommended changes.

III. Executive Orders 12866 and 13563

Executive Orders (E.O.s) 12866 and 13563 direct agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). E.O. 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. This is a significant regulatory action and, therefore, was subject to review under section 6(b) of E.O. 12866, Regulatory Planning and Review, dated September 30, 1993. This rule is not a major rule under 5 U.S.C. 804.

IV. Regulatory Flexibility Act

The Department of Defense, the General Services Administration, and the National Aeronautics and Space Administration certify that this final rule will not have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.,* because this rule only encourages contractors to adopt policies that ban texting while driving. The adoption of such policies is not mandatory for contractors, including small businesses.

V. Paperwork Reduction Act

The final rule does not contain any information collection requirements that require the approval of the Office of Management and Budget under the Paperwork Reduction Act (44 U.S.C. chapter 35).

List of Subjects in 48 CFR Parts 23 and 52

Government procurement.

Dated: June 28, 2011.

Laura Auletta,

Acting Director, Office of Governmentwide Acquisition Policy, Office of Acquisition Policy.

Interim Rule Adopted as Final With Changes

Accordingly, the interim rule amending 48 CFR parts 23 and 52, which was published in the **Federal Register** at 75 FR 60264 on September 29, 2010, is adopted as final with the following changes:

■ 1. The authority citation for 48 CFR parts 23 and 52 continues to read as follows:

Authority: 40 U.S.C. 121(c); 10 U.S.C. chapter 137; and 42 U.S.C. 2473(c).

PART 23—ENVIRONMENT, ENERGY AND WATER EFFICIENCY, RENEWABLE ENERGY TECHNOLOGIES, OCCUPATIONAL SAFETY, AND DRUG-FREE WORKPLACE

■ 2. Revise section 23.1105 to read as follows:

23.1105 Contract clause.

The contracting officer shall insert the clause at 52.223–18, Encouraging Contractor Policies to Ban Text Messaging While Driving, in all solicitations and contracts.

PART 52—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

■ 3. Amend section 52.212–5 by revising the date of the clause and paragraph (b)(36) to read as follows:

52.212–5 Contract Terms and Conditions Required To Implement Statutes or Executive Orders—Commercial Items.

* * * * *

Contract Terms and Conditions Required To Implement Statutes or Executive Orders—Commercial Items (AUG 2011)

* * * * *

(b) * * *

___ (36) 52.223–18, Encouraging Contractor Policies to Ban Text Messaging While Driving (AUG 2011)

* * * * *

■ 4. Amend section 52.223–18 by revising the section heading, the heading and date of the clause, and the paragraph (c) introductory text to read as follows:

52.223–18 Encouraging Contractor Policies To Ban Text Messaging While Driving.

* * * * *

Encouraging Contractor Policies To Ban Text Messaging While Driving (AUG 2011)

* * * * *

(c) The Contractor is encouraged to—

* * * * *

[FR Doc. 2011–16676 Filed 7–1–11; 8:45 am]

BILLING CODE 6820–EP–P

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Part 52

[FAC 2005–53; FAR Case 2009–034; Item VI; Docket 2010–0098, Sequence 1]

RIN 9000–AL73

Federal Acquisition Regulation; TINA Interest Calculations

AGENCIES: Department of Defense (DoD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Final rule.

SUMMARY: DoD, GSA, and NASA are issuing a final rule amending the Federal Acquisition Regulation (FAR) to revise the FAR clauses on price reduction for defective pricing to require compound interest calculations be applied to Government overpayments as a result of defective cost or pricing data.

DATES: *Effective Date:* August 4, 2011.

FOR FURTHER INFORMATION CONTACT: Mr. Edward N. Chambers, Procurement Analyst, at (202) 501–3221 for clarification of content. For information pertaining to status or publication schedules, contact the Regulatory Secretariat at (202) 501–4755. Please cite FAC 2005–53, FAR Case 2009–034.

SUPPLEMENTARY INFORMATION:

I. Background

On September 14, 2009, the U.S. Court of Appeals for the Federal Circuit (CAFC) issued a decision regarding the method of interest calculation on Cost Accounting Standards (CAS) cost impacts (see GATES v. Raytheon Co., 584 F.3d 1062 (Fed. Cir. 2009)). The interest on CAS cost impacts is set by reference in the enabling statute to 26 U.S.C. 6621. The CAFC ruled that the citation led to calculation of the interest using daily compounding. The Truth in Negotiation Act (TINA) also references 26 U.S.C. 6621 for interest calculation. (See 41 U.S.C. 3507 and 10 U.S.C. 2306a).

A proposed rule was published on September 22, 2010, (75 FR 57719) with regard to the application of compound interest calculations to Government overpayments as a result of defective cost or pricing data. This rule replaces the term ''simple interest'' as the requirement for calculating interest for Truth in Negotiations Act cost impacts with the phrase ''Interest compounded daily as required by 26 U.S.C. 6622.'' Thus, compound interest calculations will be applied to Government overpayments as a result of defective cost or pricing data. DoD, GSA, and NASA received no comments on the proposed rule.

