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

The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each week.

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 97

[Docket No. 30813; Amdt. No. 3453]

Standard Instrument Approach Procedures, and Takeoff Minimums and Obstacle Departure Procedures; Miscellaneous Amendments

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This rule establishes, amends, suspends, or revokes Standard Instrument Approach Procedures (SIAPs) and associated Takeoff Minimums and Obstacle Departure Procedures for operations at certain airports. These regulatory actions are needed because of the adoption of new or revised criteria, or because of changes occurring in the National Airspace System, such as the commissioning of new navigational facilities, adding new obstacles, or changing air traffic requirements. These changes are designed to provide safe and efficient use of the navigable airspace and to promote safe flight operations under instrument flight rules at the affected airports.

DATES: This rule is effective November 25, 2011. The compliance date for each SIAP, associated Takeoff Minimums, and ODP is specified in the amendatory provisions.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of November 25, 2011.

ADDRESSES: Availability of matter incorporated by reference in the amendment is as follows:

For examination—

1. FAA Rules Docket, FAA Headquarters Building, 800 Independence Avenue SW., Washington, DC 20591;

2. The FAA Regional Office of the region in which the affected airport is located;

3. The National Flight Procedures Office, 6500 South MacArthur Blvd., Oklahoma City, OK 73169; or

4. 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.*

Availability—All SIAPs are available online free of charge. Visit *nfdc.faa.gov* to register. Additionally, individual SIAP and Takeoff Minimums and ODP copies may be obtained from:

1. FAA Public Inquiry Center (APA–200), FAA Headquarters Building, 800 Independence Avenue SW., Washington, DC 20591; or

2.The FAA Regional Office of the region in which the affected airport is located.

FOR FURTHER INFORMATION CONTACT: Richard A. Dunham III, Flight Procedure Standards Branch (AFS–420)Flight Technologies and Programs Division, Flight Standards Service, Federal Aviation Administration, Mike Monroney Aeronautical Center, 6500 South MacArthur Blvd., Oklahoma City, OK 73169 (Mail Address: P.O. Box 25082 Oklahoma City, OK 73125) telephone: (405) 954–4164.

SUPPLEMENTARY INFORMATION: This rule amends Title 14, Code of Federal Regulations, Part 97 (14 CFR part 97) by amending the referenced SIAPs. The complete regulatory description of each SIAP is listed on the appropriate FAA Form 8260, as modified by the National Flight Data Center (FDC)/Permanent Notice to Airmen (P–NOTAM), and is incorporated by reference in the amendment under 5 U.S.C. 552(a), 1 CFR part 51, and § 97.20 of Title 14 of the Code of Federal Regulations.

The large number of SIAPs, their complex nature, and the need for a special format make their verbatim publication in the **Federal Register** expensive and impractical. Further, airmen do not use the regulatory text of the SIAPs, but refer to their graphic depiction on charts printed by publishers of aeronautical materials. Thus, the advantages of incorporation by reference are realized and publication of the complete description of each SIAP contained in FAA form documents is unnecessary. This amendment provides the affected CFR sections and specifies the types of SIAP and the corresponding effective dates. This amendment also identifies the airport and its location, the procedure and the amendment number.

The Rule

This amendment to 14 CFR part 97 is effective upon publication of each separate SIAP as amended in the transmittal. For safety and timeliness of change considerations, this amendment incorporates only specific changes contained for each SIAP as modified by FDC/P–NOTAMs.

The SIAPs, as modified by FDC–P–NOTAM, and contained in this amendment are based on the criteria contained in the U.S. Standard for Terminal Instrument Procedures (TERPS). In developing these changes to SIAPs, the TERPS criteria were applied only to specific conditions existing at the affected airports. All SIAP amendments in this rule have been previously issued by the FAA in a FDC NOTAM as an emergency action of immediate flight safety relating directly to published aeronautical charts. The circumstances which created the need for all these SIAP amendments requires making them effective in less than 30 days.

Because of the close and immediate relationship between these SIAPs and safety in air commerce, I find that notice and public procedure before adopting these SIAPs are impracticable and contrary to the public interest and, where applicable, that good cause exists for making these SIAPs effective in less than 30 days.

Conclusion

The FAA has determined that this 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. For the same reason, the

FAA certifies that this amendment will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 97

Air traffic control, Airports, Incorporation by reference, and Navigation (air).

Issued in Washington, DC, on November 11, 2011.

John McGraw,

Deputy Director, Flight Standards Service.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, Title 14, Code of Federal regulations, Part 97, 14 CFR part 97, is amended by amending Standard Instrument Approach Procedures, effective at 0901 UTC on the dates specified, as follows:

PART 97—STANDARD INSTRUMENT APPROACH PROCEDURES

■ 1. The authority citation for part 97 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40103, 40106, 40113, 40114, 40120, 44502, 44514, 44701, 44719, 44721–44722.

§§ 97.23, 97.25, 97.27, 97.29, 97.31, 97.33, and 97.35 [AMENDED]

■ 2. Part 97 is amended to read as follows:

By amending: § 97.23 VOR, VOR/DME, VOR or TACAN, and VOR/DME or TACAN; § 97.25 LOC, LOC/DME, LDA, LDA/DME, SDF, SDF/DME; § 97.27 NDB, NDB/DME; § 97.29 ILS, ILS/DME, MLS, MLS/DME, MLS/RNAV; § 97.31 RADAR SIAPs; § 97.33 RNAV SIAPs; and § 97.35 COPTER SIAPs, Identified as follows:

** * * Effective Upon Publication.*

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15–Dec–11 ..	NY	Sidney	Sidney Muni	1/8481	10/31/11	VOR RWY 25, Amdt 3
15–Dec–11 ..	TN	Dickson	Dickson Muni	1/8567	10/24/11	VOR/DME RWY 17, Amdt 4C
15–Dec–11 ..	TN	Dickson	Dickson Muni	1/8568	10/24/11	RNAV (GPS) RWY 17, Amdt 1
15–Dec–11 ..	TN	Dickson	Dickson Muni	1/8569	10/24/11	NDB RWY 17, Amdt 2B
15–Dec–11 ..	IL	Springfield	Abraham Lincoln Capital	1/8695	10/31/11	RADAR–1, Amdt 9A
15–Dec–11 ..	IL	Springfield	Abraham Lincoln Capital	1/8697	10/31/11	ILS OR LOC RWY 4, Amdt 25D
15–Dec–11 ..	IL	Springfield	Abraham Lincoln Capital	1/8699	10/31/11	VOR/DME RWY 22, Orig-A
15–Dec–11 ..	NC	Jacksonville	Albert J Ellis	1/8737	10/24/11	NDB RWY 5, Amdt 8
15–Dec–11 ..	GA	Athens	Athens/Ben Epps	1/8738	10/31/11	VOR RWY 2, Amdt 11
15–Dec–11 ..	FL	Lakeland	Lakeland Linder Rgnl	1/8739	10/24/11	ILS OR LOC RWY 5, Amdt 7B
15–Dec–11 ..	FL	Lakeland	Lakeland Linder Rgnl	1/8740	10/24/11	VOR RWY 27, Amdt 7B
15–Dec–11 ..	FL	Lakeland	Lakeland Linder Rgnl	1/8741	10/24/11	RNAV (GPS) RWY 5, Orig
15–Dec–11 ..	GA	Fitzgerald	Fitzgerald Muni	1/9311	10/31/11	RNAV (GPS) RWY 1, Orig
15–Dec–11 ..	VA	Bridgewater	Bridgewater Air Park	1/9513	10/31/11	Takeoff Minimums and Obstacle DP, Amdt 2
15–Dec–11 ..	NY	Sidney	Sidney Muni	1/9516	10/31/11	RNAV (GPS) RWY 7, Orig-A
15–Dec–11 ..	NV	Lovelock	Derby Field	1/9847	10/31/11	Takeoff Minimums and Obstacle DP, Orig-A

[FR Doc. 2011–30090 Filed 11–23–11; 8:45 am]
BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 97

[Docket No. 30812; Amdt. No. 3452]

Standard Instrument Approach Procedures, and Takeoff Minimums and Obstacle Departure Procedures; Miscellaneous Amendments

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This rule establishes, amends, suspends, or revokes Standard Instrument Approach Procedures (SIAPs) and associated Takeoff Minimums and Obstacle Departure Procedures for operations at certain airports. These regulatory actions are needed because of the adoption of new or revised criteria, or because of changes occurring in the National Airspace System, such as the commissioning of new navigational facilities, adding new obstacles, or changing air traffic requirements. These changes are designed to provide safe and efficient use of the navigable airspace and to promote safe flight operations under instrument flight rules at the affected airports.

DATES: This rule is effective November 25, 2011. The compliance date for each SIAP, associated Takeoff Minimums, and ODP is specified in the amendatory provisions.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the **Federal Register** as of November 25, 2011.

ADDRESSES: Availability of matters incorporated by reference in the amendment is as follows:

For examination—

1. FAA Rules Docket, FAA Headquarters Building, 800 Independence Avenue SW., Washington, DC 20591;

2. The FAA Regional Office of the region in which the affected airport is located;

3. The National Flight Procedures Office, 6500 South MacArthur Blvd., Oklahoma City, OK 73169; or

4. 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.*

Availability—All SIAPs and Takeoff Minimums and ODPs are available online free of charge. Visit *http://www.nfdc.faa.gov* to register. Additionally, individual SIAP and Takeoff Minimums and ODP copies may be obtained from:

1. FAA Public Inquiry Center (APA–200), FAA Headquarters Building, 800 Independence Avenue SW., Washington, DC 20591; or

2. The FAA Regional Office of the region in which the affected airport is located.

FOR FURTHER INFORMATION CONTACT: Richard A. Dunham III, Flight Procedure Standards Branch (AFS–420), Flight Technologies and Programs Divisions, Flight Standards Service, Federal Aviation Administration, Mike Monroney Aeronautical Center, 6500 South MacArthur Blvd., Oklahoma City, OK 73169 (Mail Address: P.O. Box 25082, Oklahoma City, OK 73125), Telephone: (405) 954–4164.

SUPPLEMENTARY INFORMATION: This rule amends Title 14 of the Code of Federal Regulations, part 97 (14 CFR part 97), by establishing, amending, suspending, or revoking SIAPS, Takeoff Minimums and/or ODPS. The complete regulators description of each SIAP and its associated Takeoff Minimums or ODP for an identified airport is listed on FAA form documents which are incorporated by reference in this amendment under 5 U.S.C. 552(a), 1 CFR part 51, and 14 CFR 97.20. The applicable FAA Forms are FAA Forms 8260–3, 8260–4, 8260–5, 8260–15A, and 8260–15B when required by an entry on 8260–15A.

The large number of SIAPs, Takeoff Minimums and ODPs, in addition to their complex nature and the need for a special format make publication in the **Federal Register** expensive and

impractical. Furthermore, airmen do not use the regulatory text of the SIAPs, Takeoff Minimums or ODPs, but instead refer to their depiction on charts printed by publishers of aeronautical materials. The advantages of incorporation by reference are realized and publication of the complete description of each SIAP, Takeoff Minimums and ODP listed on FAA forms is unnecessary. This amendment provides the affected CFR sections and specifies the types of SIAPs and the effective dates of the, associated Takeoff Minimums and ODPs. This amendment also identifies the airport and its location, the procedure, and the amendment number.

The Rule

This amendment to 14 CFR part 97 is effective upon publication of each separate SIAP, Takeoff Minimums and ODP as contained in the transmittal. Some SIAP and Takeoff Minimums and textual ODP amendments may have been issued previously by the FAA in a Flight Data Center (FDC) Notice to Airmen (NOTAM) as an emergency action of immediate flight safety relating directly to published aeronautical charts. The circumstances which created the need for some SIAP and Takeoff Minimums and ODP amendments may require making them effective in less than 30 days. For the remaining SIAPS and Takeoff Minimums and ODPS, an effective date at least 30 days after publication is provided.

Further, the SIAPs and Takeoff Minimums and ODPS contained in this amendment are based on the criteria contained in the U.S. Standard for Terminal Instrument Procedures (TERPS). In developing these SIAPS and Takeoff Minimums and ODPs, the TERPS criteria were applied to the conditions existing or anticipated at the affected airports. Because of the close and immediate relationship between these SIAPs, Takeoff Minimums and ODPs, and safety in air commerce, I find that notice and public procedures before adopting these SIAPS, Takeoff Minimums and ODPs are impracticable and contrary to the public interest and, where applicable, that good cause exists for making some SIAPs effective in less than 30 days.

Conclusion

The FAA has determined that this 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. For the same reason, the FAA certifies that this amendment will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 97

Air traffic control, Airports, Incorporation by reference, and Navigation (air).

Issued in Washington, DC on November 11, 2011.

John McGraw,

Deputy Director, Flight Standards Service.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, Title 14, Code of Federal Regulations, Part 97 (14 CFR part 97) is amended by establishing, amending, suspending, or revoking Standard Instrument Approach Procedures and/or Takeoff Minimums and/or Obstacle Departure Procedures effective at 0902 UTC on the dates specified, as follows:

PART 97—STANDARD INSTRUMENT APPROACH PROCEDURES

■ 1. The authority citation for part 97 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40103, 40106, 40113, 40114, 40120, 44502, 44514, 44701, 44719, 44721–44722.

■ 2. Part 97 is amended to read as follows:

Effective 15 DEC 2011

Tatitlek, AK, Tatitlek, RNAV (GPS) RWY 31, Orig
Tatitlek, AK, Tatitlek, Takeoff Minimums and Obstacle DP, Orig
Birmingham, AL, Birmingham-Shuttlesworth Intl, LOC RWY 18, Amdt 2
Talladega, AL, Talladega Muni, RNAV (GPS) RWY 3, Amdt 1A
San Diego, CA, San Diego Intl, Takeoff Minimums and Obstacle DP, Amdt 7
Visalia, CA, Visalia Muni, VOR RWY 12, Amdt 6
Defuniak Springs, FL, Defuniak Springs, RNAV (GPS) RWY 27, Amdt 1
Jacksonville, FL, Jacksonville Intl, ILS OR LOC RWY 8, ILS RWY 8 (SA CAT I), ILS RWY 8 (CAT II), ILS RWY 8 (CAT III), Amdt 13
Jacksonville, FL, Jacksonville Intl, ILS OR LOC RWY 14, Amdt 7
Jacksonville, FL, Jacksonville Intl, ILS OR LOC RWY 26, Amdt 2
Jacksonville, FL, Jacksonville Intl, NDB RWY 7, Amdt 9C, CANCELLED
Jacksonville, FL, Jacksonville Intl, RNAV (GPS) RWY 8, Amdt 1
Jacksonville, FL, Jacksonville Intl, RNAV (GPS) RWY 14, Amdt 1
Jacksonville, FL, Jacksonville Intl, RNAV (GPS) RWY 26, Amdt 1
Jacksonville, FL, Jacksonville Intl, RNAV (GPS) RWY 32, Amdt 2
Jacksonville, FL, Jacksonville Intl, Takeoff Minimums and Obstacle DP, Amdt 1
Jacksonville, FL, Jacksonville Intl, VOR/DME RWY 32, Amdt 2
Leesburg, FL, Leesburg Intl, NDB RWY 31, Amdt 2
Leesburg, FL, Leesburg Intl, RNAV (GPS) RWY 3, Amdt 1
Leesburg, FL, Leesburg Intl, RNAV (GPS) RWY 13, Amdt 2
Leesburg, FL, Leesburg Intl, RNAV (GPS) RWY 31, Amdt 1
Leesburg, FL, Leesburg Intl, Takeoff Minimums and Obstacle DP, Amdt 4
Tampa, FL, Tampa Executive, RNAV (GPS) RWY 5, Orig
Americus, GA, Jimmy Carter Rgnl, ILS OR LOC/NDB RWY 23, Amdt 1
Americus, GA, Jimmy Carter Rgnl, RNAV (GPS) RWY 5, Amdt 1
Americus, GA, Jimmy Carter Rgnl, RNAV (GPS) RWY 23, Amdt 1
Americus, GA, Jimmy Carter Rgnl, Takeoff Minimums and Obstacle DP, Amdt 2
Kailua/Kona, HI, Kona Intl at Keahole, RNAV (GPS) Y RWY 17, Amdt 1A
Cedar Rapids, IA, The Eastern Iowa, ILS OR LOC RWY 27, Amdt 6B
Chicago, IL, Chicago Midway Intl, RNAV (GPS) RWY 4R, Amdt 2A
Kokomo, IN, Kokomo Muni, ILS OR LOC RWY 23, Amdt 10
Kokomo, IN, Kokomo Muni, RNAV (GPS) RWY 23, Amdt 1
Terre Haute, IN, Terre Haute Intl-Hulman Field, RNAV (GPS) RWY 5, Orig-B
Terre Haute, IN, Terre Haute Intl-Hulman Field, RNAV (GPS) RWY 23, Amdt 1
Louisville, KY, Bowman Field, NDB RWY 33, Amdt 16
Louisville, KY, Bowman Field, RNAV (GPS) RWY 24, Amdt 1
Louisville, KY, Bowman Field, RNAV (GPS) RWY 33, Orig
Louisville, KY, Bowman Field, VOR RWY 24, Amdt 8
Murray, KY, Kyle-Oakley Field, GPS RWY 5, Amdt 1 CANCELLED
Murray, KY, Kyle-Oakley Field, GPS RWY 23, Amdt 1 CANCELLED
Murray, KY, Kyle-Oakley Field, LOC RWY 23, Amdt 2
Murray, KY, Kyle-Oakley Field, RNAV (GPS) RWY 5, Orig
Murray, KY, Kyle-Oakley Field, RNAV (GPS) RWY 23, Orig
Murray, KY, Kyle-Oakley Field, Takeoff Minimums and Obstacle DP, Amdt 4
Boston, MA, General Edward Lawrence Logan Intl, ILS OR LOC RWY 4R, ILS RWY 4R (SA CAT I), ILS RWY 4R (CAT II), ILS RWY 4R (CAT III), Amdt 10
Boston, MA, General Edward Lawrence Logan Intl, ILS OR LOC RWY 22L, Amdt 8
Boston, MA, General Edward Lawrence Logan Intl, ILS OR LOC RWY 33L, ILS RWY 33L (SA CAT I), ILS RWY 33L (SA CAT II), Amdt 4

Boston, MA, General Edward Lawrence Logan Intl, ILS OR LOC/DME RWY 15R, Amdt 1C
Boston, MA, General Edward Lawrence Logan Intl, RNAV (GPS) RWY 4R, Amdt 1
Boston, MA, General Edward Lawrence Logan Intl, RNAV (GPS) RWY 15R, Amdt 1
Boston, MA, General Edward Lawrence Logan Intl, RNAV (GPS) RWY 22L, Amdt 1
Boston, MA, General Edward Lawrence Logan Intl, RNAV (GPS) RWY 33L, Amdt 1
Boston, MA, General Edward Lawrence Logan Intl, VOR/DME–A, Amdt 1
Benton Harbor, MI, Southwest Michigan Rgnl, ILS OR LOC RWY 28, Amdt 7
Benton Harbor, MI, Southwest Michigan Rgnl, RNAV (GPS) RWY 10, Amdt 1A
Benton Harbor, MI, Southwest Michigan Rgnl, RNAV (GPS) RWY 28, Amdt 1
Detroit, MI, Detroit Metropolitan Wayne County, ILS OR LOC RWY 27L, Amdt 3
Detroit, MI, Detroit Metropolitan Wayne County, ILS OR LOC RWY 27R, Amdt 12
Detroit, MI, Detroit Metropolitan Wayne County, RNAV (GPS) RWY 27L, Amdt 2
Detroit, MI, Detroit Metropolitan Wayne County, RNAV (GPS) RWY 27R, Amdt 2
Gladwin, MI, Gladwin Zettel Memorial, NDB RWY 27, Amdt 4
Gladwin, MI, Gladwin Zettel Memorial, RNAV (GPS) RWY 9, Orig
Gladwin, MI, Gladwin Zettel Memorial, RNAV (GPS) RWY 27, Orig
Manistique, MI, Schoolcraft County, Takeoff Minimums and Obstacle DP, Orig
Bigfork, MN, Bigfork Muni, GPS RWY 15, Orig, CANCELLED
Bigfork, MN, Bigfork Muni, RNAV (GPS) RWY 15, Orig
Bigfork, MN, Bigfork Muni, RNAV (GPS) RWY 33, Orig
Greenwood, MS, Greenwood-Leflore, ILS OR LOC RWY 18, Amdt 7
Greenwood, MS, Greenwood-Leflore, RNAV (GPS) RWY 5, Amdt 1
Greenwood, MS, Greenwood-Leflore, VOR RWY 5, Amdt 12
Greenwood, MS, Greenwood-Leflore, Takeoff Minimums and Obstacle DP, Amdt 6
Yazoo City, MS, Yazoo County, Takeoff Minimums and Obstacle DP, Orig
Yazoo City, MS, Yazoo County, VOR/DME–B, Orig
Glasgow, MT, Wokal Field/Glasgow Intl, Takeoff Minimums and Obstacle DP, Orig
Wallace, NC, Henderson Field, NDB RWY 27, Amdt 1, CANCELLED
Caldwell, NJ, Essex County, NDB OR GPS–A, Amdt 5B, CANCELLED
Caldwell, NJ, Essex County, RNAV (GPS) RWY 4, Orig
Caldwell, NJ, Essex County, RNAV (GPS) RWY 10, Orig
Caldwell, NJ, Essex County, RNAV (GPS) RWY 22, Amdt 1
Rochester, NY, Greater Rochester Intl, RNAV (GPS) RWY 25, Orig-A
Ashtabula, OH, Ashtabula County, RNAV (GPS) RWY 9, Orig-A
Ashtabula, OH, Ashtabula County, RNAV (GPS) RWY 27, Orig-A
Ashtabula, OH, Ashtabula County, Takeoff Minimums and Obstacle DP, Orig-A
Youngstown/Warren, OH, Youngstown-Warren Rgnl, ILS OR LOC RWY 14, Amdt 8
Youngstown/Warren, OH, Youngstown-Warren Rgnl, ILS OR LOC RWY 32, Amdt 27
Youngstown/Warren, OH, Youngstown-Warren Rgnl, NDB RWY 32, Amdt 20
Youngstown/Warren, OH, Youngstown-Warren Rgnl, RNAV (GPS) RWY 32, Orig-A
Shawnee, OK, Shawnee, RNAV (GPS) RWY 35, Orig-A
Pelion, SC, Lexington County at Pelion, RNAV (GPS) RWY 18, Orig
Pelion, SC, Lexington County at Pelion, RNAV (GPS) RWY 36, Orig
Pelion, SC, Lexington County at Pelion, VOR–A, Amdt 3
Spartanburg, SC, Spartanburg Downtown Memorial, ILS OR LOC RWY 5, Amdt 1
Spartanburg, SC, Spartanburg Downtown Memorial, NDB OR GPS–A, Amdt 8C, CANCELLED
Spartanburg, SC, Spartanburg Downtown Memorial, RNAV (GPS) RWY 5, Orig
Spartanburg, SC, Spartanburg Downtown Memorial, RNAV (GPS) RWY 23, Orig
Spartanburg, SC, Spartanburg Downtown Memorial, Takeoff Minimums and Obstacle DP, Amdt 1
Gallatin, TN, Sumner County Rgnl, RNAV (GPS) RWY 17, Amdt 1
Gallatin, TN, Sumner County Rgnl, RNAV (GPS) RWY 35, Amdt 1
Rockwood, TN, Rockwood Muni, RNAV (GPS) RWY 4, Orig
Rockwood, TN, Rockwood Muni, RNAV (GPS) RWY 22, Amdt 1
Rockwood, TN, Rockwood Muni, Takeoff Minimums and Obstacle DP, Amdt 2
Crockett, TX, Houston County, GPS RWY 2, Orig-A, CANCELLED
Crockett, TX, Houston County, GPS RWY 20, Orig-A, CANCELLED
Crockett, TX, Houston County, RNAV (GPS) RWY 2, Orig
Crockett, TX, Houston County, RNAV (GPS) RWY 20, Orig
Crockett, TX, Houston County, Takeoff Minimums and Obstacle DP, Orig
Dallas-Fort Worth, TX, Dallas/Fort Worth Intl, ILS OR LOC RWY 13R, ILS RWY 13R (SA CAT II), Amdt 8
Dallas-Fort Worth, TX, Dallas/Fort Worth Intl, RNAV (RNP) Z RWY 13R, Orig-D
Lamesa, TX, Lamesa Muni, NDB RWY 16, Amdt 3
Lamesa, TX, Lamesa Muni, NDB RWY 34, Amdt 4
Lamesa, TX, Lamesa Muni, RNAV (GPS) RWY 16, Orig
Lamesa, TX, Lamesa Muni, RNAV (GPS) RWY 34, Orig
Wichita Falls, TX, Wichita Valley, VOR/DME–C, Amdt 2
Logan, UT, Logan-Cache, RNAV (GPS) RWY 17, Amdt 1
Galax/Hillsville, VA, Twin County, Takeoff Minimums and Obstacle DP, Amdt 2
Lawrenceville, VA, Lawrenceville/Brunswick Muni, RNAV (GPS) RWY 18, Orig-A
Lawrenceville, VA, Lawrenceville/Brunswick Muni, RNAV (GPS) RWY 36, Orig-A
Moneta, VA, Smith Mountain Lake, RNAV (GPS) RWY 23, Orig-A
Moneta, VA, Smith Mountain Lake, VOR/DME OR GPS RWY 23, Orig-A, CANCELLED
Richlands, VA, Tazewell County, Takeoff Minimums and Obstacle DP, Amdt 1
Spokane, WA, Spokane Intl, ILS OR LOC/DME RWY 21, ILS RWY 21 (SA CAT I), ILS RWY 21 (CAT II), ILS RWY 21 (CAT III), Amdt 23
Spokane, WA, Spokane Intl, RNAV (GPS) Y RWY 3, Amdt 2A
Spokane, WA, Spokane Intl, RNAV (GPS) Y RWY 21, Amdt 2
Spokane, WA, Spokane Intl, RNAV (RNP) Z RWY 21, Amdt 1
Hartford, WI, Hartford Muni, NDB OR GPS RWY 11, Amdt 4A, CANCELLED
Hartford, WI, Hartford Muni, RNAV (GPS) RWY 11, Orig
Hartford, WI, Hartford Muni, RNAV (GPS) RWY 29, Orig
Hartford, WI, Hartford Muni, Takeoff Minimums and Obstacle DP, Orig
Hartford, WI, Hartford Muni, VOR OR GPS–A, Amdt 5A, CANCELLED
Menomonie, WI, Menomonie Muni-Score Field, Takeoff Minimums and Obstacle DP, Amdt 1
New Richmond, WI, New Richmond Rgnl, RNAV (GPS) RWY 14, Amdt 2A
Phillips, WI, Price County, NDB OR GPS RWY 6, Amdt 1A, CANCELLED
Phillips, WI, Price County, NDB OR GPS RWY 24, Amdt 3A, CANCELLED
Phillips, WI, Price County, RNAV (GPS) RWY 6, Orig
Phillips, WI, Price County, RNAV (GPS) RWY 24, Orig
Waukesha, WI, Waukesha County, ILS OR LOC RWY 10, Amdt 2
Summersville, WV, Summersville, GPS RWY 4, Amdt 2A, CANCELLED
Summersville, WV, Summersville, GPS RWY 22, Amdt 2A, CANCELLED
Summersville, WV, Summersville, RNAV (GPS) RWY 4, Orig

[FR Doc. 2011–30073 Filed 11–23–11; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Parts 500, 522, and 556

[Docket No. FDA–2011–N–0003]

Animal Drugs, Feeds, and Related Products; Eprinomectin; N-Methyl-2-Pyrrolidone

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect approval of an original new animal drug application (NADA) filed by Merial Ltd. The NADA provides for the veterinary prescription use of eprinomectin by

injection for the treatment and control of internal and external parasites of cattle on pasture with persistent effectiveness. The current tolerance for the marker residue for total residues of eprinomectin in edible tissues of cattle is being lowered. The method of detection for residues of the carcinogenic excipient *n*-methyl-2-pyrrolidone (NMP) in edible tissues of cattle is also being codified.

DATES: This rule is effective November 25, 2011. The incorporation by reference of a certain method listed in this rule is approved by the Director of the **Federal Register** as of November 25, 2011.

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

SUPPLEMENTARY INFORMATION: Merial Ltd., 3239 Satellite Blvd., Bldg. 500, Duluth, GA 30096–4640 filed NADA 141–327 that provides for veterinary prescription use of LONGRANGE (eprinomectin) Extended-Release Injectable Parasiticide for the treatment and control of internal and external parasites of cattle on pasture with persistent effectiveness. The NADA is approved as of September 26, 2011, and the regulations are amended in 21 CFR part 522 to reflect the approval.

As a consequence of the residue depletion characteristics of this product, the current tolerance for the marker residue for eprinomectin in the target tissue of cattle is being lowered. Accordingly, the regulations are amended in 21 CFR part 556. Elsewhere in this issue of the **Federal Register,** the approved NADA for an eprinomectin topical solution used on cattle is being supplemented to provide for this lower tolerance.

In addition, FDA has determined that an inactive ingredient in this product, the excipient *n*-methyl-2-pyrrolidone (NMP), is a carcinogen. As required by section 512(d)(1)(I) of the Federal Food, Drug, and Cosmetic Act (the FD&C Act) (21 U.S.C. 360b(d)(1)(I)), a method of detection for residues of NMP in edible tissues of cattle is being codified in 21 CFR part 500, new subpart F, through incorporation by reference.

A summary of safety and effectiveness data and information submitted to support approval of this application may be seen in the Division of Dockets Management (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852, between 9 a.m. and 4 p.m., Monday through Friday.

Under section 512(c)(2)(F)(ii) of the FD&C Act, this approval qualifies for 3 years of marketing exclusivity beginning on the date of approval.

The Agency has carefully considered the potential environmental impact of this action and has concluded that the action will not have a significant impact on the human environment and that an environmental impact statement is not required. FDA's finding of no significant impact and the evidence supporting that finding, contained in an environmental assessment, may be seen in the Division of Dockets Management between 9 a.m. and 4 p.m., Monday through Friday.

This rule does not meet the definition of ''rule'' in 5 U.S.C. 804(3)(A) because it is a rule of ''particular applicability.'' Therefore, it is not subject to the congressional review requirements in 5 U.S.C. 801–808.

List of Subjects

21 CFR Part 500

Animal drugs, Animal feeds, Cancer, Labeling, Packaging and containers, Polychlorinated biphenyls (PCBs), Incorporation by reference.

21 CFR Part 522

Animal drugs.

21 CFR Part 556

Animal drugs, Foods.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs and redelegated to the Center for Veterinary Medicine, 21 CFR parts 500, 522, and 556 are amended as follows:

PART 500—GENERAL

■ 1. The authority citation for 21 CFR part 500 continues to read as follows:

Authority: 21 U.S.C. 321, 331, 342, 343, 348, 351, 352, 353, 360b, 371.

■ 2. Add subpart F, consisting of § 500.1410, to read as follows:

Subpart F—Methods for Detection of Residues of Carcinogenic Compounds Used in Food-Producing Animals

§ 500.1410 N-methyl-2-pyrrolidone.

(a) *Standard for residues.* No residues of *n*-methyl-2-pyrrolidone may be found in the uncooked edible tissues of cattle as determined by a method entitled ''Method of Analysis: *N*-methyl-2-pyrrolidone,'' September 26, 2011, Center for Veterinary Medicine, Food and Drug Administration, which is incorporated by reference with the approval of the Director of the Federal Register under 5 U.S.C. 522(a) and 1 CFR part 51. You may obtain a copy of the method from the Communications Staff (HFV–12), Center for Veterinary Medicine, Food and Drug Administration, 7519 Standish Pl., Rockville, MD 20855; (240) 276–9120; or go to: *http://www.fda.gov/aboutfda/centersoffices/cvm/cvmfoiaelectronicreadingroom/default.htm.* You may inspect a copy at the Division of Dockets Management (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852, (301) 827–6860, between 9 a.m. and 4 p.m., Monday through Friday 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/cfr/ibr-locations.html.*

(b) *Related conditions of use.* See §§ 522.814 and 522.955 of this chapter.

PART 522—IMPLANTATION OR INJECTABLE DOSAGE FORM NEW ANIMAL DRUGS

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

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

■ 4. Add § 522.814 to read as follows:

§ 522.814 Eprinomectin.

(a) *Specifications.* Each milliliter of solution contains 50 milligrams (mg) eprinomectin.

(b) *Sponsor.* See No. 050604 in § 510.600(c) of this chapter.

(c) *Related tolerances.* See §§ 500.1410 and 556.227 of this chapter.

(d) *Conditions of use in cattle on pasture*—(1) *Amount.* Administer 1 mg/kilogram of body weight by subcutaneous injection.

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

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

intended for human consumption must not be slaughtered within 48 days of the last treatment. Do not use in female dairy cattle 20 months of age or older. Use in lactating dairy cows may cause drug residues in milk. A withdrawal period has not been established for preruminating calves. Do not use in calves to be processed for veal.

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

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

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

■ 6. In § 556.227, revise paragraph (b) and add paragraph (c) to read as follows:

§ 556.227 Eprinomectin.

* * * * *

(b) *Tolerances.* The tolerances for eprinomectin B_{1a} (marker residue) are:

(1) *Cattle*—(i) *Liver (target tissue):* 1.5 parts per million.

(ii) *Muscle:* 100 parts per billion (ppb).

(iii) *Milk:* 12 ppb.

(2) [Reserved]

(c) *Related conditions of use.* See §§ 522.814 and 524.814 of this chapter.

Dated: November 17, 2011.

Bernadette Dunham,

Director, Center for Veterinary Medicine.

[FR Doc. 2011–30329 Filed 11–23–11; 8:45 am]

BILLING CODE 4160–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 524

[Docket No. FDA–2011–N–0003]

Ophthalmic and Topical Dosage Form New Animal Drugs; Eprinomectin

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule; technical amendment.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect approval of a supplemental new animal drug application (NADA) filed by Merial Ltd. The supplemental NADA provides for addition of a warning statement against the use of eprinomectin topical solution in preruminating calves intended for veal.

DATES: This rule is effective November 25, 2011.

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

SUPPLEMENTARY INFORMATION: Merial Ltd., 3239 Satellite Blvd., Bldg. 500, Duluth, GA 30096–4640 filed a supplement to NADA 141–079 for EPRINEX (eprinomectin) Pour-On for Beef and Dairy Cattle, a topical solution used for the treatment and control of internal and external parasites of cattle on pasture with persistent effectiveness. The supplemental NADA provides for addition of a warning statement against the use of eprinomectin topical solution in preruminating calves intended for veal. The NADA is approved as of September 23, 2011, and the regulations are amended in 21 CFR part 524 to reflect the approval.

Approval of this supplemental NADA did not require review of additional safety or effectiveness data or information. Therefore, a freedom of information summary is not required.

The Agency has determined under 21 CFR 25.33 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 environmental impact statement is required.

This rule does not meet the definition of ''rule'' in 5 U.S.C. 804(3)(A) because it is a rule of ''particular applicability.'' Therefore, it is not subject to the congressional review requirements in 5 U.S.C. 801–808.

List of Subjects in 21 CFR Part 524

Animal drugs.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs and redelegated to the Center for Veterinary Medicine, 21 CFR part 524 is amended as follows:

PART 524—OPHTHALMIC AND TOPICAL DOSAGE FORM NEW ANIMAL DRUGS

■ 1. The authority citation for 21 CFR part 524 continues to read as follows:

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

■ 2. Revise § 524.814 to read as follows:

§ 524.814 Eprinomectin.

(a) *Specifications.* Each milliliter (mL) contains 5 milligrams (mg) of eprinomectin.

(b) *Sponsor.* See No. 050604 in § 510.600(c) of this chapter.

(c) *Related tolerances.* See § 556.227 of this chapter.

(d) *Special considerations.* See § 500.25 of this chapter.

(e) *Conditions of use in cattle*—(1) *Amount.* Apply 5 mg (1 mL) per 10 kilograms (kg) of body weight (500 micrograms/kg) applied topically along backbone from withers to tailhead.

(2) *Indications for use.* For treatment and control of gastrointestinal roundworms (*Haemonchus placei* (adult and L4), *Ostertagia ostertagi* (adult and L4, including inhibited L4), *Trichostrongylus axei* (adult and L4), *T. colubriformis* (adult and L4), *T. longispicularis* (adult), *Cooperia oncophora* (adult and L4), *C. punctata* (adult and L4), *C. surnabada* (adult and L4), *Nematodirus helvetianus* (adult and L4), *Bunostomum phlebotomum* (adult and L4), *Oesophagostomum radiatum* (adult and L4), *Strongyloides papillosus* (adults), *Trichuris* spp. (adults)); lungworms (*Dictyocaulus viviparus,* adult and L4); cattle grubs (all parasitic stages *Hypoderma lineatum, H. bovis*); lice (*Damalinia bovis, Linognathus vituli, Haematopinus eurysternus, Solenopotes capillatus*); mange mites (*Chorioptes bovis, Sarcoptes scabiei*); and horn flies (*Haematobia irritans*). Controls and protects from reinfection of *D. viviparus* for 21 days after treatment and *H. irritans* for 7 days after treatment.

(3) *Limitations.* A withdrawal period has not been established for preruminating calves. Do not use in calves to be processed for veal.

Dated: November 18, 2011.

Steven D. Vaughn,

Director, Office of New Animal Drug Evaluation, Center for Veterinary Medicine.

[FR Doc. 2011–30328 Filed 11–23–11; 8:45 am]

BILLING CODE 4160–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 300

[TD 9559]

RIN 1545–BK24

User Fee To Take the Registered Tax Return Preparer Competency Examination

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Final regulations.

SUMMARY: This document contains amendments to the user fee regulations. The final regulations redesignate rules pertaining to fees for obtaining a preparer tax identification number. These final regulations also establish a

user fee for individuals to take the registered tax return preparer competency examination. The final regulations affect individuals who take the registered tax return preparer competency examination. The charging of user fees is authorized by the Independent Offices Appropriations Act of 1952.

DATES: *Effective Date:* These regulations are effective beginning November 25, 2011.

Applicability Date: For date of applicability, see § 300.12(d).

FOR FURTHER INFORMATION CONTACT: Concerning the final regulations, Emily M. Lesniak at (202) 622–4570; concerning cost methodology Eva J. Williams at (202) 435–5514 (not toll-free numbers).

Background

This document contains final regulations establishing a user fee to take the registered tax return preparer competency examination. New § 300.12 establishes a $27 IRS user fee to take the registered tax return preparer competency examination; this IRS user fee is in addition to any reasonable, IRS-approved fee charged by the third-party vendor. These regulations also redesignate prior § 300.12 as § 300.13.

The Independent Offices Appropriations Act of 1952 (IOAA), which is codified at 31 U.S.C. 9701, authorizes agencies to prescribe regulations establishing user fees for services provided by the agency. Regulations prescribing user fees are subject to the policies of the President, which are currently set forth in the Office of Management and Budget Circular A–25 (the OMB Circular), 58 FR 38142 (July 15, 1993). The OMB Circular requires agencies seeking to impose user fees for providing special benefits to identifiable recipients to calculate the full cost of providing those benefits.

These regulations are part of a broader IRS effort to increase the oversight of the tax return preparer community. As part of this effort, Treasury and the IRS published final regulations in the **Federal Register** (76 FR 32286) on June 3, 2011, amending the regulations governing practice before the IRS. These regulations are found in 31 CFR part 10 and have been reprinted as Treasury Department Circular No. 230 (Circular 230). The amendments to Circular 230, in part, include registered tax return preparers as practitioners under Circular 230. Registered tax return preparers must demonstrate the necessary qualifications and competency, which includes passing a minimum competency examination. Registered tax return preparers receive the special benefit of being able to prepare and sign tax returns, claims for refund, and other documents as provided in forms, instructions, or other appropriate guidance.

On September 26, 2011, Treasury and the IRS published a notice of proposed rulemaking (REG–116284–11) in the **Federal Register** (76 FR 59239) proposing a user fee to take the registered tax return preparer competency examination. The notice of proposed rulemaking also proposed to establish a user fee to be fingerprinted in conjunction with the preparer tax identification number, acceptance agent, and authorized e-file provider programs. These regulations only finalize the user fee to take the registered tax return preparer competency examination.

The notice of proposed rulemaking announced a public hearing on October 7, 2011. Four individuals testified at the public hearing. The testimony at the hearing focused on the proposed fingerprinting user fee. No individual at the hearing offered testimony on the competency examination user fee.

Treasury and the IRS received written comments responding to the notice of proposed rulemaking. These comments are available for public inspection at *http://www.regulations.gov* or upon request. After consideration of all the comments, the proposed regulations are adopted as modified by this Treasury decision.

Summary of Comments and Explanation of Revisions

Treasury and the IRS received more than twenty written comments in response to the notice of proposed rulemaking. Treasury and the IRS received four written comments relating to the user fee to take the registered tax return preparer competency examination. The majority of the written comments concerned the user fee to be fingerprinted in conjunction with the preparer tax identification number, acceptance agent, and authorized e-file provider programs. Treasury and the IRS also received a few comments regarding other aspects of the IRS's efforts to regulate tax return preparers. To the extent that comments address other aspects of the IRS's increased oversight of the tax return preparation industry, the comments will be addressed, as appropriate and practicable, in future guidance. Further, some of the comments received related to testing locations and whether an online examination would be offered. The IRS received similar comments in response to Notice 2011–48 (2011–26 IRB 927 (June 27, 2011) available at *http://www.irs.gov/pub/irs-irbs/irb11-26.pdf*), which specifically requested comments regarding the registered tax return preparer competency examination. The IRS and the competency examination vendor continue to consider these comments, along with other comments received in response to Notice 2011–48, as they implement the competency testing program. The IRS is committed to addressing the concerns expressed in these comments to the extent practical and appropriate.

One comment regarding the proposed user fee to take the registered tax return preparer competency examination encouraged Treasury and the IRS to monitor the fee charged by the third-party vendor. The third-party vendor's fee is approved by the IRS, including any changes to the vendor's fee. Thus, the IRS will be aware of any possible fee changes and will approve the final vendor fee.

Three comments related to the total cost and the components of the user fee to take the registered tax return preparer competency examination. These comments expressed a general concern that the fee may be a financial burden on tax return preparation businesses. One commentator requested that a definitive, specific fee amount be provided and expressed confusion over whether a single user fee covers multiple attempts to take the examination. Another commentator stated that the fee was duplicative for preparers who are independently tested under an employer's program, and requested that the IRS develop a process to review and certify employer testing programs.

Treasury and the IRS have considered these comments, and for the reasons described in this preamble, the portion of the proposed regulations relating to the user fee for the competency examination is finalized without substantive change.

As stated earlier in this preamble, the OMB Circular generally requires agencies to recover the full cost of providing a special benefit to an identifiable recipient. The full cost to the IRS to administer the registered tax return preparer competency examination is $27 per applicant each time the applicant takes the examination. The costs to the IRS to administer the competency examination include conducting background checks on employees of the third-party vendor who are involved in the administration of the examination and the personnel, administrative, management, and information technology costs to the IRS

for developing and reviewing the competency examination, overseeing the competency examination, validating the competency examination results, and establishing a review procedure for applicants who contest any portion of the competency examination. The IRS will make expenditures for all of these costs associated with the competency examination and, thus, is generally required to recover these costs through a user fee as provided by the OMB Circular. The IRS will inform the public of the total finalized testing fee amount before the test becomes available. Because each examination-sitting will involve the same costs, a user fee will be charged each time an applicant takes the examination.

Further, these regulations are part of Treasury's and the IRS's effort to increase oversight of the tax return preparer industry based upon findings and recommendations made by the IRS in Publication 4832, ''Return Preparer Review'' (the Report), which was published on January 4, 2010. All individuals who wish to become a registered tax return preparer must pass the competency examination because, during the implementation process, Treasury and the IRS concluded that all registered tax return preparers should be subject to uniform standards of qualification and practice, which includes demonstrating a minimum level of competency. When obtaining tax return preparation services, taxpayers should know that all registered tax return preparers are subject to the same federal regulations and standards, regardless of where the registered tax return preparer is employed or in what state the individual resides. Requiring all registered tax return preparers to fulfill the same competency examination requirements ensures that all registered tax return preparers have met the same minimum competency standards. Additionally, requiring all registered tax return preparers to pass the IRS approved competency examination addresses concerns raised by several commentators during the IRS's study of the tax return preparation industry about the potential for unfairness if certain tax return preparers are exempt from these requirements. Accordingly, Treasury and the IRS do not believe that a process to review and certify employer testing is appropriate.

The comments on the user fee to be fingerprinted in conjunction with the preparer tax identification number, acceptance agent, and authorized e-file provider programs by and large expressed concern with the IRS's plan to fingerprint participants in these programs generally, as well as the imposition and amount of the proposed user fee. In light of the significant issues raised at the hearing and in the written comments received on the fingerprinting user fee, Treasury and the IRS have decided not to finalize the proposed user fee to be fingerprinted in conjunction with the preparer tax identification number, acceptance agent, and authorized e-file provider programs at this time. Rather, Treasury and the IRS will consider alternatives as to how the IRS can best implement the Circular 230 provision authorizing the IRS to conduct a suitability check to become a registered tax return preparer. In evaluating these alternatives, consideration will be given to how the suitability check achieves the goals of increasing oversight of the tax return preparer community and how the suitability check can be conducted most efficiently while not creating undue burden on the individual applicants and the firms or other entities that employ them. Thus, Treasury and the IRS are still interested in receiving further comments regarding the use of fingerprinting as part of the suitability check to become a registered tax return preparer. If the result of this reconsideration will require any individual to pay a user fee in conjunction with the implementation of the suitability check, including a possible fingerprinting requirement, Treasury and the IRS will publish a new notice of proposed rulemaking with respect to this user fee.

Treasury and the IRS adopt the proposed regulations after eliminating the proposed user fee to be fingerprinted in conjunction with the preparer tax identification number, acceptance agent, and authorized e-file provider programs. The portion of the proposed regulations pertaining to the user fee to take the registered tax return preparer competency examination is adopted without substantive modification.

Effective/Applicability Date

The Administrative Procedure Act provides that substantive rules will not be effective until thirty days after the final regulations are published in the **Federal Register** (5 U.S.C. 553(d)). Final regulations may be effective prior to thirty days after publication if the publishing agency finds that there is good cause for an earlier effective date.

This regulation is part of the IRS's continued efforts to implement the recommendations in the Report. The recently published amendments to Circular 230 established registered tax return preparers as practitioners under Circular 230 and required that individuals must pass a competency examination, among other requirements, to become a registered tax return preparer. Before the competency examination can be offered, the competency examination user fee must be in place. Further, to enable the IRS to begin designating individuals as registered tax return preparers in time for the 2012 filing season, the competency examination user fee must be finalized significantly before the 2012 filing season.

Thus, the Treasury and the IRS find that there is good cause for these regulations to be effective upon the publication of these final regulations in the **Federal Register**.

Special Analyses

It has been determined that these final regulations are not a significant regulatory action as defined in Executive Order 12866, as supplemented by Executive Order 13563.

It has been determined that a final regulatory flexibility analysis under 5 U.S.C. 603 is required for this final rule. The analysis is set forth under the heading, ''Final Regulatory Flexibility Analysis.''

Pursuant to 26 U.S.C. 7805(f), the notice of proposed rulemaking preceding these final regulations was submitted to the Chief Counsel for Advocacy of the Small Business Administration for comment on its impact on small business. The Chief Counsel for Advocacy did not submit comments on the notice of proposed rulemaking.

Final Regulatory Flexibility Analysis

When an agency either promulgates a final rule that follows a required notice of proposed rulemaking or promulgates a final interpretative rule involving the internal revenue laws that imposes a collection of information requirement on small entities as described in 5 U.S.C. 603(a), the Regulatory Flexibility Act (5 U.S.C. chapter 6) requires the agency to ''prepare a final regulatory flexibility analysis.'' A final regulatory flexibility analysis must, pursuant to 5 U.S.C. 604(a), contain the five elements listed in this final regulatory flexibility analysis. For purposes of this final regulatory flexibility analysis, a small entity is defined as a small business, small nonprofit organization, or small governmental jurisdiction. See 5 U.S.C. 601(3)–(6). The Treasury and the IRS conclude that the final regulations (together with other contemplated guidance provided for in these regulations) will impact a substantial

number of small entities and the economic impact may be significant.

A Statement of the Need for, and the Objectives of, the Final Rule

The Treasury and the IRS are implementing regulatory changes that increase the oversight of the tax return preparer industry based upon findings and recommendations in the Report. These regulatory changes include establishing registered tax return preparers as Circular 230 practitioners. Individuals who wish to become a registered tax return preparer must pass a competency examination. Individuals who pass the competency examination and become a registered tax return preparer will receive a special benefit that the general public does not receive because a registered tax return preparer is allowed to prepare and sign Form 1040 series returns (and accompanying schedules) for compensation. The regulations under section 6109 (75 FR 60309) in conjunction with Notice 2011–6 (2011–3 IRB 315 (January 17, 2011)), provide that only attorneys, certified public accountants, enrolled agents, and registered tax return preparers can prepare and sign all or substantially all of a Form 1040 series return (and accompanying schedules) for compensation. This final rule recovers the full costs to the IRS to oversee the registered tax return preparer competency examination.

Summaries of the Significant Issues Raised in the Public Comments Responding to the Initial Regulatory Flexibility Analysis and of the Agency's Assessment of the Issues, and a Statement of Any Changes Made to the Rule as a Result of the Comments

Treasury and the IRS received no public comments responding to the initial regulatory flexibility analysis related to competency testing in the proposed regulations that preceded these final regulations. Treasury and the IRS did receive comments from the public on the proposed regulations in general. A summary of these comments along with Treasury's and the IRS's assessment of the issues raised in the comments and descriptions of any revisions resulting from the comments is set forth elsewhere in this preamble under the Summary of Comments and Explanation of Revisions heading.

A Description and an Estimate of the Number of Small Entities to Which the Rule Will Apply or an Explanation of Why an Estimate is Not Available

These final regulations affect all individuals who want to become a registered tax return preparer under the new oversight rules in Circular 230. Only individuals, not businesses, can practice before the IRS or become a registered tax return preparer. Thus, the economic impact of these regulations on any small entity generally will be a result of applicants owning a small business or a small entity employing applicants. The NAICS code that relates to tax preparation services (NAICS code 541213) is the appropriate code for the registered tax return preparer program. Entities identified as tax preparation services are considered small under the Small Business Administration size standards (13 CFR 121.201) if their annual revenue is less than $7 million. The IRS estimates that approximately 350,000 individuals will become registered tax return preparers. The IRS estimates that approximately 70 to 80 percent of the individuals who apply to become registered tax return preparers are operating as or employed by small entities.

A Description of the Projected Reporting, Recordkeeping, and Other Compliance Requirements of the Rule, Including an Estimate of the Classes of Small Entities Subject to the Requirements and the Type of Professional Skills Necessary for Preparation of a Report or Record

The final regulations do not directly impose any reporting or recordkeeping requirements on any small entities. The final regulations, however, require certain tax return preparers to pay a user fee to take the registered tax return preparer competency examination. Small entities may be affected by these costs if the entities choose to pay some or all of these fees for their employees.

Under the amendments to Circular 230, tax return preparers may also incur costs for exam preparation courses, plus incidental costs, such as for travel and accommodations, in order to obtain the designation of registered tax return preparer under Circular 230. Course prices can vary greatly, from free to hundreds of dollars. Many small tax return preparation firms may choose, as with the user fee, to bear these costs for their employees. In some cases, small entities may lose sales and profits while their employed tax return preparers attend exam preparation classes or are studying and sitting for the examination. Some small entities that employ tax return preparers may even need to alter their business operations if a significant number of their employees cannot satisfy the necessary registration and competency requirements. Treasury and the IRS conclude, however, that only a small percentage of small entities, if any, may need to cease doing business or radically change their business model due to these final regulations.

A Description of the Steps the Agency Has Taken to Minimize the Significant Economic Impact On Small Entities Consistent With the Stated Objectives of Applicable Statutes, Including a Statement of the Factual, Policy, and Legal Reasons for Selecting Any Alternative Adopted in the Final Rule and Why Other Significant Alternatives Affecting the Impact on Small Entities That the Agency Considered Were Rejected

Treasury and the IRS are not aware of any steps that could be taken to minimize the economic impact on small entities that would also be consistent with the objectives of these final regulations and have determined that there is no viable alternative to these final regulations. These regulations do not impose any more requirements on small entities than are necessary to effectively administer the internal revenue laws. Further, the regulations do not subject small entities to any requirements that are not also applicable to larger entities covered by the regulations.

The IOAA authorizes the charging of user fees for agency services, subject to policies designated by the President. The OMB Circular implements presidential policies regarding user fees and encourages user fees when a government agency provides a special benefit to a member of the public. As Congress has not appropriated funds to the registered tax return preparer program, there are no viable alternatives to the imposition of user fees, which fees recover the costs to the IRS for providing the special benefits associated with the registered tax return preparer program.

Drafting Information

The principal author of these regulations is Emily M. Lesniak, Office of the Associate Chief Counsel (Procedure and Administration).

List of Subjects in 26 CFR Part 300

Reporting and recordkeeping requirements, User fees.

Adoption of Amendments to the Regulations

Accordingly, 26 CFR part 300 is amended as follows:

PART 300—USER FEES

■ **Paragraph 1.** The authority citation for part 300 continues to read in part as follows:

Authority: 31 U.S.C. 9701.

■ **Par. 2.** Section 300.0 is amended by redesignating paragraph (b)(12) as paragraph (b)(13) and adding new paragraph (b)(12) to read as follows:

§ 300.0 User fees; in general.

* * * * *

(b) * * *

(12) Taking the registered tax return preparer competency examination.

* * * * *

§ 300.12 [Redesignated as § 300.13]

■ **Par. 3.** Redesignate § 300.12 as § 300.13.

■ **Par. 4.** Adding new § 300.12 to read as follows:

§ 300.12 Registered tax return preparer competency examination fee.

(a) *Applicability.* This section applies to the competency examination to become a registered tax return preparer pursuant to 31 CFR 10.4(c).

(b) *Fee.* The fee for taking the registered tax return preparer competency examination is $27, which is the government cost for overseeing the examination and does not include any fees charged by the administrator of the examination.

(c) *Person liable for the fee.* The person liable for the competency examination fee is the applicant taking the examination.

(d) *Effective/applicability date.* This section is applicable beginning November 25, 2011.

Steven T. Miller,

Deputy Commissioner for Services and Enforcement.

Approved: November 21, 2011.

Emily S. McMahon,

Acting Assistant Secretary of the Treasury (Tax Policy).

[FR Doc. 2011–30388 Filed 11–22–11; 11:15 am]

BILLING CODE 4830–01–P

DEPARTMENT OF JUSTICE

Bureau of Prisons

28 CFR Part 544

[BOP–1036–F]

RIN 1120–AA33

Literacy Program

AGENCY: Bureau of Prisons, Justice.

ACTION: Final rule.

SUMMARY: This document finalizes the Bureau's Literacy Program regulations, published as an interim rule on September 26, 1997 (62 FR 50791). The Bureau amended its regulations on the literacy program for the sake of clarification or simplification.

DATES: This document is effective December 27, 2011.

ADDRESSES: Rules Unit, Office of General Counsel, Bureau of Prisons, 320 First Street NW., Washington, DC 20534.

FOR FURTHER INFORMATION CONTACT: Sarah Qureshi, Office of General Counsel, Bureau of Prisons, phone (202) 307–2105.

SUPPLEMENTARY INFORMATION: This document finalizes the Bureau's Literacy Program regulations, published as an interim rule on September 26, 1997 (62 FR 50791). In the interim rule document, the Bureau revised its regulations on the literacy program in order to include a definition of ''satisfactory progress''. This definition is one determinant which is statutorily required for the awarding and/or vesting of good conduct time for certain inmates. The interim rule also further revised Bureau regulations on the literacy program for the sake of clarification or simplification.

No comments were received during the comment period for the interim rule. We therefore finalize the interim rule without change.

Executive Order 12866

This regulation falls within a category of actions that the Office of Management and Budget (OMB) has determined to constitute ''significant regulatory actions'' under section 3(f) of Executive Order 12866 and, accordingly, it was reviewed by OMB.

The Bureau of Prisons has assessed the costs and benefits of this regulation as required by Executive Order 12866 Section 1(b)(6) and has made a reasoned determination that the benefits of this regulation justify its costs. There will be no new costs associated with this regulation.

Executive Order 13132

This regulation will not have substantial direct effects on the States, on the relationship between the national government and the States, or on distribution of power and responsibilities among the various levels of government. Therefore, under Executive Order 13132, we determine that this regulation does not have sufficient Federalism implications to warrant the preparation of a Federalism Assessment.

Regulatory Flexibility Act

The Director of the Bureau of Prisons, under the Regulatory Flexibility Act (5 U.S.C. 605(b)), reviewed this regulation and by approving it certifies that it will not have a significant economic impact upon a substantial number of small entities for the following reasons: This regulation pertains to the correctional management of offenders and immigration detainees committed to the custody of the Attorney General or the Director of the Bureau of Prisons, and its economic impact is limited to the Bureau's appropriated funds.

Unfunded Mandates Reform Act of 1995

This regulation will not result in the expenditure by State, local and Tribal governments, in the aggregate, or by the private sector, of $100,000,000 or more in any one year, and it will not significantly or uniquely affect small governments. Therefore, no actions were deemed necessary under the provisions of the Unfunded Mandates Reform Act of 1995.

Small Business Regulatory Enforcement Fairness Act of 1996

This regulation is not a major rule as defined by § 804 of the Small Business Regulatory Enforcement Fairness Act of 1996. This regulation will not result in an annual effect on the economy of $100,000,000 or more; a major increase in costs or prices; or significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based companies to compete with foreign-based companies in domestic and export markets.

List of Subjects in 28 CFR Part 540

Prisoners.

■ Accordingly, the interim rule published on September 26, 1997 (62 FR 50791) is published as final without change.

Thomas R. Kane,

Acting Director, Bureau of Prisons.

[FR Doc. 2011–30400 Filed 11–23–11; 8:45 am]

BILLING CODE P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R03–OAR–2010–0476; FRL–9495–6]

Approval and Promulgation of Air Quality Implementation Plans; State of Maryland; Section 110(a)(2) Infrastructure Requirements for the 1997 8-Hour Ozone and the 1997 and 2006 Fine Particulate Matter National Ambient Air Quality Standards

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA is approving State Implementation Plan (SIP) submittals from the State of Maryland pursuant to the Clean Air Act (CAA). Whenever new or revised national ambient air quality standards (NAAQS) are promulgated, the CAA requires states to submit a plan for the implementation, maintenance, and enforcement of such NAAQS. The plan is required to address basic program elements, including, but not limited to regulatory structure, monitoring, modeling, legal authority, and adequate resources necessary to assure attainment and maintenance of the standards. These elements are referred to as infrastructure requirements. Maryland has made submittals addressing the infrastructure requirements for the 1997 8-hour ozone and fine particulate matter ($PM_{2.5}$) NAAQS and the 2006 $PM_{2.5}$ NAAQS. This action approves portions of those submittals.

DATES: *Effective Date:* This final rule is effective on December 27, 2011.

ADDRESSES: EPA has established a docket for this action under Docket ID Number EPA–R03–OAR–2010–0476. All documents in the docket are listed in the *http://www.regulations.gov* Web site. Although listed in the electronic docket, some information is not publicly available, *i.e.,* confidential business information (CBI) or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically through *http://www.regulations.gov* or in hard copy for public inspection during normal business hours at the Air Protection Division, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103. Copies of the State submittal are available at the Maryland Department of the Environment, 1800 Washington Boulevard, Baltimore, Maryland 21230.

FOR FURTHER INFORMATION CONTACT: Marilyn Powers, (215) 814–2308, or by email at *powers.marilyn@epa.gov*.

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

I. Background

On September 12, 2011 (76 FR 56130), EPA published a notice of proposed rulemaking (NPR) for the State of Maryland. The NPR proposed approval of Maryland submittals that provide the infrastructure elements specified in CAA section 110(a)(2)(A), (B), (C), (D)(ii), (E), (F), (G), (H), (J), (K), (L), and (M), or portions thereof, necessary to implement, maintain, and enforce the 1997 8-hour ozone and $PM_{2.5}$ NAAQS and the 2006 $PM_{2.5}$ NAAQS. The formal submittals by the State of Maryland dated July 27, 2007 and November 30, 2007 addressed the section 110(a)(2) requirements for the 1997 8-hour ozone NAAQS; the submittals dated April 3, 2008 and April 16, 2010 addressed the section 110(a)(2) requirements for the 1997 p.m.$_{2.5}$ NAAQS; and the submittals dated April 16, 2010 and July 21, 2010 addressed the section 110(a)(2) requirements for the 2006 $PM_{2.5}$ NAAQS.

II. Summary of SIP Revision

The submittals referenced in the Background section of this rulemaking action address the infrastructure elements specified in CAA section 110(a)(2). These submittals provide for implementation, maintenance, and enforcement of the 1997 8-hour ozone NAAQS, the 1997 $PM_{2.5}$ NAAQS, and the 2006 $PM_{2.5}$ NAAQS. The rationale supporting EPA's proposed action, including the scope of infrastructure SIPs in general, is explained in the NPR and the technical support document (TSD) and will not be restated here. The TSD is available online at *http://www.regulations.gov*, Docket ID number EPA–R03–OAR–2010–0476. No public comments were received on the NPR.

III. Final Action

EPA is approving the State of Maryland submittals that provide the infrastructure elements specified in CAA sections 110(a)(2)(A), (B), (C), (D)(ii), (E), (F), (G), (H), (J), (K), (L), and (M), or portions thereof, necessary to implement, maintain, and enforce the 1997 8-hour ozone and $PM_{2.5}$ NAAQS and the 2006 $PM_{2.5}$ NAAQS.

This final rule is limited to the infrastructure elements which were subject to EPA's completeness findings pursuant to CAA section 110(k)(1) for the 1997 8-hour ozone NAAQS dated March 27, 2008 (73 FR 16205) and the 1997 $PM_{2.5}$ NAAQS dated October 22, 2008 (73 FR 62902). These findings pertained only to whether the submissions were complete, pursuant to section 110(k)(1)(A), and did not constitute EPA approval or disapproval of such submissions. With respect to this permit program, on November 29, 2005 (70 FR 71612), EPA promulgated a change that made nitrogen oxides (NO_X) a precursor for ozone in the part C regulations at 40 CFR 51.166 and 40 CFR 52.21. In the March 27, 2008 completeness findings, EPA determined that Maryland failed to submit a SIP revision to its part C Prevention of Significant Deterioration (PSD) permit program to fully incorporate NO_X as a precursor for ozone. EPA will take separate action on the portions of section 110(a)(2)(C) and (J) for the 1997 8-hour ozone and $PM_{2.5}$ NAAQS and the 2006 $PM_{2.5}$ NAAQS as they relate to Maryland's part C PSD permit program.

Two elements identified in section 110(a)(2) are not governed by the three year submission deadline of section 110(a)(1) because SIPs incorporating necessary local nonattainment area controls are not due within three years after promulgation of a new or revised NAAQS, but rather are due at the time the nonattainment area plan requirements are due pursuant to CAA section 172. This action does not cover these specific elements. This action also does not address the requirements of section 110(a)(2)(D)(i) for the 1997 8-hour ozone and $PM_{2.5}$ NAAQS and the 2006 $PM_{2.5}$ NAAQS. The 110(a)(2)(D)(i)(I) requirements have been addressed by separate findings issued by EPA (70 FR 21147, April 25, 2005 and 75 FR 32673, June 9, 2010), and a Federal implementation plan (FIP) (75 FR 45210, August 2, 2010). The 110(a)(2)(D)(i)(II) portion of these requirements are addressed through 110(a)(2) SIP submittals that EPA will take separate action on.

IV. Statutory and Executive Order Reviews

A. General Requirements

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

impose additional requirements beyond those imposed by state law. For that reason, this action:

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

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

B. Submission to Congress and the Comptroller General

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

C. Petitions for Judicial Review

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by January 24, 2012. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action.

This action, pertaining to Maryland's section 110(a)(2) infrastructure SIP submittals for the 1997 8-hour ozone and $PM_{2.5}$ NAAQS, and the 2006 p.m.$_{2.5}$ NAAQS, may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 52

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

Dated: November 14, 2011.

W.C. Early,

Acting Regional Administrator, Region III.

40 CFR part 52 is amended as follows:

PART 52—[AMENDED]

■ 1. The authority citation for 40 CFR part 52 continues to read as follows:

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

Subpart V—Maryland

■ 2. In § 52.1070, the table in paragraph (e) is amended by adding entries at the end of the table for Section 110(a)(2) Infrastructure Requirements for the 1997 8-Hour Ozone NAAQS, Section 110(a)(2) Infrastructure Requirements for the 1997 p.m.$_{2.5}$ NAAQS, and Section 110(a)(2) Infrastructure Requirements for the 2006 p.m.$_{2.5}$ NAAQS. The amendments read as follows:

§ 52.1070 Identification of plan.

* * * * *

(e) * * *

Name of non-regulatory SIP revision	Applicable geographic area	State submittal date	EPA approval date	Additional explanation
* *	*	*	*	* *
Section 110(a)(2) Infrastructure Requirements for the 1997 8-Hour Ozone NAAQS.	Statewide	7/27/07, 11/30/07	11/25/11, *[Insert page number where the document begins]*.	This action addresses the following CAA elements or portions thereof: 110(a)(2)(A), (B), (C), (D)(ii), (E), (F), (G), (H), (J), (K), (L), and (M).
Section 110(a)(2) Infrastructure Requirements for the, 1997 $PM_{2.5}$ NAAQS.	Statewide	4/3/08, 4/16/10	11/25/11, *[Insert page number where the document begins]*.	This action addresses the following CAA elements or portions thereof: 110(a)(2)(A),, (B), (C), (D)(ii), (E), (F), (G), (H), (J), (K), (L), and (M).
Section 110(a)(2) Infrastructure Requirements for the 2006 $PM_{2.5}$ NAAQS.	Statewide	4/16/10, 7/21/10	11/25/11, *[Insert page number where the document begins]*.	This action addresses the following CAA elements or portions thereof: 110(a)(2)(A), (B), (C), (D)(ii), (E), (F), (G), (H), (J), (K), (L), and (M).

[FR Doc. 2011–30299 Filed 11–23–11; 8:45 am]
BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R03–OAR–2011–0603; FRL–9493–1]

Approval and Promulgation of Air Quality Implementation Plans; Delaware; Amendments to the Control of Volatile Organic Compound Emissions From Offset Lithographic Printing and Letterpress Printing

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA is approving a State Implementation Plan (SIP) revision submitted by the State of Delaware. The SIP revision amends the control of volatile organic compound (VOC) emissions from offset lithographic printing and letterpress printing. EPA is approving this SIP revision to meet the requirements of a reasonably available control technology (RACT) rule for the offset lithographic printing and letterpress printing control technique guideline (CTG) category in accordance with the requirements of the Clean Air Act (CAA).

DATES: *Effective Date:* This final rule is effective on December 27, 2011.

ADDRESSES: EPA has established a docket for this action under Docket ID Number EPA–R03–OAR–2011–0603. All documents in the docket are listed in the *http://www.regulations.gov* Web site. Although listed in the electronic docket, some information is not publicly available, *i.e.,* confidential business information (CBI) or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically through *http://www.regulations.gov* or in hard copy for public inspection during normal business hours at the Air Protection Division, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103. Copies of the State submittal are available at the Delaware Department of Natural Resources and Environmental Control, 89 Kings Highway, P.O. Box 1401, Dover, Delaware 19903.

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

SUPPLEMENTARY INFORMATION:

I. Background

On September 23, 2011 (76 FR 59089), EPA published a notice of proposed rulemaking (NPR) for the State of Delaware. The NPR proposed approval of a regulation that amends the control of VOC emissions from offset lithographic printing and letterpress printing (7 DE Admin Code 1124, Section 47.0). The purpose of this SIP revision is to conform to the new CTG issued by EPA in September 2006 (EPA–453/R–06–002) for the offset lithographic printing industry by adding control requirements for letterpress printing operations. The formal SIP revision that reflects the new requirements was submitted by the Delaware Department of Natural Resources and Environmental Control (DNREC) on May 25, 2011.

II. Summary of SIP Revision

DNREC's SIP revision to Section 47.0 expands the control of VOC emissions to include letterpress printing presses and sets up a new and more stringent 95 percent reduction standard for those control systems installed after April 11, 2011 (effective date of the SIP revision). Amendments to Section 47.0 also include specifying a one-year transition period for facilities to comply with the new requirements and providing flexibility for facilities to locate unspecified temperature monitoring devices for control systems. Other specific requirements of Section 47.0 and the rationale for EPA's proposed action are explained in the NPR and will not be restated here. No public comments were received on the NPR.

III. Final Action

EPA is approving the control of VOC emissions from offset lithographic printing and letterpress printing (7 DE Admin Code 1124, Section 47.0) as a revision to the Delaware SIP. This SIP revision meets the requirements of a RACT rule for the offset lithographic printing and letterpress printing CTG category.

IV. Statutory and Executive Order Reviews

A. General Requirements

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

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

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

B. Submission to Congress and the Comptroller General

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

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

C. Petitions for Judicial Review

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by January 24, 2012. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action, pertaining to Delaware's control of VOC emissions from offset lithographic printing and letterpress printing, may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR part 52

Environmental protection, Air pollution control, Incorporation by reference, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

Dated: November 4, 2011.

W.C. Early,

Acting, Regional Administrator, Region III.

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. 7401 *et seq.*

Subpart I— Delaware

■ 2. In § 52.420, the table in paragraph (c) is amended by revising the entry for Regulation 1124, Section 47.0 to read as follows:

§ 52.420 Identification of plan.

* * * * *

(c) * * *

EPA-APPROVED REGULATIONS IN THE DELAWARE SIP

State regulation (7 DNREC 1100)	Title/subject	State effective date	EPA approval date	Additional explanation
*	*	*	*	*
1124	**Control of Volatile Organic Compound Emissions**			
Section 47.0	Offset Lithographic Printing and Letterpress Printing.	4/11/11	11/25/11 [Insert page number where the document begins].	Amendments to Sections 47.1 through 47.6 to include control requirements for letterpress printing.
*	*	*	*	*

* * * * *

[FR Doc. 2011–30159 Filed 11–23–11; 8:45 am]

BILLING CODE 6560–50–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 (email) *Luis.Rodriguez3@fema.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
Santa Cruz County, Arizona, and Incorporated Areas Docket Nos.: FEMA–B–1022 and FEMA–B–1117			
Agua Fria Canyon	Approximately 340 feet upstream from the confluence with Santa Cruz River.	+3384	Unincorporated Areas of Santa Cruz County.
	Approximately 21,000 feet upstream from the confluence with Teruno Canyon.	+3700	
Al Harrison Wash	Approximately 290 feet upstream from the confluence with Potrero Creek.	+3652	City of Nogales.
	Approximately 125 feet downstream of I–19	+3684	
Ephraim Canyon Wash	At the confluence with Nogales Wash	+3810	City of Nogales.
	Approximately 130 feet upstream from State Route189	+4002	
Falls Wash	Approximately 150 feet upstream from East Morley Avenue.	+3806	City of Nogales.
	Approximately 225 feet upstream from State Route 82	+3816	
Farosa Canyon	Approximately 500 feet downstream from Sycamore Lane	+4846	Unincorporated Areas of Santa Cruz County.
	Approximately 110 feet upstream from Sycamore Lane	+4854	
Harshaw Creek	Approximately 220 feet upstream from the confluence with Sonoita Creek.	+4076	Town of Patagonia.
	Approximately 125 feet upstream from Harshaw Avenue	+4116	
Josephine Canyon	Approximately 270 feet upstream from the confluence with the Santa Cruz River.	+3284	Unincorporated Areas of Santa Cruz County.
	Approximately 9,465 feet upstream from the confluence with Josephine Canyon Tributary 5.	+3648	
Lyle Canyon	Approximately 3,000 feet north along river from Hilltop Lane.	+4798	Unincorporated Areas of Santa Cruz County.
	Approximately 1,400 feet west along river from Point Pleasant Lane.	+4868	
Mariposa Canyon	At the confluence with Nogales Wash	+3746	City of Nogales, Unincorporated Areas of Santa Cruz County.
	Approximately 1.3 miles upstream of State Route 189	+3965	
Nogales Wash	At the confluence with Potrero Creek	+3604	City of Nogales Unincorporated Areas of Santa Cruz County.
	At International Border	+3874	
Peck Canyon	Approximately 650 feet upstream from the confluence with the Santa Cruz River.	+3344	Unincorporated Areas of Santa Cruz County.
	Approximately 1,675 feet upstream from the confluence with Ramanote Canyon.	+3598	
Potrero Creek	Approximately 100 feet upstream from the confluence with the Santa Cruz River.	+3466	City of Nogales Unincorporated Areas of Santa Cruz County.
	Approximately 9,850 feet upstream from West Meadow Hills Drive.	+3806	
Puerto Canyon Wash	Approximately 350 feet downstream from Esplendito (road).	+3166	Unincorporated Areas of Santa Cruz County.

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 1,575 feet upstream from Puerto Canyon Road.	+3298	
Redrock Canyon	Approximately 75 feet from the confluence with Harshaw Creek.	+4094	Town of Patagonia.
	Approximately 110 feet upstream from Redrock Drive	+4114	
Santa Cruz River	Approximately 2,000 feet upstream from the confluence with Sopori Wash.	+3040	Unincorporated Areas of Santa Cruz County.
	Approximately 8,000 feet upstream from the confluence with Maria Santisima del Carmen Wash.	+3732	
Sonoita Creek	At the confluence with the Santa Cruz River	+3430	Unincorporated Areas of Santa Cruz County.
	Approximately 4,440 feet downstream from De La Sonoita (road).	+3558	
Sonoita Creek	Approximately 1,100 feet upstream from Blue Haven Road.	+4028	Town of Patagonia.
	Approximately 1,460 feet upstream from Cross Creed Road.	+4130	
Sonoita Tributary A	Approximately 50 feet upstream from North Second Avenue.	+4066	Town of Patagonia.
	Approximately 380 feet upstream from East Pennsylvania Avenue.	+4080	

* 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 Nogales
Maps are available for inspection at 2150 North Congress Drive, Suite 117, Nogales, AZ 85621.

Town of Patagonia
Maps are available for inspection at 310 McKeown Avenue, Patagonia, AZ 85624.

Unincorporated Areas of Santa Cruz County
Maps are available for inspection at 2150 North Congress Drive, Suite 117, Nogales, AZ 85621.

Gallatin County, Illinois, and Incorporated Areas
Docket No.: FEMA–B–1134

Ohio River	Approximately 1,666 feet downstream of Garfield Street (IL–13).	+367	Unincorporated Areas of Gallatin County, Village of Old Shawneetown.
	Approximately 1.19 miles upstream of Garfield Street (IL–13), approximately at River Mile 857.	+367	

* 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 Gallatin County
Maps are available for inspection at the Gallatin County Courthouse, 484 North Lincoln Boulevard West, Shawneetown, IL 62984.

Village of Old Shawneetown
Maps are available for inspection at the Old Shawneetown Village Hall, 332 Washington Street, Shawneetown, IL 62984.

Clinton County, Indiana, and Incorporated Areas
Docket No.: FEMA–B–1138

Prairie Creek	Approximately 100 feet downstream of County Road 100 North.	+822	City of Frankfort, Unincorporated Areas of Clinton County.
	Approximately 450 feet upstream of Kelly Street	+853	

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

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

ADDRESSES

City of Frankfort

Maps are available for inspection at City Hall, 301 East Clinton Street, Frankfort, IN 46041.

Unincorporated Areas of Clinton County

Maps are available for inspection at the Clinton County Courthouse, 180 Courthouse Square, Frankfort, IN 46041.

Iberia Parish, Louisiana, and Incorporated Areas
Docket Nos.: FEMA–B–7771 and FEMA–B–7787

Bayou Petite Anse-Deblanc Coulee-Segura Branch.	Approximately 300 feet upstream of U.S. Route 90 eastbound.	+10	Unincorporated Areas of Iberia Parish.
	Approximately 300 feet downstream of Southern Pacific Railroad.	+12	
Commercial Canal	Approximately 300 feet downstream of Southern Pacific Railroad.	+10	City of New Iberia, Unincorporated Areas of Iberia Parish.
	Approximately 450 feet upstream of Admiral Doyle Drive ..	+11	
Duboin Canal	Approximately 3,000 feet downstream of Admiral Doyle Drive.	+11	City of New Iberia, Unincorporated Areas of Iberia Parish.
	At the intersection with Adrian Street	+16	
Gulf of Mexico	Base Flood Elevation changes ranging from 9 to 11 feet in the form of Coastal AE zones have been made.	+9–11	Town of Delcambre
Gulf of Mexico	Base Flood Elevation changes ranging from 9 to 15 feet in the form of AE and VE zones have been made.	+9–15	Unincorporated Areas of Iberia Parish
Jacks Coulee	Approximately 300 feet downstream of Weeks Island Road.	+10	Unincorporated Areas of Iberia Parish.
	Approximately 300 feet upstream of U.S. Route 90	+11	
Jefferson Canal	Approximately 300 feet downstream of Southern Pacific Railroad.	+3	Unincorporated Areas of Iberia Parish.
	Approximately 100 feet upstream of Jefferson Island Road	+6	
Little Valley Bayou	Approximately 300 feet downstream of Patoutville Road ...	+9	Unincorporated Areas of Iberia Parish.
	Approximately 600 feet upstream of Smith Road	+11	
Peebles Coulee	Approximately 3,250 feet upstream of J. Allen Daigre Drive.	+12	City of New Iberia, Unincorporated Areas of Iberia Parish.
	Approximately 300 feet downstream of Weeks Island Road.	+12	
Poufette Canal—Bayou Petite Anse-Segura Branch.	Approximately 100 feet upstream of Norris Road	+10	Unincorporated Areas of Iberia Parish.
	Approximately 300 feet downstream of Southern Pacific Railroad.	+13	
Rodere Canal	Approximately 300 feet downstream of Southern Pacific Railroad.	+12	City of New Iberia, Unincorporated Areas of Iberia Parish.
	Approximately 2,900 feet upstream of Center Street	+14	
Tete Bayou	Approximately 500 feet downstream of Louisiana Highway 3195.	+13	City of New Iberia, Unincorporated Areas of Iberia Parish.
	Approximately 250 feet downstream of North Lewis Street	+15	

* 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 New Iberia

Maps are available for inspection at 457 East Main Street, New Iberia, LA 70560.

Town of Delcambre

Maps are available for inspection at 107 North Railroad Street, Delcambre, LA 70528.

Unincorporated Areas of Iberia Parish

Maps are available for inspection at 209 West Main Street, Suite 102, New Iberia, LA 70560.

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
Dakota County, Minnesota, and Incorporated Areas Docket Nos.: FEMA–B–1014 and FEMA–B–1130			
Alimagnet Lake	Entire shoreline within Dakota County	+959	City of Apple Valley.
Cannon River	At the downstream Goodhue County boundary	+800	City of Northfield, City of Randolph, Unincorporated Areas of Dakota County.
	At the upstream Rice County boundary	+897	
Chub Creek	Approximately 1,200 feet upstream of the confluence with Cannon Creek.	+864	City of Randolph, Unincorporated Areas of Dakota County.
	Approximately 500 feet upstream of Hamburg Avenue	+969	
Chub Lake	Entire shoreline	+969	Unincorporated Areas of Dakota County.
Dutch Creek	At the confluence with Chub Creek	+957	Unincorporated Areas of Dakota County.
	Approximately 7,000 feet upstream of 305th Street West	+981	
Hazelwood Creek	At the confluence with Dutch Creek	+965	Unincorporated Areas of Dakota County.
	Approximately 4,875 feet upstream of 280th Street West	+1103	
Keller Lake	Entire shoreline within Dakota County	+936	City of Apple Valley.
Minnesota River	Approximately 2,300 feet upstream of the confluence with the Mississippi River.	+714	City of Burnsville, City of Eagan, City of Mendota Heights.
	At the upstream Scott County boundary	+717	
Mississippi River	Approximately 16,300 feet downstream of the downstream Goodhue County boundary.	+688	City of Hastings, City of Inver Grove Heights, City of Lilydale, City of Mendota, City of Mendota Heights, City of Rosemount, City of South St. Paul, Unincorporated Areas of Dakota County.
	Approximately 10,200 feet upstream of I–35	+714	
Mud Creek	At the confluence with Chub Creek	+920	Unincorporated Areas of Dakota County.
	Approximately 1,670 feet upstream of 320th Street West	+1005	
North Branch Chub Creek	At the confluence with Chub Creek	+896	Unincorporated Areas of Dakota County.
	Approximately 4,150 feet upstream of the intersection of Denmark Avenue and 255th Street West.	+983	
North Branch Vermillion River	Approximately 900 feet upstream of the confluence with the Vermillion River.	+850	Unincorporated Areas of Dakota County.
	Approximately 3,150 feet upstream of Station Trail	+942	
Pine Creek	At the Goodhue County boundary	+862	Unincorporated Areas of Dakota County.
	Approximately 6,200 feet upstream of Emery Avenue	+915	
South Branch Vermillion River	Approximately 50 feet downstream of 200th Street East	+848	Unincorporated Areas of Dakota County.
	Approximately 4,970 feet upstream of Denmark Avenue	+961	
Tributary No. 1 to Chub Creek	At the confluence with Chub Creek	+900	Unincorporated Areas of Dakota County.
	Approximately 2,570 feet upstream of Denmark Avenue	+943	
Tributary No. 1 to North Branch Chub Creek.	At the confluence with North Branch Chub Creek	+897	Unincorporated Areas of Dakota County.
	At the divergence from Tributary No. 1 to Chub Creek	+921	
Tributary No. 1 to North Branch Vermillion River.	At the confluence with the North Branch Vermillion River	+860	Unincorporated Areas of Dakota County.
	Approximately 3,300 feet upstream of the confluence with the North Branch Vermillion River.	+885	
Tributary No. 1 to South Branch Vermillion River.	At the confluence with the South Branch Vermillion River	+865	Unincorporated Areas of Dakota County.
	Approximately 3,800 feet upstream of Darkhorse Lane	+949	
Tributary No. 1 to Vermillion River.	At the confluence with the Vermillion River	+793	City of Hastings, Unincorporated Areas of Dakota County.
	Approximately 3,525 feet upstream of 225th Street East	+985	

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
Tributary No. 1A to Vermillion River.	At the confluence with Tributary No. 1 to Vermillion River	+805	Unincorporated Areas of Dakota County.
	Approximately 2,300 feet upstream of Kendel Avenue	+816	
Tributary No. 1B to Vermillion River.	At the confluence with Tributary No. 1 to Vermillion River	+806	Unincorporated Areas of Dakota County.
	Approximately 2,760 feet upstream of Knox Path	+812	
Tributary No. 1C to Vermillion River.	At the confluence with Tributary No. 1 to Vermillion River	+845	Unincorporated Areas of Dakota County.
	Approximately 2,680 feet upstream of Inga Avenue	+869	
Tributary No. 2 to Chub Creek	At the confluence with Chub Creek	+929	Unincorporated Areas of Dakota County.
	Approximately 1,250 feet upstream of 280th Street West ..	+944	
Tributary No. 2 to North Branch Vermillion River.	At the confluence with the North Branch Vermillion River	+870	Unincorporated Areas of Dakota County.
	Approximately 1,750 feet upstream of Blaine Avenue	+918	
Tributary No. 2 to South Branch Vermillion River.	At the confluence with the South Branch Vermillion River	+873	Unincorporated Areas of Dakota County.
	Approximately 1,240 feet upstream of Blaine Avenue	+877	
Tributary No. 2 to Trout Brook	At the confluence with Trout Brook	+869	Unincorporated Areas of Dakota County.
	Approximately 4,800 feet upstream of 260th Street East ...	+968	
Tributary No. 2 to Vermillion River.	At the confluence with the Vermillion River	+825	Unincorporated Areas of Dakota County.
	Approximately 1,420 feet upstream of Goodwin Avenue ...	+883	
Tributary No. 2A to North Branch Vermillion River.	At the confluence with Tributary No. 2 to North Branch Vermillion River.	+894	Unincorporated Areas of Dakota County.
	Approximately 3,220 feet upstream of the confluence with Tributary No. 2 to North Branch Vermillion River.	+923	
Tributary No. 3 to North Branch Vermillion River.	At the confluence with the North Branch Vermillion River	+884	Unincorporated Areas of Dakota County.
	Approximately 2,870 feet upstream of the confluence with the North Branch Vermillion River.	+943	
Tributary No. 3 to South Branch Vermillion River.	At the confluence with the South Branch Vermillion River	+882	City of Hampton, Unincorporated Areas of Dakota County.
	Approximately 300 feet upstream of Northfield Boulevard	+926	
Tributary No. 3 to Trout Brook	At the confluence with Trout Brook	+883	Unincorporated Areas of Dakota County.
	Approximately 2,740 feet upstream of 240th Street East ...	+1025	
Tributary No. 3 to Vermillion River.	At the confluence with the Vermillion River	+828	Unincorporated Areas of Dakota County.
	Approximately 9,720 feet upstream of 180th Street East ...	+894	
Tributary No. 4 to North Branch Vermillion River.	At the convergence with the North Branch Vermillion River.	+921	Unincorporated Areas of Dakota County.
	At the divergence from the North Branch Vermillion River	+930	
Tributary No. 4 to South Branch Vermillion River.	At the confluence with the South Branch Vermillion River	+888	Unincorporated Areas of Dakota County.
	Approximately 9,220 feet upstream of the confluence with the South Branch Vermillion River.	+904	
Tributary No. 4 to Trout Brook	At the confluence with Trout Brook	+909	Unincorporated Areas of Dakota County.
	Approximately 1,900 feet upstream of 240th Street East ...	+936	
Tributary No. 4 to Vermillion River.	At the confluence with the Vermillion River	+838	Unincorporated Areas of Dakota County.
	Approximately 550 feet upstream of 210th Street East	+910	
Tributary No. 4A to Vermillion River.	At the confluence with Tributary No. 4 to Vermillion River	+854	Unincorporated Areas of Dakota County.
	Approximately 5,100 feet upstream of the confluence with Tributary No. 4 to Vermillion River.	+908	
Tributary No. 5 to South Branch Vermillion River.	At the confluence with the South Branch Vermillion River	+899	Unincorporated Areas of Dakota County.
	Approximately 3,950 feet upstream of the confluence with the South Branch Vermillion River.	+913	
Tributary No. 5 to Trout Brook	At the confluence with Trout Brook	+942	Unincorporated Areas of Dakota County.
	Approximately 2,700 feet upstream of 250th Street East ...	+988	

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
Tributary No. 5 to Vermillion River.	At the confluence with the Vermillion River	+863	Unincorporated Areas of Dakota County.
	Approximately 1,500 feet upstream of 170th Street West	+934	
Tributary No. 5A to Vermillion River.	At the confluence with Tributary No. 5 to Vermillion River	+883	Unincorporated Areas of Dakota County.
	Approximately 4,560 feet upstream of the confluence with Tributary No. 5 to Vermillion River.	+923	
Tributary No. 5B to Vermillion River.	At the confluence with Tributary No. 5 to Vermillion River	+899	Unincorporated Areas of Dakota County.
	Approximately 2,600 feet upstream of Biscayne Avenue	+940	
Tributary No. 5C to Vermillion River.	At the confluence with Tributary No. 5 to Vermillion River	+899	Unincorporated Areas of Dakota County.
	Approximately 3,500 feet upstream of 170th Street West	+951	
Tributary No. 6 to Vermillion River.	At the confluence with the Vermillion River	+870	Unincorporated Areas of Dakota County.
	Approximately 8,700 feet upstream of 210th Street West	+890	
Tributary No. 6A to Vermillion River.	At the confluence with Tributary No. 6 to Vermillion River	+877	City of Farmington, Unincorporated Areas of Dakota County.
	Approximately 4,700 feet upstream of 210th Street West	+892	
Tributary No. 6B to Vermillion River.	At the confluence with Tributary No. 6 to Vermillion River	+879	Unincorporated Areas of Dakota County.
	Approximately 6,170 feet upstream of the confluence with Tributary No. 6 to Vermillion River.	+887	
Trout Brook	Approximately 9,450 feet downstream of 260th Street East.	+851	Unincorporated Areas of Dakota County.
	Approximately 3,600 feet upstream of 240th Street East	+982	
Vermillion River	Approximately 620 feet downstream of Vermillion Street (U.S. Route 61).	+781	City of Farmington, City of Hastings, City of Vermillion, Unincorporated Areas of Dakota County.
	At the Scott County boundary	+1010	

* 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 Apple Valley
Maps are available for inspection at 7100 West 147th Street, Apple Valley, MN 55124.

City of Burnsville
Maps are available for inspection at City Hall, 100 Civic Center Parkway, Burnsville, MN 55337.

City of Eagan
Maps are available for inspection at City Hall, 3830 Pilot Knob Road, Eagan, MN 55122.

City of Farmington
Maps are available for inspection at City Hall, 430 3rd Street, Farmington, MN 55024.

City of Hampton
Maps are available for inspection at City Hall, 5320 Lincoln Street, Hampton, MN 55031.

City of Hastings
Maps are available for inspection at City Hall, 101 4th Street East, Hastings, MN 55033.

City of Inver Grove Heights
Maps are available for inspection at City Hall, 8150 Barbara Avenue, Inver Grove Heights, MN 55077.

City of Lilydale
Maps are available for inspection at City Hall, 1011 Sibley Memorial Highway, Lilydale, MN 55118.

City of Mendota
Maps are available for inspection at City Hall, 1313 Sibley Memorial Highway, Mendota, MN 55150.

City of Mendota Heights
Maps are available for inspection at City Hall, 1011 Victoria Curve, Mendota Heights, MN 55118.

City of Northfield
Maps are available for inspection at City Hall, 801 Washington Street, Northfield, MN 55057.

City of Randolph
Maps are available for inspection at City Hall, 4365 292nd Street East, Randolph, MN 55065.

City of Rosemount
Maps are available for inspection at City Hall, 2875 145th Street West, Rosemount, MN 55068.

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

City of South St. Paul
Maps are available for inspection at City Hall, 125 3rd Avenue North, South St. Paul, MN 55075.

City of Vermillion
Maps are available for inspection at City Hall, 105 Main Street East, Vermillion, MN 55085.

Unincorporated Areas of Dakota County
Maps are available for inspection at the Dakota County Administration Center, 1590 Highway 55, Hastings, MN 55033.

Steele County, Minnesota, and Incorporated Areas
Docket No.: FEMA–B–1138

Crane Creek	Approximately 400 feet upstream of the confluence with the Straight River.	+1092	Unincorporated Areas of Steele County.
	At Frontage Road	+1092	

* 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 Steele County
Maps are available for inspection at the Steele County Administration Center, 630 Florence Avenue, Owatonna, MN 55060.

Clarion County, Pennsylvania (All Jurisdictions)
Docket No.: FEMA–B–1138

Allegheny River	Approximately 1.16 miles upstream of the confluence with Redbank Creek.	+837	Township of Brady.
	Approximately 2.12 miles upstream of the confluence with Redbank Creek.	+838	
Allegheny River	Approximately 1.38 miles downstream of the confluence with Black Fox Run.	+853	Township of Perry, Township of Toby.
	Approximately 480 feet upstream of State Route 368	+868	
Allegheny River	Approximately 1,660 feet downstream of State Route 58	+873	Township of Richland.
	Approximately 1,245 feet downstream of State Route 58	+873	
	Approximately 860 feet downstream of I–80	+880	
	Approximately 920 feet upstream of I–80	+880	

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

ADDRESSES

Township of Brady
Maps are available for inspection at the Brady Township Building, 141 West Liberty Road, Slippery Rock, PA 16057.

Township of Perry
Maps are available for inspection at the Perry Township Building, 5687 Doc Walker Road, Parker, PA 16049.

Township of Richland
Maps are available for inspection at the Richland Township Building, 511 Dittman Road, Emlenton, PA 16373.

Township of Toby
Maps are available for inspection at the Toby Township Building, 37 Simmons Road, Rimersburg, PA 16248.

Dunn County, Wisconsin, and Incorporated Areas
Docket No.: FEMA–B–1130

Beaver Creek	Approximately 0.35 mile downstream of Main Street	+976	Unincorporated Areas of Dunn County, Village of Downing.
	At the St. Croix County boundary	+992	
Chippewa River	Approximately 0.3 mile downstream of the Chippewa River State Trail.	+730	Unincorporated Areas of Dunn County.
	Approximately 0.16 mile downstream of the Eau Claire County boundary.	+760	
Cranberry Creek	Just upstream of 650th Street	+737	Unincorporated Areas of Dunn County.
	Just upstream of 90th Avenue	+799	

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
Eighteen Mile Creek	Just downstream of State Highway 40	+919	Unincorporated Areas of Dunn County, Village of Colfax.
	At the Chippewa County boundary	+974	
Elk Creek	Just upstream of 410th Avenue	+819	Unincorporated Areas of Dunn County.
	Approximately 0.2 mile downstream of County Highway EE.	+843	
Gilbert Creek	Just downstream of County Highway PN	+788	City of Menomonie, Unincorporated Areas of Dunn County.
	Just upstream of 550th Avenue	+821	
Hay River	Approximately 0.3 mile upstream of County Highway D	+881	Unincorporated Areas of Dunn County, Village of Wheeler.
	Approximately 0.5 mile downstream of the Barron County boundary.	+1008	
Red Cedar River	Just downstream of County Highway Y	+730	City of Menomonie, Unincorporated Areas of Dunn County, Village of Colfax.
	Approximately 1.4 miles upstream of County Highway V	+996	
South Fork Hay River	Approximately 0.2 mile downstream of County Highway F	+917	Unincorporated Areas of Dunn County.
	Approximately 1.5 miles upstream of State Highway 64	+993	
South Fork Lower Pine Creek	At the Barron County boundary	+1078	Unincorporated Areas of Dunn County, Village of Ridgeland.
	Approximately 0.8 mile upstream of County Highway V	+1097	
Tiffany Creek	Approximately 1.8 miles downstream of East Street	+937	Unincorporated Areas of Dunn County, Village of Boyceville, Village of Downing.
	At the St. Croix County boundary	+982	
Wilson Creek	Just upstream of Stokke Trail	+814	City of Menomonie, Unincorporated Areas of Dunn County, Village of Knapp.
	At the St. Croix County boundary	+981	

* 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 Menomonie
Maps are available for inspection at City Hall, 800 Wilson Avenue, Menomonie, WI 53751.

Unincorporated Areas of Dunn County
Maps are available for inspection at the Dunn County Government Center, 800 Wilson Avenue, Menomonie, WI 54751.

Village of Boyceville
Maps are available for inspection at the Village Hall, 903 Main Street, Boyceville, WI 54725.

Village of Colfax
Maps are available for inspection at the Village Hall, 613 Main Street, Colfax, WI 54730.

Village of Downing
Maps are available for inspection at the Village Hall, 306 Main Street, Downing, WI 54734.

Village of Knapp
Maps are available for inspection at the Village Hall, 111 Oak Street, Knapp, WI 54749.

Village of Ridgeland
Maps are available for inspection at 103 South Elliot Street, Ridgeland, WI 54763.

Village of Wheeler
Maps are available for inspection at the Village Hall, 105 West Tower Road, Wheeler, WI 54772.

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

Dated: November 14, 2011.

Sandra K. Knight,

Deputy Associate Administrator for Mitigation, Department of Homeland Security, Federal Emergency Management Agency.

[FR Doc. 2011–30306 Filed 11–23–11; 8:45 am]

BILLING CODE 9110–12–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of the Secretary

45 CFR Part 170

RIN 0991–AB77

Permanent Certification Program for Health Information Technology; Revisions to ONC-Approved Accreditor Processes

AGENCY: Office of the National Coordinator for Health Information Technology (ONC), Department of Health and Human Services.

ACTION: Final rule.

SUMMARY: Under the authority granted to the National Coordinator for Health Information Technology by section 3001(c)(5) of the Public Health Service Act (PHSA) as added by the Health Information Technology for Economic and Clinical Health (HITECH) Act, this final rule establishes a process for addressing instances where the ONC–Approved Accreditor (ONC–AA) engages in improper conduct or does not perform its responsibilities under the permanent certification program. This rule also addresses the status of ONC–Authorized Certification Bodies (ONC–ACBs) in instances where there may be a change in the accreditation organization serving as the ONC–AA and clarifies the responsibilities of the new ONC–AA.

DATES: These regulations are effective December 27, 2011.

FOR FURTHER INFORMATION CONTACT: Steven Posnack, Director, Federal Policy Division, Office of Policy and Planning, Office of the National Coordinator for Health Information Technology, (202) 690–7151.

SUPPLEMENTARY INFORMATION:

Acronyms

CMS Centers for Medicare & Medicaid Services.
EHR Electronic Health Record.
HHS Department of Health and Human Services.
HIT Health Information Technology.
HITECH Health Information Technology for Economic and Clinical Health.
ONC Office of the National Coordinator for Health Information Technology.
ONC–AA ONC-Approved Accreditor.
ONC–ACB ONC-Authorized Certification Body.
ONC–ATCB ONC-Authorized Testing and Certification Body.
PHSA Public Health Service Act.
RFA Regulatory Flexibility Act.
SBA Small Business Administration.

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I. Background

A. Statutory Basis for the Permanent Certification Program

The Health Information Technology for Economic and Clinical Health (HITECH) Act, Title XIII of Division A and Title IV of Division B of the American Recovery and Reinvestment Act of 2009 (ARRA) (Pub. L. 111–5), amended the Public Health Service Act (PHSA) to add a new ''Title XXX—Health Information Technology and Quality.'' Section 3001(c)(5) of the PHSA, as added by section 13101 of the HITECH Act, provides the National Coordinator for Health Information Technology (National Coordinator) with the authority to establish a certification program or programs for the voluntary certification of health information technology (HIT). Specifically, section 3001(c)(5)(A) states that the ''National Coordinator, in consultation with the Director of the National Institute of Standards and Technology, shall keep or recognize a program or programs for the voluntary certification of health information technology as being in compliance with applicable certification criteria adopted under [section 3004 of the PHSA].''