II. Executive Orders 12866 and 13563

Executive Orders (E.O.s) 12866 and 13563 direct agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). E.O. 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. This is not a significant regulatory action and, therefore, was not subject to review under section 6(b) of E.O. 12866, Regulatory Planning and Review, dated September 30, 1993. This rule is not a major rule under 5 U.S.C. 804.

III. Regulatory Flexibility Act

The Department of Defense, the General Services Administration, and the National Aeronautics and Space Administration certify that this final rule will not have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.,* because the rule merely clarifies the statutory method for calculating interest in the rare instances when a contractor is found to be in violation of TINA. Since TINA requirements generally do not apply to contracts with small entities, and since the numbers of contractors found to have submitted defective cost or pricing data are a minute subset of contractors to whom TINA applies, the rule is not expected to apply to a substantial number of small entities. Furthermore, the differential in interest computing methods is not expected to amount to a significant economic impact.

IV. Paperwork Reduction Act

The final rule does not contain any information collection requirements that require the approval of the Office of Management and Budget under the Paperwork Reduction Act (44 U.S.C. chapter 35).

List of Subjects in 48 CFR Part 52

Government procurement.

Dated: June 28, 2011.

Laura Auletta,

Acting Director, Office of Governmentwide Acquisition Policy, Office of Acquisition Policy.

Therefore, DoD, GSA, and NASA amend 48 CFR part 52 as set forth below:

PART 52—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

■ 1. The authority citation for 48 CFR part 52 continues to read as follows:

Authority: 40 U.S.C. 121(c); 10 U.S.C. chapter 137; and 42 U.S.C. 2473(c).

■ 2. Amend section 52.214–27 by revising the date of the clause and paragraph (e)(1) to read as follows:

52.214–27 Price Reduction for Defective Certified Cost or Pricing Data—Modifications—Sealed Bidding.

* * * * *

Price Reduction for Defective Certified Cost or Pricing Data—Modifications—Sealed Bidding (AUG 2011)

* * * * *

(e) * * *

(1) Interest compounded daily, as required by 26 U.S.C. 6622, on the amount of such overpayment to be computed from the date(s) of overpayment to the Contractor to the date the Government is repaid by the Contractor at the applicable underpayment rate effective for each quarter prescribed by the Secretary of the Treasury under 26 U.S.C. 6621(a)(2); and

* * * * *

■ 3. Amend section 52.215–10 by revising the date of the clause and paragraph (d)(1) to read as follows:

52.215–10 Price Reduction for Defective Certified Cost or Pricing Data.

* * * * *

Price Reduction for Defective Certified Cost or Pricing Data (AUG 2011)

* * * * *

(d) * * *

(1) Interest compounded daily, as required by 26 U.S.C. 6622, on the amount of such overpayment to be computed from the date(s)

of overpayment to the Contractor to the date the Government is repaid by the Contractor at the applicable underpayment rate effective for each quarter prescribed by the Secretary of the Treasury under 26 U.S.C. 6621(a)(2); and

* * * * *

■ 4. Amend section 52.215–11 by revising the date of the clause and paragraph (e)(1) to read as follows:

52.215–11 Price Reduction for Defective Certified Cost or Pricing Data—Modifications.

* * * * *

Price Reduction for Defective Certified Cost or Pricing Data—Modifications (AUG 2011)

* * * * *

(e) * * *

(1) Interest compounded daily, as required by 26 U.S.C. 6622, on the amount of such overpayment to be computed from the date(s) of overpayment to the Contractor to the date the Government is repaid by the Contractor at the applicable underpayment rate effective for each quarter prescribed by the Secretary of the Treasury under 26 U.S.C. 6621(a)(2); and

* * * * *

[FR Doc. 2011–16677 Filed 7–1–11; 8:45 am]

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DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Chapter 1

[Docket FAR 2011–0077, Sequence 5]

Federal Acquisition Regulation; Federal Acquisition Circular 2005–53; Small Entity Compliance Guide

AGENCY: Department of Defense (DoD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Small Entity Compliance Guide.

SUMMARY: This document is issued under the joint authority of DOD, GSA, and NASA. This *Small Entity Compliance Guide* has been prepared in accordance with section 212 of the Small Business Regulatory Enforcement Fairness Act of 1996. It consists of a summary of rules appearing in Federal Acquisition Circular (FAC) 2005–53, which amend the Federal Acquisition Regulation (FAR). An asterisk (*) next to a rule indicates that a regulatory flexibility analysis has been prepared. Interested parties may obtain further information regarding these rules by referring to FAC 2005–53, which precedes this document. These documents are also available via the Internet at *http://www.regulations.gov.*

DATES: For effective dates see separate documents, which follow.