B. Regulatory Background of the Permanent Certification Program

1. Initial Set of Standards, Implementation Specifications, and Certification Criteria for EHR Technology; Interim Final and Final Rules

In accordance with section 3004(b)(1) of the PHSA, the Secretary of Health and Human Services (the Secretary) issued an interim final rule with a request for comment entitled ''Health Information Technology: Initial Set of Standards, Implementation Specifications, and Certification Criteria for Electronic Health Record Technology'' (75 FR 2014, Jan. 13, 2010) (the ''HIT Standards and Certification Criteria interim final rule''), which adopted an initial set of standards, implementation specifications, and certification criteria. After consideration of the public comments received on the interim final rule, a final rule entitled ''Health Information Technology: Initial Set of Standards, Implementation Specifications, and Certification Criteria for Electronic Health Record Technology'' (75 FR 44590) (the ''HIT Standards and Certification Criteria final rule'') was issued on July 28, 2010 to complete the adoption of the initial set of standards, implementation specifications, and certification criteria and realign them with the final objectives and measures established for meaningful use Stage 1. On October 13, 2010, an interim final rule (75 FR 62686) was issued to remove certain implementation specifications related to public health surveillance that had been previously adopted in the HIT Standards and Certification Criteria final rule.

The standards, implementation specifications, and certification criteria adopted by the Secretary establish the capabilities that Certified Electronic Health Record (EHR) Technology must include in order to, at a minimum, support the achievement of meaningful use Stage 1 by eligible professionals and eligible hospitals [1] under the Medicare and Medicaid EHR Incentive Programs.

[1] References to ''eligible hospitals'' in this rule shall mean ''eligible hospitals and/or critical access

2. Medicare and Medicaid EHR Incentive Programs Proposed and Final Rules

Associated with the HIT Standards and Certification Criteria interim final rule, the Centers for Medicare & Medicaid Services (CMS) concurrently published in the **Federal Register** (75 FR 1844, Jan. 13, 2010) the Medicare and Medicaid Electronic Health Record Incentive Programs proposed rule. The rule proposed a definition for Stage 1 meaningful use of Certified EHR Technology and regulations associated with the incentive payments made available under Division B, Title IV of the HITECH Act. Subsequently, CMS published a final rule for the Medicare and Medicaid EHR Incentive Programs in the **Federal Register** (75 FR 44314) on July 28, 2010, simultaneously with the publication of the HIT Standards and Certification Criteria final rule. The final rule, published by CMS, established the objectives and associated measures that eligible professionals and eligible hospitals must satisfy in order to demonstrate ''meaningful use'' during Stage 1.

3. HIT Certification Programs Proposed Rule and the Temporary and Permanent Certification Programs Final Rules

Based on the authority provided in section 3001(c)(5) of the PHSA, we proposed both a temporary and permanent certification program for HIT in a notice of proposed rulemaking entitled ''Proposed Establishment of Certification Programs for Health Information Technology'' (75 FR 11328, Mar. 10, 2010). We proposed to use the certification programs for the purposes of testing and certifying HIT and specified the processes the National Coordinator would follow to authorize organizations to perform the testing and/or certification of HIT. Notably, we issued two final rules to implement our proposals. On June 24, 2010, a final rule was published in the **Federal Register** (75 FR 36158) to establish a temporary certification program (the ''Temporary Certification Program final rule''). On January 7, 2011, a final rule was published in the **Federal Register** (76 FR 1262) to establish the permanent certification program (the ''Permanent Certification Program final rule''). The permanent certification program will eventually replace the temporary certification program, which included a sunset provision (45 CFR 170.490) that specified it would sunset on December 31, 2011 or on a subsequent date if the permanent certification program is not fully constituted at that time.

EHR technology that is tested and certified under the certification programs currently must be tested and certified in accordance with all applicable certification criteria adopted by the Secretary under section 3004(b)(1) of the PHSA and could potentially be used to satisfy the definition of Certified EHR Technology. Eligible professionals and eligible hospitals that successfully demonstrate meaningful use of Certified EHR Technology may receive incentive payments under the Medicare and Medicaid EHR Incentive Programs.

4. ONC–AA Processes Proposed Rule

On May 31, 2011, a proposed rule entitled ''Permanent Certification Program for Health Information Technology; Revisions to ONC–Approved Accreditor Processes'' was published in the **Federal Register** (76 FR 31272) (the ''Proposed Rule''). As described further in the section of this final rule entitled ''Summary of the Proposed Rule and Provisions of the Final Rule,'' we proposed a removal process for addressing instances where the ONC–AA engages in improper conduct or does not perform its responsibilities under the permanent certification program. We also made proposals and clarifications concerning instances where the accreditation organization serving as the ONC–AA changes, the effect that such a change would have on the status of ONC–ACBs, and the responsibilities of the new ONC–AA.

C. Overview of the Permanent Certification Program

Key facets of the permanent certification program are summarized as follows. The permanent certification program provides a process by which an organization or organizations may become authorized by the National Coordinator to perform the certification of Complete EHRs and/or EHR Modules as an ONC–Authorized Certification Body (ONC–ACB). ONC–ACBs may also be authorized under the permanent certification program to perform the certification of other types of HIT in the event that the Secretary adopts applicable certification criteria. We note, however, that the certification of Complete EHRs, EHR Modules, or potentially other types of HIT under the permanent certification program would not constitute a replacement or substitution for other Federal requirements that may be applicable.

An organization that seeks to become an ONC–ACB must, among other requirements, successfully obtain accreditation from the accreditation organization that has been approved by the National Coordinator as the ONC–Approved Accreditor (ONC–AA). Only one accreditation organization at a time may be approved to serve as the ONC–AA. An accreditation organization that wishes to be considered for ONC–AA status must submit a written request to the National Coordinator during the specified submission period and include certain information to demonstrate its ability to serve as the ONC–AA. The National Coordinator will determine which accreditation organization is best qualified to serve as the ONC–AA, and the organization that is approved on a final basis will be expected to serve a three-year term. The ONC–AA must fulfill certain on-going responsibilities for the permanent certification program, which include: Maintaining conformance with ISO/IEC 17011:2004 (ISO 17011); in accrediting certification bodies, verifying that they conform to ISO/IEC Guide 65:1996 (Guide 65) at a minimum; and performing certain activities related to surveillance that will be conducted by ONC–ACBs.

On February 8, 2011, ONC published a notice in the **Federal Register** (76 FR 6794) announcing a 30-day period for the submission of requests for ONC–AA status. After the close of the submission period, the National Coordinator reviewed all timely submissions that were received and determined which accreditation organization was best qualified to serve as the ONC–AA based on the information provided, the completeness of each accreditation organization's description of the elements listed in § 170.503(b), and each accreditation organization's overall accreditation experience. On June 9, 2011, ONC announced through our listserv and Web site that the American National Standards Institute (ANSI) had been approved by the National Coordinator as the ONC–AA for the permanent certification program.

The National Coordinator will accept applications for ONC–ACB status at any time, which must include the type of authorization sought, general identifying information, documentation that confirms that the applicant has been accredited by the ONC–AA, and an executed agreement that it will adhere to the Principles of Proper Conduct for ONC–ACBs in 45 CFR 170.523. ONC–ACBs will be required to remain in good standing by, among other things, adhering to the Principles of Proper Conduct for ONC–ACBs, which include a requirement that an ONC–ACB must maintain its accreditation that was

hospitals, as defined in 42 CFR 495.4'' unless otherwise indicated.

granted by the ONC–AA. An ONC–ACB's status will expire in three years, unless its status is renewed. The National Coordinator may revoke an ONC–ACB's status and/or suspend an ONC–ACB's operations under the permanent certification program, based on Type-1 and Type-2 violations.

II. Summary of the Proposed Rule and Provisions of the Final Rule

The public comment period for the Proposed Rule ended on August 1, 2011. We received no comments on the Proposed Rule during that period. In this section, we summarize the proposals that we made in the Proposed Rule and discuss the provisions that we are finalizing in this final rule.

A. Removal of the ONC–AA for Improper Conduct or Failure to Perform Its Responsibilities

In the proposed rule to establish the temporary and permanent certification programs (75 FR 11328), we did not propose a formal process for the National Coordinator to remove or take other corrective action against an accreditation organization serving as the ONC–AA based on misconduct or failure to perform its responsibilities. We did propose and finalize a process through which the National Coordinator could revoke the status and/or suspend the operations of an ONC–Authorized Testing and Certification Body (ONC–ATCB) under the temporary certification program and an ONC–ACB under the permanent certification program. Some of the comments we received asked how we would address concerns with an ONC–AA's operations and remove or replace an ineffective ONC–AA. We responded to those comments in the Permanent Certification Program final rule (76 FR 1269) by stating our intentions to issue a notice of proposed rulemaking that would address improper conduct by an ONC–AA, the potential consequences for engaging in such conduct, and a process by which the National Coordinator may take ''corrective action'' against an ONC–AA. We followed through with our intentions by issuing the Proposed Rule.

In the Proposed Rule, we proposed a process for removing the ONC–AA for improper conduct or failure to perform its responsibilities under the permanent certification program. The process we proposed is similar to the process established in the Permanent Certification Program final rule for suspending and/or revoking an ONC–ACB's status. We recognize that an ONC–AA has significant responsibilities under the permanent certification program that are inextricably linked to the success of the program. Furthermore, a removal process would protect the integrity of the permanent certification program and maintain public confidence in the program by removing an ONC–AA that engages in misconduct or fails to satisfy its performance obligations under the program. We are finalizing our proposal to establish a process for removing the ONC–AA for conduct and performance violations, as explained below.

1. Conduct Violations

We proposed that the National Coordinator could remove an ONC–AA for committing a conduct violation. We proposed that conduct violations would include violations of law or permanent certification program policies that threaten or significantly undermine the integrity of the permanent certification program, such as false, fraudulent, or abusive activities that affect the permanent certification program, a program administered by the Department of Health and Human Services (HHS), or any program administered by the Federal government.

We gave the following examples of conduct violations in the Proposed Rule: the ONC–AA (or a principal employee, owner, or agent of the ONC–AA) being charged with or convicted of fraud, embezzlement or extortion, or of violating similar Federal or State securities laws while participating in the permanent certification program; falsifying accreditations; or withholding, destroying, or altering information that would indicate false or fraudulent activity had occurred within the permanent certification program.

We proposed these types of violations as conduct violations because, as the definition of conduct violations specifies, they threaten or significantly undermine the integrity of the permanent certification program, which can negatively impact the overall success of the program. These violations are also consistent with the ''Type-1 violations'' we previously established for ONC–ACBs under the permanent certification program. Because our approach establishes consistency within the permanent certification program in terms of comparable conduct requirements for the ONC–AA and ONC–ACBs, we believe that it will ensure that all of the entities approved and authorized by ONC are held accountable for their conduct. Accordingly, we are finalizing the conduct violations as proposed at § 170.575(a).

2. Performance Violations

We proposed that the National Coordinator could remove an ONC–AA for failing to timely or adequately correct a performance violation. We proposed that performance violations would include the ONC–AA's failure to properly fulfill one or more of its responsibilities in § 170.503(e). These responsibilities include the following: maintaining conformance with ISO 17011; in accrediting certification bodies, verifying conformance to, at a minimum, Guide 65 and ensuring the surveillance approaches used by ONC–ACBs include the use of consistent, objective, valid, and reliable methods; verifying that ONC–ACBs are performing surveillance in accordance with their respective annual plans; and reviewing ONC–ACB surveillance results to determine if the results indicate any substantive non-conformance by the ONC–ACBs with the conditions of their respective accreditations.

We noted in the Proposed Rule that opportunities to assess an ONC–AA's performance of its responsibilities will be available at certain junctures during the permanent certification program. For example, our review of an ONC–ACB's surveillance results should give an indication of whether the ONC–AA is performing its responsibilities to review ONC–ACB surveillance results and verify that ONC–ACBs are performing surveillance in accordance with their surveillance plans. Further, we expect that our review and analysis of surveillance plans and results will not only include feedback from the ONC–ACBs but also feedback from the ONC–AA. The ONC–AA feedback will provide us with additional information on the ONC–AA's performance of its responsibilities to monitor and review ONC–ACBs' surveillance activities.

We also indicated in the Proposed Rule that the National Coordinator could obtain information about the ONC–AA from other sources as well. For example, the National Coordinator could potentially receive information from an organization that sought accreditation by the ONC–AA and was denied, or from an ONC–ACB that had its accreditation withdrawn by the ONC–AA. Such information could provide reliable evidence that the ONC–AA was not in compliance with ISO 17011, as required by § 170.503(e)(1). To illustrate, section 7 (Accreditation process) of ISO 17011 requires the ONC–AA to establish a proper assessment process for accrediting conformance assessment bodies (*i.e.,* certification bodies or ONC–ACBs),

which includes establishing procedures to address appeals by such bodies. Information from a certification body that sought accreditation or an ONC–ACB could indicate whether the ONC–AA had a sufficient assessment or appeals processes in place.

We proposed that if the National Coordinator obtains reliable evidence from fact-gathering, requesting information from the ONC–AA, contacting the ONC–AA's customer(s), and/or complaints that the ONC–AA is not properly performing its responsibilities under § 170.503(e), the National Coordinator would notify the ONC–AA of an alleged performance violation. We proposed that the notification would include all pertinent information regarding the National Coordinator's assessment. We proposed that, unless otherwise specified by the National Coordinator, the ONC–AA would be permitted up to 30 days from the date it is notified about the alleged performance violation(s) to submit a written response and any accompanying documentation that could demonstrate no violation(s) occurred or validate that violation(s) occurred and were corrected. We proposed that if the ONC–AA fails to submit a response to the National Coordinator within 30 days, the National Coordinator may issue the ONC–AA a notice proposing to remove it as the ONC–AA under the permanent certification program.

We further proposed that if the ONC–AA submits a response, the National Coordinator would be permitted up to 60 days to evaluate the ONC–AA's response (and request additional information, if necessary). If the National Coordinator determines that the ONC–AA did not commit a performance violation, or may have committed a performance violation but satisfactorily corrected any violation(s) that may have occurred, we proposed that a memo would be issued to the ONC–AA to confirm this determination. If the National Coordinator determines that the ONC–AA's response is insufficient and that a performance violation had occurred and had not been adequately corrected, then the National Coordinator may propose to remove the ONC–AA.

As previously mentioned, the ONC–AA has significant responsibilities under the permanent certification program. The failure of the ONC–AA to perform any of its responsibilities could not only affect the success of the permanent certification program but, if left unchecked, could cause the public to lose faith in the ONC–ACBs accredited by the ONC–AA and ultimately the certifications issued by those ONC–ACBs. For example, if the ONC–AA does not fulfill its responsibilities to verify that ONC–ACBs are performing surveillance in accordance with their respective annual plans or does not review ONC–ACBs' surveillance results to determine if the results indicate any substantive non-conformance by ONC–ACBs with the conditions of their respective accreditations, then the public may not have faith in the validity of the surveillance results, including the reliability of the certifications issued to EHR technology by ONC–ACBs.

Although the ONC–AA's failure to perform its responsibilities could, if left unchecked, have negative consequences as illustrated above, the ONC–AA should be given the opportunity to either correct its performance shortcomings or demonstrate that it did not fail to perform its responsibilities within a reasonable period of time that does not jeopardize the success of the permanent certification program. The opportunity to respond to a noncompliance notification provides such an opportunity and does so within a timeframe that permits the National Coordinator to reach a timely and reasoned determination on whether to propose the removal of the ONC–AA. If the National Coordinator determines that the ONC–AA is not properly performing its responsibilities under § 170.503(e), then we continue to believe that proposing the removal of the ONC–AA is the best course of action to take to protect the integrity of the permanent certification program and maintain public trust in the program. We are finalizing the proposed performance violations at § 170.575(b) and the processes related to noncompliance notification as proposed at § 170.575(b)(1) and (2).

3. Proposed Removal of the ONC–AA

We proposed that if the National Coordinator has reliable evidence that the ONC–AA committed one or more conduct violations, or if the ONC–AA fails to successfully rebut or submit a response to a noncompliance notification of an alleged-performance violation, then the National Coordinator may issue the ONC–AA a notice proposing to remove it as the ONC–AA under the permanent certification program. In the Proposed Rule, we noted our opinion that proposing to remove the ONC–AA would be more appropriate than suspending the ONC–AA's activities under the permanent certification program. Any form of suspension would prevent the ONC–AA from performing its responsibilities under § 170.503(e), which would not benefit the permanent certification program because these ongoing responsibilities are an integral part of the program. Having received no comments to the contrary, we continue to believe that proposing removal under the circumstances described in the Proposed Rule and this final rule would be preferable to suspension. We are finalizing the proposed removal process in § 170.575(c) as proposed.

4. Opportunity To Respond to a Proposed Removal Notice

We proposed that if the National Coordinator issues a proposed removal notice to the ONC–AA, the ONC–AA must respond within 20 days of receipt of the removal notice in order to contest the proposed removal and must provide sufficient documentation to support its explanation for why it should not be removed. Upon receipt of the ONC–AA's response to a proposed removal notice, we proposed that the National Coordinator would be permitted up to 60 days to review the information submitted by the ONC–AA and make a determination. We conveyed our expectations that during the time period provided for the ONC–AA to respond to the proposed removal notice and the National Coordinator's review period, the ONC–AA would continue to perform its responsibilities under the permanent certification program. We proposed that the National Coordinator would consider the ONC–AA's performance of its duties during this timeframe as a factor in reaching any final decision to remove the ONC–AA.

We believe that our proposed process and timeframes provide an appropriate opportunity for the ONC–AA to respond to a proposed removal notice. In a situation where removal is proposed, an ONC–AA will have been issued a proposed removal notice that sets forth the conduct violations committed by the ONC–AA or specifies that the ONC–AA failed to respond to a non-compliance notification or correct performance violations. At such a juncture, the ONC–AA would already be jeopardizing the integrity of the permanent certification program if it had committed conduct violations and would be doing the same if it had failed to timely reply to a non-compliance notification or address performance violations after receiving a non-compliance notification. Therefore, 20 days provides the ONC–AA sufficient opportunity to respond to the proposed removal notice, while also bringing about a timely resolution in the interest of the permanent certification program. The National Coordinator will have *up to* 60 days to issue a final decision. This timeframe gives the

National Coordinator the ability to issue a timely decision where the information is clear that the ONC–AA committed a conduct violation and the permanent certification program's integrity is increasingly at risk the longer the accreditation organization serving as the ONC–AA is allowed to remain in its position. The timeframe also provides the National Coordinator sufficient time to address complications or complexities related to reaching a final decision on whether to remove the ONC–AA. Therefore, we are finalizing this process and the associated timeframes in § 170.575(d) as proposed.

5. Removal of the ONC–AA

We proposed that the ONC–AA may be removed by the National Coordinator if it is determined that removal is appropriate after considering the information provided by the ONC–AA in response to the proposed removal notice or if the ONC–AA does not respond to a proposed removal notice within the specified timeframe. We proposed that a decision to remove the ONC–AA would be final and would not be subject to further review unless the National Coordinator chooses to reconsider the removal.

We further proposed that if the National Coordinator determines that the ONC–AA should not be removed, the National Coordinator would notify the ONC–AA in writing to express this determination.

We received no comments on this proposal and thus continue to believe that removing the ONC–AA from the permanent certification program would be an appropriate course of action in response to the conduct and performance violations that we are establishing in this final rule. Accordingly, we are finalizing the standard for removing the ONC–AA as proposed at § 170.575(f). We are also finalizing § 170.575(e) as proposed such that the ONC–AA will be notified if the National Coordinator determines that the ONC–AA should not be removed.

6. Extent and Duration of Removal Under the Permanent Certification Program

We proposed that the removal of the ONC–AA would become effective upon the date specified in the removal notice and that the affected accreditation organization would be required to cease all activities under the permanent certification program, including accepting new requests for accreditation associated with the permanent certification program. We further proposed that an accreditation organization that has been removed as the ONC–AA will be prohibited from being considered for ONC–AA status for a period of 1 year from the effective date of removal.

Violation(s) committed by the accreditation organization serving as the ONC–AA which result in its removal demonstrate that it cannot conduct itself properly or perform its responsibilities under the permanent certification program. Accordingly, we believe it would be inappropriate to permit an accreditation organization that has been removed from the permanent certification program as the ONC–AA to reapply immediately to become the new ONC–AA. We, therefore, proposed a 1-year waiting period to prevent the accreditation organization that has been removed from being considered when ONC goes through the process in § 170.503 to approve its replacement. Having received no comments to the contrary, we continue to believe that removal should be effective upon the date specified in the removal notice, that the removed ONC–AA should cease all activities under the permanent certification program, and that, for the reason noted, one year is a reasonable period of time for an accreditation organization to wait before it may reapply to become the ONC–AA. We are finalizing these provisions in § 170.575(g) as proposed.

B. Effects of Removing and/or Replacing the ONC–AA

1. ONC–ACB Status

In § 170.523(a) we require that an ONC–ACB ''[m]aintain its accreditation.'' As we indicated in the Proposed Rule, it is possible that during the course of an ONC–ACB's three-year term, there could be a change in accreditation organizations serving as the ONC–AA. In other words, the accreditation organization serving as the ONC–AA that initially accredited an ONC–ACB could be replaced by a different accreditation organization that is subsequently approved to serve as the ONC–AA. A change in ONC–AAs could occur under different scenarios, such as if the accreditation organization serving as the ONC–AA resigns before the end of its term, is replaced at the end of its term through the selection process under § 170.503, or is removed by the National Coordinator before the end of its term. We proposed that if there is a change in accreditation organizations serving as the ONC–AA, such as in the scenarios described above, an ONC–ACB would retain its status under the permanent certification program, but only for a reasonable period of time to allow it to obtain accreditation from the accreditation organization that is approved as the new ONC–AA. This would support our primary goal of ensuring stability among ONC–ACBs and within the HIT marketplace, which would include the uninterrupted certification of HIT.

We proposed that an ONC–ACB must obtain accreditation from the new ONC–AA within 12 months after the effective date of the new ONC–AA's status or within a reasonable period specified by the National Coordinator. We use the term ''effective date'' because although an accreditation organization could be approved as the ONC–AA pursuant to the process in § 170.503, its status as the ONC–AA may not become effective until a later date (*e.g.,* its status may not take effect until the then-current ONC–AA's term expires). Based on our consultations with subject matter experts at the National Institute for Standards and Technology (NIST), we stated our belief in the Proposed Rule that a new ONC–AA could complete the accreditation process for up to 6 ONC–ACBs within 6 to 9 months. We noted that this could possibly be an appropriate timeframe and could be sufficient to meet the demand for accreditation considering that we estimated in the Permanent Certification Program final rule that only 6 ONC–ACBs will be operating under the permanent certification program and only 6 ONC-Authorized Testing and Certification Bodies (ONC–ATCBs) are currently operating under the temporary certification program. However, considering that there may be more ONC–ACBs than we anticipated and that accreditation to the requirements of a new ONC–AA may require more time than anticipated, we proposed that 12 months would be a more reasonable timeframe for ONC–ACBs to obtain accreditation from the new ONC–AA.

We emphasized that our proposal permits the National Coordinator to specify a reasonable period of time for ONC–ACBs to obtain accreditation from the new ONC–AA as an alternative to the 12-month timeframe. We noted that it would be prudent for the National Coordinator to have the flexibility to grant an extension to an ONC–ACB if it had filed a request for accreditation with the new ONC–AA before the 12-month timeframe had elapsed and the new ONC–AA had not yet completed its accreditation of the ONC–ACB. Alternatively, there may be a need for the National Coordinator to require that ONC–ACBs obtain accreditation from the new ONC–AA in less than 12 months to protect the integrity of the permanent certification program. This situation could occur if the

accreditation organization removed as the ONC–AA engaged in conduct that called into question the legitimacy of the accreditations granted to ONC–ACBs.

The 12-month period provides sufficient time for the orderly yet timely accreditation of the ONC–ACBs by the new ONC–AA. It also ensures that ONC–ACBs are treated fairly. Such as the case where an ONC–ACB, in good faith and without sufficient notice of a possible change in the ONC–AA, recently paid for and obtained accreditation from an ONC–AA that is subsequently removed or replaced. The discretion provided to the National Coordinator ensures the program's stability by permitting the 12-month period to be extended if needed to complete ONC–ACBs' accreditations. It also ensures the program's stability and integrity by providing the option to require ONC–ACBs to be accredited in less than 12 months if, for instance, the veracity of the ONC–ACBs' prior accreditations are called into question. As proposed, we are revising § 170.523(a) to require an ONC–ACB to ''[m]aintain its accreditation, or if a new ONC–AA is approved by the National Coordinator, obtain accreditation from the new ONC–AA within 12 months or a reasonable period specified by the National Coordinator and maintain such accreditation.''

2. New ONC–AA

As noted above, the National Coordinator may approve a new accreditation organization as the ONC–AA for reasons such as the former ONC–AA resigning, another accreditation organization being selected when the former ONC–AA's term expires, or the former ONC–AA being removed for conduct or performance violations. The selection and approval of a new ONC–AA would be conducted as soon as possible and consistent with the processes and timeframes in § 170.503. Doing so would permit the new ONC–AA to begin fulfilling its responsibilities under § 170.503(e) when its status as the ONC–AA becomes effective. In the Proposed Rule, we explained that a new ONC–AA would be expected to fulfill its responsibilities under § 170.503(e) with respect to the ONC–ACBs that it accredited, as well as those ONC–ACBs that were accredited by the former ONC–AA and are not yet accredited by the new ONC–AA. The new ONC–AA would be responsible for verifying that all ONC–ACBs are performing surveillance in accordance with their respective annual plans, as required by § 170.503(e)(3). In addition, consistent with § 170.503(e)(4), the new ONC–AA would review all ONC–ACB surveillance results to determine if the results indicate any substantive non-conformance by the ONC–ACBs with the conditions of their respective accreditations (even if an ONC–ACB was accredited by the former ONC–AA).

Section 170.503(e)(2) requires the ONC–AA, ''[i]n accrediting certification bodies, [to] verify conformance to, at a minimum, [Guide 65] and ensure the surveillance approaches used by ONC–ACBs include the use of consistent, objective, valid, and reliable methods.'' In the Permanent Certification Program final rule (76 FR 1270), we explained this ongoing responsibility would require the ONC–AA to verify that ONC–ACBs continue to conform to the provisions of Guide 65 at a minimum as a condition of continued accreditation. We explained in the Proposed Rule that, similar to 170.503(e)(3) and (e)(4), we would expect a new ONC–AA to fulfill the responsibilities in § 170.503(e)(2) for the certification bodies it accredits and all ONC–ACBs, including those ONC–ACBs that it has not yet had an opportunity to accredit. To clarify this expectation, we proposed to revise § 170.503(e)(2) to require the ONC–AA to ensure that all ONC–ACBs continue to conform to Guide 65 at a minimum. We made similar clarifying revisions to § 170.503(e)(4) in the Permanent Certification Program final rule (76 FR 1270), where we explained that we were revising § 170.503(e)(4) to account for the possibility that different accreditation organizations may be approved to serve as the ONC–AA. We revised that section to clarify that the ONC–AA would be responsible for reviewing ONC–ACB surveillance results to determine if the results indicated any substantive non-conformance by ONC–ACBs with the conditions of ''their respective accreditations'' rather than ''with the terms set by the ONC–AA when it granted the ONC–ACB accreditation'' as we had proposed.

Although our proposals would require a new ONC–AA to become familiar with ONC–ACBs that may not yet have been accredited by the new ONC–AA, we believe the responsibilities in § 170.503(e) would still be achievable. A new ONC–AA would be required by § 170.503(e)(3) to verify that the ONC–ACBs are performing surveillance in accordance with their respective annual plans, which ONC could make available to the new ONC–AA. As for a new ONC–AA's responsibilities under § 170.503(e)(4), we believe that the former ONC–AA's accreditation requirements would be publicly available, consistent with section 7.1.2 of ISO 17011, or ONC could provide them to the new ONC–AA along with any surveillance results of the ONC–ACBs. We expect that a new ONC–AA would fulfill these responsibilities in the manner we have described until it has the opportunity to accredit the ONC–ACBs according to Guide 65 at a minimum and its own additional accreditation requirements if applicable. By fulfilling these duties, a new ONC–AA would contribute to the success of the permanent certification program by ensuring that activities under the permanent certification program continue uninterrupted.

For the reasons discussed above, and because we did not receive any comments on our proposals, we are finalizing our proposed revisions to § 170.503(e). Paragraphs (e)(3) and (e)(4) are redesignated as paragraphs (e)(4) and (e)(5), respectively. Paragraph (e)(2) is revised to state that the ONC–AA shall ''[v]erify that the certification bodies it accredits and ONC–ACBs conform to, at a minimum, ISO/IEC Guide 65:1996 (incorporated by reference in § 170.599).'' The second part of paragraph (e)(2) is now a separate new paragraph, which is numbered as (e)(3) and states that the ONC–AA shall ''ensure that the surveillance approaches used by ONC–ACBs include the use of consistent, objective, valid, and reliable methods.''

III. Collection of Information Requirements

This final rule, specifically § 170.575, would only require the collection of information from the ONC–AA if we took an action against the ONC–AA under the provisions of this final rule and the ONC–AA submitted information to ONC in response to the action as provided for under the provisions of this final rule. The Paperwork Reduction Act of 1995, however, exempts the information collection activities referenced in this final rule. Specifically, 44 U.S.C. 3518(c)(1)(B)(ii) excludes collection activities during the conduct of administrative actions or investigations involving the agency against specific individuals or entities.

IV. Regulatory Impact Statement

We have examined the impact of this final rule as required by Executive Order 12866 on Regulatory Planning and Review (September 30, 1993), Executive Order 13563 on Improving Regulation and Regulatory Review (February 2, 2011), the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), section 202 of the Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1532), Executive Order 13132 on Federalism

(August 4, 1999), and the Congressional Review Act (5 U.S.C. 804(2)).

Executive Orders 12866 and 13563 direct agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). A regulatory impact analysis must be prepared for major rules with economically significant effects ($100 million or more in any 1 year). This final rule does not reach the economic threshold and thus is not considered a major rule. Therefore, a regulatory impact analysis has not been prepared.

The Regulatory Flexibility Act (RFA) requires agencies to prepare an initial regulatory flexibility analysis to describe the impact of the final rule on small entities, unless the head of the agency can certify that the rule will not have a significant economic impact on a substantial number of small entities. For purposes of the RFA, small entities include small businesses, small organizations, and small governmental jurisdictions. Individuals and States are not included in the definition of a small entity. The entities that will be directly affected by this final rule are likely small businesses in the form of accreditation organizations interested in becoming the ONC–AA, the ONC–AA, potential applicants for ONC–ACB status, and ONC–ACBs. We believe that these entities would either be classified under the North American Industry Classification System (NAICS) codes 541380 (Testing Laboratories) or 541990 (Professional, Scientific and Technical Services).[2] According to the NAICS codes identified above, this would mean Small Business Administration (SBA) size standards of $12 million and $7 million in annual receipts, respectively.[3]

We do not believe that this final rule imposes requirements for the ONC–AA that would be unexpected by accreditation organizations interested in serving as the ONC–AA. An accreditation organization serving as the ONC–AA would expect to be required to properly fulfill its responsibilities and exhibit proper conduct or be subject to consequences. Moreover, as noted above, we indicated in prior rulemaking concerning the permanent certification program that we expected to issue a notice of proposed rulemaking and gave a general overview of the topics it would likely address. We believe the processes that we have established constitute the minimum amount of requirements necessary to accomplish our policy goals and that no appropriate regulatory alternatives could be developed to lessen the compliance burden for the ONC–AA. As for ONC–ACBs, this final rule mitigates any potential negative consequences of removing and replacing the ONC–AA, if required. Should the ONC–AA be replaced, this final rule permits ONC–ACBs to retain their status and provides ONC–ACBs up to 12 months or a reasonable period specified by the National Coordinator to obtain accreditation from the new ONC–AA. Furthermore, the established process for addressing instances where the ONC–AA engages in improper conduct or fails to perform its responsibilities under the permanent certification program could create positive effects for program participants by increasing the accountability of the ONC–AA and protecting the integrity of the permanent certification program. We examined the implications of this final rule and have concluded, and the Secretary certifies, that this final rule will not have a significant economic impact on a substantial number of small entities.

Section 202 of the Unfunded Mandates Reform Act of 1995 requires that agencies assess anticipated costs and benefits before issuing any rule whose mandates require spending in any 1 year of $100 million in 1995 dollars, updated annually for inflation. In 2011, that threshold level is approximately $136 million. This final rule will not impose an unfunded mandate on State, local, and Tribal governments or on the private sector that will reach the threshold level.

Executive Order 13132 establishes certain requirements that an agency must meet when it promulgates a rule that imposes substantial direct requirement costs on State and local governments, preempts State law, or otherwise has Federalism implications. Since this final rule does not impose any costs on State or local governments, the requirements of Executive Order 13132 are not applicable.

In accordance with the provisions of Executive Order 12866, this final rule was not reviewed by the Office of Management and Budget.

List of Subjects in 45 CFR Part 170

Computer technology, Electronic health record, Electronic information system, Electronic transactions, Health, Health care, Health information technology, Health insurance, Health records, Hospitals, Incorporation by reference, Laboratories, Medicaid, Medicare, Privacy, Reporting and recordkeeping requirements, Public health, Security.

For the reasons set forth in the preamble, 45 CFR subtitle A, subchapter D, part 170, is amended as follows:

PART 170—HEALTH INFORMATION TECHNOLOGY STANDARDS, IMPLEMENTATION SPECIFICATIONS, AND CERTIFICATION CRITERIA AND CERTIFICATION PROGRAMS FOR HEALTH INFORMATION TECHNOLOGY

■ 1. The authority citation for part 170 continues to read as follows:

Authority: 42 U.S.C. 300jj–11; 42 U.S.C. 300jj–14; 5 U.S.C. 552.

■ 2. In § 170.503, redesignate and republish paragraphs (e)(3) and (e)(4) as paragraphs (e)(4) and (e)(5), revise paragraph (e)(2), and add new paragraph (e)(3) to read as follows:

§ 170.503 Requests for ONC–AA status and ONC–AA ongoing responsibilities.

* * * * *

(e) * * *

(2) Verify that the certification bodies it accredits and ONC–ACBs conform to, at a minimum, ISO/IEC Guide 65:1996 (incorporated by reference in § 170.599);

(3) Ensure the surveillance approaches used by ONC–ACBs include the use of consistent, objective, valid, and reliable methods;

(4) Verify that ONC–ACBs are performing surveillance in accordance with their respective annual plans; and

(5) Review ONC–ACB surveillance results to determine if the results indicate any substantive non-conformance by ONC–ACBs with the conditions of their respective accreditations.

* * * * *

■ 3. In § 170.523, republish the introductory text and revise paragraph (a) to read as follows:

§ 170.523 Principles of proper conduct for ONC–ACBs.

An ONC–ACB shall:

(a) Maintain its accreditation, or if a new ONC–AA is approved by the National Coordinator, obtain accreditation from the new ONC–AA within 12 months or a reasonable period

[2] See 13 CFR 121.201

[3] The SBA references that annual receipts means ''total income'' (or in the case of a sole proprietorship, ''gross income'') plus ''cost of goods sold'' as these terms are defined and reported on Internal Revenue Service tax return forms. For more information on the SBA's size standards, see the SBA's Web site at: *http://www.sba.gov/content/small-business-size-regulations.*

specified by the National Coordinator and maintain such accreditation;

* * * * *

■ 4. Add § 170.575 to read as follows:

§ 170.575 Removal of the ONC–AA.

(a) *Conduct violations.* The National Coordinator may remove the ONC–AA for committing a conduct violation. Conduct violations include violations of law or permanent certification program policies that threaten or significantly undermine the integrity of the permanent certification program. These violations include, but are not limited to: false, fraudulent, or abusive activities that affect the permanent certification program, a program administered by HHS, or any program administered by the Federal government.

(b) *Performance violations.* The National Coordinator may remove the ONC–AA for failing to timely or adequately correct a performance violation. Performance violations constitute a failure to adequately perform the ONC–AA's responsibilities as specified in § 170.503(e).

(1) *Noncompliance notification.* If the National Coordinator obtains reliable evidence that the ONC–AA may no longer be adequately performing its responsibilities specified in § 170.503(e), the National Coordinator will issue a noncompliance notification with reasons for the notification to the ONC–AA requesting that the ONC–AA respond to the alleged violation and correct the violation, if applicable.

(2) *Opportunity to become compliant.* The ONC–AA is permitted up to 30 days from receipt of a noncompliance notification to submit a written response and accompanying documentation that demonstrates that no violation occurred or that the alleged violation has been corrected.

(i) If the ONC–AA submits a response, the National Coordinator is permitted up to 60 days from the time the response is received to evaluate the response and reach a decision. The National Coordinator may, if necessary, request additional information from the ONC–AA during this time period.

(ii) If the National Coordinator determines that no violation occurred or that the violation has been sufficiently corrected, the National Coordinator will issue a memo to the ONC–AA confirming this determination. Otherwise, the National Coordinator may propose to remove the ONC–AA in accordance with paragraph (c) of this section.

(c) *Proposed removal.*

(1) The National Coordinator may propose to remove the ONC–AA if the National Coordinator has reliable evidence that the ONC–AA has committed a conduct violation; or

(2) The National Coordinator may propose to remove the ONC–AA if, after the ONC–AA has been notified of an alleged performance violation, the ONC–AA fails to:

(i) Rebut the alleged violation with sufficient evidence showing that the violation did not occur or that the violation has been corrected; or

(ii) Submit to the National Coordinator a written response to the noncompliance notification within the specified timeframe under paragraph (b)(2) of this section.

(d) *Opportunity to respond to a proposed removal notice.*

(1) The ONC–AA may respond to a proposed removal notice, but must do so within 20 days of receiving the proposed removal notice and include appropriate documentation explaining in writing why it should not be removed as the ONC–AA.

(2) Upon receipt of the ONC–AA's response to a proposed removal notice, the National Coordinator is permitted up to 60 days to review the information submitted by the ONC–AA and reach a decision.

(e) *Retention of ONC–AA status.* If the National Coordinator determines that the ONC–AA should not be removed, the National Coordinator will notify the ONC–AA in writing of this determination.

(f) *Removal.*

(1) The National Coordinator may remove the ONC–AA if:

(i) A determination is made that removal is appropriate after considering the information provided by the ONC–AA in response to the proposed removal notice; or

(ii) The ONC–AA does not respond to a proposed removal notice within the specified timeframe in paragraph (d)(1) of this section.

(2) A decision to remove the ONC–AA is final and not subject to further review unless the National Coordinator chooses to reconsider the removal.

(g) *Extent and duration of removal.*

(1) The removal of the ONC–AA is effective upon the date specified in the removal notice provided to the ONC–AA.

(2) An accreditation organization that is removed as the ONC–AA must cease all activities under the permanent certification program, including accepting new requests for accreditation under the permanent certification program.

(3) An accreditation organization that is removed as the ONC–AA is prohibited from being considered for ONC–AA status for a period of 1 year from the effective date of its removal as the ONC–AA.

Dated: November 15, 2011.

Kathleen Sebelius,

Secretary.

[FR Doc. 2011–30177 Filed 11–23–11; 8:45 am]

BILLING CODE 4150–45–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 665

[Docket No. 080225267–91393–03]

RIN 0648–XA370

Western Pacific Pelagic Fisheries; Closure of the Hawaii Shallow-Set Pelagic Longline Fishery Due To Reaching the Annual Limit on Sea Turtle Interactions

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

ACTION: Temporary rule; fishery closure.

SUMMARY: NMFS closes the shallow-set pelagic longline fishery north of the Equator for all vessels registered under the Hawaii longline limited access program. The shallow-set fishery has reached the 2011 limit on physical interactions with sea turtles, so the fishery must be closed for the remainder of the calendar year. This action is necessary to comply with regulations that govern the pelagic fisheries in the western Pacific that establish maximum annual limits on the numbers of interactions that occur between longline fishing gear and sea turtles.

DATES: Effective 9:33 a.m. (0933 hrs) Hawaii-Aleutian Standard Time (HST) on November 18, 2011, through December 31, 2011.

FOR FURTHER INFORMATION CONTACT: Brett Wiedoff, NMFS PIR, (808) 944–2272.

SUPPLEMENTARY INFORMATION: The shallow-set pelagic longline fishery for swordfish in the western Pacific is managed according to the Fishery Ecosystem Plan for Pelagic Fisheries of the Western Pacific Region (FEP), developed by the Western Pacific Fishery Management Council, and implemented by NMFS under authority of the Magnuson-Stevens Fishery Conservation and Management Act. Regulations governing fishing by U.S. vessels in accordance with the FEP

appear at 50 CFR part 665 and at subpart H of 50 CFR part 600.

The regulations at § 665.813(b)(1) establish maximum annual limits on the numbers of physical interactions that occur between longline fishing gear and sea turtles. These limits apply to physical interactions experienced by vessels registered with Hawaii longline limited access permits while engaged in shallow-set longline fishing, *i.e.,* fishing that is directed at swordfish. There are two calendar-year annual limits on physical interactions, one for leatherback sea turtles (*Dermochelys coriacea*) set at 16, and one for loggerhead sea turtles (*Caretta caretta*) set at 17. Interactions with turtles are monitored using data from scientific observers placed by NMFS aboard all vessels engaged in shallow-set longline fishing. NMFS is required to maintain 100-percent observer coverage in the Hawaii shallow-set longline fishery.

The regulations at § 665.813(b)(2) prescribe that, as soon as the interaction limit for either of the two turtle species has been determined to have been reached in a given year, the shallow-set component of the Hawaii-based longline fishery must be closed for the remainder of the calendar year, after giving permit holders and operators actual notice of the closure. Upon receiving actual notice from NMFS, fishermen are required to immediately remove all longline fishing gear from the water. Once the shallow-set fishery is closed, all vessels registered under Hawaii longline limited-access permits are prohibited from shallow-set longline fishing north of the Equator.

In accordance with § 665.813(b)(2), the Regional Administrator, NMFS Pacific Islands Region, has determined that the 2011 interaction limit of 16 leatherback turtles has been reached. Consequently, NMFS closed the shallow-set component of the Hawaii-based longline fishery at 9:33 a.m. (0933 hrs) Hawaii-Aleutian Standard Time (HST) on November 18, 2011. This closure ends at midnight (2400 hrs) HST on December 31, 2011.

Classification

This action is required by § 665.813(b)(2) and is exempt from review under Executive Order 12866.

This action responds to the best available information obtained from the fishery. Pursuant to 5 U.S.C. 553(b)(B), there is good cause to waive prior notice and an opportunity for public comment on this action, as notice and comment would be impracticable and contrary to the public interest. Closure of the fishery must be implemented immediately so that the number of allowable sea turtle interactions established under the Endangered Species Act is not exceeded, thereby imposing harm to the public interest in protecting these turtle species. For the same reasons, there is good cause under 5 U.S.C. 553(d)(3) to waive the 30-day delay in the effective date of this action.

Authority: 16 U.S.C. 1801 *et seq.*

Dated: November 18, 2011.

Alan D. Risenhoover,

Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 2011–30386 Filed 11–21–11; 4:15 pm]

BILLING CODE 3510–22–P

Proposed Rules

Federal Register
Vol. 76, No. 227
Friday, November 25, 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.

FEDERAL DEPOSIT INSURANCE CORPORATION

12 CFR Part 380

RIN 3064–AD84

DEPARTMENT OF THE TREASURY

31 CFR Part 149

RIN 1505–AC36

Calculation of Maximum Obligation Limitation

AGENCY: Federal Deposit Insurance Corporation; Departmental Offices, Department of the Treasury.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice of proposed rulemaking is published jointly by the Federal Deposit Insurance Corporation (the ''FDIC'') and the Departmental Offices of the Department of the Treasury (the ''Treasury'') (collectively, the ''Agencies'') and proposes rules to implement applicable provisions of the Dodd-Frank Wall Street Reform and Consumer Protection Act (''Dodd-Frank Act'').[1] In accordance with the requirements of the Dodd-Frank Act, the proposed rules govern the calculation of the maximum obligation limitation (''MOL''), as specified in section 210(n)(6) of the Dodd-Frank Act. The MOL limits the aggregate amount of outstanding obligations that the FDIC may issue or incur in connection with the orderly liquidation of a covered financial company.

DATES: Comments must be received on or before January 24, 2012.

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

FDIC

You may submit comments by any of the following methods:

- *FDIC Web Site: http://www.fdic.gov/regulations/laws/federal/propose.html.* Follow instructions for submitting comments on the agency Web site.
- *FDIC Email: Comments@fdic.gov.* Include RIN # [insert] on the subject line of the message.
- *FDIC Mail:* Robert E. Feldman, Executive Secretary, Attention: Comments, Federal Deposit Insurance Corporation, 550 17th Street NW., Washington, DC 20429.
- *Hand Delivery to FDIC:* Comments may be hand-delivered to the guard station at the rear of the 550 17th Street Building (located on F Street) on business days between 7 a.m. and 5 p.m.

Please note: All comments received will be posted generally without change to *http://www.fdic.gov/regulations/laws/federal/propose.html,* including any personal information provided.

Please include your name, affiliation, address, email address and telephone number(s) in your comment. Where appropriate, comments should include a short Executive Summary (no more than five single-spaced pages). All statements received, including attachments and other supporting materials, are part of the public record and subject to public disclosure. You should submit only information that you wish to make available publicly.

Treasury

Federal eRulemaking Portal—''Regulations.gov.'' You are encouraged to submit comments electronically through the Federal eRulemaking Portal—''Regulations.gov.'' Go to *http://www.regulations.gov* to submit or view public comments. The Regulations.gov home page provides information on using Regulations.gov, including instructions for submitting or viewing public comments, viewing other supporting and related materials, and viewing the docket.

Mail: Department of the Treasury, Office of Financial Institutions Policy, Room 1310, Main Treasury Building, 1500 Pennsylvania Avenue NW., Washington, DC 20220.

Instructions: In general, the Treasury will enter all comments received into the docket and make them available without change, including any business or personal information that you provide such as name and address information, email addresses, or phone numbers. Comments, including attachments and other supporting materials, received are part of the public record and subject to public disclosure. Do not enclose any information in your comment or supporting materials that you consider confidential or inappropriate for public disclosure.

You may view comments and other related materials by any of the following methods:

Viewing Comments Electronically: Go to *http://www.regulations.gov* and follow the instructions on the Web site.

Viewing Comments Personally: You may personally inspect and photocopy comments at the Department of the Treasury Library, Room 1428, Main Treasury Building, 1500 Pennsylvania Avenue NW., Washington, DC. You can make an appointment to inspect comments by calling (202) 622–0990.

Commenters are requested to submit copies of comments to both Agencies.

FOR FURTHER INFORMATION CONTACT:

FDIC

Arthur D. Murphy, Senior Financial Analyst, Division of Finance (703) 562–6177 or *amurphy@fdic.gov;* Henry R.F. Griffin, Assistant General Counsel, Legal Division (202) 898–8700 or *hgriffin@fdic.gov;* Michelle Borzillo, Senior Counsel, Legal Division (202) 898–7400 or *mborzillo@fdic.gov;* or Claude A. Rollin, Counsel, Legal Division (202) 898–8741 or *crollin@fdic.gov.*

Treasury

Lance Auer, Deputy Assistant Secretary (Financial Institution Policy), at (202) 622–1262; Felton Booker, Acting Director, Office of Financial Institutions Policy, at (202) 622–0293; Peter A. Bieger, Acting Assistant General Counsel (Banking and Finance), at (202) 622–0480; and Steven D. Laughton, Senior Counsel, Office of General Counsel, at (202) 622–8413.

SUPPLEMENTARY INFORMATION:

I. Background

The Dodd-Frank Act

Title II of the Dodd-Frank Act establishes an Orderly Liquidation Authority (''OLA'') to resolve a large interconnected financial company upon a determination that its failure and resolution under otherwise applicable law would have serious adverse effects on financial stability in the United States and the use of OLA would avoid or mitigate such adverse effects. Under the systemic risk determination process

[1] Dodd-Frank Wall Street Reform and Consumer Protection Act, Public Law 111–203, 12 U.S.C. 5301 *et seq.* (2010).

set forth in the Dodd-Frank Act, certain designated Federal agencies,[2] on their own initiative or at the request of the Secretary of the Treasury (''Secretary''), may recommend that the Secretary appoint the FDIC as receiver of a financial company. Any written recommendation from the designated Federal agencies to the Secretary to make a systemic risk determination must include a number of specific findings, which are enumerated in section 203(a)(2) of the Dodd-Frank Act.[3] Then, based on the written recommendation of the appropriate agencies, the Secretary, in consultation with the President, must determine whether the conditions in section 203(b) of the Dodd-Frank Act have been satisfied so that the covered financial company can be placed into receivership. In making that determination, the Secretary must document any determination and retain such documentation.[4] This procedure is very similar to the way that systemic risk determinations are made under section 13 of the Federal Deposit Insurance Act (the ''FDIA'').[5] Under section 201(a)(8) of the Dodd-Frank Act, a ''covered financial company'' is a ''financial company'' [6] for which a systemic risk determination has been made pursuant to section 203(b) of the Dodd-Frank Act but does not include an insured depository institution.

Once the Secretary makes a systemic risk determination, the FDIC can be appointed as receiver of the covered financial company. If the board of directors (or similar governing body) of the company consents to the appointment, the Secretary shall appoint the FDIC as receiver. If the company's governing body does not consent, section 202 of the Dodd-Frank Act requires the Secretary to petition the United States District Court for the District of Columbia for an order authorizing the Secretary to appoint the FDIC as receiver. In determining whether to grant the petition, the court will determine whether two of the Secretary's seven determinations—that the covered financial company is in default or in danger of default and that it meets the definition of financial company under Title II—are arbitrary and capricious.[7] If the court upholds the two reviewable determinations of the Secretary, the court will issue an order authorizing the Secretary to appoint the FDIC as receiver. If the court does not make a determination within twenty-four hours of receiving the Secretary's petition, then the appointment of the FDIC as receiver takes effect by operation of law.

The OLA in the Dodd-Frank Act is intended as a limited exception to bankruptcy or other applicable insolvency laws for purposes of ensuring that the resolution of a failing non-depository financial company does not have serious adverse effects on U.S. financial stability. Section 204(a) of the Dodd-Frank Act expressly provides that the purpose of OLA is to provide the means ''to liquidate failing financial companies that pose a significant risk to the financial stability of the United States in a manner that mitigates such risk and minimizes moral hazard.'' Section 214(a) expressly provides that ''[a]ll financial companies put into receivership under this title shall be liquidated. No taxpayer funds shall be used to prevent the liquidation of any financial company under this title.'' Moreover, section 214(b) provides that ''[a]ll funds expended in the liquidation of a financial company under this title shall be recovered from the disposition of assets of such financial company, or shall be the responsibility of the financial sector, through assessments.'' Finally, section 214(c) provides that, ''[t]axpayers shall bear no losses from the exercise of any authority under this title.''

To achieve the orderly liquidation of systemically important financial companies, the FDIC is given broad authority under the Dodd-Frank Act to: Transfer assets or liabilities to a bridge financial company, operate or liquidate businesses, sell assets, and resolve the liabilities of a covered financial company just after the FDIC's appointment as receiver or as soon as

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[2] The Board of Governors of the Federal Reserve System (''FRB'') and the Securities and Exchange Commission (''SEC'') will make the recommendation if the company or its largest U.S. subsidiary is a broker or a dealer. The FRB and the Director of the Treasury's Federal Insurance Office will make the recommendation and provide affirmative approval, respectively, if the company or its largest U.S. subsidiary is an insurance company, and the FRB and the FDIC will make the recommendation in all other cases. In cases involving the FRB and FDIC, the systemic risk recommendation must be approved by at least ⅔ of the members of the Federal Reserve Board then serving and at least ⅔ of the members of the FDIC Board of Directors then serving.

[3] Section 203(a)(2) of the Dodd-Frank Act provides that all written recommendations from the designated Federal agencies to the Secretary to make a systemic risk determination must include the following:

(1) An evaluation of whether the financial company is in default or in danger of default;

(2) A description of the effect that the default of the financial company would have on financial stability in the United States;

(3) A description of the effect that the default of the financial company would have on economic conditions or financial stability for low income, minority, or underserved communities;

(4) A recommendation regarding the nature and the extent of actions to be taken under Title II of Dodd-Frank regarding the financial company;

(5) An evaluation of the likelihood of a private sector alternative to prevent the default of the financial company;

(6) An evaluation of why a case under the Bankruptcy Code is not appropriate for the financial company;

(7) An evaluation of the effects on creditors, counterparties, and shareholders of the financial company and other market participants; and

(8) An evaluation of whether the company satisfies the definition of a financial company under section 201 of the Dodd-Frank Act.

[4] Section 203(b) of the Dodd-Frank Act requires the Secretary of Treasury to determine that:

(1) The financial company is in default or in danger of default;

(2) The failure of the financial company and its resolution under otherwise applicable Federal or State law would have serious adverse effects on financial stability in the United States;

(3) No viable private sector alternative is available to prevent the default of the financial company;

(4) Any effect on the claims or interests of creditors, counterparties, and shareholders of the financial company and other market participants as a result of actions taken under this title is appropriate, given the impact that any action taken under this title would have on financial stability in the United States;

(5) Any action under section 204 would avoid or mitigate such adverse effects, taking into consideration the effectiveness of the action in mitigating potential adverse effects on the financial system, the cost to the general fund of the Treasury, and the potential to increase excessive risk taking on the part of creditors, counterparties and shareholders in the financial company;

(6) A Federal regulatory agency has ordered the financial company to convert all of its convertible debt instruments that are subject to the regulatory order; and

(7) The company satisfies the definition of a financial company under section 201.

[5] 12 U.S.C. 1823(c)(4).

[6] Section 201(a)(11) of the Dodd Frank Act defines the term ''financial company'' to mean any company that:

(A) Is incorporated or organized under any provision of Federal law or the laws of any State;

(B) Is—

(i) A bank holding company, as defined in section 2(a) of the Bank Holding Company Act of 1956 (12 U.S.C. 1841(a));

(ii) A nonbank financial company supervised by the Board of Governors;

(iii) Any company that is predominantly engaged in activities that the Board of Governors has determined are financial in nature or incidental thereto for purposes of section 4(k) of the Bank Holding Company Act of 1956 (12 U.S.C. 1843(k)) other than a company described in clause (i) or (ii); or

(iv) Any subsidiary of any company described in any of clauses (i) through (iii) that is predominantly engaged in activities that the Board of Governors has determined are financial in nature or incidental thereto for purposes of section 4(k) of the Bank Holding Company Act of 1956 (12 U.S.C. 1843(k)) (other than a subsidiary that is an insured depository institution or an insurance company); and

(C) Is not a Farm Credit System institution chartered under and subject to the provisions of the Farm Credit Act of 1971, as amended (12 U.S.C. 2001 et seq.), a governmental entity, or a regulated entity, as defined under section 1303(20) of the Federal Housing Enterprises Financial Safety and Soundness Act of 1992 (12 U.S.C. 4502(20)).

[7] Dodd-Frank Act § 202(a)(1)(A)(iii).

conditions make this appropriate.[8] This authority enables the FDIC to act immediately to sell any assets and liabilities of the covered financial company to another entity, or if that is not possible or consistent with maximizing the value of the assets of the covered financial company, to transfer assets and liabilities to a bridge financial company established by the FDIC and either sell the assets or liabilities over time while maintaining critical functions. Oftentimes, in administering a receivership, it is necessary to continue key operations, services, and transactions that will maximize the value of the firm's assets and avoid a disorderly collapse in the marketplace.

Section 210(n) of the Dodd-Frank Act establishes an Orderly Liquidation Fund (''OLF'') in the U.S. Treasury that will be available to the FDIC to carry out its responsibilities as receiver of a covered financial company and pay the costs of actions authorized under Title II of the Dodd-Frank Act, including: The orderly liquidation of covered financial companies, payment of administrative expenses, and the payment of principal and interest by the FDIC on obligations issued under section 210(n)(5) of the Dodd-Frank Act. The OLF will be comprised of amounts received by the FDIC, including: The proceeds of obligations issued to Treasury pursuant to section 210(n)(5), assessments received under section 210(o), interest and other earnings from investments, and repayments to the FDIC by covered financial companies.[9]

In order for the FDIC to fulfill its obligations as receiver of a covered financial company, it may be necessary for the FDIC to borrow funds from the Treasury. Under section 210(n)(5) of the Dodd-Frank Act, the FDIC is authorized to issue obligations to Treasury upon the FDIC's appointment as receiver, and Treasury may purchase any such obligations, ''upon such terms and conditions as to yield a return at a rate determined by the Secretary, taking into consideration the current average yield on outstanding marketable obligations of the United States of comparable maturity, plus an interest rate surcharge to be determined by the Secretary, which shall be greater than the difference between—(i) the current average rate on an index of corporate obligations of comparable maturity; and (ii) the current average rate on outstanding marketable obligations of the United States of comparable maturity.'' Section 210(n)(9) of the Dodd-Frank Act provides that the FDIC must develop an Orderly Liquidation Plan (''OLP'') that is acceptable to the Secretary for each covered financial company for which the FDIC is appointed receiver, prior to funds in the OLF being made available to the FDIC with regard to such covered financial company. The FDIC may amend any OLP at any time with the concurrence of the Secretary. Section 210(n)(9) further requires that a mandatory repayment plan between the FDIC and Treasury be agreed to and in effect before Treasury may provide certain amounts to the FDIC within the limits defined in subparagraph (B) of section 210(n)(6) of the Dodd-Frank Act.

The Maximum Obligation Limitation (''MOL''), as set forth in section 210(n)(6) of the Dodd-Frank Act, limits the aggregate amount of outstanding obligations that the FDIC may issue or incur in connection with the orderly liquidation of a covered financial company. Specifically, the MOL provides as follows:

> The [FDIC] may not, in connection with the orderly liquidation of a covered financial company, issue or incur any obligation, if, after issuing or incurring the obligation, the aggregate amount of such obligations outstanding under this subsection, for each covered financial company would exceed—
>
> (A) an amount that is equal to 10 percent of the total consolidated assets of the covered financial company, based on the most recent financial statement available, during the 30-day period immediately following the date of appointment of the FDIC as receiver (or a shorter time period if the [FDIC] has calculated the amount described under subparagraph (B)); and
>
> (B) the amount that is equal to 90 percent of the fair value of the total consolidated assets of each covered financial company that are available for repayment, after the time period described in subparagraph (A).

II. The Proposed Rule

Section 210(n)(7) of the Dodd-Frank Act requires the Agencies, in consultation with the Financial Stability Oversight Council (''FSOC''), to jointly prescribe regulations governing the calculation of the MOL. In accordance with this section, the Agencies have consulted with the FSOC, and have determined that it would be most appropriate to adopt regulations that closely follow the statutory language for calculating the MOL, while defining certain terms referenced in the statute and seeking comment on those definitions. The terms in this proposed rule are defined solely for the purpose of calculating the MOL and are not applicable to any other statutory or regulatory requirements.

The Dodd-Frank Act does not define the term ''obligation.'' The proposed rule includes a definition of the term ''obligation'' that is derived from the definition of the term ''obligation'' in section 15(c) the FDIA (12 U.S.C. 1825(c)). Section 15(c) of the FDIA contains an MOL that limits the amount of obligations the FDIC may issue or incur in connection with the resolution of failed insured depository institutions. A comparison of the two MOLs reveals that the MOL under section 210(n)(6) of the Dodd-Frank Act is modeled after the FDIA MOL. The Agencies thus believe that defining the term ''obligation'' in a manner similar to the definition of such term in the FDIA is appropriate. More specifically, the proposed rule provides that in calculating the MOL, the term ''obligation'' means—

(i) Any guarantee issued by the FDIC on behalf of each covered financial company;

(ii) Any amount borrowed pursuant to Section 210(n)(5) in connection with each covered financial company; and

(iii) Any other obligation with respect to a covered financial company for which the FDIC has a direct or contingent liability to pay any amount.

For purposes of calculating the MOL, the FDIC shall value any contingent liabilities with respect to each covered financial company, including any guarantee issued by the FDIC, at their expected cost to the FDIC.[10]

Section 210(n)(6)(A) of the Dodd-Frank Act provides that, in calculating the MOL, the amount of the total consolidated assets for each covered financial company shall be ''based on the most recent financial statement available.'' The Dodd-Frank Act does not define this term. Under the proposed rule, the term ''most recent

[8] Section 210 of the Dodd-Frank Act prescribes the FDIC's powers and duties once it is appointed as receiver of a covered financial company, including, *inter alia,* its powers and duties to: (1) Succeed to all rights, titles, powers and privileges of the covered financial company and its assets, and of any stockholder, member, officer or director of such company; (2) take over the assets and operate the company with all the powers of the shareholders, members, directors and officers, and conduct all business of the company; (3) liquidate the company through the sale of assets or transfer of assets to a bridge financial company, as provided under section 210(h) of the Dodd-Frank Act; (4) merge the company with another company or transfer assets or liabilities; (5) pay valid obligations that come due, to the extent that funds are available; (6) exercise subpoena powers; (7) use private sector services to manage and dispose of assets; (8) terminate rights and claims of stockholders and creditors (except for the right to payment of claims consistent with the priority of claims provision); and (9) determine and pay claims. However, a receivership of an insurance company would generally be conducted in accordance with state law.

[9] Dodd-Frank Act § 210(n)(2).

[10] Dodd-Frank Act § 210(n)(8)(B).

financial statement available'' means: (1) The covered financial company's most recent financial statement filed with the SEC or any other regulatory body; (2) the covered financial company's most recent financial statement audited by an independent CPA firm; or (3) other available financial statements of the covered financial company. The Agencies will jointly determine which of the three types of financial statements is, in the judgment of the FDIC and the Secretary, most pertinent, taking into consideration the timeliness and reliability of the statements being considered. Generally, the Agencies intend to use financial statements filed with a regulatory body or financial statements audited by an independent CPA firm when they are available and timely as under most circumstances they would be considered to be reliable. However, if the covered financial company is both privately held and unregulated, statements filed with a regulatory body would not exist. In addition, financial statements audited by an independent CPA firm may not also exist or may not be as timely or relevant as unaudited financial statements. Accordingly, the Agencies propose to use the financial statements that they believe are most pertinent taking into consideration the timeliness and reliability of the statements being considered.

Section 210(n)(6)(B) of the Dodd-Frank Act provides that the total consolidated assets of each covered financial company be measured at their ''fair value.'' The Dodd-Frank Act does not define the term ''fair value'' for this purpose. The proposed rule defines ''fair value'' as the expected total aggregate value of each asset, or group of assets that are managed within a portfolio, of a covered financial company if such asset, or group of assets, was sold or otherwise disposed of in an orderly transaction. The Agencies initially considered a fair value definition based on a forced liquidation value or distressed sale basis, such as a liquidation under chapter 7 of the Bankruptcy Code. However, the Agencies determined that defining the term ''fair value'' based on a forced liquidation value would not accurately reflect the FDIC's responsibilities and authorities as receiver. For example, Section 210(a)(1)(B)(i) of the Dodd-Frank Act allows the FDIC as receiver to take over the assets of and operate the covered financial company with all the powers of the members or shareholders, the directors, and the officers of the covered financial company, and conduct all business of the covered financial company during the period of orderly liquidation. Section 210(a)(1)(B)(iv) of the Dodd-Frank Act requires the FDIC as receiver to manage the assets and property of the covered financial company, consistent with the maximization of the value of the assets in the context of an orderly liquidation. Section 202(d) gives the FDIC a three-year period to liquidate the covered financial company, which period may be extended for up to two additional years to maximize the net present value return from the sale of the assets of the covered financial company. Hence, the Agencies believe that the term ''fair value'' should be based on an orderly liquidation value using valuation analysis consisting of relevant factors estimating asset prices commensurate with the characteristics of the assets held by the covered financial company. Such measures are consistent with the authority of the FDIC to conduct an orderly liquidation in a manner that maximizes the value of the assets of the covered financial company over a three- to five-year period. The Agencies also believe that the proposed rule reflects this mandate by recognizing that fair value measurement is context dependant and the result of numerous variables, including the attributes of the specific asset; the period of time and the circumstances the asset is allowed to be marketed; and the presence of willing and able third-party buyers.

Finally, with respect to the term ''total consolidated assets of each covered financial company that are available for repayment'' in section 210(n)(6)(B) of the Dodd-Frank Act, the proposed rule defines this term to mean the difference between: (1) The total consolidated assets of the covered financial company that are available for liquidation during the operation of the receivership; and (2) to the extent included in (1), all assets that are separated from, or made unavailable to, the covered financial company by a statutory or regulatory barrier that prevents the covered financial company from possessing or selling and using the proceeds from the sale of such assets. The Agencies are proposing to define the term ''assets * * * available for repayment'' in a manner consistent with the FDIC's broad authority as receiver regarding the liquidation of assets of a covered financial company.

Under Title II, all of the assets on the books of the covered financial company would generally be available for sale and liquidation and, thereby, available as proceeds for repayment. It should be noted, for example, section 210(a)(1)(A)(i) provides that the FDIC as receiver succeeds to all rights, titles, powers, and privileges of the covered financial company and its assets. Section 210(a)(1)(D) further provides that the FDIC as receiver shall liquidate the covered financial company's assets and wind-up its affairs in such manner as the FDIC deems appropriate, including through the sale of assets, the transfer of assets to a bridge financial company, or the exercise of any other rights or privileges granted, but subject to all legally enforceable and perfected security interests and all legally enforceable security entitlements. Moreover, section 210(a)(1)(M) provides that notwithstanding any other provision of law, the FDIC's appointment as receiver terminates all rights and claims that shareholders and creditors of the covered financial company may have against the assets of the covered financial company, except for their right to payment or other satisfactory resolution of their underlying claims as provided by the Dodd-Frank Act.

Congress thus directed the FDIC as receiver to manage and liquidate the assets of a covered financial company, including assets that may be released from lien encumbrances by payment in the ordinary course of business, with a view toward maximizing the value of such assets over the course of the orderly liquidation. The Agencies believe that the FDIC's broad authority to liquidate the covered financial company's assets (including assets encumbered by liens), to pay secured creditors and to pay the FDIC's administrative expenses and other claimants in accordance with the priority of claims provisions, to the extent of available proceeds, renders those ''assets * * * available for repayment.'' However, the Agencies also recognize that there may be assets of a covered financial company that are not ''assets * * * available for repayment.'' For example, to the extent that the assets of a covered financial company's wholly-owned foreign subsidiary are ''ring-fenced'' by the subsidiary's foreign regulator, pursuant to valid statutory or regulatory authority, they would not be available for repayment. Other assets may not be on the balance sheet of a covered financial company and thus not available for repayment, such as customer name securities at a covered broker or dealer.[11]

[11] Moreover, even if customer name securities were on a covered financial company's balance sheet, they would not constitute ''assets * * * available for repayment'' because section 205(f) of the Dodd-Frank Act requires such customer name securities to be delivered to the customer.

III. Request for Comments

The Agencies invite comments on all aspects of the proposed rulemaking. In particular, the Agencies request comments on the following questions:

Is the proposed definition of ''obligation'' appropriate? Are there alternative definitions that should be considered?

In determining what constitutes ''the most recent financial statement available,'' is it appropriate to allow the Agencies to rely on financial statements that may have been provided internally to the covered financial company's management, Board of Directors, or both if the Agencies consider them more pertinent, after taking into consideration timeliness and reliability, than a publicly available financial statement filed with the SEC or other regulatory body or a financial statement audited by an independent CPA firm?

Is the proposed definition of ''fair value'' appropriate? Are there other standards or definitions that may be more appropriate in general or for certain types of assets? What risks should be considered in the assessment of ''fair value?'' Should ''fair value'' be determined differently for different asset classes? Given that many assets may have to be liquidated, should expected transaction costs be explicitly considered for the calculation of fair value?

Should the definition of the term ''total consolidated assets of each covered financial company that are available for repayment'' be limited to certain categories of assets (such as unencumbered assets) or should it extend to all assets available for repayment in the ordinary course of business?

Written comments must be received by the Agencies no later than January 24, 2012.

IV. Regulatory Analysis and Procedure

A. The Paperwork Reduction Act

The proposed rule provides, in part, the manner in which the Agencies would implement the maximum obligation limitation for FDIC borrowings from the Treasury to fund the Orderly Liquidation Fund in the event that one or more covered financial companies are placed into receivership. It will not involve any new collections of information pursuant to the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*). Consequently, no information collection has been submitted to the Office of Management and Budget for review.

B. The Regulatory Flexibility Act

In accordance with the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) the Agencies hereby certify that this rule will not have a significant economic impact on a substantial number of small entities. The rule governs the manner in which the FDIC would calculate the maximum obligation limitation for obligations incurred or issued by the FDIC in connection with the orderly liquidation of a covered financial company under Title II of the Dodd-Frank Act. Small entities will not be affected by this proposed rule. Moreover, under Small Business Administration size standards defining small entities, financial companies are generally considered small entities if their annual receipts do not exceed $7 million or their total assets do not exceed $175 million.[12] The Agencies do not expect that the OLA in the Dodd-Frank Act will be used to resolve financial companies that qualify as small entities, because the failure of such companies would be unlikely to have serious adverse effects on financial stability in the United States. Notwithstanding this certification, the Agencies invite comments on the impact of this rule on small entities.

C. Plain Language

Each Federal banking agency, such as the FDIC, is required to use plain language in all proposed and final rules published after January 1, 2000. 12 U.S.C. 4809. In addition, in 1998, the President issued a memorandum directing each agency in the Executive branch, such as Treasury, to use plain language for all new proposed and final rulemaking documents issued on or after January 1, 1999. The Agencies have sought to present the proposed rule in a simple and straightforward manner. The Agencies invite comments on whether the proposal is clearly stated and effectively organized, and how the Agencies might make the proposed text easier to understand.

D. Executive Order 12866

Executive Orders 13563 and 12866 directs Treasury to assess costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). Executive Order 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. This rule has been designated a ''significant regulatory action'' although not economically significant, under section 3(f) of Executive Order 12866. Accordingly, the rule has been reviewed by the Office of Management and Budget.

[12] 13 CFR 121.201.

List of Subjects in 12 CFR Part 380 and 31 CFR Part 149

Accounting, Administrative practice and procedure, Finance, and Loan programs.

Federal Deposit Insurance Corporation

Authority and Issuance

For the reasons stated in the preamble, the Board of Directors of the Federal Deposit Insurance Corporation proposes to amend part 380 of title 12 of the Code of Federal Regulations as follows:

PART 380—ORDERLY LIQUIDATION AUTHORITY

1. The authority citation for part 380 continues to read as follows:

Authority: 12 U.S.C. 5301 *et seq.*

2. Add § 380.10 to read as follows:

§ 380.10 Maximum obligation limitation.

(a) *General Rule.* The FDIC shall not, in connection with the orderly liquidation of a covered financial company, issue or incur any obligation, if, after issuing or incurring the obligation, the aggregate amount of such obligations outstanding for each covered financial company would exceed—

(1) An amount that is equal to 10 percent of the total consolidated assets of the covered financial company, based on the most recent financial statement available, during the 30-day period immediately following the date of appointment of the FDIC as receiver (or a shorter time period if the FDIC has calculated the amount described under paragraph (2)); and

(2) The amount that is equal to 90 percent of the fair value of the total consolidated assets of each covered financial company that are available for repayment, after the time period described in paragraph (a)(1) of this section.

(b) *Definitions.* For purposes of paragraph (a) of this section:

(1) The term ''fair value'' means the expected total aggregate value of each asset, or group of assets that are managed within a portfolio, of a covered financial company on a consolidated basis if such asset, or group of assets, was sold or otherwise disposed of in an orderly transaction.

(2) The term ''most recent financial statement available'' means a covered financial company's:

(i) Most recent financial statement filed with the Securities and Exchange Commission or any other regulatory body;

(ii) Most recent financial statement audited by an independent CPA firm; or

(iii) Other available financial statements. The FDIC and the Treasury will jointly determine the most pertinent of the above financial statements, taking into consideration the timeliness and reliability of the statements being considered.

(3) The term ''obligation'' means, with respect to any covered financial company:

(i) Any guarantee issued by the FDIC on behalf of the covered financial company;

(ii) Any amount borrowed pursuant to section 210(n)(5)(A) of the Dodd-Frank Act; and

(iii) Any other obligation with respect to the covered financial company for which the FDIC has a direct or contingent liability to pay any amount.

(4) The term ''total consolidated assets of each covered financial company that are available for repayment'' means the difference between:

(i) The total assets of the covered financial company on a consolidated basis that are available for liquidation during the operation of the receivership; and

(ii) To the extent included in paragraph (b)(4)(i) of this section, all assets that are separated from, or made unavailable to, the covered financial company by a statutory or regulatory barrier that prevents the covered financial company from possessing or selling assets and using the proceeds from the sale of such assets.

Department of the Treasury

Authority and Issuance

For the reasons set forth in the preamble, Treasury proposes to amend Title 31, Chapter I of the Code of Federal Regulations by adding a new part 149 as set forth below:

PART 149—CALCULATION OF MAXIMUM OBLIGATION LIMIT

Sec.

149.1 Authority and purpose.
149.2 Definitions.
149.3 Maximum obligation limitation.

Authority: 31 U.S.C. 321 and 12 U.S.C. 5390.

§ 149.1 Authority and purpose.

(a) *Authority.* This part is issued by the Federal Deposit Insurance Corporation (FDIC) and the Secretary of the Department of the Treasury (Treasury) under section 210(n)(7) of the Dodd-Frank Wall Street Reform and Consumer Protection Act (Act).

(b) *Purpose.* The purpose of this part is to issue implementing regulations as required by the Act. The part governs the calculation of the maximum obligation limitation which limits the aggregate amount of outstanding obligations the FDIC may issue or incur in connection with the orderly liquidation of a covered financial company.

§ 149.2 Definitions.

As used in this part:

Fair value. The term ''fair value'' means the expected total aggregate value of each asset, or group of assets that are managed within a portfolio of a covered financial company on a consolidated basis if such asset, or group of assets, was sold or otherwise disposed of in an orderly transaction.

Most recent financial statement available. (1) The term ''most recent financial statement available'' means a covered financial company's—

(i) Most recent financial statement filed with the Securities and Exchange Commission or any other regulatory body;

(ii) Most recent financial statement audited by an independent CPA firm; or

(iii) Other available financial statements.

(2) The FDIC and the Treasury will jointly determine the most pertinent of the above financial statements, taking into consideration the timeliness and reliability of the statements being considered.

Obligation. The term ''obligation'' means, with respect to any covered financial company—

(1) Any guarantee issued by the FDIC on behalf of the covered financial company;

(2) Any amount borrowed pursuant to section 210(n)(5)(A) of the Act; and

(3) Any other obligation with respect to the covered financial company for which the FDIC has a direct or contingent liability to pay any amount.

Total consolidated assets of each covered financial company that are available for repayment. The term ''total consolidated assets of each covered financial company that are available for repayment'' means the difference between:

(1) The total assets of the covered financial company on a consolidated basis that are available for liquidation during the operation of the receivership; and

(2) To the extent included in paragraph (1) of this definition, all assets that are separated from, or made unavailable to, the covered financial company by a statutory or regulatory barrier that prevents the covered financial company from possessing or selling assets and using the proceeds from the sale of such assets.

§ 149.3 Maximum obligation limitation.

The FDIC shall not, in connection with the orderly liquidation of a covered financial company, issue or incur any obligation, if, after issuing or incurring the obligation, the aggregate amount of such obligations outstanding for each covered financial company would exceed—

(a) An amount that is equal to 10 percent of the total consolidated assets of the covered financial company, based on the most recent financial statement available, during the 30-day period immediately following the date of appointment of the FDIC as receiver (or a shorter time period if the FDIC has calculated the amount described under paragraph (b) of this section); and

(b) The amount that is equal to 90 percent of the fair value of the total consolidated assets of each covered financial company that are available for repayment, after the time period described in paragraph (a) of this section.

Dated at Washington, DC, this 6th day of July 2011.

By order of the Board of Directors.

Federal Deposit Insurance Corporation.

Valerie J. Best,

Assistant Executive Secretary.

Dated: November 14, 2011.

By the Department of the Treasury.

Alastair Fitzpayne,

Deputy Chief of Staff and Executive Secretary.

[FR Doc. 2011–29993 Filed 11–23–11; 8:45 am]

BILLING CODE 6714–01–P; 4810–25–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2011–0959; Directorate Identifier 2011–NE–25–AD]

RIN 2120–AA64

Airworthiness Directives; Rolls-Royce plc (RR) RB211 Trent 800 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:

> Routine inspections have revealed cracking on the head sections of two Trent 800 front combustion liners.

We are proposing this AD to prevent uncontained engine failure and damage to the airplane.

DATES: We must receive comments on this proposed AD by January 24, 2012.

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 plc, P.O. Box 31, Derby, DE24 8BJ, United Kingdom; phone: 011 44 1332 242424; fax: 011 44 1332 249936; email: *http://www.rolls-royce.com/contact/civil_team.jsp;* or Web: *https://www.aeromanager.com.,* 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: Alan Strom, Aerospace Engineer, Engine Certification Office, FAA, Engine & Propeller Directorate, 12 New England Executive Park; Burlington, MA 01803; email: *alan.strom@faa.gov;* phone: (781) 238–7143; 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–2011–0959; Directorate Identifier 2011–NE–25–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 2011–0080, dated May 6, 2011 (referred to after this as ''the MCAI''), to correct an unsafe condition for the specified products. The MCAI states:

> Routine inspections have revealed cracking on the head sections of two Trent 800 front combustion liners.
>
> This condition, if not detected and corrected, could lead to hot gas breakout with subsequent downstream component release potentially leading to uncontained high energy debris, possibly resulting in damage to the aeroplane or injury to persons on the ground.

We are proposing this AD to prevent uncontained engine failure and damage to the airplane.

Relevant Service Information

Rolls-Royce plc has issued Alert Service Bulletin RB.211–72–AG456, dated September 9, 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 the United Kingdom, and is approved for operation in the United States. Pursuant to our bilateral agreement with the United Kingdom, 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.

Costs of Compliance

We estimate that this proposed AD would affect about 125 products of U.S. registry. We also estimate that it would take about 10 work-hours per product to inspect and 10 additional work-hours for those combustion liners that require replacement. The average labor rate is $85 per work-hour. Required parts would cost about $525,000 per product. We expect that four front combustion liners will require replacement. Based on these figures, we estimate the cost of the proposed AD on U.S. operators to be $2,209,650.

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:

Rolls-Royce plc: Docket No. FAA–2011–0959; Directorate Identifier 2011–NE–25–AD.

(a) Comments Due Date

We must receive comments by January 24, 2012.

(b) Affected Airworthiness Directives (ADs)

None.

(c) Applicability

This AD applies to Rolls-Royce plc (RR) RB211 Trent 800 turbofan engines, all models, all serial numbers.

(d) Reason

(1) This AD results from mandatory continuing airworthiness information (MCAI) issued by an aviation authority of another country to identify and correct an unsafe condition on an aviation product. The MCAI describes the unsafe condition as:

Routine inspections have revealed cracking on the head sections of two Trent 800 front combustion liners.

This condition, if not detected and corrected, could lead to hot gas breakout with subsequent downstream component release potentially leading to uncontained high energy debris, possibly resulting in damage to the aeroplane or injury to persons on the ground.

(2) We are issuing this AD to prevent uncontained engine failure and damage to the airplane.

(e) Actions and Compliance

Unless already done, do the following actions.

(f) Initial Inspection

(1) Within 1,000 flight cycles (FCs) after the effective date of this AD, inspect the front combustion liner head section for cracking. Use paragraph 3.A, except for 3.A.(1)(a)(i), of the On-Wing Accomplishment Instructions of RR Alert Service Bulletin (ASB) RB.211–72–AG456, dated September 9, 2010, to do your inspections.

(2) If you find cracking, remove the front combustion liner head section from service at the next shop visit. Until the next shop visit, take the corrective actions listed in Table 1 of this AD, as applicable.

TABLE 1—INSPECTION FINDINGS AND FOLLOW-ON ACTIONS

Inspection findings	Action(s) and compliance time(s)
(i) Cumulative crack length up to 150 mm (up to 2 heatshields)	Reduce the inspection intervals to 250 FCs.
(ii) Cumulative crack length 150 mm to 300 mm (up to 4 heatshields)	Reduce the inspection intervals to 100 FCs.
(iii) Cumulative crack length 300 mm to 450 mm (up to 6 heatshields)	Remove the engine within 50 FCs.
(iv) Cumulative crack length 450 mm to 900 mm (up to 12 heatshields)	Replace the engine within 5 FCs.
(v) Cumulative crack length greater than 900 mm (more than 12 heatshields)	Replace the engine before next flight.

(g) Repetitive Inspections

(1) At intervals not to exceed 2,000 FCs, inspect the front combustion liner head section for cracking. Use paragraph 3.A, except for 3.A.(1)(a)(i), of the On-Wing Accomplishment Instructions of RR ASB RB.211–72–AG456, dated September 9, 2010, to do your inspection.

(i) If you find cracking, remove the front combustion liner head section at the next shop visit. Until the next shop visit, take the corrective actions as detailed in Table 1 of this AD, as applicable.

(2) For engines not found to have cracks in the front combustion liner head section in accordance with paragraphs (f)(1), (f)(2), or (g)(1) of this AD, at every shop visit after the effective date of this AD, inspect the front combustion liner head section for cracking. Use paragraph B.(2), except B.(2)(a)(i), of the In-shop Accomplishment Instructions of RR ASB RB.211–72–AG456, dated September 9, 2010, to do the inspections.

(3) Accomplishment of a shop visit inspection as required by paragraph (g)(2) of this AD may substitute for the accomplishment of an on-wing inspection as required by paragraph (f)(1) or (g)(1) of this AD.

(h) Definition of Shop Visit

For the purpose of this AD, the term shop visit means the induction of an engine into the shop for maintenance where the front combustion liner is exposed or when the engine has been removed from service as a result of paragraph (f)(2) or (g)(1)(i) of this AD.

(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.

(j) Related Information

(1) Refer to MCAI Airworthiness Directive 2011–0080, dated May 6, 2011, and RR ASB RB.211–72–AG456, dated September 9, 2010, for related information. Contact Rolls-Royce plc, P.O. Box 31, Derby, DE24 8BJ, United Kingdom; phone: 011 44 1332 242424; fax: 011 44 1332 249936; email: *http://www.rolls-royce.com/contact/civil_team.jsp;* or Web: *https://www.aeromanager.com.,* for a copy of this service information.

(2) Contact Alan Strom, Aerospace Engineer, Engine Certification Office, FAA, Engine & Propeller Directorate, 12 New England Executive Park; Burlington, MA 01803; email: *alan.strom@faa.gov;* phone: (781) 238–7143; fax: (781) 238–7199, for more information about this AD.

Issued in Burlington, Massachusetts, on November 10, 2011.

Peter A. White,

Manager, Engine & Propeller Directorate, Aircraft Certification Service.

[FR Doc. 2011–30060 Filed 11–23–11; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[REG–102988–11]

RIN 1545–BK05

Basis Reporting by Securities Brokers and Basis Determination for Debt Instruments and Options

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice of proposed rulemaking and notice of public hearing.

SUMMARY: This document contains proposed regulations relating to reporting by brokers for transactions related to debt instruments and options. The proposed regulations reflect changes in the law made by the Energy Improvement and Extension Act of 2008 (the Act) that require brokers when reporting the sale of securities to the IRS to include the customer's adjusted basis in the sold securities and to classify any gain or loss as long-term or short-term. The proposed regulations also implement the Act's requirement that a broker report gross proceeds from a sale or closing transaction with respect to certain options. In addition, this document contains proposed regulations that implement reporting requirements for a transfer of a debt instrument or an option to another broker and for an organizational action that affects the basis of a debt instrument or option. This document also provides for a notice of a public hearing on these proposed regulations.

DATES: Written or electronic comments must be received by February 23, 2012. Outlines of topics to be discussed at the public hearing scheduled for Friday, March 16, 2012, must be received by Friday, February 24, 2012.

ADDRESSES: Send submissions to: CC:PA:LPD:PR (REG–102988–11), room 5203, Internal Revenue Service, P.O. Box 7604, Ben Franklin Station, Washington, DC 20044. Submissions may be hand-delivered Monday through Friday between the hours of 8 a.m. and 4 p.m. to CC:PA:LPD:PR (REG–102988–11), Courier's Desk, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC, or sent electronically via the Federal eRulemaking Portal at *http://www.regulations.gov* (IRS REG–102988–11). The public hearing will be held in the Auditorium, beginning at 10 a.m. at the Internal Revenue Building, 1111 Constitution Avenue NW., Washington, DC.

FOR FURTHER INFORMATION CONTACT: Concerning the proposed regulations, Pamela Lew of the Office of Associate Chief Counsel (Financial Institutions and Products) at (202) 622–3950; concerning submissions of comments, the public hearing, and/or to be placed on the building access list to attend the public hearing, Richard Hurst at (202) 622–7180 (not toll-free numbers).

SUPPLEMENTARY INFORMATION:

Paperwork Reduction Act

The collection of information contained in this notice of proposed rulemaking relating to the furnishing of information in connection with the transfer of securities was previously reviewed and approved by the Office of Management and Budget in accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3507(d)) under control number 1545–2186. Comments on the collection of information should be sent to the Office of Management and Budget, Attn: Desk Officer for the Department of the Treasury, Office of Information and Regulatory Affairs, Washington, DC 20503, with copies to the Internal Revenue Service, Attn: IRS Reports Clearance Officer, SE:W:CAR:MP:T:T:SP, Washington, DC 20224. Comments on the collection of information should be received by February 23, 2012. Comments are specifically requested concerning:

Whether the proposed collection of information is necessary for the proper performance of the functions of the IRS, including whether the information will have practical utility;

The accuracy of the estimated burden associated with the proposed collection of information;

How the quality, utility, and clarity of the information to be collected may be enhanced;

How the burden of complying with the proposed collection of information may be minimized, including through the application of automated collection techniques or other forms of information technology; and

Estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

The collection of information is in §§ 1.6045–1(c)(3)(xi)(C) and 1.6045A–1 of these proposed regulations and is an increase in the total annual burden from the burden in the current regulations to reflect the addition of debt instruments and options to the definition of covered securities. The collection of information is necessary to allow brokers that effect sales of transferred covered securities to determine and report the adjusted basis of the securities and whether any gain or loss with respect to the securities is long-term or short-term in compliance with section 6045(g) of the Internal Revenue Code. The collection of information is required to comply with the provisions of section 403 of the Energy Improvement and Extension Act of 2008, Division B of Public Law 110–343 (122 Stat. 3765, 3854 (2008)). The likely respondents are brokers of securities and issuers, transfer agents, and professional custodians of securities that do not effect sales.

Estimated total annual reporting burden is 450,000 hours.

Estimated average annual burden per respondent is 15 hours.

Estimated average burden per response is 4 minutes.

Estimated number of respondents is 30,000.

Estimated total frequency of responses is 7 million.

The burden for the collection of information contained in the proposed amendments to § 1.6045–1 will be reflected in the burden on Form 1099–B, ''Proceeds from Broker and Barter Exchange Transactions,'' when revised to request the additional information in the regulation. The burden for the collection of information contained in the proposed amendments to § 1.6045B–1 will be reflected in the burden on Form 8937, ''Report of Organizational Actions Affecting Basis of Securities,'' when revised to request the additional information in the regulation.

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

Background

This document contains proposed amendments to the Income Tax Regulations (26 CFR part 1) relating to information reporting by brokers and others as required by section 6045 of the Internal Revenue Code (Code). This section was amended by section 403 of the Energy Improvement and Extension Act of 2008, Division B of Public Law 110–343 (122 Stat. 3765, 3854 (2008)) (the Act) to require the reporting of adjusted basis for a covered security and whether any gain or loss upon the sale of the security is long-term or short-term. The Act also requires the reporting of gross proceeds for an option that is a covered security. In addition, the Act added section 6045A to the Code, which requires certain information to be reported in connection with a transfer of a covered security to another broker, and section 6045B, which requires an issuer of a specified security to file a return relating to certain actions that affect the basis of the security. Final regulations under these provisions relating to stock were published in the **Federal Register** on October 18, 2010, in TD 9504. The proposed regulations in this document address reporting by brokers under § 1.6045–1 for debt instruments and options. This document also contains proposed amendments to the Income Tax Regulations under sections 6045A and 6045B for debt instruments and options.

Section 6045(g)(1) requires every broker that is required to file a return

with the IRS under section 6045(a) showing the gross proceeds from the sale of a covered security to include in the return the customer's adjusted basis in the security and whether any gain or loss with respect to the security is long-term or short-term. Under section 6045(g)(3), a note, bond, debenture, or other evidence of indebtedness acquired on or after January 1, 2013, is a security subject to the information reporting rules in section 6045(g)(1). Section 6045(h) provides rules for reporting certain information, including gross proceeds, with respect to the sale, exercise, lapse, or other closing transaction with respect to an option on a specified security granted or acquired on or after January 1, 2013.

Explanation of the Provisions

In general, these regulations would amend §§ 1.6045–1, 1.6045A–1, and 1.6045B–1 to require additional information reporting by a broker for a debt instrument acquired on or after January 1, 2013. The proposed regulations also require information reporting for an option granted or acquired on or after January 1, 2013. Many of the changes are technical provisions needed to incorporate debt instruments and options into the rules established for stock in the final regulations published in TD 9504. As a result of these changes, the general rules of § 1.6045–1 that currently apply to stock also will apply to a debt instrument or an option that is a covered security, including the wash sale and short sale provisions. In addition, the general rules of § 1.6045A–1 relating to transfer statement requirements and § 1.6045B–1 relating to issuer statement requirements will apply to a debt instrument or an option. Certain substantive changes were also needed to accommodate debt instruments and options. Certain other changes were made that will affect all specified securities, including stock. The significant substantive changes to the regulations are described in this preamble.

A. Section 1.6045–1

1. Options

Under section 6045(h), for any sale or other closing transaction with respect to an option that is a covered security, a broker is required to report gross proceeds, adjusted basis, and whether any gain or loss is short-term or long-term.

For purposes of § 1.6045–1, certain options have been added to the definition of a *security, specified security,* and *covered security.* In general, an option on one or more specified securities, including an index of such securities or financial attributes of such securities, that is granted or acquired on or after January 1, 2013, will be a covered security. For example, as indicated by the Joint Committee on Taxation, the proposed regulations would apply to an option on the S&P 500 Index. *See General Explanation of Tax Legislation Enacted in the 110th Congress,* JCS–1–09 at 366.

An exception to the general rules described in proposed § 1.6045–1(m) for reporting basis for an option is provided for a compensation-related option. The proposed rules retain the existing rules for a compensation-related option, but make those rules applicable to all compensation-related options, and not just those granted or acquired before January 1, 2013. Under the regulations, if a customer exercises a compensation-related option, a broker is permitted, but not required, to adjust basis of the acquired stock for any amounts included as compensation income. Instructions to the Form 1040 (Schedule D) and other IRS forms and publications will be amended to remind a taxpayer that a reconciliation of basis may be required if the sale reported on a Form 1099–B is a sale of stock acquired through a stock grant or the exercise of a compensatory option. The IRS is exploring the possibility of adding an indicator on the Form 1099–B to denote a sale of compensation-related stock.

The definitions for the terms *closing transaction* and *sale* have been updated to be consistent with sections 1234 and 1234A and to accommodate the reporting of options granted or acquired on or after January 1, 2013. In particular, the cancellation, lapse, expiration, or other termination of an option will be a closing transaction, as will a cash settlement.

For an option that is a covered security, reporting requirements will depend on whether or not the option was physically settled. If an option is physically settled, the premium paid or received, as the case may be, will be used by the broker for the asset purchaser to adjust the basis of the purchased asset and by the broker for the asset seller to adjust reported proceeds. Publication 550, Investment Income and Expenses, contains a detailed explanation of the appropriate tax treatment of the exercise or lapse of an option. If an option that is a covered security is sold or is part of a closing transaction that does not entail physical settlement, a broker is required to report gross proceeds and whether the gain or loss is long-term or short-term. It should be noted that if a customer sells any option prior to expiration, including an option acquired prior to January 1, 2013, the regulations currently in effect already require a broker to report the gross proceeds from that sale except in cases in which an option is closed by offset.

If a customer receives a warrant or stock right in a section 305(a) distribution, a broker must determine the basis of the warrant or stock right by applying the rules described in sections 305 and 307.

2. Debt Instruments

Under section 6045(g), upon the sale of a debt instrument that is a covered security, a broker is required to report the adjusted basis of the debt instrument and whether any gain or loss is short-term or long-term. Pursuant to section 6045(g), the proposed regulations amend § 1.6045–1 to include a debt instrument in the definition of a *specified security* and a debt instrument acquired for cash in an account on or after January 1, 2013, in the definition of a *covered security.*

For purposes of § 1.6045–1, the proposed regulations define a debt instrument to include any instrument described in § 1.1275–1(d) and any instrument or position that is treated as a debt instrument under a specific provision of the Internal Revenue Code. This definition of a debt instrument applies whenever the term *debt instrument, bond, debt obligation,* or *obligation* is used anywhere in § 1.6045–1. Under the proposed regulations, solely for purposes of § 1.6045–1, a security classified as debt by the issuer is treated as a debt instrument. If the issuer has not classified the security, however, the security is not treated as a debt instrument unless the broker knows that the security is reasonably classified as debt under general Federal tax principles or that the instrument or position is treated as a debt instrument under a specific provision of the Internal Revenue Code.

Due to the difficulties in implementing a broker's reporting obligations under section 6045(g) that would arise with respect to debt instruments described in section 1272(a)(6) (debt instruments with principal subject to acceleration) that are acquired on or after January 1, 2013, the proposed regulations provide that a debt instrument described in section 1272(a)(6) is not a covered security.

If a debt instrument is acquired on or after January 1, 2013, a broker will be required to determine and account for original issue discount (''OID''), bond premium, acquisition premium, market

discount, and principal payments to determine the adjusted basis of the debt instrument and whether any gain or loss upon the sale of the debt instrument is short-term or long-term. Further, a broker will be required to report the amount of any market discount that has accrued as of the date of a sale or transfer of a debt instrument.

Under § 1.6045–1(d)(6)(i) of the existing final regulations, a broker is not required to consider elections occurring outside the account. Consistent with this rule, a broker generally is required to calculate amounts relating to OID, bond premium, acquisition premium, and market discount by assuming that the customer has not made any elections with respect to the debt instrument. The proposed regulations, however, provide two exceptions to this general rule: (1) A broker must assume that a customer has elected to use the constant interest rate method under section 1276(b)(2) to determine the amount of accrued market discount; and (2) a broker must assume that the customer has elected under section 171 to amortize bond premium on a taxable debt instrument.

Both of these elections have the effect of minimizing the customer's ordinary income inclusion when compared with the alternatives available under the existing rules. It is also expected that prescribing which elections are to be ignored and which elections are assumed to be made will standardize, and therefore simplify, the information reporting required with respect to OID, bond premium, acquisition premium, and market discount.

The Treasury Department and the IRS recognize that the section 171 election assumption is inconsistent with the rule under section 6049 providing that a payor is not permitted to take premium into account for purposes of reporting a holder's interest or OID income on Form 1099–INT or 1099–OID each year. However, because the Treasury Department and the IRS believe that most holders will make a section 171 election to treat the premium as an offset to ordinary income rather than as a capital loss, the Treasury Department and the IRS believe that the section 171 election assumption will result in fewer instances in which a customer will need to reconcile the reported adjusted basis number to the proper number.

In general, the proposed regulations will result in the following outcomes for a debt instrument:

a. If a debt instrument is sold prior to maturity, a broker will report any accrued market discount as of the sale date based on a constant interest rate.

b. Except as provided in c below, a broker must determine a customer's basis in a debt instrument by computing any OID, bond premium, or acquisition premium using the default method described in the relevant provisions of the Code or regulations. A broker also must adjust the basis for any principal payments received.

c. If a taxable debt instrument has bond premium, a broker must assume a customer has elected current amortization when computing the amount of the customer's basis.

A broker generally must use a consistent accrual period to determine the accruals of discount or premium on a debt instrument. If a debt instrument has both OID and market discount, the accrual period used for the OID computation must be used for the market discount computation. In all other situations, a broker must use the shorter of an annual accrual period or a period that matches the frequency of regular coupon or principal payments.

The rules in § 1.6045–1(n) only apply for purposes of a broker's reporting obligation under section 6045. A customer can use any method or make any election permitted under the relevant provisions of the Code and regulations and is not bound by the assumptions that the broker uses to satisfy the broker's reporting obligations under section 6045. For example, even though a broker will compute and report any accrued market discount on a debt instrument by assuming that a customer made the constant yield election under section 1276(b)(2), the customer can determine the amount of accrued market discount using ratable accrual as described in section 1276(b)(1).

Notwithstanding the information reported by a broker, a customer is still required to comply with all relevant provisions of the Code and regulations. For example, if a customer sells a debt instrument at a loss in one account with Broker A and reacquires a substantially identical debt instrument in a different account with Broker B within 30 days of the loss transaction, Broker A is not required to apply the wash sale rules under section 1091 when reporting the sale. However, the customer is required to properly apply the rules of section 1091 to defer some or all of the loss and must make appropriate basis adjustments.

If a customer uses an assumption or method different from the assumption or method used by the broker to determine a debt instrument's adjusted basis or other information for purposes of the Form 1099–B sent to the customer, the customer must reconcile the amount reported on the Form 1099–B to the amount reported on the customer's tax return.

3. Changes Affecting All Specified Securities (Including Stock)

Under § 1.6045–1(d)(5) of the final regulations relating to stock, a broker may choose to report gross proceeds from the sale of a security as the entire proceeds from the sale or as the proceeds reduced by the commissions and transfer taxes related to the sale. Commenters requested that the regulations remove this choice in order to standardize broker reporting on Form 1099–B and taxpayer reporting on Form 1040. The proposed regulations adopt this request and require brokers to reduce reported gross proceeds by commissions and transfer taxes related to a sale.

Under § 1.6045–1(d)(6) of the final regulations relating to stock, a broker currently must adjust basis reported for an organizational action taken by an issuer of a security during the period the broker has custody of the security. For a transferred security, the regulations exclude adjustments for organizational actions taken on the transfer settlement date. The proposed regulations amend this exclusion to clarify that the exclusion applies only to the broker receiving custody of a transferred security. The proposed regulations require that a broker transferring a security reflect all necessary adjustments for organizational actions taken through and on the transfer settlement date when completing a transfer statement.

B. Section 1.6045A–1

If a specified security is transferred between brokers, the transferring broker must provide the receiving broker with certain information related to the transferred security that will enable the receiving broker to properly report under section 6045. The existing regulations under § 1.6045A–1(b)(1) list information that must be reported for a transfer of any specified security. The proposed regulations under § 1.6045A–1 modify this existing list by adding information about whether the security was acquired through an equity-based compensation arrangement.