FOR FURTHER INFORMATION CONTACT: The analyst whose name appears in the table below. Please cite FAC 2005–53 and the specific FAR case number. For information pertaining to status or publication schedules, contact the Regulatory Secretariat at (202) 501–4755.

SUPPLEMENTARY INFORMATION:

LIST OF RULES IN FAC 2005–53

Item	Subject	FAR case	Analyst
I	Equal Opportunity for Veterans	2009–007	McFadden.
II	Unique Procurement Instrument Identifier	2009–023	Morgan.
III	Uniform Suspension and Debarment Requirement	2009–036	Jackson.
IV* ..	Extension of Sunset Date for Protests of Task and Delivery Orders (Interim)	2011–015	Lague.
V	Encouraging Contractor Policies To Ban Text Messaging While Driving	2009–028	Clark.
VI	TINA Interest Calculations	2009–034	Chambers.

Summaries for each FAR rule follow. For the actual revisions and/or amendments made by these FAR cases, refer to the specific item numbers and subject set forth in the documents following these item summaries. FAC 2005–53 amends the FAR as specified below:

Item I—Equal Opportunity for Veterans (FAR Case 2009–007)

The interim rule, published September 29, 2010, is adopted as final with minor changes. A definition from the clause at FAR 52.222–35 for ''executive and senior management'' is added to FAR subpart 22.13. The interim rule implemented Department of Labor regulations on equal opportunity provisions for various categories of military veterans.

Item II—Unique Procurement Instrument Identifier (FAR Case 2009–023)

This final rule amends the FAR to define the requirement for an agency unique procurement instrument identifier (PIID) and, to extend the requirement for using PIIDs to solicitations, contracts, and related procurement instruments.

This final rule adds two new definitions at 4.001, revises 4.605(a), and adds a new FAR subpart 4.16—Unique Procurement Instrument Identifiers, to prescribe policies and procedures for assigning PIIDs. The Government expects that these changes will reduce data errors and interoperability problems across the Federal Government's business processes which were created by inconsistent and non-unique PIID assignment and use. These changes will not impose new requirements on small businesses, as the rule only addresses internal Government policy and procedures.

Item III—Uniform Suspension and Debarment Requirement (FAR Case 2009–036)

This rule adopts as final, with minor changes, an interim rule which implemented section 815 of the National Defense Authorization Act for Fiscal Year 2010, Public Law 111–84. The law requires that suspension and debarment requirements flow down to all subcontracts except contracts for commercially available off-the-shelf items, and in the case of commercial items, first-tier subcontracts only.

This requirement protects the Government against contracting with entities at any tier who are debarred, suspended, or proposed for debarment. This rule does not have a significant impact on the Government, contractors, or any automated systems.

Item IV—Extension of Sunset Date for Protests of Task and Delivery Orders (FAR Case 2011–015) (Interim)

This interim rule amends the FAR to implement section 825 of the Ike Skelton National Defense Authorization Act for Fiscal Year 2011 (Pub. L. 111–383). Section 825 extends the sunset date for protests against awards of task or delivery orders by DoD, NASA, and the Coast Guard from May 27, 2011 to September 30, 2016. The sunset date for protests against the award of task or delivery orders by other Federal agencies remains May 27, 2011. With this change, contractors will no longer be able to protest task or delivery orders awarded by agencies other than DoD, NASA, and the Coast Guard. There is no effect on Government automated systems.

Item V—Encouraging Contractor Policies To Ban Text Messaging While Driving (FAR Case 2009–028)

This final rule adopts, with changes, the interim rule published in the **Federal Register** at 75 FR 60264 on September 29, 2010, to implement Executive Order 13513 (October 1, 2009), published in the **Federal Register** at 74 FR 51225 on October 6, 2009, entitled ''Federal Leadership on Reducing Text Messaging while Driving.'' This final rule revises FAR clause 52.223–18 to encourage the adoption and enforcement of policies that ban text messaging while driving company-owned or -rented vehicles or Government-owned vehicles; or privately-owned vehicles when on official Government business or when performing any work for or on behalf of the Government. The final rule also revises the language in the clause to encourage contractors to conduct initiatives such as: (1) Establishment of new rules and programs or re-evaluation of existing programs to prohibit text messaging while driving, and (2) education, awareness, and other outreach programs to inform employees about the safety risks associated with texting while driving. This requirement applies to all solicitations and contracts.

Item VI—TINA Interest Calculations (FAR Case 2009–034)

DoD, GSA, and NASA are publishing a final rule amending the FAR to revise the clauses at FAR 52.214–27, FAR 52.215–10, and FAR 52.215–11 to require compound interest calculations be applied to Government overpayments as a result of defective cost or pricing data.

Dated: June 28, 2011.

Laura Auletta,

Acting Director, Office of Governmentwide Acquisition Policy, Office of Acquisition Policy.

[FR Doc. 2011–16678 Filed 7–1–11; 8:45 am]

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