Because debt instruments and options are being added to the definition of specified security under proposed changes to § 1.6045–1(a)(14), the information required to be provided for stock under § 1.6045A–1(b)(1) also will be required to be provided for debt instruments and options. Further, additional data specific to the transfer of a debt instrument or an option is required to be provided. This additional data falls into two broad categories: (1) Data that adequately identifies the

instrument; and (2) data that is specific to the particular customer, particularly trade date and price or premium.

This additional information is required to enable a broker that receives a debt instrument pursuant to a transfer to compute OID, market discount, bond premium, or acquisition premium. The description of the payment terms may be done in any manner that fully describes the debt instrument. The information can be in the form of a table of payments, or may be a description of the payment terms. The use of a single identifier, such as a CUSIP number, that can be used by the transferee broker to identify the security and its related payment terms is also an acceptable means of providing the additional information to the transferee broker.

For an option, a transfer statement must include the date the option was granted or acquired, the amount of the premium, and whether the premium was paid or received. The data also must include any other information required to describe fully the option. This information may be a description of the relevant terms, or it may be an identifier, such as a CUSIP or Options Clearing Corporation number or code that can be used by the transferee broker to identify the security and its related terms.

C. Section 1.6045B–1

Under § 1.6045B–1, if the issuer of a specified security takes an organizational action that affects the basis of the security, the issuer must file an issuer return. A commenter asked for clarification about how this rule applies to option writers, because an organizational action usually is initiated by the issuer of the security underlying an option. The proposed regulations amend § 1.6045B–1 to provide rules for certain option writers if there is an organizational action. If the organizational action results in an option writer replacing the original option contract with a different number of option contracts, the option writer must prepare an issuer return as required by § 1.6045B–1.

Proposed Effective/Applicability Dates

These regulations are proposed to take effect when published in the **Federal Register** as final regulations. In general, the regulations regarding reporting of basis and whether any gain or loss on a sale is long-term or short-term under section 6045(g) are proposed to apply to debt instruments acquired on or after January 1, 2013. The regulations regarding reporting of gross proceeds, basis, and whether any gain or loss on a sale is long-term or short-term under section 6045(h) are proposed to apply to options granted or acquired on or after January 1, 2013.

Special Analyses

It has been determined that this notice of proposed rulemaking is not a significant regulatory action as defined in Executive Order 12866, as supplemented by Executive Order 13563. Therefore, a regulatory assessment is not required. It also has been determined that section 553(b) of the Administrative Procedure Act (5 U.S.C. chapter 5) does not apply to this regulation.

Pursuant to the Regulatory Flexibility Act (5 U.S.C. chapter 6), it is hereby certified that this regulation will not have a significant economic impact on a substantial number of small entities, because any effect on small entities by the rules proposed in this document flows directly from section 403 of the Energy Improvement and Extension Act of 2008, Division B of Public Law 110–343 (122 Stat. 3765, 3854 (2008)).

Section 403(a) of the Act modifies section 6045 to require that brokers report the adjusted basis of the securities and whether any gain or loss with respect to the securities is long-term or short-term when reporting the sale of a covered security. The Act also requires gross proceeds reporting for options. It is anticipated that these statutory requirements will fall only on financial services firms with annual receipts greater than $7 million and, therefore, on no small entities. Further, in implementing the statutory requirements, the regulation proposes to limit reporting to information required under the Act.

Section 403(c) of the Act added section 6045A, which requires applicable persons to furnish a transfer statement in connection with the transfer of custody of a covered security. The proposed modifications to § 1.6045A–1 effectuate the Act by giving the broker who receives the transfer statement the information necessary to determine and report adjusted basis and whether any gain or loss with respect to a debt instrument or option is long-term or short-term as required by section 6045 when the security is subsequently sold. Consequently, the regulation does not add to the impact on small entities imposed by the statutory scheme. Instead, it limits the information to be reported to only those items necessary to effectuate the statutory scheme.

Section 403(d) of the Act added section 6045B, which requires issuer reporting by all issuers of specified securities regardless of size and even when the securities are not publicly traded. The proposed modifications to § 1.6045B–1 limit reporting to the additional information for options necessary to meet the Act's requirements. Additionally, the regulation, as modified, retains the rule that permits an issuer to report each action publicly instead of filing a return and furnishing each nominee or holder a statement about the action. The regulation therefore does not add to the statutory impact on small entities but instead eases this impact to the extent the statute permits.

Therefore, because this regulation will not have a significant economic impact on a substantial number of small entities, a regulatory flexibility analysis is not required. The Treasury Department and IRS request comments on the accuracy of this statement. Pursuant to section 7805(f) of the Code, this regulation has been submitted to the Chief Counsel for Advocacy of the Small Business Administration for comment on its impact on small business.

Comments and Public Hearing

Before these proposed regulations are adopted as final regulations, consideration will be given to any written (a signed original and eight (8) copies) or electronic comments that are timely submitted to the IRS. The IRS and Treasury Department specifically request comments on the clarity of the proposed regulations and how they can be made easier to understand. The IRS and Treasury Department further request comments about suggested changes or improvements to sections of § 1.6045–1 that are not specifically affected by the proposed regulation. The IRS and Treasury Department also request comments on the accuracy of the certification that the regulation in this document will not have a significant economic impact on a substantial number of small entities. All comments will be available for public inspection and copying.

A public hearing has been scheduled for Friday, March 16, 2012, beginning at 10 a.m. in the IRS Auditorium, 1111 Constitution Avenue NW., Washington, DC. Due to building security procedures, visitors must enter through the Constitution Avenue entrance. In addition, all visitors must present photo identification to enter the building. Because of access restrictions, visitors will not be admitted beyond the immediate entrance area more than 30 minutes before the hearing starts. For information about having your name placed on the building access list to attend the hearing, see the **FOR FURTHER**

INFORMATION CONTACT section of this preamble.

The rules of 26 CFR 601.601(a)(3) apply to the hearing. Persons who wish to present oral comments at the hearing must submit written or electronic comments by February 23, 2012 and submit an outline of the topics to be discussed and the time to be devoted to each topic (a signed original and eight (8) copies) by Friday, February 24, 2012. A period of 10 minutes will be allotted to each person for making comments. An agenda showing the scheduling of speakers will be prepared after the deadline for receiving outlines has passed. Copies of the agenda will be available free of charge at the hearing.

Drafting Information

The principal author of these proposed regulations is Pamela Lew, Office of Associate Chief Counsel (Financial Institutions and Products). However, other personnel from the IRS and the Treasury Department participated in their development.

List of Subjects in 26 CFR Part 1

Income taxes, Reporting and recordkeeping requirements.

Proposed Amendments to the Regulations

Accordingly, 26 CFR part 1 is proposed to be amended as follows:

PART 1—INCOME TAXES

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

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

Par. 2. Section 1.6045–1 is amended by:

1. Revising paragraphs (a)(3)(v) and (a)(3)(vi) and adding paragraph (a)(3)(vii).
2. Revising paragraphs (a)(8) and (a)(9).
3. Revising paragraphs (a)(14) and (a)(15)(i)(A).
4. Redesignating paragraph (a)(15)(i)(C) as paragraph (a)(15)(i)(E) and adding new paragraphs (a)(15)(i)(C) and (a)(15)(i)(D).
5. Revising newly redesignated paragraph (a)(15)(i)(E).
6. Adding a new sentence to the end of paragraph (a)(15)(ii).
7. Adding a new paragraph (a)(15)(iv)(E).
8. Adding a new paragraph (a)(17).
9. Revising paragraph (c)(3)(x) and the first two sentences in paragraph (c)(3)(xi)(C).
10. Revising the last sentence of paragraph (c)(4) *Example 9* (i).
11. Adding a sentence at the end of paragraph (d)(2)(i) and revising paragraph (d)(2)(ii).
12. Revising paragraphs (d)(3), (d)(5), (d)(6)(i), and (d)(6)(ii)(A).
13. Revising the heading for paragraph (d)(6)(ii)(B).
14. Revising the sixth and seventh sentences and removing the last sentence in paragraph (d)(6)(vii) *Example 4.*
15. Adding paragraphs (m) and (n).

The additions and revisions read as follows:

§ 1.6045–1 Returns of information of brokers and barter exchanges.

(a) * * *

(3) * * *

(v) An interest in or right to purchase any of the foregoing in connection with the issuance thereof from the issuer or an agent of the issuer or from an underwriter that purchases any of the foregoing from the issuer;

(vi) An interest in a security described in paragraph (a)(3)(i) or (iv) (but not including executory contracts that require delivery of such type of security); or

(vii) An option described in paragraph (m)(1) of this section.

* * * * *

(8) The term *closing transaction* means any cancellation, lapse, expiration, settlement, abandonment, or other termination of a right or an obligation under a forward contract, a regulated futures contract, or an option.

(9) The term *sale* means any disposition of securities, commodities, options, regulated futures contracts, or forward contracts, and includes redemptions of stock, retirements of debt instruments, and enterings into short sales, but only to the extent any of these actions are conducted for cash. In the case of an option, a regulated futures contract, or a forward contract, a sale includes any closing transaction. When a closing transaction in a regulated futures contract involves making or taking delivery, the profit or loss on the contract is a sale and the delivery is a separate sale. When a closing transaction in a forward contract involves making or taking delivery, the delivery is a sale without separating the profit or loss on the contract from the profit or loss on the delivery, except that taking delivery for United States dollars is not a sale. The term *sale* does not include entering into a contract that requires delivery of personal property or an interest therein, the initial grant or purchase of an option, or the exercise of a call option for physical delivery. For purposes of this section only, a constructive sale under section 1259 and a mark to fair market value under section 475 or 1296 are not sales.

* * * * *

(14) The term *specified security* means:

(i) Any share of stock (or any interest treated as stock, including, for example, an American Depositary Receipt) in an entity organized as, or treated for Federal tax purposes as, a corporation, either foreign or domestic (Solely for purposes of this paragraph (a)(14)(i), a security classified as stock by the issuer is treated as stock. If the issuer has not classified the security, the security is not treated as stock unless the broker knows that the security is reasonably classified as stock under general Federal tax principles.);

(ii) Any debt instrument described in paragraph (a)(17) of this section; or

(iii) Any option described in paragraph (m)(1) of this section.

(15) * * *

(i) * * *

(A) A specified security described in paragraph (a)(14)(i) of this section acquired for cash in an account on or after January 1, 2011, except stock for which the average basis method is available under § 1.1012–1(e).

* * * * *

(C) A debt instrument described in paragraph (a)(14)(ii) of this section acquired for cash in an account on or after January 1, 2013.

(D) An option described in paragraph (a)(14)(iii) of this section granted or acquired for cash in an account on or after January 1, 2013.

(E) A specified security transferred to an account if the broker or other custodian of the account receives a transfer statement (as described in § 1.6045A–1) reporting the security as a covered security.

(ii) * * * Acquiring a security in an account includes a security that represents a liability (for example, granting an option).

* * * * *

(iv) * * *

(E) A debt instrument that is described in paragraph (n)(2)(ii) of this section.

* * * * *

(17) For purposes of this section, the terms *debt instrument, bond, debt obligation,* and *obligation* mean a debt instrument as defined in § 1.1275–1(d) and any instrument or position that is treated as a debt instrument under a specific provision of the Internal Revenue Code (for example, a regular interest in a REMIC as defined in section 860G(a)(1) and § 1.860G–1). Solely for purposes of this section, a security classified as debt by the issuer

is treated as debt. If the issuer has not classified the security, the security is not treated as debt unless the broker knows that the security is reasonably classified as debt under general Federal tax principles or that the instrument or position is treated as a debt instrument under a specific provision of the Internal Revenue Code.

* * * * *

(c) * * *

(3) * * *

(x) *Certain retirements.* No return of information is required from an issuer or its agent with respect to the retirement of book entry or registered form debt instruments issued before January 1, 2013, as to which the relevant books and records indicate that no interim transfers have occurred.

(xi) * * *

(C) *Short sale obligation transferred to another account.* If a short sale obligation is satisfied by delivery of a security transferred into a customer's account accompanied by a transfer statement (as described in § 1.6045A–1(b)(7)) indicating that the security was borrowed, the broker receiving custody of the security may not file a return of information under this section. The receiving broker must furnish a statement to the transferor that reports the amount of gross proceeds received from the short sale, the date of the sale, the quantity of shares, units, or amounts sold, and the Committee on Uniform Security Identification Procedures (CUSIP) number of the sold security (if applicable) or other security identifier number that the Secretary may designate by publication in the **Federal Register** or in the Internal Revenue Bulletin (see § 601.601(d)(2) of this chapter). * * *

* * * * *

(4) * * *

Example 9. * * *

(i) * * * N indicates on the transfer statement that the transferred stock was borrowed in accordance with § 1.6045A–1(b)(7).

* * * * *

(d) * * *

(2) * * *

(i) * * * See paragraph (m) of this section for additional rules related to options and paragraph (n) of this section for additional rules related to debt instruments.

(ii) *Specific identification of securities.* Except as provided in § 1.1012–1(e)(7)(ii), for securities described in paragraph (a)(14)(i) of this section sold on or after January 1, 2011, or securities described in paragraphs (a)(14)(ii) and (a)(14)(iii) of this section sold on or after January 1, 2013, a broker must report a sale of less than the entire position in an account of a specified security that was acquired on different dates or at different prices consistently with a customer's adequate and timely identification of the security to be sold. *See* § 1.1012–1(c). If the customer does not provide an adequate and timely identification for the sale, the broker must first report the sale of securities in the account for which the broker does not know the acquisition or purchase date followed by the earliest securities purchased or acquired, whether covered securities or noncovered securities.

* * * * *

(3) *Sales between interest payment dates.* For each sale of a debt instrument prior to maturity with respect to which a broker is required to make a return of information under this section, a broker must show separately on Form 1099 the amount of accrued and unpaid interest as of the sale date that must be reported by the customer as interest income under § 1.61–7(d) (but not the amount of any market discount on a noncovered security or original issue discount). Such interest information must be shown in the manner and at the time required by Form 1099 and section 6049.

* * * * *

(5) *Gross proceeds.* For purposes of this section, *gross proceeds* on a sale are the total amount paid to the customer or credited to the customer's account as a result of the sale reduced by the amount of any stated interest reported under paragraph (d)(3) of this section and increased by any amount not paid or credited by reason of repayment of margin loans. In the case of a closing transaction that results in a loss, gross proceeds are the amount debited from the customer's account. For sales before January 1, 2013, a broker may, but is not required to, reduce gross proceeds by the amount of commissions and transfer taxes, provided the treatment chosen is consistent with the books of the broker. For sales on or after January 1, 2013, a broker must reduce gross proceeds by the amount of commissions and transfer taxes related to the sale of the security. For securities sold pursuant to the exercise of an option granted or acquired before January 1, 2013, a broker may, but is not required to, take the option premiums into account in determining the gross proceeds of the securities sold, provided the treatment chosen is consistent with the books of the broker. For securities sold pursuant to the exercise of an option granted or acquired on or after January 1, 2013, see paragraph (m) of this section. A broker must report the gross proceeds of identical stock (within the meaning of § 1.1012–1(e)(4)) by averaging the proceeds of each share if the stock is sold at separate times on the same calendar day in executing a single trade order and the broker executing the trade provides a single confirmation to the customer that reports an aggregate total price or an average price per share. However, a broker may not average the proceeds if the customer notifies the broker in writing of an intent to determine the proceeds of the stock by the actual proceeds per share and the broker receives the notification by January 15 of the calendar year following the year of the sale. A broker may extend the January 15 deadline but not beyond the due date for filing the return required under this section.

(6) *Adjusted basis*—(i) *In general.* For purposes of this section, the adjusted basis of a security is determined from the initial basis under paragraph (d)(6)(ii) of this section as of the date the security is acquired in an account, increased by the commissions and transfer taxes related to its sale to the extent not accounted for in gross proceeds as described in paragraph (d)(5) of this section. A broker is not required to consider transactions, elections, or events occurring outside the account except for an organizational action taken by an issuer during the period the broker holds custody of the security (not including the settlement date that the broker received a transferred security) reported on an issuer statement (as described in § 1.6045B–1) furnished or deemed furnished to the broker. For rules related to the adjusted basis of a debt instrument, see paragraph (n) of this section.

(ii) *Initial basis*—(A) *Cost basis.* For a security acquired for cash, the initial basis generally is the total amount of cash paid by the customer or credited against the customer's account for the security, increased by the commissions and transfer taxes related to its acquisition. A broker may, but is not required to, take option premiums into account in determining the initial basis of securities purchased or acquired pursuant to the exercise of an option granted or acquired before January 1, 2013. For rules related to options granted or acquired on or after January 1, 2013, see paragraph (m) of this section. A broker may, but is not required to, increase initial basis for income recognized upon the exercise of a compensatory option or the vesting or exercise of other equity-based compensation arrangements. A broker must report the basis of identical stock (within the meaning of § 1.1012–1(e)(4))

by averaging the basis of each share if the stock is purchased at separate times on the same calendar day in executing a single trade order and the broker executing the trade provides a single confirmation to the customer that reports an aggregate total price or an average price per share. However, a broker may not average the basis if the customer timely notifies the broker in writing of an intent to determine the basis of the stock by the actual cost per share in accordance with § 1.1012–1(c)(1)(ii).

(B) *Basis of transferred securities*

* * *

* * * * *

(vii) * * *

Example 4. * * * Under paragraph (d)(6)(ii)(A) of this section, C is permitted, but not required, to determine adjusted basis from the amount R pays under the terms of the option. Under paragraph (d)(6)(ii)(A) of this section, C is permitted, but not required, to adjust basis for any amount R must include as wage income with respect to the October 2, 2013, stock purchase.

* * * * *

(m) *Additional rules for option transactions*—(1) *Scope.* This paragraph (m) applies to the following types of options granted or acquired on or after January 1, 2013:

(i) An option on one or more specified securities. For purposes of this paragraph (m), the phrase *one or more specified securities* includes an index substantially all the components of which are specified securities, and the term *option* includes a warrant or a stock right.

(ii) An option on financial attributes of specified securities, such as interest rates or dividend yields.

(2) *Physically settled option.* If a covered security is acquired or disposed of pursuant to the exercise of an option that was granted or acquired in the same account as the covered security, a broker must adjust the basis of the acquired asset or the gross proceeds amount as appropriate to account for any premium related to the option.

(3) *Rules for an option that is not physically settled.* For purposes of paragraph (d) of this section, for an option that is not physically settled and is sold (as defined in paragraph (a)(9) of this section), the following rules apply:

(i) *Gross proceeds.* A broker must increase gross proceeds for all payments received on the option and decrease gross proceeds for all payments paid on the option.

(ii) *Long-term or short-term gain or loss.* For purposes of paragraph (d)(7) of this section, when determining if any gain or loss is long-term or short-term within the meaning of section 1222, a broker must apply the rules described in sections 1234 and 1234A.

(4) *Rules for warrants and stock rights.* For a right to acquire stock (including a warrant) received in the same account as the underlying equity in a distribution that is described in section 305(a), a broker must determine basis in the option in accordance with the rules described in sections 305 and 307. Upon exercise or sale of a warrant or stock right, a broker must account for the warrant or stock right as if it were purchased and must treat as premium paid any basis allocated to the warrant or stock right.

(5) *Example.* The following example illustrates the rules in this paragraph (m):

Example. (i) On January 15, 2013, C, an individual, sells a 2-year exchange-traded option on 100 shares of Company X through Broker D. C receives a premium for the option of $100 and pays no commission. In C's hands, Company X stock is a capital asset. On December 16, 2013, C pays $110 to close out the option.

(ii) D is required to report information about the closing transaction because the option is on a covered security as described in paragraph (a)(15)(i)(D) of this section and was part of a closing transaction described in paragraph (a)(8) of this section. D will report as gross proceeds the net of the $100 received as option premium minus the $110 C paid to close out the option, for a total of −$10. Under the rules of section 1234(b)(1) and paragraph (d)(2) of this section, D will also report that the loss on the closing transaction is a short-term loss.

(6) *Multiple options documented in a single contract.* If more than one option described in paragraph (m)(1) of this section is documented in a single contract, a broker must separately report the required information for each option as that option is sold.

(n) *Reporting for bond transactions*—(1) *In general.* For purposes of paragraph (d) of this section, this paragraph (n) provides rules for brokers to determine and report information for a debt instrument.

(2) *Scope*—(i) *In general.* Except as provided in paragraph (n)(2)(ii) of this section, this paragraph (n) applies to a debt instrument that is a covered security under paragraph (a)(15)(i)(C) of this section.

(ii) *Excluded debt instruments.* A debt instrument subject to section 1272(a)(6) (certain interests in or mortgages held by a REMIC, certain other debt instruments with payments subject to acceleration, and pools of debt instruments the yield on which may be affected by prepayments) is not a covered security.

(3) *Reporting of accrued market discount.* In addition to the information required to be reported under paragraph (d) of this section, if a debt instrument is subject to the market discount rules in sections 1276 through 1278, a broker also must report the amount of market discount that has accrued on the debt instrument as of the date of the sale. A broker must compute the accruals of market discount by assuming that the customer elected to use the constant interest rate method under section 1276(b)(2) for the taxable year in which the customer acquired the debt instrument. See paragraph (n)(5) of this section to determine the accrual period to be used to compute the accruals of market discount.

(4) *Adjusted basis.* For purposes of this section, a broker must use the rules in this paragraph (n)(4) to determine the adjusted basis of a debt instrument. To the extent the rules in this paragraph (n)(4) are inconsistent with the rules in paragraph (d)(6) of this section, the rules in this paragraph (n)(4) control.

(i) *Original issue discount.* If a debt instrument is subject to the original issue discount rules in sections 1271 through 1275 and section 6049, a broker must increase a customer's basis in the debt instrument by the amount of original issue discount reported to the customer under section 6049 for each year the debt instrument is held by the customer in the account. If the debt instrument is not subject to section 6049 or is a tax-exempt debt instrument subject to section 1288, the broker must increase the customer's basis in the debt instrument by the amount of original issue discount that accrued on the debt instrument while held by the customer in the account. To determine this amount, the broker must use the accrual period required under paragraph (n)(5) of this section.

(ii) *Bond premium.* If a debt instrument is subject to the bond premium rules in section 171, a broker must decrease a customer's basis in the debt instrument by the amount of bond premium allocable to the period the debt instrument is held by the customer in the account. In the case of a taxable debt instrument, a broker must compute any basis adjustment for bond premium by assuming that the customer elected to amortize bond premium under section 171 (c) for the taxable year in which the customer acquired the debt instrument and that such election remained in effect for all subsequent years.

(iii) *Acquisition premium.* If a debt instrument is acquired at an acquisition premium (as determined under § 1.1272–2(b)(3)), a broker must decrease the customer's basis in the debt instrument by the amount of acquisition

premium that is taken into account each year to reduce the amount of the original issue discount that is otherwise includible in the customer's income for that year. *See* § 1.1272–2(b)(4) to determine the amount of the acquisition premium taken into account each year.

(iv) *Principal and certain other payments.* A broker must decrease the customer's basis by the amount of any payment made to the customer during the period the debt instrument is held in the account, other than a payment of qualified stated interest as defined in § 1.1273–1(c).

(5) *Accrual period.* If a debt instrument is subject both to the original issue discount and the market discount rules, a broker must use the same accrual period that is used to determine the original issue discount reported to the customer under section 6049 to compute accruals of market discount. In any other situation, a broker must use an annual accrual period or, if there are scheduled payments of principal or interest at regular intervals of one year or less over the entire term of the debt instrument, a broker must use an accrual period equal in length to this interval. For example, if a debt instrument provides for semiannual payments of interest over the entire term of the debt instrument, the broker should use a semiannual accrual period.

(6) *Broker assumptions not controlling for customer.* The rules in this paragraph (n) only apply for purposes of a broker's reporting obligation under section 6045. A customer is not bound by the assumptions that the broker uses to satisfy the broker's reporting obligations under section 6045.

* * * * *

Par. 3. Section 1.6045A–1 is amended by:

1. Revising paragraphs (b)(1) introductory text and (b)(1)(v).
2. Redesignating paragraphs (b)(2) through (b)(9) as paragraphs (b)(5) through (b)(12) respectively.
3. Redesignating paragraph (b)(1)(viii) as paragraph (b)(2).
4. Revising the introductory text to the examples in newly redesignated paragraph (b)(2).
5. Revising newly redesignated paragraph (b)(5).
6. Revising the first and last sentences of newly redesignated paragraph (b)(6).
7. Revising newly redesignated paragraph (b)(8)(ii).
8. Revising the first sentence of newly redesignated paragraph (b)(9)(ii).
9. Revising the introductory text to the examples in newly redesignated paragraph (b)(9)(iii), the fifth sentence of paragraph (b)(9)(iii) *Example 1,* and the second sentence of paragraph (b)(9)(iii) *Example 2.*
10. Revising the last sentence of newly redesignated paragraph (b)(10).
11. Adding new paragraphs (b)(1)(viii), (b)(3) and (b)(4).
12. Revising paragraph (d).

The additions and revisions read as follows:

§ 1.6045A–1 Statements of information required in connection with transfers of securities.

* * * * *

(b) *Information required*—(1) *In general.* For all specified securities, each transfer statement must include the information described in this paragraph (b)(1).

* * * * *

(v) *Security identifiers.* The Committee on Uniform Security Identification Procedures (CUSIP) number of the security transferred (if applicable) or other security identifier number that the Secretary may designate by publication in the **Federal Register** or in the Internal Revenue Bulletin (*see* § 601.601(d)(2) of this chapter), quantity of shares, units, or amounts, and classification of the security (such as stock).

* * * * *

(viii) *Relationship to a compensation arrangement.* Whether the security was received in connection with the exercise of a compensatory option or the vesting or exercise of any other equity-based compensation arrangement and whether basis has been adjusted for any compensation income.

(2) *Examples.* The following examples illustrate the rules of paragraph (b)(1) of this section:

* * * * *

(3) *Additional information required for a transfer of a debt instrument.* In addition to the information required in paragraph (b)(1) of this section, for a transfer of a debt instrument that is a covered security, the following additional information is required:

(i) A description of the payment terms;

(ii) The issue price of the debt instrument;

(iii) The issue date of the debt instrument;

(iv) The adjusted issue price of the debt instrument as of the transfer date;

(v) The customer's initial basis in the debt instrument;

(vi) The yield used to compute any accruals of original issue discount, bond premium, and/or market discount;

(vii) Any market discount that has accrued as of the transfer date (as determined under § 1.6045–1(n)); and

(viii) Any bond premium that has been amortized as of the transfer date (as determined under § 1.6045–1(n)).

(4) *Additional information required for option transfers.* In addition to the information required in paragraph (b)(1) of this section, for a transfer of an option that is a covered security, the following additional information is required:

(i) The date of grant or acquisition of the option;

(ii) The amount of premium paid or received; and

(iii) Any other information required to fully describe the option.

(5) *Format of identification.* An applicable person furnishing a transfer statement and a broker receiving the transfer statement may agree to combine the information required in paragraphs (b)(1), (b)(3), and (b)(4) of this section in any format or to use a code in place of one or more required items. For example, a transferor and a receiving broker may agree to use a single code to represent the broker instead of the broker's name, address, and telephone number, or may use a security symbol or other identification number or scheme instead of the security identifier required by paragraphs (b)(1), (b)(3), and (b)(4) of this section.

(6) *Transfers of noncovered securities.* The information described in paragraphs (b)(1)(vii), (b)(8), and (b)(9) of this section is not required for a transfer of a noncovered security if the transfer statement identifies the security as a noncovered security. * * * For purposes of this paragraph (b)(6), a transferor must treat a security for which a broker makes a single-account election described in § 1.1012–1(e)(11)(i) as a covered security.

* * * * *

(8) * * *

(ii) *Transfers of shares to satisfy a cash legacy.* If a security is transferred from a decedent or a decedent's estate to satisfy a cash legacy, paragraph (b)(1) of this section applies and paragraph (b)(8)(i) of this section does not apply.

* * * * *

(9) * * *

(ii) *Subsequent transfers of gifts by the same customer.* If a transferor transfers to a different account of the same customer a security that a prior transfer statement reported as a gifted security, the transferor must include on the transfer statement the information described in paragraph (b)(9)(i) of this section for the date of the gift to the customer. * * *

(iii) *Examples.* The following examples illustrate the rules of this paragraph (b)(9):

Example 1. * * * Under paragraph (b)(9)(i) of this section, S must provide a

transfer statement to T that identifies the securities as gifted securities and indicates X's adjusted basis and original acquisition date. * * *

Example 2. * * * Under paragraph (b)(9)(ii) of this section, T must provide a transfer statement to U that identifies the securities as gifted securities and indicates X's adjusted basis and original acquisition date of the stock. * * *

(10) * * * If the customer does not provide an adequate and timely identification for the transfer, a transferor must first report the transfer of any securities in the account for which the transferor does not know the acquisition or purchase date followed by the earliest securities purchased or acquired, whether covered securities or noncovered securities.

* * * * *

(d) *Effective/applicability dates.* This section applies to:

(1) A transfer on or after January 1, 2011, of stock other than stock in a regulated investment company within the meaning of § 1.1012–1(e)(5);

(2) A transfer of stock in a regulated investment company on or after January 1, 2012; and

(3) A transfer of a debt instrument or an option on or after January 1, 2013.

Par. 4. Section 1.6045B–1 is amended by redesignating paragraph (h) as paragraph (j), adding new paragraphs (h) and (i), and revising newly-designated paragraph (j) to read as follows:

§ 1.6045B–1 Returns relating to actions affecting basis of securities.

* * * * *

(h) *Rule for options*—(1) *In general.* For an option granted or acquired on or after January 1, 2013, if the original contract is replaced by a different number of option contracts, the option writer is the issuer of the option for purposes of section 6045B and the option writer must prepare an issuer return.

(2) *Example.* The following example illustrates the rule of paragraph (h)(1) of this section:

Example. On January 15, 2013, F, an individual, purchases a one-year exchange-traded call option on 100 shares of Company X stock, with a strike price of $110. The call option is cleared through Clearinghouse G. Company X undertakes a 2-for-1 stock split as of April 1, 2013. Due to the stock split, the terms of F's option are altered, resulting in two option contracts, each on 100 shares of Company X stock with a strike price of $55. All other terms of F's option remain the same. Under paragraph (h)(1) of this section, Clearinghouse G is required to prepare an issuer report to F.

(i) [Reserved]

(j) *Effective/applicability dates.* This section applies to—

(1) Organizational actions occurring on or after January 1, 2011, that affect the basis of specified securities within the meaning of § 1.6045–1(a)(14)(i) other than stock in a regulated investment company within the meaning of § 1.1012–1(e)(5);

(2) Organizational actions occurring on or after January 1, 2012, that affect stock in a regulated investment company;

(3) Organizational actions occurring on or after January 1, 2013, that affect debt instruments described in § 1.6045–1(a)(14)(ii), and

(4) Actions occurring on or after January 1, 2013, that affect options described in § 1.6045–1(a)(14)(iii).

Steven T. Miller,

Deputy Commissioner for Services and Enforcement.

[FR Doc. 2011–30383 Filed 11–22–11; 4:15 pm]

BILLING CODE 4830–01–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

44 CFR Part 67

[Docket ID FEMA–2011–0002; Internal Agency Docket No. FEMA–B–1232]

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 February 23, 2012.

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–1232, 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 (email) *Luis.Rodriguez3@fema.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 (email) *Luis.Rodriguez3@fema.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:

State	City/town/county	Source of flooding	Location **	* Elevation in feet (NGVD) + Elevation in feet (NAVD) # Depth in feet above ground ∧ Elevation in meters (MSL)	
				Existing	Modified
Town of Richland, New York					
New York	Town of Richland ..	Lake Ontario	Entire shoreline within Selkirk Shores State Park boundary.	None	+249
New York	Town of Richland ..	South Branch Grindstone Creek (backwater effects from Lake Ontario).	Areas within Selkirk Shores State Park boundary.	None	+249

* 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

Town of Richland
Maps are available for inspection at the Town of Richland Courthouse Building, 1 Bridge Street, Pulaski, NY 13142.

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
		Existing	Modified	
Middlesex County, Connecticut (All Jurisdictions)				
Long Island Sound	Approximately 1,000 feet south of the intersection of U.S. Route 1 and Chapman Beach Drive.	+9	+10	Borough of Fenwick, Town of Clinton, Town of Old Saybrook, Town of Westbrook.
	Approximately 400 feet southeast of the intersection of Hartlands Drive and Sea Lane No. 1.	+15	+24	

* 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

Borough of Fenwick
Maps are available for inspection at the Fenwick Borough Municipal Office, 580 Maple Avenue, Old Saybrook, CT 06475.

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
		Existing	Modified	

Town of Clinton
Maps are available for inspection at the Town Hall, 54 East Main Street, Clinton, CT 06413.

Town of Old Saybrook
Maps are available for inspection at the Town Hall, 302 Main Street, Old Saybrook, CT 06475.

Town of Westbrook
Maps are available for inspection at the Town Hall, 866 Boston Post Road, Westbrook, CT 06498.

Allegheny County, Pennsylvania (All Jurisdictions)

Graesers Run	At the McLaughlin Run confluence	+986	+989	Borough of Bethel Park, Township of Upper St. Clair.
	Approximately 1,720 feet upstream of Brookside Boulevard.	None	+1025	
McLaughlin Run	Approximately 50 feet upstream of the Chartiers Creek confluence.	+801	+802	Borough of Bethel Park, Borough of Bridgeville, Township of Upper St. Clair.
	Approximately 1,330 feet upstream of Bethel Church Road.	None	+1017	
Plum Creek	Approximately 220 feet upstream of Allegheny River Boulevard.	+743	+742	Borough of Oakmont, Borough of Plum, Borough of Verona, Township of Penn Hills.
	Approximately 280 feet upstream of Saltsburg Road ..	None	+1018	

* 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

Borough of Bethel Park
Maps are available for inspection at the Municipal Building, 5100 West Library Avenue, Bethel Park, PA 15102.

Borough of Bridgeville
Maps are available for inspection at the Municipal Building, 425 Bower Hill Road, Bridgeville, PA 15017.

Borough of Oakmont
Maps are available for inspection at the Borough Office, 767 5th Street, Oakmont, PA 15139.

Borough of Plum
Maps are available for inspection at the Plum Borough Municipal Building, 4575 New Texas Road, Pittsburgh, PA 15239.

Borough of Verona
Maps are available for inspection at the Municipal Building, 736 East Railroad Avenue, Verona, PA 15147.

Township of Penn Hills
Maps are available for inspection at the Municipal Building, 12245 Frankstown Road, Penn Hills, PA 15234.

Township of Upper St. Clair
Maps are available for inspection at the Municipal Building, 1830 McLaughlin Run Road, Upper St. Clair, PA 15241.

Monroe County, Pennsylvania (All Jurisdictions)

Appenzell Creek	Approximately 100 feet upstream of the McMichaels Creek confluence.	+485	+486	Township of Hamilton, Township of Jackson.
	Approximately 975 feet upstream of LR 45056	None	+871	
Aquashicola Creek	At the Carbon County Boundary (approximately 2.2 miles downstream of Lower Smith Gap Road).	None	+467	Township of Eldred, Township of Ross.
	Approximately 1.2 miles upstream of the most upstream Upper Smith Gap Road crossing.	+579	+580	
Brodhead Creek Reach 1	At the Delaware River confluence	+321	+323	Township of Smithfield.
	Approximately 0.5 mile upstream of State Route 2028	+321	+323	
Buck Hill Creek	Approximately 160 feet upstream of the Brodhead Creek Reach 2 and Middle Branch Tributary confluence.	+1018	+1017	Township of Barrett, Township of Coolbaugh.

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
		Existing	Modified	
	Approximately 2.2 miles upstream of State Route 191	None	+2012	
Bushkill Creek	Approximately 1,100 feet downstream of Club House Drive.	+471	+470	Township of Middle Smithfield.
	Approximately 1,130 feet upstream of State Route 402.	None	+756	
Cherry Creek	At the Delaware River confluence	+321	+323	Borough of Delaware Water Gap, Township of Hamilton, Township of Smithfield, Township of Stroud.
	Approximately 1,250 feet upstream of Spring Mountain Lane.	None	+635	
Cranberry Creek at Paradise	At the upstream side of Browns Hill Road	+706	+715	Township of Paradise.
	Approximately 200 feet upstream of Snowbird Lane	None	+1092	
Cranberry Creek at Pocono	At the Pocono Creek confluence	+794	+796	Township of Pocono.
	Approximately 580 feet downstream of State Route 611.	+818	+817	
Delaware River	Approximately 1.3 miles downstream of I–80	+312	+315	Borough of Delaware Water Gap, Township of Middle Smithfield, Township of Smithfield.
	Approximately 14.8 miles upstream of I–80	None	+357	
Kettle Creek	At the Appenzell Creek confluence	+493	+491	Township of Hamilton.
	Approximately 200 feet upstream of the Appenzell Creek confluence.	+493	+492	
Lehigh River Reach 2	Approximately 1.4 miles downstream of State Route 4003.	None	+1512	Township of Coolbaugh, Township of Tobyhanna.
	Approximately 780 feet upstream of T–303	None	+1617	
Marshalls Creek	At the Brodhead Creek Reach 1 confluence	+321	+323	Township of Middle Smithfield, Township of Smithfield.
	Approximately 2.6 miles upstream of Wooddale Road	None	+1144	
Pocono Creek	Approximately 1,000 feet upstream of the McMichaels Creek confluence.	+415	+416	Borough of Stroudsburg, Township of Hamilton, Township of Pocono, Township of Stroud.
	Approximately 0.8 mile upstream of Wilke Road	None	+1441	
Sambo Creek	Approximately 60 feet downstream of the railroad	None	+444	Township of Stroud.
	Approximately 1,500 feet upstream of State Route 447 (extended).	None	+451	
Scot Run	At the Pocono Creek confluence	+948	+955	Township of Pocono.
	Approximately 450 feet downstream of State Route 611.	+954	+955	
Shawnee Creek Reach 1	At the Delaware River confluence	+325	+326	Township of Smithfield.
	Approximately 100 feet upstream of River Road	+325	+326	
Swiftwater Creek	Approximately 1,580 feet downstream of State Route 314.	+1162	+1163	Township of Pocono, Township of Tobyhanna.
	Approximately 2.7 miles upstream of Lake Minausin Dam.	None	+1736	
Tributary 4 to Pocono Creek	At the Pocono Creek confluence	+865	+861	Township of Pocono.
	Approximately 110 feet downstream of Alger Avenue	+866	+865	

* 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

Borough of Delaware Water Gap
Maps are available for inspection at the Municipal Building, 49 Main Street, Delaware Water Gap, PA 18327.

Borough of Stroudsburg
Maps are available for inspection at the Municipal Building, 700 Sarah Street, Stroudsburg, PA 18360.

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
		Existing	Modified	

Township of Barrett
Maps are available for inspection at the Barrett Township Hall, 993 State Route 390, Cresco, PA 18326.

Township of Coolbaugh
Maps are available for inspection at the Coolbaugh Township Municipal Center, 5550 Memorial Boulevard, Tobyhanna, PA 18466.

Township of Eldred
Maps are available for inspection at the Eldred Township Office, 490 Kunkletown Road, Kunkletown, PA 18058.

Township of Hamilton
Maps are available for inspection at the Hamilton Township Municipal Building, Fenner Avenue, Sciota, PA 18354.

Township of Jackson
Maps are available for inspection at the Jackson Township Municipal Building, 2162 State Route 715, Stroudsburg, PA 18360.

Township of Middle Smithfield
Maps are available for inspection at the Middle Smithfield Township Office, Schoonover Municipal Building, 25 Municipal Drive, East Stroudsburg, PA 18301.

Township of Paradise
Maps are available for inspection at the Paradise Township Municipal Building, 5912 Paradise Valley Road, Cresco, PA 18326.

Township of Pocono
Maps are available for inspection at the Pocono Township Municipal Building, State Route 611, Tannersville, PA 18372.

Township of Ross
Maps are available for inspection at the Ross Township Municipal Building, 258 Anchorage Road, Saylorsburg, PA 18353.

Township of Smithfield
Maps are available for inspection at the Smithfield Township Municipal Building, 1155 Red Fox Road, East Stroudsburg, PA 18301.

Township of Stroud
Maps are available for inspection at the Stroud Township Municipal Center, 1211 North 5th Street, Stroudsburg, PA 18360.

Township of Tobyhanna
Maps are available for inspection at the Tobyhanna Township Municipal Building, 105 Government Center Way, Pocono Pines, PA 18350.

Susquehanna County, Pennsylvania (All Jurisdictions)

Choconut Creek	Approximately 0.9 mile downstream of Kellum Road	+1039	+1038	Township of Choconut.
	Approximately 1,430 feet upstream of State Route 267.	None	+1275	
DuBois Creek	At the Susquehanna River confluence	+873	+875	Borough of Hallstead, Township of Great Bend.
	Approximately 1.2 miles upstream of Steam Hollow Road.	+1038	+1036	
Dundaff Creek	At the East Branch Tunkhannock Creek confluence	+1052	+1047	Township of Clifford.
	Approximately 0.6 mile upstream of State Route 106	+1099	+1093	
East Branch Tunkhannock Creek.	Approximately 0.8 mile downstream of LR 57037	+964	+963	Township of Clifford, Township of Lenox.
	Approximately 1.7 miles upstream of State Route 106	+1081	+1083	
Salt Lick Creek	At the Susquehanna River confluence	+875	+877	Borough of Hallstead, Borough of New Milford, Township of Great Bend, Township of New Milford.
	Approximately 0.4 mile upstream of State Route 1012	None	+1273	
Starrucca Creek	At the Susquehanna River confluence	+909	+911	Borough of Lanesboro.
	At North Main Street	+909	+911	
Susquehanna River	At the downstream New York state boundary	None	+872	Borough of Great Bend, Borough of Hallstead, Borough of Lanesboro, Borough of Oakland, Borough of Susquehanna Depot, Township of Great Bend, Township of Harmony, Township of Oakland.
	At the upstream New York state boundary	+914	+918	
Trowbridge Creek	At the Susquehanna River confluence	+873	+874	Township of Great Bend.
	At the New York state boundary	+981	+982	

* National Geodetic Vertical Datum.
+ North American Vertical Datum.
# Depth in feet above ground.

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
		Existing	Modified	

∧ 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

Borough of Great Bend
Maps are available for inspection at the Borough Building, 81 Elizabeth Street, Great Bend, PA 18821.

Borough of Hallstead
Maps are available for inspection at the Municipal Building, 101 Franklin Avenue, Hallstead, PA 18822.

Borough of Lanesboro
Maps are available for inspection at the Borough Hall, 418 Main Street, Lanesboro, PA 18827.

Borough of New Milford
Maps are available for inspection at the Borough Office, 948 Main Street, Suite 1, New Milford, PA 18834.

Borough of Oakland
Maps are available for inspection at the Oakland Borough Building, 15 Wilson Avenue, Susquehanna, PA 18847.

Borough of Susquehanna Depot
Maps are available for inspection at the Susquehanna Depot Borough Hall, 83 Erie Boulevard, Suite A, Susquehanna, PA 18847.

Township of Choconut
Maps are available for inspection at the Choconut Township Hall, 26499 State Route 267, Friendsville, PA 18818.

Township of Clifford
Maps are available for inspection at the Township Building, 119 Cemetery Street, Clifford, PA 18441.

Township of Great Bend
Maps are available for inspection at the Great Bend Township Building, 33253 State Route 151, Susquehanna, PA 18847.

Township of Harmony
Maps are available for inspection at the Harmony Township Office, 4197 Starrucca Creek Road, Susquehanna, PA 18847.

Township of Lenox
Maps are available for inspection at the Lenox Township Municipal Building, 2811 State Route 92, Kingsley, PA 18826.

Township of New Milford
Maps are available for inspection at the Township Building, 19730 State Route 11, New Milford, PA 18834.

Township of Oakland
Maps are available for inspection at the Oakland Township Building, 36 Riverside Drive, Susquehanna, PA 18847.

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

Dated: November 14, 2011.

Sandra K. Knight,

Deputy Associate Administrator for Mitigation, Department of Homeland Security, Federal Emergency Management Agency.

[FR Doc. 2011–30304 Filed 11–23–11; 8:45 am]

BILLING CODE 9110–12–P

DEPARTMENT OF TRANSPORTATION

Pipeline and Hazardous Materials Safety Administration

49 CFR Part 192

[Docket No. PHMSA–2011–0009]

RIN 2137–AE71

Pipeline Safety: Expanding the Use of Excess Flow Valves in Gas Distribution Systems to Applications Other Than Single-Family Residences

AGENCY: Pipeline and Hazardous Materials Safety Administration (PHMSA), DOT.

ACTION: Advance notice of proposed rulemaking (ANPRM).

SUMMARY: The National Transportation Safety Board (NTSB) has made a safety recommendation to PHMSA that excess flow valves be installed in all new and renewed gas service lines, regardless of a customer's classification, when the operating conditions are compatible with readily available valves. In response to that recommendation, PHMSA is seeking public comment on several issues relating to the expanded use of excess flow valves (EFVs) in gas distribution systems. PHMSA is also interested in seeking comment from gas distribution system operators on their experiences using EFVs, particularly from a cost-benefit perspective.

DATES: Persons interested in submitting written comments on this ANPRM must do so by February 18, 2012. PHMSA will consider late filed comments so far as practicable.

ADDRESSES: You may submit comments identified by the docket number PHMSA–2011–0009 by any of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the online instructions for submitting comments.
- *Fax:* 1–(202) 493–2251.

• *Mail:* Hand Delivery: U.S. Department of Transportation (DOT), Docket Management System, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590–0001 between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

Instructions: If you submit your comments by mail, submit two copies. To receive confirmation that PHMSA received your comments, include a self-addressed stamped postcard.

Note: Comments are posted without changes or edits to *http://www.regulations.gov,* including any personal information provided. There is a privacy statement published on *http://www.regulations.gov.*

Privacy Act Statement

Anyone can search the electronic form of comments received in response to any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, *etc.*). DOT's complete Privacy Act Statement was published in the **Federal Register** on April 11, 2000 (65 FR 19477).

FOR FURTHER INFORMATION CONTACT: Mike Israni, by telephone at (202) 366–4571, by fax at (202) 366–4566, or by mail at DOT, PHMSA, 1200 New Jersey Avenue SE., PHP–1, Washington, DC 20590–0001.

SUPPLEMENTARY INFORMATION:

I. Background

Congress authorized Federal regulation of gas pipeline facilities and PHMSA has statutory authority to prescribe safety standards and practices for gas pipeline facilities. That authorization is codified in the Pipeline Safety Regulations (PSR) (49 U.S.C. 60101 *et seq.*), a series of statutes that are administered by the DOT, PHMSA.

On October 24, 1992, Congress enacted the Pipeline Safety Act (PSA) of 1992 (Pub. L. 102–508). Section 104 of the PSA (codified as amended at 49 U.S.C. 60110) stated, in relevant part:

(1) Not later than 18 months after the date of the enactment of this subsection, the Secretary [of Transportation] shall issue regulations prescribing the circumstances, if any, under which operators of natural gas distribution systems must install excess flow valves in such systems. In prescribing such circumstances, the Secretary shall consider—

(A) The system design pressure and the system operating pressure;

(B) The types of customers to which the distribution system supplies natural gas, including hospitals, schools, and commercial enterprises;

(C) The technical feasibility and cost of the installation of such valves;

(D) The public safety benefits of the installation of such valves;

(E) The location of customer meters; and

(F) Such other factors as the Secretary determines to be relevant.

Section 104 further stated, in relevant part:

(2) Not later than two years after the date of the enactment of this subsection, the Secretary [of Transportation] shall issue regulations requiring operators of natural gas distribution systems to notify, in writing, their customers with lines in which excess flow valves are not required by law, but can be installed in accordance with the performance standards developed under paragraph (4)—

(A) Of the availability of excess flow valves for installation in such systems,

(B) Of any safety benefits to be derived from the installation, and

(C) Of any costs associated with the installation.

Such regulations shall provide that, except in circumstances under which the installation is required under paragraph (1), excess flow valves shall be installed at the request of a customer if the customer will pay all costs associated with the installation.

Finally, section 104 stated, in relevant part:

(3) Not later than 18 months after the date of the enactment of this paragraph, the Secretary [of Transportation] shall develop standards for the performance of excess flow valves used to protect lines in natural gas distribution systems. Such standards shall be incorporated into any regulations issued by the Secretary under this subsection. All installations of excess flow valves shall be made in accordance with such standards.

On June 20, 1996 (61 FR 31449), PHMSA's predecessor agency, the Research and Special Programs Administration (RSPA), issued a final rule on the installation of EFVs in single-family-residence service lines. RSPA determined that the mandatory installation of EFVs was not justified under any circumstances, primarily because the costs of such a requirement far exceeded the benefits. RSPA also adopted a standard for the performance and installation of EFVs in single-family-residence service lines (codified at 49 CFR 192.381). In a later final rule, dated February 3, 1998 (63 FR 5464), RSPA adopted a requirement that written notice about the availability of EFVs be provided to customers with single-family-residence service lines that operate at or above 10 pounds per square inch gauge (psig), and that those customers be further advised that the operator would install an EFV at the customer's expense.

Part 192 of the PSR in combination with measures mandated in the Distribution Integrity Management Program (DIMP) and continual monitoring of leaks has increased pipeline safety significantly in recent years. PHMSA continues to review the way pipelines are regulated and adopt strategies to improve pipeline safety. Programs such as damage prevention, public awareness, and operator qualifications have enhanced pipeline safety. Unfortunately, on rare occasions, the layers of protection fail and the results can have serious consequences.

On July 7, 1998, a natural gas explosion occurred at a single family residence in South Riding, Virginia, killing one person and injuring three others. NTSB investigated the incident and determined that the cause of the explosion was a service line failure. NTSB further concluded that an EFV would have cut off the flow of gas in the service line and prevented the explosion. Citing that conclusion, on June 22, 2001, the NTSB issued Safety Recommendation P–01–2 (SR P–01–2). SR P–01–2 recommended ''that excess flow valves be installed in all new and renewed gas service lines, regardless of a customer's classification, when the operating conditions are compatible with readily available valves.''

On December 29, 2006, Congress enacted the Pipeline Inspection, Protection, Enforcement, and Safety (PIPES) Act of 2006 (Pub. L. 109–468). Section 9 of the PIPES Act (codified at 49 U.S.C. 60109(e)) stated that ''[n]ot later than December 31, 2007, the Secretary [of Transportation] shall prescribe minimum standards for integrity management programs for distribution pipelines.'' Section 9 further stated that those:

[M]inimum standards shall include a requirement for an operator of a natural gas distribution system to install an excess flow valve on each single family residence service line connected to such system if—

(i) The service line is installed or entirely replaced after June 1, 2008;

(ii) The service line operates continuously throughout the year at a pressure not less than 10 pounds per square inch gauge;

(iii) The service line is not connected to a gas stream with respect to which the operator has had prior experience with contaminants the presence of

which could interfere with the operation of an excess flow valve;

(iv) The installation of an excess flow valve on the service line is not likely to cause loss of service to the residence or interfere with necessary operation or maintenance activities, such as purging liquids from the service line; and

(v) An excess flow valve meeting performance standards developed under section 60110(e) of title 49, United States Code, is commercially available to the operator, as determined by the Secretary.

On December 4, 2009, (74 FR 63934) PHMSA issued a final rule with minimum standards for distribution pipeline integrity management. Those standards included a mandatory installation requirement for EFVs (codified at 49 CFR 192.383):

(b) *Installation required.* An EFV installation must comply with the performance standards in § 192.381. The operator must install an EFV on any new or replaced service line serving a single-family residence after February 12, 2010, unless one or more of the following conditions is present:

(1) The service line does not operate at a pressure of 10 psig or greater throughout the year;

(2) The operator has prior experience with contaminants in the gas stream that could interfere with the EFV's operation or cause loss of service to a residence;

(3) An EFV could interfere with necessary operation or maintenance activities, such as blowing liquids from the line; or

(4) An EFV meeting performance standards in § 192.381 is not commercially available to the operator.

A requirement that operators report the number of installed EFVs on annual basis was also included in that regulation.

In Section 9 of the PIPES Act, Congress mandated that EFVs be installed on service lines serving single family residences. Other kinds of service lines, including those that serve branched single family residences, apartment buildings, other multi-residential dwellings, commercial properties, or industrial facilities, are not subject to that statutory mandate, even though such lines are susceptible to the same risks as single-family-residence service lines. Though Congress has not expressly mandated the use of EFVs to applications other than single-family residences, PHMSA has broad authority under 49 U.S.C. 60102 to prescribe safety standards requiring that EFVs be installed on those lines in appropriate cases. Operators of gas distribution systems can also expand the use of EFVs to applications other than service lines for single family residences as part of their broader obligation to develop and implement an integrity management program (49 CFR part 192 subpart B).

II. Interim Evaluation: Response to NTSB Recommendation To Use EFVs in Applications Other Than Service Lines Serving One Single Family Residence

In June and August of 2009, PHMSA held public meetings on NTSB's recommendation in SR P–01–2 to expand the use of EFVs. The meeting participants included the National Association of Regulatory Utility Commissioners, the National Association of Pipeline Safety Representatives, the International Association of Fire Chiefs (IAFC) the National Association of State Fire Marshals (NASFM), natural gas distribution operators, trade associations, manufacturers, and the Pipeline Safety Trust. As a result of these meetings, PHMSA issued a report titled, ''Interim Evaluation: NTSB Recommendation P–01–2 Excess Flow Valves in Applications Other Than Service Lines Serving One Single Family Residence'' (*Interim Evaluation)* (available in Docket No.: PHMSA–2011–0009 at *http://www.regulations.gov*.). The *Interim Evaluation* incorporates input from the meeting participants and addresses issues related to the installation of EFVs on branched service lines serving more than one single family residence, multi-family residential dwellings such as apartments, commercial services and industrial applications on systems which operate above 10 psig where outside force damage could occur to a DOT regulated service. The report provides background on NTSB's recommendations and PHMSA's regulatory and non-regulatory initiatives targeted at reducing the occurrence of failures on service lines. The *Interim Evaluation* also describes the characteristics of U.S. distribution systems, EFVs' safety function to mitigate the consequences of an incident, industry's operating experience, the technical challenges, and the commercial availability of EFVs for installation in services other than single family residences. The report explores alternatives (*e.g.,* curb valves) to the installation of an EFV and discusses the information that is needed to develop an economic analysis. The report also considers the need for adoption and enhancement of EFV technical standards or guidelines.

Curb valves, essentially a service valve, often are installed close to the main for larger services which serve public buildings such as schools, churches, commercial buildings, as well as services with indoor residential meters. The location and operability of these valves in an emergency are relevant in terms of their use as a viable alternative to EFVs.

III. Expanded Use of EFVs

In recent years, PHMSA has expanded regulatory requirements aimed at reducing the risk of pipeline incidents. These measures have in large part been directed to lowering the likelihood of failures by preventing damage to pipelines. EFVs do not prevent accidents but do mitigate the consequences of incidents by greatly reducing the amount of gas released to the atmosphere when significant damage occurs. EFVs help mitigate the potential consequences of a high rate, high volume gas release. Where installed, EFVs are complementary to damage prevention programs and other pipeline safety efforts that focus on preventing accidents caused by outside forces. The following reasons have been identified for expanding the use of EFVs to additional classes of service:

• *Likelihood of EFV mitigating the consequences of an incident:* Based on incident report information submitted to PHMSA, during March 2004–December 2009, approximately 148 out of a total of 914 incidents (16%) were located on a service or meter/regulator set and potentially severe enough to trigger an EFV if one were present. These incidents were reported as leaks with a puncture, rupture, or a catastrophic failure.

• *Likelihood of an incident occurring on a service line other than a single family residence:* Of the 148 incidents deemed to be candidates for prevention by an EFV in the report, 87 (59%) were serving customers other than single family residences. Service lines serving other than a single-family residence represent approximately 30% of new and replaced natural gas service lines. Therefore, there is a much greater probability that failure of a service line other than a single family residence will result in an incident.

• *Limitations to the Effectiveness of Damage Prevention Efforts to Prevent an Incident:* The frequency of service line incidents caused by excavation damage has decreased, but there has not been a corresponding reduction in consequences, (*i.e.,* in terms of fatalities, injuries, fires, explosion or property damage). Furthermore, one-third of the incidents in which an EFV might have mitigated the consequences and for which the cause was listed as excavation damage occurred after a One-

Call notification. While incidents occur less frequently when a One-Call notification is placed, the One-Call notification system does not eliminate incidents. PHMSA's evaluation found that the pipeline was marked in 80% of incidents where the operator received prior notification. Such incidents could be the result of unmapped facilities, un-locatable facilities, mismarked pipelines, excavators that fail to call in, excavators that are exempt from one-call requirements and do not call in, inadequate depth-of-cover, *etc.*

• *Difficulty in Preventing Incidents Caused by Natural Forces and Other Outside Forces:* Of the incidents that were candidates for EFV mitigation and where EFVs are not currently required, almost 8% were caused by natural forces and 25% were caused by other, non-excavation outside forces. Operators have less ability to prevent incidents from occurring due to these causes than from excavation damage.

• *Views of the NASFM and the IAFCs:* The associations' position on the installation of EFVs is that uncontrolled gas leaks pose a significant hazard to firefighters, emergency responders, and the public. According to these associations, the presence of an EFV can be a critical factor in suppressing a gas leak at the scene of an incident, where a first responder's ability to control gas flow is limited and dependent on the arrival of gas company personnel. While not frequently activated, an EFV is a critical tool in the event of a large volume release.

• *Commercial Availability of EFVs for Other Applications:* The EFV device is relatively simple and experience demonstrates that they operate reliably when sized appropriately for operating conditions. The principles of operation remain the same as sizes become larger and trip points are increased. EFVs are currently manufactured for the vast majority of services.

PHMSA has identified several situations where the installation of an EFV may not be technically practicable. These technical challenges are described in detail in Section 9 of the *Interim Evaluation,* ''Technical Challenges Associated with Use of EFVs in Non-Single Family Residence Service.'' In these situations, the installation of a readily-accessible curb valve and box might serve a similar safety function to an EFV. Although not instantaneous, a curb valve could facilitate the manual shut-off of natural gas service in an emergency and provide an alternative solution to an EFV. However, use of curb valves requires consideration of additional factors such as:

• EFVs shut-off the flow of gas instantaneously when the gas flow exceeds design limits. Curb valves must be manually closed. The incident may have already occurred before the curb valve can be closed.

• When the service is very short, the curb valve may be too close to a burning building to be safely operated.

• Curb valves can be used to shut-off the flow of gas under any flow conditions. EFVs are intended to shut-off the flow of gas when there has been a catastrophic failure to the service or its appurtenances. In situations when less severe damage occurs, an incident may be prevented by closing the curb valve to stop the flow of gas.

PHMSA has identified several issues related to the costs and benefits associated with mandatory EFV or curb valve installation that should be considered when performing the economic analysis (See Section 10 of the *Interim Evaluation* ''Economic Analysis Considerations''). The expected benefits are preventing or reducing incident consequences. The magnitude of the expected benefits is believed to be dependent on the estimated number of incidents impacted and incident consequences avoided if an EFV or curb valve had been installed on a service. The primary incident consequences that would be reduced are deaths, injuries, and property damage. Additional benefits would be an expected reduction in the number of fires, explosions, and evacuations occurring at incidents, and the quantity of gas lost during incidents. Since the subset of incidents whose consequences potentially could have been mitigated if an EFV was installed versus those that potentially could have been mitigated by a curb valve is different, the magnitude of the expected benefits will also be different.[1]

Expected costs include the installation and maintenance of the EFV or curb valve. Installation costs include material, labor, design, supply chain management, and training. For EFVs, maintenance costs include the cost of analyzing the cause of failure and the cost of replacing an EFV and any other associated costs. Possible EFV failures include false closure (closed when not intended), failure to close (did not close when service was severely damaged), and failure to reset (EFV did not reset after service was put back in operation). Operators may also need to replace EFVs when a customer's load increases above the capacity of the currently installed EFV. For curb valves, maintenance costs include periodically inspecting the curb valve to ensure it is operational and inspecting the box to ensure it is free of debris. Curb boxes may also require adjusting after surface condition occurrences such as road resurfacing or landscaping.

PHMSA has identified several potential areas in which enhanced or expanded technical standards and guidance for the performance, operation, installation, identification, and testing of EFVs could be valuable regardless of whether PHMSA decides to expand the classes of services requiring an EFV (See Section 4, ''Technical Standards and Guidelines for EFVs'' of the *Interim Evaluation*). Currently, § 192.381 requires operators to use EFVs which are manufactured and tested by the manufacturer according to an industry specification or to the manufacturer's written specification.

While not incorporated by reference into the pipeline safety regulations, there are three technical standards that address the specification, manufacturing, and testing of EFVs. These standards are:

i. ''Manufacturers Standardization Society (MSS) SP–115–2006—Design, Performance & Test.'' [2]

ii. ''ASTM International (ASTM) F1802–04—Standard Test Method for Performance Testing of Excess Flow Valves.'' [3]

iii. ''ASTM International (ASTM) F2138–01—Standard Specification for Excess Flow Valves for Natural Gas Service.'' [4]

These standards may not be applicable to all sizes and pressure ratings of EFVs that would be needed if they were mandated for use in applications other than single family residences and would likely need to be expanded to cover other sizes and pressure ratings. A number of factors affect the performance and reliability of EFVs such as: installation location, configuration, selection, sizing, identification, installation method, and operation. ASTM International (ASTM) F2138 ''Standard Specification for Excess Flow Valves for Natural Gas Service'' addresses some of these factors at a high level, but not in depth.

These standards may need to be expanded to better address the

[1] Data found at *http://primis.phmsa.dot.gov/comm/reports/safety/PSI.html.*

[2] Manufacturers Standardization Society (MSS) SP–115–2006 ''Design, Performance & Test'' *http://www.mss-hq.org/Store/index.cfm.*

[3] American Society for Testing Materials (ASTM) F1802–04 ''Standard Test Method for Performance Testing of Excess Flow Valves'' *http://www.astm.org/.*

[4] American Society for Testing Materials (ASTM) F2138 ''Standard Specification for Excess Flow Valves for Natural Gas Service'' *http://www.astm.org/.*

selection, installation, and performance testing of EFVs for a variety of design considerations and service line configurations. Operating conditions and system configurations under which EFVs are not compatible or potentially not advisable may need to be identified and integrated into the guidelines. PHMSA's recommended approach is to select and size EFVs with a trip point less than, but closest to, the gas flow rate of a full service line pipe break.

If these standards and guidance are enhanced or developed, PHMSA may consider if they are adequate to be incorporated by reference into the Pipeline Safety Regulations. Incorporating standards by reference provides PHMSA a mechanism to ensure that any changes to the standards do not lessen public safety. Lastly, the *Interim Evaluation* identifies areas where additional data is needed to further review EFV issues and to perform a cost-benefit analysis.

PHMSA will consider all comments received from the ANPRM plus any additional information available, and will finalize the *Interim Evaluation* after publication of this ANPRM. The *Interim Evaluation,* which was peer reviewed by PHMSA, NTSB and representatives of National Association of Regulatory Utility Commissioners, the National Association of Pipeline Safety Representatives, IAFC, NASFM, natural gas distribution operators, trade associations and the Pipeline Safety Trust will document the basis for any PHMSA decision and response to NTSB with respect to the EFV issue.

IV. Advance Notice of Proposed Rulemaking

Although not mandated by Congress, PHMSA, in a direct response to the NTSB recommendation P–01–2, seeks public comment regarding the technical challenges, and the potential costs and the potential benefits of any expanded requirement to use EFVs in applications other than service lines serving single family residences. PHMSA additionally seeks comment as to whether to establish and/or adopt technical standards or guidance for the performance, specification, manufacturing, testing, installation, identification, and operation of EFVs. Specifically, PHMSA is asking for comment on the following issues:

1. Technical Challenges—Operators have identified technical challenges to installing EFVs on services other than single family residences. These challenges include (1) the effect of changing gas usage patterns; (2) snap loads; (3) business-critical gas supply applications; (4) system configuration; (5) pressure ratings; and (6) size of commercially available EFVs.

a. Does Section 9 ''Technical Challenges Associated with Use of EFVs in Non-Single Family Residence Service'' fully and accurately explain the technical challenges of EFVs in these other applications?

b. Are there additional technical challenges, obstacles to implementation, or reliability issues that should be considered for these other applications?

c. What are the technical challenges to installing and maintaining a curb valve when an EFV is not technically feasible?

d. What are the limitations to using a curb valve to stop the flow of gas during emergency situations where EFVs are not technically feasible?

e. What additional cases may exist where the installation of EFVs may not be feasible or practical other than those listed in Section 10.3.1, ''Feasibility/Practicality''?

2. Economic Analysis Considerations (Potential Costs and Benefits)—In addition, PHMSA requests commenters to provide information and supporting data related to: the potential costs of modifying the existing regulatory requirements pursuant to the commenters suggestions; the potential quantifiable safety and societal benefits of modifying the existing regulatory requirements; the potential impacts on small business of modifying the existing regulatory requirements; and the potential environmental impacts of modifying the existing requirements.

The economic analysis of installation of EFVs on services other than single family residences involves challenges related to quantification and monetization of costs and/or benefits including distributional affects. It is important as part of the economic analysis to consider both benefits and costs that are distributed among sub-populations of particular concern so that decision makers can properly consider them along with the effects on economic efficiency. Therefore, it will be important to consider input from a variety of stakeholders. OMB A–4 (titled ''REGULATORY ANALYSIS'') provides additional information about benefit-cost analyses and cost-effectiveness analyses. Any cost benefit analysis prepared in response to this ANPRM will be consistent with the guidance outlined in OMB Circular A–4, and any related policies.

a. Categories of Services To Be Considered—If the requirement for EFVs were expanded to other categories of services, would the classification described in Section 10.3.2, ''Categories of Services'' in the *Interim Report* be practicable to implement? If not, why not?

b. Cost Factors—Are there any other issues related to costs associated with mandatory EFV or curb valve installation that should be considered when performing the benefit-cost analysis, other than those listed in Section 10.4, ''Defining Cost Factors'' of the *Interim Report*?

c. Who should be expected to pay for the installation and maintenance of EFV or other alternative and why?

d. Are there any opportunity costs associated with the installation of EFVs? Does there have to be a particular time of day when installation occurs? If so, why? How long does installation take?

e. Benefits Factors:

i. Are there any other issues related to benefits associated with mandatory EFV or curb valve installation that should be considered when performing the benefit-cost analysis, other than those listed in Section 10.5 ''Defining Benefit Factors'' of the *Interim Report*?

ii. Is the method used in Section 2.3.3, ''PHMSA Evaluation of Data Related to Incidents on Services,'' of the *Interim Report* appropriate to quantify the expected number of incidents or the consequences averted, and to evaluate the risks of such incident occurring? Do the parameters used to evaluate incidents for the likelihood of prevention by an EFV (*i.e.* location of the leak (incidents on service lines), reported cause of the leak (leaks due to damage), maximum allowable operating pressure (MAOP) of the system (>10 PSIG),additional information about the leak's characteristics (large leaks and ruptures) and classification of customer (customers other than stand-alone service line serving a single family residence)) satisfactorily allow a conclusion to be made?

3. Technical Standards and Guidance for EFVs—OMB Circular A–119 ''Federal Participation in the Development and Use of Voluntary Consensus Standards and in Conformity Assessment Activities'' directs Federal agencies to utilize voluntary standards both domestic and international, whenever feasible and consistent with law and regulation. The current DOT regulation applicable to excess flow valve standards is 49 CFR 192.381 which requires excess flow valves to be manufactured and tested by the manufacturer according to an industry specification or to the manufacturer's written specification but does not prescribe a specification. Without a standard prescribing EFV specification, the possibility exists that EFVs could be installed that do not meet currently accepted specifications.

4. Additionally, a number of factors affect the performance and reliability of EFVs such as installation location, configuration, selection, sizing, or installation method. PHMSA has determined that current industry standards do not address these factors in detail. PHMSA therefore requests comment on industry standards to determine the need and availability of consensus standards for EFV utilization.

a. Should PHMSA incorporate by reference the following technical standards? If not, why not?

b. Are there any alternatives to the standards listed below?

i. ''Manufacturers Standardization Society (MSS) SP–115–2006—Design, Performance & Test.'' [5]

ii. ''ASTM International (ASTM) F1802–04—Standard Test Method for Performance Testing of Excess Flow Valves.'' [6]

iii. ''ASTM International (ASTM) F2138–01—Standard Specification for Excess Flow Valves for Natural Gas Service.'' [7]

c. Are guidelines or technical standards needed for developing and if so, why?:

i. A standard approach to sizing, specifying, performance testing, and installing EFVs for a variety of design considerations and service line configurations.

ii. Criteria for identifying operating conditions and system configurations under which EFVs are not compatible or potentially not advisable.

In addition, PHMSA requests commenters to provide information and supporting data related to:

- The potential costs of modifying the existing regulatory requirements pursuant to the commenter's suggestions.
- The potential quantifiable safety and societal benefits of modifying the existing regulatory requirements.
- The potential impacts on small businesses of modifying the existing regulatory requirements.
- The potential environmental impacts of modifying the existing regulatory requirements.

[5] Manufacturers Standardization Society (MSS) SP–115–2006 ''Design, Performance & Test'' *http://www.mss-hq.org/Store/index.cfm.*

[6] American Society for Testing Materials (ASTM) F1802–04 ''Standard Test Method for Performance Testing of Excess Flow Valves'' *http://www.astm.org/.*

[7] American Society for Testing Materials (ASTM) F2138 ''Standard Specification for Excess Flow Valves for Natural Gas Service''*http://www.astm.org/.*

V. Regulatory Notices

A. Executive Order 12866, Executive Order 13563, and DOT Regulatory Policies and Procedures

Executive Orders 12866 and 13563 require agencies to regulate in the ''most cost-effective manner,'' to make a ''reasoned determination that the benefits of the intended regulation justify its costs,'' and to develop regulations that ''impose the least burden on society.'' We therefore request comments, including specific data if possible, concerning the costs and benefits of revising the pipeline safety regulations to accommodate any of the changes suggested in this ANPRM.

B. Executive Order 13132: Federalism

Executive Order 13132 requires agencies to assure meaningful and timely input by State and local officials in the development of regulatory policies that may 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. PHMSA is inviting comments on the effect a possible rulemaking adopting any of the amendments discussed in this document may have on the relationship between National Government and the States.

C. Regulatory Flexibility Act

Under the Regulatory Flexibility Act of 1980 (5 U.S.C. 601 *et seq.*), we must consider whether a proposed rule would have a significant economic impact on a substantial number of small entities. ''Small entities'' include small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations under 50,000. If your business or organization is a small entity and if adoption of any of the amendments discussed in this ANPRM could have a significant economic impact on your operations, please submit a comment to explain how and to what extent your business or organization could be affected.

D. National Environmental Policy Act

The National Environmental Policy Act of 1969 (NEPA) requires Federal agencies to consider the consequences of Federal actions and to prepare a detailed statement analyzing whether the action significantly affects the quality of the human environment. Interested parties are invited to address the potential environmental impacts of this ANPRM. PHMSA is particularly interested in comments about compliance measures that would provide greater benefit to the human environment or alternative actions the agency could take that would provide beneficial environmental impacts.

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

Executive Order 13175 requires agencies to assure meaningful and timely input from Indian Tribal government representatives in the development of rules that ''significantly or uniquely affect'' Indian communities and that impose ''substantial and direct compliance costs'' on such communities. PHMSA invites Indian Tribal governments to provide comments on any aspect of this ANPRM that may affect Indian communities.

F. Paperwork Reduction Act

Under 5 CFR part 1320, PHMSA analyzes the paperwork burdens of any information collection required by a rulemaking. PHMSA invites comment on the need for collection of information and the associated paperwork burdens, if any.

Authority: 49 U.S.C. 60101 *et seq.;* 49 CFR 1.53.

Issued in Washington, DC, on November 21, 2011.

Jeffrey D. Wiese,

Associate Administrator for Pipeline Safety.

[FR Doc. 2011–30330 Filed 11–23–11; 8:45 am]

BILLING CODE 4910–60–P

Notices

Federal Register
Vol. 76, No. 227
Friday, November 25, 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

Submission for OMB Review; Comment Request

November 18, 2011.

The Department of Agriculture has submitted the following information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104–13. Comments regarding (a) whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) the accuracy of the agency's estimate of burden including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology should be addressed to: Desk Officer for Agriculture, Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), *OIRA_Submission@OMB.EOP.GOV* or fax (202) 395–5806 and to Departmental Clearance Office, USDA, OCIO, Mail Stop 7602, Washington, DC 20250–7602. Comments regarding these information collections are best assured of having their full effect if received within 30 days of this notification. Copies of the submission(s) may be obtained by calling (202) 720–8958.

An agency may not conduct or sponsor a collection of information unless the collection of information displays a currently valid OMB control number and the agency informs potential persons who are to respond to the collection of information that such persons are not required to respond to the collection of information unless it displays a currently valid OMB control number.

Animal and Plant Health Inspection Service

Title: Animal Welfare.

OMB Control Number: 0579–0036.

Summary of Collection: The Laboratory Animal Welfare Act (AWA) (Pub. L. 89–544) enacted August 24, 1966, and as amended, required the U.S. Department of Agriculture (USDA), to regulate the humane care and handling of dogs, cats, guinea pigs, hamsters, rabbits, and nonhuman primates. This legislation was the result of extensive demand by organized animal welfare groups and private citizens requesting a Federal law covering the transportation, care, and handling of laboratory animals. The Animal and Plant Health Inspection Service (APHIS), Animal Care (AC) has the responsibility to enforce the AWA (7 U.S.C. 2131–2156) and the provisions of 9 CFR, subchapter A, which implements the AWA. The purpose of the AWA is to ensure that animal use in research facilities or for exhibition purposes are provided humane care and treatment. To assure humane treatment of animals during transportation in commerce and to protect the owners of animals from the theft of their animals by preventing the sale or use of animals that is stolen. APHIS will collect information using several forms.

Need and Use of the Information: APHIS will collect health certificates, program of veterinary care, application for license and record of acquisition, disposition and transportation of animals. The information is used to ensure those dealers, exhibitors, research facilities, carriers, etc., are in compliance with the AWA and regulations and standards promulgated under this authority of the Act.

Description of Respondents: Business or other for-profit; Farms; Not-for-profits; State, Local, and Tribal Governments.

Number of Respondents: 9,985.

Frequency of Responses: Recordkeeping; Reporting: On occasion.

Total Burden Hours: 95,160.

Charlene Parker,

Departmental Information Collection Clearance Officer.

[FR Doc. 2011–30359 Filed 11–23–11; 8:45 am]

BILLING CODE 3410–34–P

DEPARTMENT OF AGRICULTURE

Rural Utilities Service

Publication of Depreciation Rates

AGENCY: Rural Utilities Service, USDA.

ACTION: Notice.

SUMMARY: The United States Department of Agriculture (USDA) Rural Utilities Service (RUS) administers rural utilities programs, including the Telecommunications Program. RUS announces the depreciation rates for telecommunications plant for the period ending December 31, 2010.

DATES: These rates are effective immediately and will remain in effect until rates are available for the period ending December 31, 2011.

FOR FURTHER INFORMATION CONTACT: Jonathan P. Claffey, Deputy Assistant Administrator, Telecommunications Program, Rural Utilities Service, STOP 1590—Room 5151, 1400 Independence Avenue SW., Washington, DC 20250–1590. *Telephone:* (202) 720–9556.

SUPPLEMENTARY INFORMATION: In 7 CFR part 1737, Pre-Loan Policies and Procedures Common to Insured and Guaranteed Telecommunications Loans, § 1737.70(e) explains the depreciation rates that are used by RUS in its feasibility studies. § 1737.70(e)(2) refers to median depreciation rates published by RUS for all borrowers. The following chart provides those rates, compiled by RUS, for the reporting period ending December 31, 2010:

MEDIAN DEPRECIATION RATES OF RURAL UTILITIES SERVICE BORROWERS BY EQUIPMENT CATEGORY FOR PERIOD ENDING DECEMBER 31, 2010

Telecommunications plant category	Depreciation rate
1. Land and Support Assets:	

MEDIAN DEPRECIATION RATES OF RURAL UTILITIES SERVICE BORROWERS BY EQUIPMENT CATEGORY FOR PERIOD ENDING DECEMBER 31, 2010—Continued

Telecommunications plant category	Depreciation rate
a. Motor vehicles	16.00
b. Aircraft	12.00
c. Special purpose vehicles	13.20
d. Garage and other work equipment	10.00
e. Buildings	3.20
f. Furniture and office equipment	10.00
g. General purpose computers	20.00
2. Central Office Switching:	
a. Digital	9.00
b. Analog & Electro-mechanical	9.66
c. Operator Systems	8.85
3. Central Office Transmission:	
a. Radio Systems	9.21
b. Circuit equipment	10.00
4. Information origination/termination:	
a. Station apparatus	11.95
b. Customer premises wiring	10.00
c. Large private branch exchanges	11.78
d. Public telephone terminal equipment	11.00
e. Other terminal equipment	10.05
5. Cable and wire facilities:	
a. Aerial cable—poles	6.19
b. Aerial cable—metal	5.80
c. Aerial cable—fiber	5.10
d. Underground cable—metal	5.00
e. Underground cable—fiber	5.00
f. Buried cable—metal	5.10
g. Buried cable—fiber	5.00
h. Conduit systems	3.50
i. Other	5.50

Dated: November 19, 2011.

James Newby,

Acting Administrator, Rural Utilities Service.

[FR Doc. 2011–30361 Filed 11–23–11; 8:45 am]

BILLING CODE P

DEPARTMENT OF COMMERCE

Submission for OMB Review; Comment Request

The Department of Commerce will submit to the Office of Management and Budget (OMB) for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35).

Agency: Bureau of Industry and Security (BIS).

Title: Import, End-User, and Delivery Verification Certificates.

OMB Control Number: 0694–0093.

Form Number(s): BIS–645P, BIS–647P.

Type of Request: Regular submission.

Burden Hours: 2,124.

Number of Respondents: 7,862.

Average Hours per Response: 15 minutes for certificates, and 30 minutes for certificate change notifications and exception to procedures.

Needs and Uses: 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.

Affected Public: Business or other for-profit organizations.

Frequency: On occasion.

Respondent's Obligation: Required to obtain benefits.

OMB Desk Officer: Jasmeet Seehra, (202) 395–3123.

Copies of the above information collection proposal can be obtained by calling or writing Diana Hynek, Departmental Paperwork Clearance Officer, (202) 482–0266, Department of Commerce, Room 6616, 14th and Constitution Avenue NW., Washington, DC 20230 (or via the Internet at *dHynek@doc.gov*).

Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to Jasmeet Seehra, OMB Desk Officer, email to *Jasmeet_K._Seehra@omb.eop.gov,* or fax to (202) 395–5167.

Dated: November 18, 2011.

Gwellnar Banks,

Management Analyst, Office of the Chief Information Officer.

[FR Doc. 2011–30324 Filed 11–23–11; 8:45 am]

BILLING CODE 3510–33–P

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[Docket 75–2011]

Foreign-Trade Zone 33—Pittsburgh, PA; Application for Reorganization/Expansion

An application has been submitted to the Foreign-Trade Zones (FTZ) Board (the Board) by the Regional Industrial Development Corporation of Southwestern Pennsylvania, grantee of FTZ 33, requesting authority to reorganize and expand its zone in the Pittsburgh, Pennsylvania, area, adjacent to the Pittsburgh Customs and Border Protection port of entry. 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 November 16, 2011.

FTZ 33 was approved by the Board on November 9, 1977 (Board Order 124, 42 FR 59398, 11/17/77) and expanded on March 16, 1981 (Board Order 172, 46 FR 18063, 3/23/81), on May 14, 1998 (Board Order 981, 63 FR 29179, 5/28/98) and on February 23, 2010 (Board Order 1667, 75 FR 13488–13489, 3/22/10).

The current zone project includes the following sites in the Pittsburgh, Pennsylvania area: *Site 1* (55 acres)—within the 500-acre RIDC Park West, Park West Drive, Findlay Township, Allegheny County; *Site 2* (5,352 acres)—within the 10,000-acre Pittsburgh International Airport complex (includes an aviation fuel depot), Pittsburgh; *Site 3* (140 acres)—Leetsdale Industrial Park, First and Center Avenues, Leetsdale; *Site 4* (60 acres, 3 parcels)—located at 115 & 400 Hunt Valley Road within the Westmoreland Business and Research Park in Upper Burrell and Washington Townships, Westmoreland County; *Site 5* (15 acres)—warehouse facilities located at 154 Keystone Drive, New Castle; *Site 6* (73 acres, 10 parcels)—warehouse facilities within the 240-acre City Center Duquesne property, located at South Linden Street, Duquesne, Allegheny County; *Site 7* (65 acres, 13 parcels)—within the 135-acre Industrial Center of McKeesport, 200 Center Street, McKeesport, Allegheny County; *Site 8* (67 acres, 9 parcels)—within the 925-acre Thorn Hill Industrial Park, 119–151 Commonwealth Drive, Warrendale, Butler & Allegheny Counties; *Site 9* (13 acres, 1 parcel)—Lawrenceville Technology Center, Hatfield & 45th Street, Lawrenceville, Allegheny County; *Site 10* (17 acres, 5 parcels)—within the 600-acre Allegheny County Industrial Park, 560–570 Alpha Drive, O'Hara Township, Allegheny County; *Site 11* (38 acres, 7 parcels)—within the 92-acre Keystone Commons, 200–700 Braddock Avenue, Turtle Creek, Allegheny County; *Site 12* (53 acres, 2 parcels)—South Hills Industrial Park, 1200 Lebanon Road, West Mifflin, Allegheny County; *Site 13* (737 acres, 2 parcels)—West Port Industrial Park, PA Route 576 & Burgettstown, Imperial, Allegheny County; *Site 14* (74 acres, 1 parcel)—Hopewell Business & Industrial Park, Gringo-Clinton Road & PA Rt. 151, Aliquippa, Beaver County; *Site 15* (222 acres)—within the Westgate Business Park, PA Rt. 18 & Eastwood Road, Homewood, Beaver County; *Site 16* (111 acres, 9 parcels)—within the 372-acre Aliquippa Industrial Park, 101–601 Steel Street, Aliquippa, Beaver County; and, *Site 17* (80 acres, 10 parcels)—Ambridge Regional Center, 2301 Duss Avenue, Ambridge, Beaver County.

The applicant is now requesting authority to reorganize and expand the zone project as described below. The proposal includes both additions and deletions with an overall increase in total zone space: (1) Modify *Site 1* by removing 9 acres due to changed circumstances (new site acreage—45 acres); (2) modify *Site 3* by removing 15 acres (new site acreage—125 acres); (3) modify and expand *Site 4* by removing 24 acres and adding 23 acres (new site acreage—59 acres); (4) modify *Site 8* by deleting 29 acres (new site acreage—38 acres); (5) modify and expand *Site 10* by removing 4 acres and adding 6 acres (new site acreage—19 acres); (6) modify *Site 13* by deleting 39 acres (new site acreage—698 acres); (7) modify *Site 14* by deleting 6.5 acres (new site acreage—68 acres); and, (8) modify *Site 16* by deleting 16 acres (new site acreage—95 acres). In addition, a new site is proposed as follows: Site 18 (336 acres)—RIDC Westmoreland, 1001 Technology Drive, Mt. Pleasant, Pennsylvania. No specific manufacturing authority is being requested at this time. Such requests would be made on a case-by-case basis.

In accordance with the Board's regulations, Kathleen Boyce 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 January 24, 2012. Rebuttal comments in response to material submitted during the foregoing period may be submitted during the subsequent 15-day period to February 8, 2012.

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 Kathleen Boyce at *Kathleen.Boyce@trade.gov* or (202) 482–1346.

Dated: November 17, 2011.

Andrew McGilvray,

Executive Secretary.

[FR Doc. 2011–30392 Filed 11–23–11; 8:45 am]

BILLING CODE P

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[Order No. 1798]

Approval for Expansion of Manufacturing Authority, Foreign-Trade Subzone 29F, Hitachi Automotive Systems Americas, Inc., (Automotive Components), Harrodsburg, KY

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 Louisville and Jefferson County Riverport Authority, grantee of Foreign-Trade Zone 29, has requested an expansion of the scope of manufacturing authority on behalf of Hitachi Automotive Systems Americas, Inc. (Hitachi), operator of Subzone 29F at the Hitachi facilities in Harrodsburg, Kentucky (FTZ Docket 9–2011, filed 2–10–2011);

Whereas, notice inviting public comment has been given in the **Federal Register** (76 FR 9000, 2–16–2011) and the application has been processed pursuant to the FTZ Act and the Board's regulations; and,

Whereas, the Board adopts the findings and recommendations of the 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 expand scope of FTZ manufacturing authority to include additional production capacity, as described in the application and **Federal Register** notice, is approved, subject to the FTZ Act and the Board's regulations, including Section 400.28.

Signed at Washington, DC, this 16th day of November 2011.

Paul Piquado,

Assistant Secretary of Commerce for Import Administration, Alternate Chairman, Foreign-Trade Zones Board.

Attest:

Andrew McGilvray,

Executive Secretary.

[FR Doc. 2011–30405 Filed 11–23–11; 8:45 am]

BILLING CODE P

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[Docket T–5–2011]

Foreign-Trade Zone 277, Temporary/Interim Manufacturing Authority, Sub-Zero, Inc., (Refrigerators), Notice of Approval

On October 3, 2011, the Executive Secretary of the Foreign-Trade Zones (FTZ) Board filed an application submitted by the Greater Maricopa Foreign Trade Zone, Inc., grantee of FTZ 277, requesting temporary/interim manufacturing (T/IM) authority, on behalf of Sub-Zero, Inc., to manufacture refrigerators under FTZ procedures within FTZ 277—Site 3, in Goodyear, Arizona.

The application was processed in accordance with T/IM procedures, as authorized by FTZ Board Orders 1347 (69 FR 52857, 8/30/04) and 1480 (71 FR 55422, 9/22/06), including notice in the **Federal Register** inviting public comment (76 FR 62760, 10/14/2011). The FTZ staff examiner reviewed the application and determined that it meets the criteria for approval under T/IM procedures. Pursuant to the authority delegated to the FTZ Board Executive Secretary in the above-referenced Board Orders, the application is approved, effective this date, until November 17, 2013, subject to the FTZ Act and the Board's regulations, including Section 400.28.

Dated: November 17, 2011.

Andrew McGilvray,

Executive Secretary.

[FR Doc. 2011–30316 Filed 11–23–11; 8:45 am]

BILLING CODE P

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[Order No. 1797]

Grant of Authority for Subzone Status, Valero Refining Company—California, (Oil Refinery), Benicia, CA

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 Foreign-Trade Zones Act provides for ''* * * the establishment * * * of foreign-trade zones in ports of entry of the United States, to expedite and encourage foreign commerce, and for other purposes,'' and authorizes the Foreign-Trade Zones Board to grant to qualified corporations the privilege of establishing foreign-trade zones in or adjacent to U.S. Customs and Border Protection ports of entry;

Whereas, the Board's regulations (15 CFR Part 400) provide for the establishment of special-purpose subzones when existing zone facilities cannot serve the specific use involved, and when the activity results in a significant public benefit and is in the public interest;

Whereas, the Port of San Francisco, grantee of Foreign-Trade Zone 3, has made application to the Board for authority to establish a special-purpose subzone at the oil refining facilities of Valero Refining Company—California, located in Benicia, California (FTZ Docket 12–2011, filed 2–17–2011);

Whereas, notice inviting public comment has been given in the **Federal Register** (76 FR 10329, 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 recommendations of the examiner's report, and finds that the requirements of the FTZ Act and Board's regulations would be satisfied, and that the proposal would be in the public interest if subject to the restrictions listed below;

Now, therefore, the Board hereby grants authority for subzone status for the oil refining facilities of Valero Refining Company—California, located in Benicia, California (Subzone 3D), as described in the application and **Federal Register** notice, subject to the FTZ Act and the Board's regulations, including Section 400.28, and further subject to the following conditions:

1. Foreign status (19 CFR 146.41, 146.42) products consumed as fuel for the refinery shall be subject to the applicable duty rate.

2. Privileged foreign status (19 CFR 146.41) shall be elected on all foreign merchandise admitted to the subzone, except that non-privileged foreign (NPF) status (19 CFR 146.42) may be elected on refinery inputs covered under HTSUS Subheadings #2709.00.10, #2709.00.20, #2710.11.25, #2710.11.45, #2710.19.05, #2710.19.10, #2710.19.45, #2710.91.00, #2710.99.05, #2710.99.10, #2710.99.16, #2710.99.21 and #2710.99.45 which are used in the production of:

—petrochemical feedstocks and refinery by-products (examiner's report, Appendix ''C'');

—products for export;

—and, products eligible for entry under HTSUS #9808.00.30 and #9808.00.40 (U.S. Government purchases).

Signed at Washington, DC, this 16th day of November 2011.

Paul Piquado,

Assistant Secretary of Commerce for Import Administration, Alternate Chairman, Foreign-Trade Zones Board.

Andrew McGilvray,

Executive Secretary.

[FR Doc. 2011–30315 Filed 11–23–11; 8:45 am]

BILLING CODE P

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[Order No. 1799]

Voluntary Termination of Foreign-Trade Subzone 90A Smith Corona Corporation, Cortland County, New York

Pursuant to the authority granted in the Foreign-Trade Zones Act of June 18, 1934, as amended (19 U.S.C. 81a–81u), and the Foreign-Trade Zones Board Regulations (15 CFR part 400), the Foreign-Trade Zones Board has adopted the following order:

Whereas, on April 4, 1985, the Foreign-Trade Zones Board issued a grant of authority to the County of Onondaga (grantee of FTZ 90) authorizing the establishment of Foreign-Trade Subzone 90A at the Smith Corona Corporation plant in Cortland County, New York (Board Order 300, 50 FR 15469, 04/18/85);

Whereas, the County of Onondaga has advised that zone procedures are no longer needed at the facility and requested voluntary termination of Subzone 90A (FTZ Docket 63–2011);

Whereas, the request has been reviewed by the FTZ Staff and Customs and Border Protection officials, and approval has been recommended;

Now, therefore, the Foreign-Trade Zones Board terminates the subzone status of Subzone 90A, effective this date.

Signed at Washington, DC, this 16th day of November 2011.

Paul Piquado,

Assistant Secretary of Commerce for Import Administration, Alternate Chairman, Foreign-Trade Zones Board.

Andrew McGilvray,

Executive Secretary.

[FR Doc. 2011–30402 Filed 11–23–11; 8:45 am]

BILLING CODE P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–351–841]

Polyethylene Terephthalate Film, Sheet, and Strip From Brazil: Final Results of Antidumping Duty Administrative Review

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

SUMMARY: On August 8, 2011, the Department of Commerce (the Department) published the preliminary results of the administrative review of the antidumping duty order on polyethylene terephthalate film, sheet, and strip (PET film) from Brazil for the period November 1, 2009 through October 31, 2010. We gave interested parties an opportunity to comment on the preliminary results and received no comments. We have made no changes to Terphane, Inc.'s (Terphane's) margin for the final results of this review. The final weighted-average margin is listed below in the ''Final Results of Review'' section of this notice.

DATES: *Effective Date:* November 25, 2011.

FOR FURTHER INFORMATION CONTACT: Deborah Scott or Robert James, AD/CVD Operations, Office 7, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230; telephone (202) 482–2657 or (202) 482–0649, respectively.

SUPPLEMENTARY INFORMATION:

Background

On August 8, 2011, the Department published the preliminary results of the administrative review of the antidumping duty order covering PET film from Brazil and invited interested parties to comment. *See Polyethylene Terephthalate Film, Sheet, and Strip From Brazil: Preliminary Results of Antidumping Duty Administrative Review,* 76 FR 48122 (August 8, 2011) (*Preliminary Results*). This administrative review covers one respondent, Terphane. The petitioners in this proceeding are DuPont Teijin Films, Mitsubishi Polyester Film, Inc., SKC, Inc., and Toray Plastics (America), Inc.

In the *Preliminary Results,* the Department stated that interested parties may submit case briefs within 30 days of publication of the *Preliminary Results* and rebuttal briefs within five days after the due date for filing case briefs. *See Preliminary Results,* 76 FR at 48125. No interested parties submitted a case or rebuttal brief; therefore, there are no comments to address regarding the Department's determination in the *Preliminary Results.* We have not made any changes for the final results.

Period of Review

The period of review (POR) is November 1, 2009, through October 31, 2010.

Scope of the Order

The products covered by this order are all gauges of raw, pre-treated, or primed PET film, whether extruded or co-extruded. Excluded are metallized films and other finished films that have had at least one of their surfaces modified by the application of a performance-enhancing resinous or inorganic layer more than 0.00001 inches thick. Also excluded is roller transport cleaning film which has at least one of its surfaces modified by application of 0.5 micrometers of SBR latex. Tracing and drafting film is also excluded. PET film is classifiable under subheading 3920.62.00.90 of the Harmonized Tariff Schedule of the United States (HTSUS). While HTSUS subheadings are provided for convenience and customs purposes, our written description of the scope of these orders is dispositive.

Final Results of Review

The Department has determined that the following antidumping duty margin exists for the period November 1, 2009, through October 31, 2010:

Producer/exporter	Margin (percent)
Terphane, Inc.	44.36

Assessment Rates

The Department shall determine, and U.S. Customs and Border Protection (CBP) shall assess, antidumping duties on all appropriate entries. Because we are relying on total adverse facts available to establish the dumping margin for Terphane, we will instruct CBP to apply a dumping margin of 44.36 percent on all entries of PET film from Brazil that were produced and/or exported by Terphane and entered, or withdrawn from warehouse, for consumption during the POR. The Department intends to issue appropriate assessment instructions for Terphane to CBP 15 days after the date of publication of these final results of review.

Cash Deposit Requirements

The following cash deposit requirements will be effective upon publication of the final results of this administrative review for all shipments of PET film from Brazil entered, or withdrawn from warehouse, for consumption on or after the publication date of the final results of this administrative review, as provided by section 751(a)(1) of the Tariff Act of 1930, as amended (the Act): (1) The cash deposit rate for Terphane will be the rate established in the final results of this review; (2) if the exporter is not a firm covered in this review or the LTFV investigation but the manufacturer is, the cash-deposit rate will be the rate established for the most recent period for the manufacturer of the merchandise; (3) if neither the exporter nor the manufacturer has its own rate, the cash-deposit rate will be 28.72 percent, the all-others rate established in the *Notice of Final Determination of Sales at Less Than Fair Value: Polyethylene Terephthalate Film, Sheet, and Strip from Brazil,* 73 FR 55035, 55036 (September 24, 2008). These deposit requirements, when imposed, shall remain in effect until further notice.

Notification to Importers

This notice also serves as a final reminder to importers of their responsibility under 19 CFR 351.402(f)(2) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this POR. Failure to comply with this requirement could result in the Secretary's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

Notification to Interested Parties

This notice also serves as a reminder to parties subject to administrative protective order (APO) of their responsibility concerning the return or destruction of proprietary information disclosed under APO in accordance with 19 CFR 351.305(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 violation which is subject to sanction.

This administrative review and notice are issued and published in accordance with sections 751(a)(1) and 777(i)(1) of the Act.

Dated: November 15, 2011.

Paul Piquado,

Assistant Secretary for Import Administration.

[FR Doc. 2011–30408 Filed 11–23–11; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

Quarterly Update to Annual Listing of Foreign Government Subsidies on Articles of Cheese Subject to an In-Quota Rate of Duty

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

DATES: *Effective Date:* November 25, 2011.

FOR FURTHER INFORMATION CONTACT: Gayle Longest, AD/CVD Operations, Office 3, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Ave. NW., Washington, DC 20230, *telephone:* (202) 482–3338.

SUPPLEMENTARY INFORMATION: Section 702 of the Trade Agreements Act of 1979 (as amended) (''the Act'') requires the Department of Commerce (''the Department'') to determine, in consultation with the Secretary of Agriculture, whether any foreign government is providing a subsidy with respect to any article of cheese subject to an in-quota rate of duty, as defined in section 702(h) of the Act, and to publish an annual list and quarterly updates to the type and amount of those subsidies. We hereby provide the Department's quarterly update of subsidies on articles of cheese that were imported during the period July 1, 2011, through September 30, 2011.

The Department has developed, in consultation with the Secretary of Agriculture, information on subsidies (as defined in section 702(h) of the Act) being provided either directly or indirectly by foreign governments on articles of cheese subject to an in-quota rate of duty. The appendix to this notice lists the country, the subsidy program or programs, and the gross and net amounts of each subsidy for which information is currently available. The Department will incorporate additional programs which are found to constitute subsidies, and additional information on the subsidy programs listed, as the information is developed.

The Department encourages any person having information on foreign government subsidy programs which benefit articles of cheese subject to an in-quota rate of duty to submit such information in writing to the Assistant Secretary for Import Administration, U.S. Department of Commerce, 14th Street and Constitution Ave. NW., Washington, DC 20230.

This determination and notice are in accordance with section 702(a) of the Act.

Dated: November 18, 2011.

Paul Piquado,

Assistant Secretary for Import Administration.

APPENDIX—SUBSIDY PROGRAMS ON CHEESE SUBJECT TO AN IN-QUOTA RATE OF DUTY

Country	Program(s)	Gross [1] subsidy ($/lb)	Net [2] subsidy ($/lb)
27 European Union Member States [3]	European Union Restitution Payments	$ 0.00	$0.00
Canada	Export Assistance on Certain Types of Cheese	0.35	0.35
Norway	Indirect (Milk) Subsidy	0.00	0.00
	Consumer Subsidy	0.00	0.00
	Total	0.00	0.00
Switzerland	Deficiency Payments	0.00	0.00

[1] Defined in 19 U.S.C. 1677(5).
[2] Defined in 19 U.S.C. 1677(6).
[3] The 27 member states of the European Union are: Austria, Belgium, Bulgaria, Cyprus, Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Ireland, Italy, Latvia, Lithuania, Luxembourg, Malta, Netherlands, Poland, Portugal, Romania, Slovakia, Slovenia, Spain, Sweden, and the United Kingdom.

[FR Doc. 2011–30409 Filed 11–23–11; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

North American Free-Trade Agreement, Article 1904 NAFTA Panel Reviews; Request for Panel Review

AGENCY: NAFTA Secretariat, United States Section, International Trade Administration, Department of Commerce.

ACTION: Notice of First Request for Panel Review.

SUMMARY: On November 4, 2011, Quimic, S.A. de C.V., filed a First Request for Panel Review with the Mexican Section of the NAFTA Secretariat pursuant to Article 1904 of the North American Free Trade Agreement. Panel review was requested of the final determination of the effective examination and official review on countervailing duties regarding imports of certain type of stearic acid originating from the United States of America, independently of the country of origin. This merchandise is classified in tariff items 3823.11.01 and 3823.19.9901 of the Mexican Tariff Schedule (TIGIE), published in the *Diario Oficial de la Federacion,* on October 7, 2011. The NAFTA Secretariat has assigned Case Number MEX–USA–2011–1904–01 to this request.

FOR FURTHER INFORMATION CONTACT: Marsha Ann Y. Iyomasa, Deputy United States Secretary, NAFTA Secretariat, Suite 2061, 14th and Constitution Avenue, Washington, DC 20230, (202) 482–5438.

SUPPLEMENTARY INFORMATION: Chapter 19 of the North American Free-Trade Agreement (''Agreement'') establishes a mechanism to replace domestic judicial review of final determinations in antidumping and countervailing duty cases involving imports from a NAFTA country with review by independent bi-national panels. When a Request for Panel Review is filed, a panel is established to act in place of national courts to review expeditiously the final determination to determine whether it conforms with the antidumping or

countervailing duty law of the country that made the determination.

Under Article 1904 of the Agreement, which came into force on January 1, 1994, the Government of the United States, the Government of Canada and the Government of Mexico established *Rules of Procedure for Article 1904 Binational Panel Reviews* (''Rules''). These Rules were published in the **Federal Register** on February 23, 1994 (59 FR 8686).

A first Request for Panel Review was filed with the Mexican Section of the NAFTA Secretariat, pursuant to Article 1904 of the Agreement, on November 4, 2011, requesting panel review of the final determination described above.

The Rules provide that:

(a) A Party or interested person may challenge the final determination in whole or in part by filing a Complaint in accordance with Rule 39 within 30 days after the filing of the first Request for Panel Review (the deadline for filing a Complaint is December 5, 2011);

(b) A Party, investigating authority or interested person that does not file a Complaint but that intends to appear in support of any reviewable portion of the final determination may participate in the panel review by filing a Notice of Appearance in accordance with Rule 40 within 45 days after the filing of the first Request for Panel Review (the deadline for filing a Notice of Appearance is December 19, 2011); and

(c) The panel review shall be limited to the allegations of error of fact or law, including the jurisdiction of the investigating authority, that are set out in the Complaints filed in the panel review and the procedural and substantive defenses raised in the panel review.

Dated: November 18, 2011.

Marsha Ann Y. Iyomasa,

Deputy United States Secretary, NAFTA Secretariat.

[FR Doc. 2011–30314 Filed 11–23–11; 8:45 am]

BILLING CODE 3510–GT–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XA799

Atlantic Highly Migratory Species; Exempted Fishing, Scientific Research, Display, and Chartering Permits; Letters of Acknowledgment

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

ACTION: Notice of intent; request for comments.

SUMMARY: NMFS announces its intent to issue Exempted Fishing Permits (EFPs), Scientific Research Permits (SRPs), Display Permits, Letters of Acknowledgment (LOAs), and Chartering Permits for the collection of Atlantic Highly Migratory Species (HMS) in 2012. In general, EFPs and related permits would authorize collection of a limited number of tunas, swordfish, billfishes, and sharks from Federal waters in the Atlantic Ocean, Caribbean Sea, and Gulf of Mexico for the purposes of scientific data collection and public display. Chartering Permits allow the collection of HMS on the high seas or in the Exclusive Economic Zone of other nations. Generally, these permits will be valid from the date of issuance through December 31, 2012, unless otherwise specified, subject to the terms and conditions of individual permits.

DATES: Written comments on these activities received in response to this notice will be considered by NMFS when issuing EFPs and related permits and must be received on or before *December 27, 2011.*

ADDRESSES: Comments may be submitted by any of the following methods:

- *Email: HMSEFP.2012@noaa.gov.* Include in the subject line the following identifier: 0648–XA799.
- *Mail:* Craig Cockrell, Highly Migratory Species Management Division (F/SF1), NMFS, 1315 East-West Highway, Silver Spring, MD 20910.
- *Fax:* (301) 713–1917.

FOR FURTHER INFORMATION CONTACT: Craig Cockrell, *phone:* (301) 427–8503, *fax:* (301) 713–1917, or Jackie Wilson at (240) 338–3936.

SUPPLEMENTARY INFORMATION: Issuance of EFPs and related permits are necessary for the collection of HMS for public display and scientific research that is exempt from regulations (*e.g.,* seasons, prohibited species, authorized gear, and minimum sizes) that may prohibit the collection of live animals or biological samples. Collection for scientific research and display represents a small portion of the overall fishing mortality for HMS, and this mortality is counted against the quota of the species harvested. The terms and conditions of individual permits are unique; however, all permits will include reporting requirements, limit the number and species of HMS to be collected, and only authorize collection in Federal waters of the Atlantic Ocean, Gulf of Mexico, and Caribbean Sea.

EFPs and related permits are issued under the authority of the Magnuson-Stevens Fishery Conservation and Management Reauthorization Act (Magnuson-Stevens Act) (16 U.S.C. 1801 *et seq.*) and/or the Atlantic Tunas Convention Act (ATCA) (16 U.S.C. 971 *et seq.*). Regulations at 600.745 and 635.32 govern scientific research activity, exempted fishing, chartering arrangements, and exempted educational activities with respect to Atlantic HMS. Since the Magnuson-Stevens Act does not consider scientific research to be ''fishing,'' scientific research is exempt from this statute, and NMFS does not issue EFPs for bona fide research activities (*e.g.,* research conducted from a research vessel and not a commercial or recreational fishing vessel) involving species that are only regulated under the Magnuson-Stevens Act (*e.g.,* most species of sharks) and not under ATCA. NMFS requests copies of scientific research plans for these activities and indicates concurrence by issuing an LOA to researchers to indicate that the proposed activity meets the definition of research and is therefore exempt from regulation. Examples of research conducted under LOAs include tagging and releasing of sharks during bottom longline surveys to understand the distribution and seasonal abundance of different shark species, and collecting and sampling sharks caught during trawl surveys for life history studies.

Scientific research is not exempt from regulation under ATCA. NMFS issues SRPs for collection of species managed under this statute (*e.g.,* tunas, swordfish, billfish, and some species of sharks), which authorize researchers to collect HMS from bona fide research vessels. One example of research conducted under SRPs consists of scientific surveys of HMS conducted from the NOAA research vessels. EFPs are issued to researchers collecting ATCA-managed species and conducting research from commercial or recreational fishing vessels. NMFS regulations concerning the implantation or attachment of archival tags in Atlantic HMS require scientists to report their activities associated with these tags. Examples of research conducted under EFPs include deploying pop-up satellite archival tags on billfish, sharks, and tunas to determine migration patterns of these species; conducting billfish larval tows to determine billfish habitat use, life history, and population structure; and determining catch rates and gear characteristics of the swordfish buoy gear fishery.

NMFS is also seeking public comment on its intent to issue Display Permits for

the collection of sharks and other HMS for public display in 2011. Collection of sharks and other HMS sought for public display in aquaria often involves collection when the commercial fishing seasons are closed, collection of otherwise prohibited species, and collection of fish below the minimum size for recreational permit holders. NMFS established a 60-metric ton (mt) whole weight (ww) (approximately 3,000 sharks) quota for the public display and research of sharks (combined) in the final Fishery Management Plan (FMP) for Atlantic Tunas, Swordfish, and Sharks (1999 FMP). Collections of animals in both state and federal waters are deducted from this quota. The quotas available for scientific research and public display of sandbar and dusky sharks were modified in Amendment 2 to the 2006 Consolidated HMS FMP (June 24, 2008, 73 FR 35778; corrected on July 15, 2008 73 FR 40658) in light of the results of recent stock assessments. The public display and scientific research quotas for sandbar sharks are now limited to 2.78 mt ww (2 mt dressed weight (dw)): 1.39 mt ww for public display and 1.39 mt ww for scientific research. Furthermore, Amendment 2 to the 2006 Consolidated HMS FMP limited dusky shark collection to bona fide scientific research and prohibits dusky shark collection for public display. The rule did not modify the overall 60-mt ww quota; rather, it adjusted the proportion of the quota allocated to sandbar and dusky sharks. These quotas have been analyzed in conjunction with other sources of mortality under Amendment 2 to the 2006 Consolidated HMS FMP, and NMFS has determined that harvesting this amount for public display will not have a significant impact on the stocks. The number of sharks harvested for display and research has remained under the annual 60-mt ww quota every year since establishment of the quota. In 2010, approximately 69 percent of the sharks authorized for public display and scientific research purposes were actually harvested or discarded dead. Amendment 3 to the 2006 Consolidated HMS FMP also established a separate set-aside quota for smoothhound sharks (*i.e.,* smooth dogfish and Florida smoothhounds) taken for research purposes, which would be in addition to the overall 60-mt ww quota for the public display and research of all sharks. However, the smoothhound shark research set-aside quota is not yet effective and their harvest resulting from research activities is not yet deducted from the set aside quota for public display and research of sharks. NMFS will announce when such regulations become effective through a publication in the **Federal Register**.

Exempted fishing permits will continue to be considered for issuance in 2012, for bycatch reduction research in closed areas of the Atlantic Ocean, Gulf of Mexico, and Caribbean Sea to test gear modifications and fishing techniques aimed to avoid incidental capture of non-target species. In addition to this opportunity for public comment, the HMS Management Division will seek additional public comment, as necessary, on specific proposals where research is not being conducted solely from bona fide research vessels or fishing vessels specifically contracted to conduct scientific research. NMFS generally does not consider recreational or commercial vessels bona fide research vessels. However, if the vessels have been contracted to only conduct research and not participate in any commercial or recreational fishing activities during that research, NMFS may consider those vessels as bona fide research platforms while conducting the specified research. As an example, NMFS has considered the recreational and commercial vessels contracted to conduct research under the Deepwater Horizon/BP oil spill as bona fide research platforms. Furthermore, NMFS will provide the public with additional opportunities for comment, as necessary and appropriate, if research could allow commercial fishing vessels to conduct limited fishing trips inside closed areas in conjunction with specified research.

The HMS Management Division is also requesting comments on chartering permits considered for issuance in 2012 to U.S. vessels fishing for HMS while operating under chartering arrangements. In 2011 there were no chartering permits issued to U.S. fishing vessels. A chartering arrangement is a contract or agreement between a U.S. vessel owner and a foreign entity by which the control, use, or services of a vessel are secured for a period of time for fishing for Atlantic HMS. Before fishing under a chartering arrangement, the owner of the U.S. fishing vessel must apply for a Chartering Permit. The vessel chartering regulations can be found at 635.5(a)(4) and 635.32(e).

In addition, Amendment 2 to the 2006 Consolidated HMS FMP implemented a shark research fishery. This research fishery is conducted under the auspices of the exempted fishing program. Research fishery permit holders assist NMFS in collecting valuable shark life history data and data for future shark stock assessments. Fishermen must fill out an application for a shark research permit under the exempted fishing program to participate in the shark research fishery. Shark research fishery participants are subject to 100-percent observer coverage in addition to other terms and conditions. A **Federal Register** notice describing the objectives for the shark research fishery in 2012 published on October 31, 2011 (76 FR 67149).

The authorized number of species for 2011, as well as the number of specimens collected in 2010, is summarized in Table 1. The number of specimens collected in 2011 will be available when all 2011 interim and annual reports are submitted to NMFS. In 2010, the number of specimens collected was less than the number of authorized specimens for most permit types, with the exception of the number of larvae collected under billfish EFPs, and sharks taken under SRPs and Display permits. It is difficult to control the quantity of larvae that may be caught when sampling fish larvae. However, the impacts of these collections on fish populations are not expected to be significant given the high level of natural mortality of fish larvae. As for sharks taken under SRPs and Display Permits, 374 of the sharks taken were Atlantic sharpnose sharks collected during trips using longline gear; it is also difficult to control the number and species of animals caught when using this gear type. However, as Atlantic sharpnose sharks were not found to be overfished nor have overfishing occurring during its most recent stock assessment in 2007, these collections are not expected to have any impacts on Atlantic sharpnose populations.

In all cases, mortality associated with an EFP, SRP, Display Permit, or LOA (except for larvae) is counted against the appropriate quota. NMFS issued a total of 28 EFPs, SRPs, Display Permits, and LOAs in 2010 for the collection of HMS. As of October 31, 2011, NMFS has issued a total of 32 EFPs, SRPs, Display Permits, and LOAs. These do not include permits that were issued for research related to the Deepwater Horizon/BP oil spill in the Gulf of Mexico. In 2011, seven permits were issued for research related to the oil spill in the Gulf of Mexico.

TABLE 1—SUMMARY OF HMS EXEMPTED PERMITS ISSUED IN 2010 AND 2011. "HMS" REFERS TO MULTIPLE SPECIES BEING COLLECTED UNDER A GIVEN PERMIT TYPE

	2010					2011		
Permit type	Permits issued**	Authorized fish (num)	Authorized larvae (num)	Fish kept/ discarded dead (num)	Larvae kept (num)	Permits issued**	Authorized fish (num)	Authorized larvae (num)
EFP								
HMS	1	454	0	0	0	2	273	0
Shark	9	755	0	607	0	8	1,377	0
Tuna	5	295	0	67	0	5	695	0
Billfish	2	0	1,000	0	2,327	2	40	1,000
SRP								
HMS	0	0	0	0	0	1	83	0
Shark	1	140	0	†345	0	3	1,365	0
Tuna	0	0	0	0	0	1	110	0
Display								
HMS	2	153	0	1	0	2	124	0
Shark	2	107	0	†113	0	3	87	0
Total	22	1,904	1,000	1,133	2,327	27	4,154	1,000
LOA*								
Shark	6	4,140	0	2,000	0	5	5,367	0

*LOAs are issued for bona fide scientific research activities involving non-ATCA managed species (*e.g.,* most species of sharks). Collections made under an LOA are not authorized; rather this estimated harvest for research is acknowledged by NMFS. Permitees are encouraged to report all fishing activities in a timely manner.

**2010 & 2011 permits issued listed in Table 1 do not include permits issued solely for research related to the Deepwater Horizon/BP oil spill research in the Gulf of Mexico.

† All additional collections above the authorized levels were due to incidentally caught Atlantic sharpnose sharks.

Final decisions on the issuance of any EFPs, SRPs, Display Permits, and Chartering Permits will depend on the submission of all required information about the proposed activities, NMFS's review of public comments received on this notice, an applicant's reporting history on past permits issued, past law enforcement violations, consistency with relevant NEPA documents, and any consultations with appropriate Regional Fishery Management Councils, states, or Federal agencies. NMFS does not anticipate any significant environmental impacts from the issuance of these EFPs as assessed in the 1999 FMP and Amendment 2 to the 2006 Consolidated HMS FMP.

Authority: 16 U.S.C. 971 *et seq.* and 16 U.S.C. 1801 *et seq.*

Dated: November 21, 2011.

Steven Thur,

Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 2011–30399 Filed 11–23–11; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XA078

[File No. 15750]

Marine Mammals

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

ACTION: Notice; issuance of permit.

SUMMARY: Notice is hereby given that a permit has been issued to ABR, Inc. Environmental Research and Services, Fairbanks, AK, to conduct research on marine mammals in Alaska.

ADDRESSES: The permit and related documents are available for review upon written request or by appointment in the following offices:

Permits and Conservation Division, Office of Protected Resources, NMFS, 1315 East-West Highway, Room 13705, Silver Spring, MD 20910; phone (301) 427–8401; fax (301) 713–0376; and

Alaska Region, NMFS, P.O. Box 21668, Juneau, AK 99802–1668; phone (907) 586–7221; fax (907) 586–7249.

FOR FURTHER INFORMATION CONTACT: Tammy Adams or Laura Morse, (301) 427–8401.

SUPPLEMENTARY INFORMATION: On December 9, 2010, notice was published in the **Federal Register** (75 FR 76703) that a request for a permit had been submitted by the above-named applicant. The requested permit has been issued under the authority of the Marine Mammal Protection Act of 1972, as amended (16 U.S.C. 1361 *et seq.*), the regulations governing the taking and importing of marine mammals (50 CFR part 216), the Endangered Species Act of 1973, as amended (ESA; 16 U.S.C. 1531 *et seq.*), the regulations governing the taking, importing, and exporting of endangered and threatened species (50 CFR parts 222–226), and the Fur Seal Act of 1966, as amended (16 U.S.C. 1151 *et seq.*).

The permit is valid for five years and allows harassment of the following marine mammal species during conduct of aerial surveys to document seasonal distribution and abundance of marine mammals in western lower Cook Inlet, Alaska: Steller sea lions (*Eumetopias jubatus*), beluga whales (*Delphinapterus leucas*), harbor seals (*Phoca vitulina*), harbor porpoises (*Phocoena phocoena*), Dall's porpoises (*Phocoenoides dalli*), minke whales (*Balaenoptera acutorostrata*), gray whales (*Eschrichtius robustus*), killer whales (*Orcinus orca*), northern fur seals (*Callorhinus ursinus*), fin whales (*B. physalus*), and humpback whales (*Megaptera novaeangliae*).

An environmental assessment (EA) was prepared analyzing the effects of the permitted activities on the human environment in compliance with the National Environmental Policy Act of

1969 (42 U.S.C. 4321 *et seq.*). Based on the analyses in the EA, NMFS determined that issuance of the permit would not significantly impact the quality of the human environment and that preparation of an environmental impact statement was not required. That determination is documented in a Finding of No Significant Impact, signed on November 15, 2011.

As required by the ESA, issuance of this permit was based on a finding that such permit: (1) Was applied for in good faith; (2) will not operate to the disadvantage of such endangered species; and (3) is consistent with the purposes and policies set forth in section 2 of the ESA.

Dated: November 21, 2011.

P. Michael Payne,

Chief, Permits and Conservation Division, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 2011–30401 Filed 11–23–11; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XU87

[File No. 15126]

Marine Mammals

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

ACTION: Notice; receipt of application for permit amendment.

SUMMARY: Notice is hereby given that NMFS National Marine Mammal Laboratory, (Responsible Party: Dr. John Bengtson, Director), Seattle, WA, has applied for an amendment to Scientific Research Permit No. 15126–01 for studies of marine mammals in Alaska.

DATES: Written, telefaxed, or email comments must be received on or before December 27, 2011.

ADDRESSES: The application and related documents are available for review by selecting ''Records Open for Public Comment'' from the *Features* box on the Applications and Permits for Protected Species home page, *https://apps.nmfs.noaa.gov,* and then selecting File No. 15126 from the list of available applications.

These documents are also available upon written request or by appointment in the following offices:

Permits and Conservation Division, Office of Protected Resources, NMFS, 1315 East-West Highway, Room 13705, Silver Spring, MD 20910; phone (301) 427–8401; fax (301) 713–0376; and

Alaska Region, NMFS, P.O. Box 21668, Juneau, AK 99802–1668; phone (907) 586–7221; fax (907) 586–7249.

Written comments on this application should be submitted to the Chief, Permits, Conservation and Education Division, at the address listed above. Comments may also be submitted by facsimile to (301) 713–0376, or by email to *NMFS.Pr1Comments@noaa.gov.* Please include the File No. in the subject line of the email comment.

Those individuals requesting a public hearing should submit a written request to the Chief, Permits, Conservation and Education Division at the address listed above. The request should set forth the specific reasons why a hearing on this application would be appropriate.

FOR FURTHER INFORMATION CONTACT: Tammy Adams or Amy Sloan, (301) 427–8401.

SUPPLEMENTARY INFORMATION: The subject amendment to Permit No. 15126–01 is requested under the authority of the Marine Mammal Protection Act of 1972, as amended (16 U.S.C. 1361 *et seq.*), and the regulations governing the taking and importing of marine mammals (50 CFR part 216).

Permit No. 15126, issued on May 7, 2010 (75 FR 27300), authorizes the permit holder to take ribbon seals (*Phoca fasciata*), spotted seals (*P. largha*), ringed seals (*P. hispida*), harbor seals (*P. vitulina*), and bearded seals (*Erignathus barbatus*) in the North Pacific Ocean, Bering Sea, Arctic Ocean and coastal regions of Alaska to investigate their foraging ecology, habitat requirements, vital rates, and effects of natural and anthropogenic factors. A minor amendment (Permit No. 15126–01) was issued on April 5, 2011, which authorized harassment of ringed seals to assess conditions and characteristics of their lairs and breathing holes. Methods for the project include excavating a portion of the lairs or breathing holes to take measurements and photographs of the structure and placing sensors within the lair before reconstructing and closing the structure. The minor amendment did not change the numbers of animals harassed; it re-allocated takes already permitted for harassment incidental to seal capture activities. The permit is valid through March 30, 2015.

The permit holder is requesting the permit be amended to include authorization for harassment of an additional 3,554 ribbon seals, 8,699 spotted seals, 3,872 bearded seals and 50,653 ringed seals annually during low-level (less than 1,000 feet and greater than 400 feet) aerial surveys conducted from either rotary or fixed wing manned or unmanned aircraft. The amendment would not affect the expiration date of the permit.

In compliance with the National Environmental Policy Act of 1969 (42 U.S.C. 4321 *et seq.*), an initial determination has been made that the activity proposed is categorically excluded from the requirement to prepare an environmental assessment or environmental impact statement.

Concurrent with the publication of this notice in the *Federal Register*, NMFS is forwarding copies of this application to the Marine Mammal Commission and its Committee of Scientific Advisors.

Dated: November 18, 2011.

P. Michael Payne,

Chief, Permits and Conservation Division, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 2011–30390 Filed 11–23–11; 8:45 am]

BILLING CODE 3510–22–P

CORPORATION FOR NATIONAL AND COMMUNITY SERVICE

Proposed Information Collection; Comment Request

AGENCY: Corporation for National and Community Service.

ACTION: Notice.

SUMMARY: The Corporation for National and Community Service (hereinafter the ''Corporation''), as part of its continuing effort to reduce paperwork and respondent burden, conducts a pre-clearance 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. Sec. 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 requirement on respondents can be properly assessed.

Currently, the Corporation is soliciting comments concerning data collection for the Understanding the Value of Service in Participant's Experience project. The goals of the project are: (1) To strengthen national service by ensuring that participants consistently find satisfaction and self-efficacy; (2) to determine what contributes to a defining or

transformative service experience; (3) to assess whether and how Corporation programs are helping to provide that defining experience; (4) to understand whether and how participants experience connections to their service experience in order to develop knowledge and refine hypotheses about whether, how, when, and why participation in national service delivers benefits to the participants themselves. The study uses focus groups and surveys to understand the experience.

Copies of the information collection requests can be obtained by contacting the office listed in the address section of this notice.

DATES: Written comments must be submitted to the individual and office listed in the **ADDRESSES** section by January 24, 2012.

ADDRESSES: You may submit comments, identified by the title of the information collection activity, by any of the following methods:

(1) *By mail sent to:* Corporation for National and Community Service, Attention: Lillian Dote, Policy Analyst, Strategy Office, Curtis Center, 601 Walnut Street, Suite 876E, Philadelphia, PA 19106.

(2) By hand delivery or by courier to the street address given in paragraph (1) above, between 9 a.m. and 4 p.m. Monday through Friday, except Federal holidays.

(3) *By fax to:* (215) 597–4933, *Attention:* Lillian Dote, Policy Analyst, Strategy Office. Electronically through the Corporation's email address system: *ldote@cns.gov.* Individuals who use a telecommunications device for the deaf (TTY–TDD) may call 1 (800) 833–3722 between 8 a.m. and 8 p.m. Eastern Time, Monday through Friday.

FOR FURTHER INFORMATION CONTACT: Lillian Dote at (215) 964–6321 or by email at *ldote@cns.gov.*

SUPPLEMENTARY INFORMATION: The Corporation is particularly interested in comments that:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the Corporation, 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 expected to respond, including 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).

Background

The Corporation is interested in learning about the effects of national service on participants, and in strengthening national service so that participants engaged in Corporation-supported programs consistently find satisfaction, meaning, and opportunity. Participant satisfaction is important to the Corporation because it is part of the cycle of ensuring that service has a transformative impact on the participant, as well as ensuring that the participant effectively addresses community problems.

Current Action

This is a new information collection request.

Type of Review: New.

Agency: Corporation for National and Community Service.

Title: Understanding the Value of Service in Participant's Experience.

OMB Number: New.

Agency Number: None.

Affected Public: Individuals who have applied to, are currently serving at, or have served in the past at an organization or agency receiving Corporation funds.

Total Respondents: 412.

Frequency: Once.

Average Time per Response: Averages 55 minutes.

Estimated Total Burden Hours: 378 hours.

Total Burden Cost (capital/startup): None.

Total Burden Cost (operating/maintenance): None.

Comments submitted in response to this notice 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: November 18, 2011.

Nathan Dietz,

Associate Director, Strategy Office.

[FR Doc. 2011–30333 Filed 11–23–11; 8:45 am]

BILLING CODE 6050–$$–P

DEPARTMENT OF DEFENSE

Office of the Secretary

[Transmittal Nos. 11–49]

36(b)(1) Arms Sales Notification

AGENCY: Defense Security Cooperation Agency, Department of Defense.

ACTION: Notice.

SUMMARY: The Department of Defense is publishing the unclassified text of a section 36(b)(1) arms sales notification. This is published to fulfill the requirements of section 155 of Public Law 104–164 dated July 21, 1996.

FOR FURTHER INFORMATION CONTACT: Ms. B. English, DSCA/DBO/CFM, (703) 601–3740.

The following is a copy of a letter to the Speaker of the House of Representatives, Transmittals 11–49 with attached transmittal, policy justification, and Sensitivity of Technology.

Dated: November 21, 2011.

Aaron Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

BILLING CODE 5001–06–P

DEFENSE SECURITY COOPERATION AGENCY
201 12TH STREET SOUTH, STE 203
ARLINGTON, VA 22202-5408

NOV 15 2011

The Honorable John A. Boehner
Speaker of the House
U.S. House of Representatives
Washington, DC 20515

Dear Mr. Speaker:

Pursuant to the reporting requirements of Section 36(b)(1) of the Arms Export Control Act, as amended, we are forwarding herewith Transmittal No. 11-49, concerning the Department of the Air Force's proposed Letter(s) of Offer and Acceptance to Australia for defense articles and services estimated to cost $300 million. After this letter is delivered to your office, we plan to issue a press statement to notify the public of this proposed sale.

Sincerely,

William E. Landay III
Vice Admiral, USN
Director

Enclosures:
1. Transmittal
2. Policy Justification
3. Sensitivity of Technology

Transmittal No. 11–49

Notice of Proposed Issuance of Letter of Offer Pursuant to Section 36(b)(1) of the Arms Export Control Act, as amended

(i) *Prospective Purchaser:* Australia

(ii) *Total Estimated Value:*

Major Defense Equipment*	$ 225 million.
Other	$ 75 million.
TOTAL	$ 300 million.

* As defined in Section 47(6) of the Arms Export Control Act.

(iii) *Description and Quantity or Quantities of Articles or Services under Consideration for Purchase:* one C–17 GLOBEMASTER III aircraft, up to four Pratt & Whitney F117–PW–100 engines, one AN/AAQ–24V(13) Large Aircraft Infrared Countermeasures (LAIRCM) System, spare and repair parts, supply and test equipment, personnel training and training equipment, publications and technical documentation, United States Government and contractor engineering, logistics, and technical support services, and other related elements of logistics support.

(iv) *Military Department:* Air Force (SGV)

(v) *Prior Related Cases, if any:*

—FMS case SEN—$1.2B–19May06

—FMS case SGT—$300M–31Mar11

(vi) *Sales Commission, Fee, etc., Paid, Offered, or Agreed to be Paid:* None

(vii) *Sensitivity of Technology Contained in the Defense Article or Defense Services Proposed to be Sold:* See Attached Annex

(viii) *Date Report Delivered to Congress:* 15 November 2011

Policy Justification

Australia—C–17 GLOBEMASTER III Aircraft

The Government of Australia has requested a possible sale of one C–17 GLOBEMASTER III aircraft, up to four Pratt & Whitney F117–PW–100 engines, one AN/AAQ–24V(13) Large Aircraft Infrared Countermeasures (LAIRCM) System, spare and repair parts, supply and test equipment, personnel training and training equipment, publications and technical documentation, United States Government and contractor engineering, logistics, and technical support services, and other related elements of logistics support. The estimated cost is $300 million.

Australia is one of our most important allies in the Western Pacific. The strategic location of this political and economic power contributes significantly to ensuring peace and economic stability in the region. Australia's efforts in Operation IRAQI and ENDURING FREEDOM, and peacekeeping, and humanitarian operations have made a significant impact on regional, political, and economic stability and have served U.S. national security interests. This proposed sale is consistent with those objectives and facilitates burden sharing with our allies.

Australia currently has a heavy airlift capability comprised of five C–17As. This additional C–17 will further improve Australia's capability to rapidly deploy in support of global coalition operations and will also greatly enhance its ability to lead regional humanitarian/peacekeeping operations such as its current response to the Queensland flooding, cyclone aftermath and the New Zealand earthquake.

Australia has the ability to absorb and employ the additional C–17. The C–17 fleet is based at Royal Australian Air Force (RAAF) Base Amberley. RAAF Base Amberley is the primary base for airlift and tanker aircraft and is currently undergoing the infrastructure upgrades required to support the C–17 and other large aircraft Australia already received or is under contract to purchase.

The proposed sale of this equipment and support will not alter the basic military balance in the region.

The prime contractor will be the McDonnell Douglas Corporation, a wholly owned subsidiary of the Boeing Company, in Long Beach, California. There are no known offset agreements proposed in connection with this potential sale.

Implementation of this proposed sale will not require the assignment of any additional U.S. Government or contractor representatives to Australia.

There will be no adverse impact on U.S. defense readiness as a result of this proposed sale.

Transmittal No. 11–49

Notice of Proposed Issuance of Letter of Offer Pursuant to Section 36(b)(1) of the Arms Export Control Act

Annex

Item No. vii

(vii) *Sensitivity of Technology:*

1. The Boeing C–17 GLOBEMASTER III military airlift aircraft is the newest, most flexible cargo aircraft to enter the U. S. Air Force fleet. The C–17 is capable of rapid, strategic delivery of up to 170,900 pounds of personnel and equipment to main operating bases or to forward operating bases. The aircraft is also capable of short field landings with a full cargo load. Finally, the aircraft can perform tactical airlift and airdrop missions and can also transport litters and ambulatory patients during aeromedical evacuations when required. A fully integrated electronic cockpit and advanced cargo systems allow a crew of three: the pilot, copilot and loadmaster, to operate the aircraft on any type of mission.

2. The AN/AAQ–24V(13) Large Aircraft Infrared Countermeasure (LAIRCM) is an active countermeasure system designed to defeat guidance systems of man-portable, shoulder-fired, and vehicle-launched infrared guided missiles by directing a high-intensity, modulated laser beam into the missile seeker. This aircraft's self-protection suite will provide fast and accurate threat detection, processing, tracking, and countermeasures to defeat current and future generation infrared missile threats. LAIRCM is designed for installation on a wide range of fixed-wing aircraft.

3. The AN/ALE–47 Counter-Measures Dispensing System (CMDS) is an integrated, threat-adaptive, software-programmable dispensing system capable of dispensing chaff, flares and active radio frequency expendables. The threats countered by the CMDS include radar-directed anti-aircraft artillery (AAA), radar command-guided missiles, radar homing guided missiles, and infrared (IR) guided missiles. The system is internally mounted and may be operated as a stand-alone system or may be integrated with other on-board electronic warfare and avionics systems. The AN/ALE–47 uses threat data received over the aircraft interfaces to assess the threat situation and to determine a response. Expendable routines tailored to the immediate aircraft and threat environment may be dispensed using one of four operational modes. The hardware, technical data, and documentation to be provided are Unclassified.

4. If a technologically advanced adversary were to obtain knowledge of the specific hardware and software elements, the information could be used to develop countermeasures or equivalent systems which might reduce weapon system effectiveness or be used in the development of a system with similar or advanced capabilities.

[FR Doc. 2011–30370 Filed 11–23–11; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Office of the Secretary

[Transmittal Nos. 11–48]

36(b)(1) Arms Sales Notification

AGENCY: Defense Security Cooperation Agency, Department of Defense.

ACTION: Notice.

SUMMARY: The Department of Defense is publishing the unclassified text of a section 36(b)(1) arms sales notification. This is published to fulfill the requirements of section 155 of Public Law 104–164 dated July 21, 1996.

FOR FURTHER INFORMATION CONTACT: Ms. B. English, DSCA/DBO/CFM, (703) 601–3740.

The following is a copy of a letter to the Speaker of the House of Representatives, Transmittals 11–48 with attached transmittal, policy justification, and Sensitivity of Technology.

Dated: November 21, 2011.

Aaron Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

BILLING CODE 5001–06–P

DEFENSE SECURITY COOPERATION AGENCY
201 12th STREET SOUTH, STE 203
ARLINGTON, VA 22202-5408

NOV 16 2011

The Honorable John A. Boehner
Speaker of the House
U.S. House of Representatives
Washington, DC 20515

Dear Mr. Speaker:

Pursuant to the reporting requirements of Section 36(b)(1) of the Arms Export Control Act, as amended, we are forwarding herewith Transmittal No. 11-48, concerning the Department of the Air Force's proposed Letter(s) of Offer and Acceptance to Indonesia for defense articles and services estimated to cost $750 million. After this letter is delivered to your office, we plan to issue a press statement to notify the public of this proposed sale.

Sincerely,

William E. Landay III
Vice Admiral, USN
Director

Enclosures:
1. Transmittal
2. Policy Justification
3. Sensitivity of Technology

BILLING CODE 5001–06–C

Transmittal No. 11–48

Notice of Proposed Issuance of Letter of Offer Pursuant to Section 36(b)(1) of the Arms Export Control Act, as Amended

(i) *Prospective Purchaser:* Indonesia

(ii) *Total Estimated Value:*

Major Defense Equipment*	$100 million.
Other	650 million.
Total	750 million.

* As defined in Section 47(6) of the Arms Export Control Act.

(iii) *Description and Quantity or Quantities of Articles or Services Under Consideration for Purchase:* for the regeneration and upgrade of 24 F–16C/D Block 25 aircraft and 28 F100–PW–200 or F100–PW–220E engines being granted as Excess Defense Articles. The upgrade includes the following major systems and components: LAU–129A/A Launchers, ALR–69 Radar Warning Receivers, ARC–164/186 Radios, Expanded Enhanced Fire Control (EEFC) or Commercial Fire Control, or Modular Mission Computers, ALQ–213 Electronic Warfare Management Systems, ALE–47 Countermeasures Dispenser Systems, Cartridge Actuated

Devices/Propellant Actuated Devices (CAD/PAD), Situational Awareness Data Link, Enhance Position Location Reporting Systems (EPLRS), LN–260 (SPS version, non-PPS), and AN/AAQ–33 SNIPER or AN/AAQ–28 LITENING Targeting Systems. Also included are tools, support and test equipment, spare and repair parts, publications and technical documentation, personnel training and training equipment, U.S. Government and contractor engineering, technical and logistics support services, and other related elements of logistical and program support.

(iv) *Military Department:* Air Force (SAL)

(v) *Prior Related Cases, if any:* None

(vi) *Sales Commission, Fee, etc., Paid, Offered, or Agreed To Be Paid:* None

(vii) *Sensitivity of Technology Contained in the Defense Article or Defense Services Proposed To Be Sold:* See Annex Attached

(viii) *Date Report Delivered to Congress:* 16 November 2011.

POLICY JUSTIFICATION

Indonesia—Regeneration and Upgrade of F–16C/D Block 25 Aircraft

The Government of Indonesia has requested a sale for the regeneration and upgrade of 24 F–16C/D Block 25 aircraft and 28 F100–PW–200 or F100–PW–220E engines being granted as Excess Defense Articles. The upgrade includes the following major systems and components: LAU–129A/A Launchers, ALR–69 Radar Warning Receivers, ARC–164/186 Radios, Expanded Enhanced Fire Control (EEFC) or Commercial Fire Control, or Modular Mission Computers, ALQ–213 Electronic Warfare Management Systems, ALE–47 Countermeasures Dispenser Systems, Cartridge Actuated Devices/Propellant Actuated Devices (CAD/PAD), Situational Awareness Data Link, Enhance Position Location Reporting Systems (EPLRS), LN–260 (SPS version, non-PPS), and AN/AAQ–33 SNIPER or AN/AAQ–28 LITENING Targeting Systems. Also included are tools, support and test equipment, spare and repair parts, publications and technical documentation, personnel training and training equipment, U.S. Government and contractor engineering, technical and logistics support services, and other related elements of logistical and program support. The estimated cost is $750 million.

The proposed sale will contribute to the foreign policy and national security of the United States by improving the security of a strategic partner that has been, and continues to be, an important force for economic progress in Southeast Asia.

Indonesia desires the F–16 aircraft to modernize the Indonesian Air Force (IAF) fleet with aircraft more capable of conducting operations in the outermost border regions of Indonesia. The IAF's current fleet of F–16 Block 15 aircraft is not capable of fulfilling that role, and the aging F–5 aircraft are expensive to maintain and operate due to diminishing resources existing to support the aircraft. The avionics upgrade will provide the IAF an additional capability benefitting security by modernizing the force structure, and enhancing interoperability by greater use of U.S.-produced equipment. Indonesia, which already has F–16 Block 15 and F–5 aircraft in its inventory, will have no difficulty absorbing these upgraded systems.

The proposed sale of this equipment and support will not alter the basic military balance in the region.

Indonesia requested the regeneration be sole sourced to the 309th Maintenance Wing, Hill Air Force Base, in Ogden, Utah, and Pratt Whitney, in East Hartford, Connecticut for the engine overhaul. There are no known offset agreements proposed in connection with this potential sale.

Implementation of this proposed sale will not require the assignment of any additional U.S. Government or contractor representatives to Indonesia.

There will be no adverse impact on U.S. defense readiness as a result of this proposed sale.

Transmittal No. 11–48

Notice of Proposed Issuance of Letter of Offer Pursuant to Section 36(b)(1) of the Arms Export Control Act, as Amended

Annex

Item No. vii

(vii) *Sensitivity of Technology:*

1. The ALQ–213 Electronic Warfare Management System provides a common control for the ALR–69 and Electronic Attack pods. The highest level of classification for hardware is Unclassified and the U.S. software load is Confidential.

2. The AN/ALE–47 Countermeasures Dispenser Set is a software reprogrammable dispenser of chaff and flares. It provides for either automatic or aircrew commanded response dispense capabilities. Specific dispense routines are sensitive. The export version use a country unique ''look-up decision tree'' for determining dispense routines. The hardware is Unclassified and the software when loaded in the ALE–47 is Confidential.

3. The AN/AAQ–33 SNIPER targeting system is Unclassified but contains technology representing the latest state-of-the-art in several areas. Information on performance and inherent vulnerabilities is classified Secret. Software (object code) is classified Confidential.

4. The AN/AAQ–28 LITENING targeting system is Unclassified but contains technology representing the latest state-of-the-art in several areas. Information on performance and inherent vulnerabilities is classified Secret. Software (object code) is classified Confidential.

5. If a technologically advanced adversary were to obtain knowledge of the specific hardware and software elements, the information could be used to develop countermeasures which might reduce weapon system effectiveness or could be used in the development of a system with similar or advanced capabilities.

[FR Doc. 2011–30369 Filed 11–23–11; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Office of the Secretary

[Transmittal Nos. 11–47]

36(b)(1) Arms Sales Notification

AGENCY: Defense Security Cooperation Agency, Department of Defense.

ACTION: Notice.

SUMMARY: The Department of Defense is publishing the unclassified text of a section 36(b)(1) arms sales notification. This is published to fulfill the requirements of section 155 of Public Law 104–164 dated July 21, 1996.

FOR FURTHER INFORMATION CONTACT: Ms. B. English, DSCA/DBO/CFM, (703) 601–3740.

The following is a copy of a letter to the Speaker of the House of Representatives, Transmittals 11–47 with attached transmittal and policy justification.

Dated: November 21, 2011.

Aaron Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

BILLING CODE 5001–06–P

DEFENSE SECURITY COOPERATION AGENCY
201 12TH STREET SOUTH, STE 203
ARLINGTON, VA 22202-5408

NOV 15 2011

The Honorable John A. Boehner
Speaker of the House
U.S. House of Representatives
Washington, DC 20515

Dear Mr. Speaker:

Pursuant to the reporting requirements of Section 36(b)(1) of the Arms Export Control Act, as amended, we are forwarding herewith Transmittal No. 11-47, concerning the Department of the Navy's proposed Letter(s) of Offer and Acceptance to the United Kingdom for defense articles and services estimated to cost $200 million. After this letter is delivered to your office, we plan to issue a press statement to notify the public of this proposed sale.

Sincerely,

William E. Landay III
Vice Admiral, USN
Director

Enclosures:
1. Transmittal
2. Policy Justification

BILLING CODE 5001–06–C

Transmittal No. 11–47

Notice of Proposed Issuance of Letter of Offer Pursuant to Section 36(b)(1) of the Arms Export Control Act, as amended

(i) *Prospective Purchaser:* United Kingdom

(ii) *Total Estimated Value:*

Major Defense Equipment *	$ 0 million.
Other	200 million.
Total	200 million.

* as defined in Section 47(6) of the Arms Export Control Act.

(iii) *Description and Quantity or Quantities of Articles or Services Under Consideration for Purchase:* long lead sub-assemblies for the Electromagnetic Aircraft Launch System/Advanced Arresting Gear (EMALS/AAG). The EMALS long lead sub-assemblies include: Energy Storage System, Power Conditioning System, and Launch Control System. The AAG includes: Power Conditioning, Energy Absorption Subsystems, Shock Absorbers, and Drive Fairleads. Also proposed are other items for Aircraft Launch and Recovery Equipment, spare and repair parts, support equipment, personnel training and training equipment, publications and technical documentation, software support, U.S. Government and

contractor engineering, technical, and logistics support services, and all other related elements of program support.

(iv) *Military Department:* Navy (LUL)

(v) *Prior Related Cases, if any:* FMS Case FAL-$73M–6Apr11

(vi) *Sales Commission, Fee, etc., Paid, Offered, or Agreed To Be Paid:* None

(vii) *Sensitivity of Technology Contained in the Defense Article or Defense Services Proposed To Be Sold:* None

(viii) *Date Report Delivered to Congress:* 15 November 2011

Policy Justification

United Kingdom—Electromagnetic Aircraft Launch System Long Lead Sub-Assemblies

The Government of the United Kingdom (UK) has requested the long lead sub-assemblies for the Electromagnetic Aircraft Launch System/Advanced Arresting Gear (EMALS/AAG). The EMALS long lead sub-assemblies include: Energy Storage System, Power Conditioning System, and Launch Control System. The AAG includes: Power Conditioning, Energy Absorption Subsystems, Shock Absorbers, and Drive Fairleads. Also proposed are other items for Aircraft Launch and Recovery Equipment, spare and repair parts, support equipment, personnel training and training equipment, publications and technical documentation, software support, U.S. Government and contractor engineering, technical, and logistics support services, and all other related elements of program support. The estimated cost is $200 million.

This proposed sale will contribute to the foreign policy and national security of the United States by helping to maintain and improve the security of a key NATO ally that has been, and continues to be, an important force for major political stability and economic progress throughout Europe.

The proposed sale will improve the UK's aircraft carrier capability to meet current and future threats of adversaries at sea. The sub-systems will introduce state-of-the-art technology in the areas of aircraft launch and recovery onboard the UK's future aircraft carrier program. The UK will have no problem absorbing these additional sub-systems and support into its armed forces.

The proposed sale of this equipment and support will not alter the basic military balance in the region.

The prime contractor will be General Atomics in Rancho Bernardo, California. There are no known offset agreements proposed in connection with this potential sale.

Implementation of this sale will not require the assignment of additional U.S. Government or contractor representatives to the UK.

There will be no adverse impact on U.S. defense readiness as a result of this proposed sale.

[FR Doc. 2011–30368 Filed 11–23–11; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Office of the Secretary

Meeting of the Defense Advisory Committee on Women in the Services (DACOWITS)

AGENCY: Department of Defense.

ACTION: Notice.

SUMMARY: Pursuant to Section 10(a), Public Law 92–463, as amended, notice is hereby given of a forthcoming meeting of the Defense Advisory Committee on Women in the Services (DACOWITS). The purpose of the meeting is for the Committee to review and approve the 2011 Report. The Committee will also receive briefings on the Women in Services Review report, assignment policies, female engagement teams, suicides, and retention. Additionally, the Committee will discuss 2012 topics and installation visits. The meeting is open to the public, subject to the availability of space.

Interested persons may submit a written statement for consideration by the Defense Advisory Committee on Women in the Services. Individuals submitting a written statement must submit their statement to the Point of Contact listed in the **FOR FURTHER INFORMATION CONTACT** section no later than 5 p.m., Friday, December 2, 2011. If a written statement is not received by Friday, December 2, 2011, prior to the meeting, which is the subject of this notice, then it may not be provided to or considered by the Defense Advisory Committee on Women in the Services until its next open meeting. The Designated Federal Officer will review all timely submissions with the Defense Advisory Committee on Women in the Services Chairperson and ensure they are provided to the members of the Defense Advisory Committee on Women in the Services. If members of the public are interested in making an oral statement, a written statement should be submitted as detailed in this **SUMMARY** section. After reviewing the written comments, the Chairperson and the Designated Federal Officer will determine who of the requesting persons will be able to make an oral presentation of their issue during an open portion of this meeting or at a future meeting. Determination of who will be making an oral presentation is at the sole discretion of the Committee Chair and the Designated Federal Officer and will depend on time available and if the topics are relevant to the Committee's activities. Two minutes will be allotted to persons desiring to make an oral presentation. Oral presentations by members of the public will be permitted only on Wednesday, December 7, 2011 from 2:15 p.m. to 3 p.m. in front of the full Committee. Number of oral presentations to be made will depend on the number of requests received from members of the public.

DATES: December 6, 2011, 8:30 a.m.–4:45 p.m.; December 7, 2011, 1 p.m.–3 p.m.

ADDRESSES: Hilton Washington Dulles, 13869 Park Center Rd., Herndon, VA 20171.

FOR FURTHER INFORMATION CONTACT: Mr. Robert Bowling or DACOWITS Staff at 4000 Defense Pentagon, Room 2C548A, Washington, DC 20301–4000. *Robert.bowling@osd.mil. Telephone* (703) 697–2122. *Fax* (703) 614–6233.

SUPPLEMENTARY INFORMATION: Due to difficulties beyond the control of the Defense Advisory Committee on Women in the Services or its Designated Federal Officer, the Committee was unable to file a **Federal Register** notice announcing its December 6–7, 2011 meeting within the 15-calendar day period. The Advisory Committee Management Officer for the Department of Defense, pursuant to 41 CFR 102–3.150(b), waives the 15-calendar day notification requirement.

Meeting Agenda

Tuesday, December 6, 2011, 8:30 a.m.–4:45 p.m.

—Welcome, introductions, and announcements.
—2011 Annual Report review and approval.
—Briefing on Women in Service Review report.
—Army briefings on assignment policies, female engagement teams, and cultural support teams.
—Defense Manpower Data Center and Veteran Affairs briefings on active duty and veteran suicides.
—Defense Manpower Data Center and DoD briefings on retention.

Wednesday, December 7, 2011, 1 p.m.–3 p.m.

—2012 topics and installation visit discussion.
—Public Forum.

Dated: November 18, 2011.

Aaron Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 2011–30302 Filed 11–23–11; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Office of the Secretary

[Docket ID: DOD–2011–OS–0131]

Privacy Act of 1974; System of Records

AGENCY: Office of the Secretary of Defense, Department of Defense (DoD).

ACTION: Notice to Alter a System of Records.

SUMMARY: The Office of the Secretary of Defense proposes to alter a system of records in its inventory of record systems subject to the Privacy Act of 1974 (5 U.S.C. 552a), as amended.

DATES: This proposed action would be effective without further notice on December 27, 2011 unless comments are received which result in a contrary determination.

ADDRESSES: You may submit comments, identified by docket number and title, by any of the following methods:

• *Federal Rulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.

• *Mail:* Federal Docket Management System Office, 4800 Mark Center Drive, East Tower, 2nd Floor, Suite 02G09, Alexandria, VA 22350–3100.

Instructions: All submissions received must include the agency name and docket number 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. Cindy Allard, Chief, OSD/JS Privacy Office, Freedom of Information Directorate, Washington Headquarters Services, 1155 Defense Pentagon, Washington, DC 20301–1155, or by phone at (571) 372–0461.

SUPPLEMENTARY INFORMATION: The Office of the Secretary of Defense notices for systems of records subject to the Privacy Act of 1974 (5 U.S.C. 552a), as amended, have been published in the **Federal Register** and are available from the address in **FOR FURTHER INFORMATION CONTACT**.

The proposed system report, as required by 5 U.S.C. 552a(r) of the Privacy Act of 1974, as amended, was submitted on November 17, 2011, to the House Committee on Oversight and Government Reform, the Senate Committee on Governmental Affairs, and the Office of Management and Budget (OMB) pursuant to paragraph 4c of Appendix I to OMB Circular No. A–130, ''Federal Agency Responsibilities for Maintaining Records About Individuals,'' dated February 8, 1996 (February 20, 1996, 61 FR 6427).

Dated: November 18, 2011.

Aaron Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

DWHS E01 DoD

SYSTEM NAME:

DoD Federal Docket Management System (DoDFDMS) (January 5, 2006, 71 FR 586).

CHANGES:

* * * * *

SYSTEM LOCATION:

Delete entry and replace with ''Primary. U.S. Environmental Protection Agency, Research Triangle Park, NC 27711–0001.

SECONDARY LOCATIONS:

Washington Headquarters Services, Executive Services Directorate, Information Management Division, 4800 Mark Center Drive, Suite 02G09, Alexandria, VA 20350–3200.

Washington Headquarters Services, Executive Services Directorate, Directive Division, 4800 Mark Center Drive, Suite 02F09–02, Alexandria, VA 20350–3200.

Defense Acquisition Regulation Systems, 241 18th Street, Suite 200A, Arlington, VA 22202–3409.

United States Army Corps of Engineers, 441 G Street, Northwest, 3G81, Washington, DC 20314–1000.

Records also may be located in a designated office of the DoD Component that is the proponent of the rule making or notice. The official mailing address for the Component can be obtained from the DoD FDMS system manager.''

* * * * *

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Delete entry and replace with ''5 U.S.C. 553, Rule making; 10 U.S.C. 113, Secretary of Defense; 44 U.S.C. chapter 3501, The Paperwork Reduction Act; DoD Directive Type Memoranda 06–008, Federal Docket Management System; and Administrative Instruction 102, Office of the Secretary of Defense (OSD) Federal Register (FR) System.''

* * * * *

STORAGE:

Delete entry and replace with ''Paper file folders and electronic storage media.''

* * * * *

RETENTION AND DISPOSAL:

Delete entry and replace with ''Comments on rule making are permanent; retired to a Federal Records Center when superseded; and transferred to the National Archives when 30 years old.

Comments on notices are disposed of after one (1) year.''

SYSTEM MANAGER(S) AND ADDRESS:

Delete entry and replace with ''Federal Docket Management System Office, Washington Headquarters Services, Executive Services Directorate, Information Management Division, 4800 Mark Center Drive, Suite 02G09, Alexandria, VA 20350–3200.''

NOTIFICATION PROCEDURE:

Delete entry and replace with ''Individuals seeking to determine whether this system of records contains information about themselves should address written inquiries to the Federal Docket Management System Office, Washington Headquarters Services, Executive Services Directorate, Information Management Division, 4800 Mark Center Drive, Suite 02G09, Alexandria, VA 20350–3200.

REQUESTS SHOULD CONTAIN FULL NAME, ADDRESS, AND TELEPHONE NUMBER:

Note: FDMS permits an individual, as well as a member of the public, to search the public comments received by the name of the individual submitting the comment. Unless the individual submits the comment anonymously, a name search will result in the comment being displayed for view. If the comment is submitted electronically using the FDMS system, the viewed comment will not include the name of the submitter or any other identifying information about the individual except that which the submitter has opted to include as part of his or her general comments. However, a comment submitted in writing that has been scanned and uploaded into the FDMS system will display the submitter's identifying information that has been included as part of the written correspondence.''

RECORD ACCESS PROCEDURES:

Delete entry and replace with ''Individuals seeking access to records about themselves contained in this system of records should address a written request to the Office of the Secretary of Defense/Joint Staff Freedom of Information Act Requester Service Center, 1150 Defense Pentagon, Washington, DC 20301–1150.

REQUESTS SHOULD CONTAIN FULL NAME, ADDRESS, AND TELEPHONE NUMBER:

As appropriate, requests may be referred to the DoD Component responsible for the rule making or notice for processing.

Note: FDMS permits a member of the public to download any of the public comments received. If an individual has voluntarily furnished his or her name when submitting the comment, the individual, as well as the public, can view and download the comment by searching on the name of the individual. If the comment is submitted electronically using the FDMS system, the viewed comment will not include the name of the submitter or any other identifying information about the individual except that which the submitter has opted to include as part of his or her general comments. However, a comment submitted in writing that has been scanned and uploaded into the FDMS system will display the submitter's identifying information that has been included as part of the written correspondence.''

CONTESTING RECORD PROCEDURES:

Delete entry and replace with ''The OSD rules for accessing records, for contesting contents and appealing initial agency determinations are published in OSD Administrative Instruction 81; 32 CFR part 311; or may be obtained from the system manager.''

* * * * *

DWHS E01 DoD

SYSTEM NAME:

DoD Federal Docket Management System (DoDFDMS).

SYSTEM LOCATION:

Primary. U.S. Environmental Protection Agency, Research Triangle Park, NC 27711–0001.

SECONDARY LOCATIONS:

Washington Headquarters Services, Executive Services Directorate, Information Management Division, 4800 Mark Center Drive, Suite 02G09, Alexandria, VA 20350–3200.

Washington Headquarters Services, Executive Services Directorate, Directive Division, 4800 Mark Center Drive, Suite 02F09–02, Alexandria, VA 20350–3200.

Defense Acquisition Regulation Systems, 241 18th Street, Suite 200A, Arlington, VA 22202–3409.

United States Army Corps of Engineers, 441 G Street, Northwest, 3G81, Washington, DC 20314–1000.

Records also may be located in a designated office of the DoD Component that is the proponent of the rule making or notice. The official mailing address for the Component can be obtained from the DoD FDMS system manager.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals who voluntarily provide personal contact information when submitting a public comment and/or supporting materials in response to a Department of Defense rule making document or notice.

CATEGORIES OF RECORDS IN THE SYSTEM:

Full name, postal address, email address, phone and fax number, name of the organization the individual represents, name of any individual serving as a representative for the individual submitting the comment, and the comments, as well as other supporting documentation, furnished by the individual.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 553, Rule making; 10 U.S.C. 113, Secretary of Defense; 44 U.S.C. chapter 3501, The Paperwork Reduction Act; DoD Directive Type Memoranda 06–008, Federal Docket Management System; and Administrative Instruction 102, Office of the Secretary of Defense (OSD) Federal Register (FR) System.

PURPOSE(S):

The purpose of this system of records is to permit the Department of Defense to identify individuals who have submitted comments in response to DoD rule making documents or notices so that communications or other actions, as appropriate and necessary, can be effected, such as a need to seek clarification of the comment, a direct response is warranted, and for such other needs as may be associated with the rule making or notice process.

Note: Identification is possible only if the individual voluntarily provides identifying information. If such information is not furnished, the submitted comments and/or supporting documentation cannot be linked to an individual.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act of 1974, these records may specifically be disclosed outside the DoD as a routine use pursuant to 552a(b)(3) as follows:

The DoD 'Blanket Routine Uses' set forth at the beginning of the OSD's compilation of systems of records notices apply to this system.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

STORAGE:

Paper file folders and electronic storage media.

RETRIEVABILITY:

Records are retrieved by the individual's name.

SAFEGUARDS:

Records are maintained in a secure, password protected electronic system that utilizes security hardware and software to include: multiple firewalls, active intruder detection, and role-based access controls. Paper records will be maintained in a controlled facility where physical entry is restricted by the use of locks, guards, or administrative procedures. Access to records is limited to those officials who require the records to perform their official duties consistent with the purpose for which the information was collected. All personnel whose official duties require access to the information are trained in the proper safeguarding and use of the information.

RETENTION AND DISPOSAL:

Comments on rule making are permanent; retired to a Federal Records Center when superseded; and transferred to the National Archives when 30 years old.

Comments on notices are disposed of after one (1) year.

SYSTEM MANAGER(S) AND ADDRESS:

Federal Docket Management System Office, Washington Headquarters Services, Executive Services Directorate, Information Management Division, 4800 Mark Center Drive, Suite 02G09, Alexandria, VA 20350–3200.

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether this system of records contains information about themselves should address written inquiries to the Federal Docket Management System Office, Washington Headquarters Services, Executive Services Directorate, Information Management Division, 4800 Mark Center Drive, Suite 02G09, Alexandria, VA 20350–3200.

Requests should contain full name, address, and telephone number.

Note: FDMS permits an individual, as well as a member of the public, to search the public comments received by the name of the individual submitting the comment. Unless the individual submits the comment anonymously, a name search will result in the comment being displayed for view. If the comment is submitted electronically using the FDMS system, the viewed comment will not include the name of the submitter or any other identifying information about the individual except that which the submitter has opted to include as part of his or her general comments. However, a comment submitted in writing that has been scanned and uploaded into the FDMS system will display the submitter's identifying

information that has been included as part of the written correspondence.

RECORD ACCESS PROCEDURES:

Individuals seeking access to records about themselves contained in this system of records should address a written request to the Office of the Secretary of Defense/Joint Staff Freedom of Information Act Requester Service Center, 1150 Defense Pentagon, Washington, DC 20301–1150.

Requests should contain full name, address, and telephone number.

As appropriate, requests may be referred to the DoD Component responsible for the rule making or notice for processing.

Note: FDMS permits a member of the public to download any of the public comments received. If an individual has voluntarily furnished his or her name when submitting the comment, the individual, as well as the public, can view and download the comment by searching on the name of the individual. If the comment is submitted electronically using the FDMS system, the viewed comment will not include the name of the submitter or any other identifying information about the individual except that which the submitter has opted to include as part of his or her general comments. However, a comment submitted in writing that has been scanned and uploaded into the FDMS system will display the submitter's identifying information that has been included as part of the written correspondence.

CONTESTING RECORD PROCEDURES:

The OSD rules for accessing records, for contesting contents and appealing initial agency determinations are published in OSD Administrative Instruction 81; 32 CFR part 311; or may be obtained from the system manager.

RECORD SOURCE CATEGORIES:

Individual.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

[FR Doc. 2011–30259 Filed 11–23–11; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Office of the Secretary

[Docket ID: DOD–2011–OS–0133]

Privacy Act of 1974; System of Records

AGENCY: Defense Logistics Agency, Department of Defense (DoD).

ACTION: Notice to amend a system of records.

SUMMARY: The Defense Logistics Agency is proposing to amend a system of records notice in its existing inventory of record systems subject to the Privacy Act of 1974 (5 U.S.C. 552a), as amended.

DATES: The proposed action will be effective without further notice on December 27, 2011 unless comments are received which would result in a contrary determination.

ADDRESSES: You may submit comments, identified by docket number and title, by any of the following methods:

- *Federal Rulemaking Portal: http://www.regulations.gov*. Follow the instructions for submitting comments.
- *Mail:* Federal Docket Management System Office, 4800 Mark Center Drive, East Tower, 2nd Floor, Suite 02G09, Alexandria, VA 22350–3100.

Instructions: All submissions received must include the agency name and docket number 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. Jody Sinkler, DLA FOIA/Privacy Act Office, Headquarters, Defense Logistics Agency, ATTN: DGA, 8725 John J. Kingman Road, Suite 1644, Fort Belvoir, VA 22060–6221, or by phone at (703) 767–5045.

SUPPLEMENTARY INFORMATION: The Defense Logistics Agency's system of records notices subject to the Privacy Act of 1974 (5 U.S.C. 552a), as amended, have been published in the **Federal Register** and are available from the address in **FOR FURTHER INFORMATION CONTACT**.

The specific changes to the record system being amended are set forth below followed by the notice, as amended, published in its entirety. The proposed amendment is not within the purview of subsection (r) of the Privacy Act of 1974 (5 U.S.C. 552a), as amended, which requires the submission of new or altered systems reports.

Dated: November 21, 2011.

Aaron Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

S700.30

SYSTEM NAME:

Enterprise Business System (EBS) (August 12, 2008, 73 FR 46888).

CHANGES:

* * * * *

NOTIFICATION PROCEDURE:

Delete entry and replace with ''Individuals seeking to determine whether this system of records contains information about themselves should address written inquiries to the DLA FOIA/Privacy Act Office, Headquarters, Defense Logistics Agency, ATTN: DGA, 8725 John J. Kingman Road, Suite 1644, Fort Belvoir, VA 22060–6221.

Individuals should provide their full name, Social Security Number (SSN), current address, telephone number, and office or organization where currently assigned.''

RECORD ACCESS PROCEDURES:

Delete entry and replace with ''Individuals seeking access to information about themselves contained in this system of records should address written inquiries to the DLA FOIA/Privacy Act Office, Headquarters, Defense Logistics Agency, ATTN: DGA, 8725 John J. Kingman Road, Suite 1644, Fort Belvoir, VA 22060–6221.

Individuals should provide their full name, Social Security Number (SSN), current address, telephone number, and office or organization where currently assigned.''

CONTESTING RECORD PROCEDURES:

Delete entry and replace with ''The DLA rules for accessing records, for contesting contents and appealing initial agency determinations are contained in 32 CFR part 323, or may be obtained from the DLA FOIA/Privacy Act Office, Headquarters, Defense Logistics Agency, ATTN: DGA, 8725 John J. Kingman Road, Suite 1644, Fort Belvoir, VA 22060–6221.''

* * * * *

S700.30

SYSTEM NAME:

Enterprise Business System (EBS).

SYSTEM LOCATION:

Financial Compliance and Process Management (J–89), Headquarters, Defense Logistics Agency, 8725 John J. Kingman Road, Stop 6238, Fort Belvoir, VA 22060–6221.

Enterprise Business System Processing Center (EPC), DISA/DECC–Ogden, Building 981, 7879 Wardleigh Road, Hill AFB, UT 84056–5997.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Defense Logistics Agency (DLA) civilian employees and civilian employees of other DoD Components who receive accounting and financial management support from DLA under an administrative support agreement.

CATEGORIES OF RECORDS IN THE SYSTEM:

Individual's name, Social Security Number (SSN), activity code, home address, Country Code, Electronic Fund Transfer waiver, Financial Institution, Bank Routing Number, Bank Account Number, Account Type, gross pay data (date paid, disbursing officer voucher number, disbursing station symbol number, pay period ending date, pay system code, grade, pay/straight rate, work schedule, temporary position code, gross reconciliation code, job order number, hours extended, hours paid, and earnings/employer contributions amount), and reconciliation or error data (if applicable).

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 U.S.C. 136, Under Secretary of Defense for Personnel and Readiness; 31 U.S.C. 3512, Executive agency accounting and other financial management reports and plans, as amended by Public Law 104–208, Federal Financial Management Improvement Act of 1996; and E.O. 9397 (SSN) as amended.

PURPOSE(S):

Records are used to initiate reimbursements to enable the Defense Finance and Accounting Service (DFAS) to distribute payments to DLA employees for certain miscellaneous out-of-pocket expenses (training, tuition, Permanent Change of Station, etc). Records are also used to identify employee-related costs associated with reimbursable orders received by DLA and to enable accurate billing of those reimbursable orders.

Records are used to create a general ledger file containing the accounts necessary to reflect DLA operational costs. Operations costs consist of operating accounts, liability accounts, budgetary accounts, and statistical accounts, maintained for the purposes of establishing, in summary form, the status of the DLA accounts and to provide an audit trail to verify accuracy of reports.

Records are used by financial management offices to validate and accurately record employee-labor operational expenses.

Records are used to determine DLA civilian payroll budgetary requirements.

Records are used by internal auditors to conduct audits or investigations into the DLA accounting and financial management process.

Records are used by the DOD Components who receive accounting and financial management support from DLA under an administrative support agreement for accounting and financial management purposes.

Records devoid of personal identifiers are used for extraction or compilation of data and reports for management studies and statistical analyses for use internally or externally as required by DOD or other government agencies.

Statistical data, with all personal identifiers removed, may be used by management for program evaluation, review, or oversight purposes.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

IN ADDITION TO THOSE DISCLOSURES GENERALLY PERMITTED UNDER 5 U.S.C. 552A(B) OF THE PRIVACY ACT OF 1974, THESE RECORDS CONTAINED THEREIN MAY SPECIFICALLY BE DISCLOSED OUTSIDE THE DOD AS A ROUTINE USE PURSUANT TO 5 U.S.C. 552A(B)(3) AS FOLLOWS:

To the Office of Management and Budget for the purposes of conducting reviews, audits, or inspections of agency practices.

The DoD ''Blanket Routine Uses'' apply to this system of records.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records may be stored on both paper and electronic media.

RETRIEVABILITY:

Records are retrieved by individual's name, Employee number, and/or Social Security Number (SSN).

SAFEGUARDS:

Physical entry is restricted by the use of locks, guards, and administrative procedures. Access to personal information is restricted by access profiles to those who require the records in the performance of their official duties. All Personally Identifiable Information is encrypted with accessibility limited to permitted access profiles. Access to personal information is further restricted by the use of passwords that are changed periodically.

RETENTION AND DISPOSAL:

General ledger postings are cutoff at the end of the fiscal year and are maintained for 6 years and 3 months, and then destroyed.

Reconciliation or error records may remain in the system no longer than 2 years. These reconciliations or error records are kept by the Defense Finance and Accounting Service (DFAS) 6 years and 3 months, and are then destroyed. Ready to pay file disposition is pending (until the National Archives and Records Administration has approved the retention and disposal of ready to pay files, treated them as permanent).

SYSTEM MANAGER(S) AND ADDRESS:

Staff Director, Financial Compliance and Process Management (J–89), Headquarters, Defense Logistics Agency, 8725 John J. Kingman Road, Stop 6238, Fort Belvoir, VA 22060–6221.

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether this system of records contains information about themselves should address written inquiries to the DLA FOIA/Privacy Act Office, Headquarters, Defense Logistics Agency, ATTN: DGA, 8725 John J. Kingman Road, Suite 1644, Fort Belvoir, VA 22060–6221.

Individuals should provide their full name, Social Security Number (SSN), current address, telephone number, and office or organization where currently assigned.

RECORD ACCESS PROCEDURES:

Individuals seeking access to information about themselves contained in this system of records should address written inquiries to the DLA FOIA/Privacy Act Office, Headquarters, Defense Logistics Agency, ATTN: DGA, 8725 John J. Kingman Road, Suite 1644, Fort Belvoir, VA 22060–6221.

Individuals should provide their full name, Social Security Number (SSN), current address, telephone number, and office or organization where currently assigned.

CONTESTING RECORD PROCEDURES:

The DLA rules for accessing records, for contesting contents and appealing initial agency determinations are contained in 32 CFR part 323, or may be obtained from the DLA FOIA/Privacy Act Office, Headquarters, Defense Logistics Agency, ATTN: DGA, 8725 John J. Kingman Road, Suite 1644, Fort Belvoir, VA 22060–6221.

RECORD SOURCE CATEGORIES:

Existing DLA and DFAS databases.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

[FR Doc. 2011–30335 Filed 11–23–11; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Office of the Secretary

[Docket ID: DOD–2011–OS–0132]

Privacy Act of 1974; System of Records

AGENCY: Defense Logistics Agency, Department of Defense (DoD).

ACTION: Notice to Alter a System of Records.

SUMMARY: The Defense Logistics Agency is proposing to alter a system of records notice in its existing inventory of records systems subject to the Privacy Act of 1974, (5 U.S.C. 552a), as amended.

DATES: The changes will be effective on December 27, 2011 unless comments are received that would result in a contrary determination.

ADDRESSES: You may submit comments, identified by docket number and title, by any of the following methods:

• *Federal Rulemaking Portal: http://www.regulations.gov*. Follow the instructions for submitting comments.

• *Mail:* Federal Docket Management System Office, 4800 Mark Center Drive, East Tower, 2nd floor, Suite 02G09, Alexandria, VA 22350–3100.

Instructions: All submissions received must include the agency name and docket number 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. Jody Sinkler, DLA/FOIA/Privacy Act Office, Headquarters, Defense Logistics Agency, ATTN: DGA, 8725 John J. Kingman Road, Suite 1644, Fort Belvoir, VA 22060–6221, or by phone at (703) 767–5045.

SUPPLEMENTARY INFORMATION: The Defense Logistics Agency's systems of records notices subject to the Privacy Act of 1974, (5 U.S.C. 552a), as amended, have been published in the **Federal Register** and are available from the address in **FOR FURTHER INFORMATION CONTACT**.

The proposed system reports, as required by 5 U.S.C. 552a(r), of the Privacy Act of 1974, as amended, were submitted on November 17, 2011 to the House Committee on Oversight and Government Reform, the Senate Committee on Homeland Security and Governmental Affairs, and the Office of Management and Budget (OMB) pursuant to paragraph 4c of Appendix I to OMB Circular No. A–130, 'Federal Agency Responsibilities for Maintaining Records About Individuals,' dated February 8, 1996 (February 20, 1996, 61 FR 6427).

Dated: November 18, 2011.

Aaron Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

S170.80

SYSTEM NAME:

DLA OGC Student Loan Repayment Program Records (July 20, 2009, 74 FR 35164).

CHANGES:

* * * * *

PURPOSE(S):

Revise entry by adding ''employee'' before ''retention.''

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Add a new routine use as follows: ''Information is provided to financial lender institutions for the purpose of facilitating the student loan repayment under 5 U.S.C. 5379.''

* * * * *

RETENTION AND DISPOSAL:

Delete entry and replace with ''Records for which the employee has completed the service period specified in the service agreement and no disputes have arisen are destroyed 3 years after the end of the service period.

Records for which the service agreement has not been fulfilled, there are other disputes regarding the agreement or the loan payouts, or the agreement has become the subject of litigation are destroyed when agency counsel provides notice that all pending claims have been resolved, all litigation concluded, and any applicable period for seeking further review has elapsed, or 6 years from the date the facts giving rise to the dispute occurred, whichever is later.

Records for which debt collection is pursued against the employee for repayments made by the agency are destroyed when agency counsel provides notice that the debt is fully collected, compromised, or settled finally and any applicable period for seeking further review has elapsed.''

SYSTEM MANAGER(S) AND ADDRESS:

Delete entry and replace with ''DLA Land and Maritime Chief Counsel, DLA Land and Maritime, P.O. Box 3990, Columbus, OH 43218–3990.''

NOTIFICATION PROCEDURE:

Delete entry and replace with ''Individuals seeking to determine whether information about themselves is contained in this system should address written inquiries to the DLA FOIA/Privacy Act Office, Headquarters, Defense Logistics Agency, ATTN: DGA, 8725 John J. Kingman Road, Suite 1644, Fort Belvoir, VA 22060–6221. Inquiry should contain the individual's full name, current address, and telephone number.''

RECORD ACCESS PROCEDURES:

Delete entry and replace with ''Individuals seeking access to information about themselves contained in this system should address written inquiries to the DLA FOIA/Privacy Act Office, Headquarters, Defense Logistics Agency, ATTN: DGA, 8725 John J. Kingman Road, Suite 1644, Fort Belvoir, VA 22060–6221. Inquiry should contain the individual's full name, current address, and telephone number.''

CONTESTING RECORD PROCEDURES:

Delete entry and replace with ''The DLA rules for accessing records, for contesting contents, and appealing initial agency determinations are contained in 32 CFR part 323, or may be obtained from the DLA FOIA/Privacy Act Office, Headquarters, Defense Logistics Agency, ATTN: DGA, 8725 John J. Kingman Road, Suite 1644, Fort Belvoir, VA 22060–6221.''

* * * * *

S170.80

SYSTEM NAME:

DLA OGC Student Loan Repayment Program Records.

SYSTEM LOCATION:

Records will be maintained in Defense Logistics Agency Offices of Counsel. Addresses may be obtained from the System Manager below.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Current DLA Office of General Counsel (OGC) employees participating in the DLA OGC Student Loan Repayment Program.

CATEGORIES OF RECORDS IN THE SYSTEM:

Individual's name and Social Security Number (SSN); qualifying student loan name, amount, date, number, lender's name, address and tax identification number, servicing office's name, address and tax identification number and verification; recommendation for participation; and employee service agreement.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301, Departmental Regulations; 5 U.S.C. 5379, Student Loan Repayments; and E.O. 9397 (SSN), as amended.

PURPOSE(S):

Information will be used as an employee retention incentive for DLA OGC attorneys.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act of 1974, these records may specifically be disclosed outside the DoD as a routine use pursuant to 5 U.S.C. 552a(b)(3) as follows:

Information is provided to the Office of Personnel Management to meet statutory reporting requirements. Data provided does not include personal identifiers.

Information is provided to financial lender institutions for the purpose of facilitating the student loan repayment under 5 U.S.C. 5379.

The DoD ''Blanket Routine Uses'' also apply to this system of records.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records may be stored on paper.

RETRIEVABILITY:

Records are retrieved by the individual's name.

SAFEGUARDS:

Access to records is restricted to those users who have an official need-to-know in the performance of their duties for the Program. All users are required to have taken Information Assurance and Privacy training annually. Records are secured in locked or guarded buildings, locked offices, or locked cabinets during non-duty hours.

RETENTION AND DISPOSAL:

Records for which the employee has completed the service period specified in the service agreement and no disputes have arisen are destroyed 3 years after the end of the service period.

Records for which the service agreement has not been fulfilled, there are other disputes regarding the agreement or the loan payouts, or the agreement has become the subject of litigation are destroyed when agency counsel provides notice that all pending claims have been resolved, all litigation concluded, and any applicable period for seeking further review has elapsed, or 6 years from the date the facts giving rise to the dispute occurred, whichever is later.

Records for which debt collection is pursued against the employee for repayments made by the agency are destroyed when agency counsel provides notice that the debt is fully collected, compromised, or settled finally and any applicable period for seeking further review has elapsed.

SYSTEM MANAGER(S) AND ADDRESS:

DLA Land and Maritime Chief Counsel, DLA Land and Maritime, P.O. Box 3990, Columbus, OH 43218–3990.

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether information about themselves is contained in this system should address written inquiries to the DLA FOIA/Privacy Act Office, Headquarters, Defense Logistics Agency, ATTN: DGA, 8725 John J. Kingman Road, Suite 1644, Fort Belvoir, VA 22060–6221.

Inquiry should contain the individual's full name, current address, and telephone number.

RECORD ACCESS PROCEDURES:

Individuals seeking access to information about themselves contained in this system should address written inquiries to the DLA FOIA/Privacy Act Office, Headquarters, Defense Logistics Agency, ATTN: DGA, 8725 John J. Kingman Road, Suite 1644, Fort Belvoir, VA 22060–6221.

Inquiry should contain the individual's full name, current address, and telephone number.

CONTESTING RECORD PROCEDURES:

The DLA rules for accessing records, for contesting contents, and appealing initial agency determinations are contained in 32 CFR part 323, or may be obtained from the DLA FOIA/Privacy Act Office, Headquarters, Defense Logistics Agency, ATTN: DGA, 8725 John J. Kingman Road, Suite 1644, Fort Belvoir, VA 22060–6221.

RECORD SOURCE CATEGORIES:

Subject individual and lender institution.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

[FR Doc. 2011–30320 Filed 11–23–11; 8:45 am]

BILLING CODE 5001–06–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: EC12–28–000.

Applicants: Richland-Stryker Generation LLC, SQ2, LLC,BR–HIYLD Rich-Stryker, LLC, R3 Capital Partners Master (DE) L.P.

Description: Application for Authorization Pursuant to Section 203 of the Federal Power Act and Requests for Waivers of Filing Requirements, Confidential Treatment, and Expedited Review of Richland-Stryker Generation LLC, *et al.*

Filed Date: 11/10/2011.

Accession Number: 20111110–5173.

Comment Date: 5 p.m. ET on 12/1/2011.

Docket Numbers: EC12–31–000.

Applicants: Chestnut Flats Wind, LLC.

Description: Application for Authorization for Disposition of Jurisdictional Facilities and Request for Expedited Action of Chestnut Flats Wind, LLC.

Filed Date: 11/15/2011.

Accession Number: 20111115–5190.

Comment Date: 5 p.m. ET on 12/6/2011.

Docket Numbers: EC12–32–000.

Applicants: Twin Cities Power, LLC, Twin Cities Energy, LLC, TC Energy Trading, LLC.

Description: Application of Twin Cities Energy, LLC, *et al.* for Authorization under Section 203 of the Federal Power Act and request for Expedited Consideration.

Filed Date: 11/16/2011.

Accession Number: 20111116–5155.

Comment Date: 5 p.m. ET on 12/7/2011.

Take notice that the Commission received the following exempt wholesale generator filings:

Docket Numbers: EG12–12–000.

Applicants: Kaheawa Wind Power II, LLC.

Description: Self-Certification of EG or FC of Kaheawa Wind Power II, LLC.

Filed Date: 11/14/2011.

Accession Number: 20111114–5412.

Comment Date: 5 p.m. ET on 12/5/2011.

Docket Numbers: EG12–13–000.

Applicants: Broken Bow Wind, LLC.

Description: Self-Certification of EG or FC of Broken Bow Wind, LLC.

Filed Date: 11/16/2011.

Accession Number: 20111116–5137.

Comment Date: 5 p.m. ET on 12/7/2011.

Docket Numbers: EG12–14–000.

Applicants: Crofton Bluffs Wind, LLC.

Description: Self-Certification of EG or FC of Crofton Bluffs Wind, LLC.

Filed Date: 11/16/2011.

Accession Number: 20111116–5138.

Comment Date: 5 p.m. ET on 12/7/2011.

Take notice that the Commission received the following electric rate filings:

Docket Numbers: ER10–1342–002; ER10–1343–002; ER10–1345–002; ER11–2534–001; ER10–2759–002; ER10–2631–002; ER10–2632–002.

Applicants: Rumford Power Inc., Bridgeport Energy, LLC, CP Energy Marketing (US) Inc., CPIDC, Inc., Tiverton Power Inc., Morris Cogeneration, LLC, CPI Energy Services (US) LLC.

Description: Supplement to Triennial Market-Based Rate Update for the Northeast Region.

Filed Date: 11/15/2011.

Accession Number: 20111115–5189.

Comment Date: 5 p.m. ET on 12/6/2011.

Docket Numbers: ER10–2310–001; ER10–2314–001; ER10–2311–001; ER10–2312–001; ER10–2313–001; ER10–2316–001; ER10–2318–001; ER10–2321–001; ER10–2315–001.

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: Covanta MBR Entities submit Supplement to Updated Market Power Analysis.

Filed Date: 11/16/2011.

Accession Number: 20111116–5113.

Comment Date: 5 p.m. ET on 12/7/2011.

Docket Numbers: ER11–2895–002.

Applicants: Duke Energy Carolinas, LLC.

Description: Formula Rate Compliance Filing to be effective 6/1/2011.

Filed Date: 11/10/2011.

Accession Number: 20111110–5089.

Comment Date: 5 p.m. ET on 12/1/2011.

Docket Numbers: ER11–3415–001.

Applicants: Midwest Independent Transmission System Operator, Inc., American Transmission Systems, Incorporated.

Description: 11–16–11 ATSI Exit Fee Compliance to be effective 5/31/2011.

Filed Date: 11/16/2011.

Accession Number: 20111116–5127.

Comment Date: 5 p.m. ET on 12/7/2011.

Docket Numbers: ER11–3979–003.

Applicants: Midwest Independent Transmission System Operator, Inc., PJM Interconnection, LLC.

Description: Compliance Filing in Docket ER11–3979 re MISO–PJM JOA Attachment 2 Section 6.6 to be effective 9/17/2010.

Filed Date: 11/10/2011.

Accession Number: 20111110–5172.

Comment Date: 5 p.m. ET on 12/1/2011.

Docket Numbers: ER11–4318–001.

Applicants: San Diego Gas & Electric Company.

Description: San Diego Gas & Electric Company submits compliance filing re the Order on Annual Formula Rate Filing etc.

Filed Date: 11/14/2011.

Accession Number: 20111115–0201.

Comment Date: 5 p.m. ET on 12/5/2011.

Docket Numbers: ER11–4632–001.

Applicants: Southwestern Electric Power Company.

Description: 20111116 Bentonville PSA to be effective 12/17/2010.

Filed Date: 11/16/2011.

Accession Number: 20111116–5071.

Comment Date: 5 p.m. ET on 12/7/2011.

Docket Numbers: ER12–368–001.

Applicants: ITC Midwest LLC.

Description: Errata Filing to be effective 1/10/2012.

Filed Date: 11/16/2011.

Accession Number: 20111116–5044.

Comment Date: 5 p.m. ET on 12/7/2011.

Docket Numbers: ER12–381–001.

Applicants: California Independent System Operator Corporation.

Description: 2011–11–10 Errata to Amendment 2 of CAISO SRP ICAOA to be effective 11/12/2011.

Filed Date: 11/10/2011.

Accession Number: 20111110–5115.

Comment Date: 5 p.m. ET on 12/1/2011.

Docket Numbers: ER12–423–000.

Applicants: California Independent System Operator Corporation.

Description: 2011–11–16 CAISO LMPM Amendment to be effective 4/11/2012.

Filed Date: 11/16/2011.

Accession Number: 20111116–5095.

Comment Date: 5 p.m. ET on 12/7/2011.

Docket Numbers: ER12–424–000.

Applicants: Midwest Independent Transmission System Operator, Inc., International Transmission Company.

Description: J122 ITCTransmission-Detroit Edison to be effective 10/19/2011.

Filed Date: 11/16/2011.

Accession Number: 20111116–5115.

Comment Date: 5 p.m. ET on 12/7/2011.

Docket Numbers: ER12–425–000.

Applicants: Midwest Independent Transmission System Operator, Inc., Michigan Electric Transmission Company, LLC.

Description: J132 METC–Beebe to be effective 10/24/2011.

Filed Date: 11/16/2011.

Accession Number: 20111116–5118.

Comment Date: 5 p.m. ET on 12/7/2011.

Docket Numbers: ER12–426–000.

Applicants: The United Illuminating Company.

Description: Amended Interconnection Agreement By and Between UI and PSEG to be effective 10/31/2011.

Filed Date: 11/16/2011.

Accession Number: 20111116–5124.

Comment Date: 5 p.m. ET on 12/7/2011.

Docket Numbers: ER12–427–000.

Applicants: Midwest Independent Transmission System Operator, Inc.

Description: 11–16–11 CMMPA Regulatory Asset Filing to be effective 3/21/2011.

Filed Date: 11/16/2011.

Accession Number: 20111116–5129.

Comment Date: 5 p.m. ET on 12/7/2011.

Docket Numbers: ER12–428–000.

Applicants: New York Independent System Operator, Inc.

Description: Amended and Restated LGIA Among NYISO, NYSEG, and Howard Wind to be effective 10/27/2011.

Filed Date: 11/16/2011.

Accession Number: 20111116–5146.

Comment Date: 5 p.m. ET on 12/7/2011.

Docket Numbers: ER12–429–000.

Applicants: ISO New England Inc.

Description: Capacity Supply Obligation Resource Termination.

Filed Date: 11/17/2011.

Accession Number: 20111117–5098.

Comment Date: 5 p.m. ET on 12/8/2011.

Take notice that the Commission received the following electric securities filings:

Docket Numbers: ES11–52–000.

Applicants: PPL Electric Utilities Corporation.

Description: PPL Electric Utilities Corporation's supplement to its application for approval to issue promissory notes and other evidences of secured and unsecured short-term indebtedness.

Filed Date: 11/16/2011.

Accession Number: 20111116–5078.

Comment Date: 5 p.m. ET on 11/28/2011.

Take notice that the Commission received the following PURPA 210(m)(3) filings:

Docket Numbers: QM12–1–000.

Applicants: ALLETE, Inc.

Description: Application to Terminate Mandatory PURPA Purchase Obligation of ALLETE, Inc.

Filed Date: 11/16/2011.

Accession Number: 20111116–5165.

Comment Date: 5 p.m. ET on 12/14/2011.

The filings are accessible in the Commission's eLibrary system by clicking on the links or querying the docket number.

Any person desiring to intervene or protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Regulations (18 CFR 385.211 and 385.214) on or before 5 p.m. Eastern time on the specified comment date. Protests may be considered, but intervention is necessary to become a party to the proceeding.

eFiling is encouraged. More detailed information relating to filing requirements, interventions, protests, service, and qualifying facilities filings can be found at: *http://www.ferc.gov/docs-filing/efiling/filing-req.pdf.* For other information, call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: November 17, 2011.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2011–30338 Filed 11–23–11; 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:

Filings Instituting Proceedings

Docket Numbers: RP12–158–000.

Applicants: Northwest Pipeline GP.

Description: NWP GT&C Section 21 and 29 (Interconnects—Mainline Path Alteration) to be effective 1/16/2012.

Filed Date: 11/17/11.

Accession Number: 20111117–5089.

Comments Due: 5 p.m. ET 11/29/11.

Docket Numbers: RP12–159–000.

Applicants: Algonquin Gas Transmission, LLC.

Description: Excelerate 2012–01–01 Negotiated Rate to be effective 1/1/2012.

Filed Date: 11/17/11.

Accession Number: 20111117–5104.

Comments Due: 5 p.m. ET 11/29/11.

Docket Numbers: RP12–160–000.

Applicants: Southeast Supply Header, LLC.

Description: Non-Conforming Agreement Addition to be effective 12/17/2011.

Filed Date: 11/17/11.

Accession Number: 20111117–5123.

Comments Due: 5 p.m. ET 11/29/11.

Docket Numbers: RP12–161–000.

Applicants: Texas Gas Transmission, LLC.

Description: Clean Up List of Non-conforming Agreements Filing to be effective 12/19/2011.

Filed Date: 11/18/11.

Accession Number: 20111118–5019.

Comments Due: 5 p.m. ET 11/30/11.

Docket Numbers: RP12–162–000.

Applicants: Gulf South Pipeline Company, LP.

Description: Clean Up List of Non-conforming Agreements Filing to be effective 12/19/2012.

Filed Date: 11/18/11.

Accession Number: 20111118–5020.

Comments Due: 5 p.m. ET 11/30/11.

Docket Numbers: RP12–163–000.

Applicants: KO Transmission Company.

Description: Reservation Charge Crediting Policy Filing to be effective 11/18/2011.

Filed Date: 11/18/11.

Accession Number: 20111118–5025.

Comments Due: 5 p.m. ET 11/30/11.

Any person desiring to intervene or protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Regulations (18 CFR 385.211 and 385.214) on or before 5 p.m. Eastern time on the specified comment date. Protests may be considered, but intervention is necessary to become a party to the proceeding.

The filings are accessible in the Commission's eLibrary system by clicking on the links or querying the docket number.

eFiling is encouraged. More detailed information relating to filing requirements, interventions, protests, and service can be found at: *http://www.ferc.gov/docs-filing/efiling/filing-req.pdf.* For other information, call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: November 18, 2011.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2011–30339 Filed 11–23–11; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RM01–5–000]

Electronic Tariff Filings; Notice of Changes to Etariff Refund Report Type of Filing Codes

Take notice that, effective November 27, 2011, the list of available eTariff Type of Filing Codes (TOFC) will be modified as follows:

(1) The addition of a new TOFC 1190: ''Refund Report''. This code is applicable to public utilities registered with the Commission under the market based rate program making refund reports pursuant to section 35.19a(b) of the Commission's regulation.[1]

(2) The addition of a new TOFC 1200: ''Refund Report''. This code is applicable to pipelines registered with the Commission under the Part 284 rate program making refund reports pursuant to filings made under either sections 284.123 or 284.224 of the Commission's regulations.[2]

(3) The addition of a new TOFC 1210: ''Refund Report''. This code is applicable to oil pipelines making refund reports to the Commission pursuant to section 340.1(c) of the Commission's regulations.[3] And;

(4) The modification of TOFC 670: ''Refund Report''. This code is applicable to interstate gas pipelines. The code will be re-assigned to the Report business process category.

All the Refund Report TOFCs will use the Report category business process.[4] Reports will not receive a separate subdocket. The Commission may not issue an order on reports.

For more information, contact Keith Pierce, Office of Energy Market Regulation at (202) 502–8525 or send an email to *ETariff@ferc.gov*.

Dated: November 17, 2011.

Kimberly D. Bose,

Secretary.

[FR Doc. 2011–30373 Filed 11–23–11; 8:45 am]

BILLING CODE 6717–01–P

[1] 18 CFR 35.19a(b) (2011).

[2] 18 CFR 284.123 and 284.224 (2011).

[3] 18 CFR 340.1(c) (2011).

[4] The type of filing business process categories are described in the *Implementation Guide for Electronic Filing of Parts 35, 154, 284, 300, and 341 Tariff Filings,* found on the Commission's Web site, *http://www.ferc.gov/docs-filing/etariff/implementation-guide.pdf.*

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER12–421–000]

Heritage Garden Wind Farm I, LLC; Supplemental Notice That Initial Market-Based Rate Filing Includes Request for Blanket Section 204 Authorization

This is a supplemental notice in the above-referenced proceeding of Heritage Garden Wind Farm I, LLC's application for market-based rate authority, with an accompanying rate tariff, noting that such application includes a request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability.

Any person desiring to intervene or to protest should file with the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant.

Notice is hereby given that the deadline for filing protests with regard to the applicant's request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability, is November 18, 2011.

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 Street NE., Washington, DC 20426.

The filings in the above-referenced proceeding are accessible in the Commission's eLibrary system by clicking on the appropriate link in the above list. They are also available for review in the Commission's Public Reference Room in Washington, DC. There is an eSubscription link on the Web site that enables subscribers to receive email notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please email *FERCOnlineSupport@ferc.gov* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: November 18, 2011.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2011–30341 Filed 11–23–11; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER12–422–000]

New England Wind, LLC; Supplemental Notice That Initial Market-Based Rate Filing Includes Request for Blanket Section 204 Authorization

This is a supplemental notice in the above-referenced proceeding of New England Wind, LLC's application for market-based rate authority, with an accompanying rate tariff, noting that such application includes a request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability.

Any person desiring to intervene or to protest should file with the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant.

Notice is hereby given that the deadline for filing protests with regard to the applicant's request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability, is November 18, 2011.

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 Street NE., Washington, DC 20426.

The filings in the above-referenced proceeding are accessible in the Commission's eLibrary system by clicking on the appropriate link in the above list. They are also available for review in the Commission's Public Reference Room in Washington, DC. There is an eSubscription link on the Web site that enables subscribers to receive email notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please email *FERCOnlineSupport@ferc.gov* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: November 18, 2011.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2011–30340 Filed 11–23–11; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EL12–4–000]

Westar Energy, Inc.; Notice of Initiation of Proceeding and Refund Effective Date

On November 17, 2011, the Commission issued an order that initiated a proceeding in Docket No. EL12–4–000, pursuant to section 206 of the Federal Power Act (FPA), 16 U.S.C. 824e (2006), to determine the justness and reasonableness of the generation regulation charges under Schedule 3A of Westar Energy, Inc.'s Open Access Transmission Tariff. *Westar Energy, Inc.,* 137 FERC ¶ 61,142 (2011).

The refund effective date in Docket No. EL12–4–000, established pursuant to section 206(b) of the FPA, will be the date of publication of this notice in the **Federal Register**.

Dated: November 18, 2011.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2011–30342 Filed 11–23–11; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 2558–029]

Central Vermont Public Service Corporation; Notice of License Application Amendment

Take notice that the following hydroelectric application amendment has been filed with the Commission and is available for public inspection. The

amendment became effective upon completion of the license transfer from Vermont Marble Power Division of Omya Inc., to Central Vermont Public Service Corporation on September 2, 2011.

a. *Application Type:* License Application Amendment for a New Major License.

b. *Project No.:* P–2558–029.

c. *Date Filed:* August 1, 2011.

d. *Applicant:* Central Vermont Public Service Corporation.

e. *Name of Project:* Otter Creek Hydroelectric Project.

f. *Location:* The existing project is located on Otter Creek in Addison and Rutland counties, Vermont. The project does not affect federal lands.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791(a)–825(r) .

h. *Applicant Contact:* Mike Scarzello, Generation Asset Manager, Central Vermont Public Service Corporation, 77 Grove Street, Rutland, VT 05701; Telephone: (802) 747–5207.

i. *FERC Contact:* Aaron Liberty, Telephone (202) 502–6862, and email *aaron.liberty@ferc.gov*.

j. The application amendment is not ready for environmental analysis at this time.

k. *Project Description:* The existing Otter Creek Project consists of three developments with a combined installed capacity of 18.1 megawatts (MW). The project produces an average annual generation of 67,258 megawatt-hours. The energy from the project will be used to serve Central Vermont's retail customers.

The Proctor development, located at river mile 64.2, consists of the following facilities: (1) An existing 13-foot-high, 128-foot-long dam with a 3-foot-high inflatable flashboard system; (2) an existing 92-acre reservoir with a storage capacity of 275 acre-feet at a normal maximum water surface elevation of 469.5 feet above mean sea level (msl); (3) a gated-forebay intake structure approximately 14 feet deep by 115 feet long with a maximum width of 48 feet; (4) two intakes with two penstocks: a 9-foot-diameter, 460-foot-long, riveted steel penstock that decreases to 8 feet in diameter, and a 7-foot-diameter, 500-foot-long, spiral welded steel penstock; (5) an original concrete and brick masonry powerhouse measuring 100 by 33 feet containing four vertical shaft turbines: three 750-kilowatt (kW) units and one 1,680-kW unit with a combined maximum hydraulic capacity of 565 cubic feet per second (cfs); (6) an additional steel structure measuring 28 by 48 feet attached to the original powerhouse containing one 3,000-kW vertical shaft unit with a maximum hydraulic capacity of 325 cfs; (7) generator leads; (8) a 0.48/4.16-kilovolt (kV) single phase transformer; (9) a 0.48/46-kV step-up transformer; (10) three winding transformer banks; and (11) appurtenant facilities.

The Beldens development, located at river mile 23, consists of the following facilities: (1) Two existing concrete dams on either side of a ledge/bedrock island with 2.5-foot-high wooden flashboards: a 15-foot-high, 56-foot-long dam (west) and a 24-foot-high, 57-foot-long dam (east); (2) an existing 22-acre reservoir with a storage capacity of 253 acre-feet at a normal maximum water surface elevation of 282.52 feet msl; (3) two intakes equipped with trashracks: a 79-foot-long intake and a 35-foot-long intake with a 95-foot-long sluiceway; (4) a 12-foot-diameter, 30-foot-long steel penstock that bifurcates into two 10-foot-diameter sections, each leading to an original powerhouse; (5) a 12-foot-diameter, 45-foot-long concrete penstock that leads to a newer powerhouse; (6) an original concrete and masonry powerhouse measuring 40 by 44 feet containing a 800-kW vertical shaft unit and 949-kW vertical shaft unit with a combined maximum hydraulic capacity of 650 cfs; (7) a second, newer concrete powerhouse measuring 40 by 75 feet containing a 4,100-kW vertical shaft unit with a maximum hydraulic capacity of 1,350 cfs; (8) generator leads; (9) a 2.4/46-kV step-up transformer bank; and (10) appurtenant facilities.

The Huntington Falls development, located at river mile 21, consists of: (1) An existing 31-foot-high, 187-foot-long concrete dam with a 2.5-foot-high inflatable flashboard system; (2) an existing 23-acre reservoir with a storage capacity of 234 acre-feet at a normal maximum water surface elevation of 218.1 feet msl; (3) two intakes equipped with trashracks: a 40-foot-long intake and a 24-foot-long intake; (4) three penstocks: two 10-foot-diameter, 30-foot-long steel penstocks leading to an original powerhouse, and a 12-foot-diameter, 75-foot-long concrete penstock leading to a newer powerhouse; (5) an original brick masonry powerhouse measuring 42 by 60 feet containing a 600-kW vertical shaft unit and a 800-kW vertical shaft unit with a combined maximum hydraulic capacity of 660 cfs; (6) a second, newer powerhouse measuring 40 by 75 feet containing a 4,100-kW vertical shaft unit with a maximum hydraulic capacity of 1,350 cfs; (7) generator leads; (8) a 2.4/46-kV step-up transformer bank; and (9) appurtenant facilities.

Currently, the Proctor development operates in a modified run-of-river mode, with infrequent diversions at the direction of the Independent System Operator—New England, while the Beldens and Huntington Falls developments operate in a run-of-river mode. The Proctor development currently provides a continuous downstream minimum flow of 100 cfs or inflow to the development, whichever is less, with minimum flows from April through mid-June equal to at least 50 percent of project inflows. A bypassed reach minimum flow of 5 cfs is currently released at the Beldens development through an opening in the flashboards along the west dam. A bypassed reach minimum flow of 15 cfs is currently released at the Huntington Falls development via a minimum flow gate at the right abutment of the dam.

Central Vermont proposes several physical changes to existing project facilities at the Proctor and Huntington Falls developments. At the Proctor development, Central Vermont proposes to: (1) Realign the intake headworks, such that the existing structure and components (sluice gate, trashracks, and/or headgates) will be modified with the entrance widened and deepened to reduce significant head losses through the intake structure; (2) install a new runner at Unit 1; replace Units 2–4 with new turbine/generators; and install new electrical switchgear, breakers, controls, and relays, resulting in an increase in nameplate capacity from 6,930 kW to a preliminary estimated design of 9,240 kW, and an increase in the existing hydraulic capacity from 890 cfs to approximately 1,150 cfs; and (3) improve station access by constructing a permanent bridge to enable the Proctor development capacity improvements.

At the Huntington Falls development, Central Vermont proposes to: (1) Upgrade Units 1 and 2, resulting in an increase in nameplate capacity from 5,500 kW to a preliminary estimated design of 6,725 kW, and an increase in the existing hydraulic capacity from 2,010 cfs to approximately 2,250 cfs; and install new switchgear, breakers, control and relays and (2) replace the current Unit 3 trashrack configuration of 2-inch, clear spaced bars at a 45 degree angle to river flow with 3.5-inch-spaced racks, at a 90 degree angle to river flow, resulting in clear spacing of 3 inches.

Central Vermont proposes operational changes to existing project operations at the Proctor development. Central Vermont proposes to eliminate the existing 4-foot drawdown of the reservoir surface, with the exception of infrequent emergency operations and maintenance, and to implement a cycling operation that would utilize a 1.5-foot drawdown/refill cycle between

June 16 and March 31, provided that the existing downstream minimum flow requirement during refill of at least 100 cfs is maintained. Central Vermont also proposes to refrain from conducting reservoir drawdowns during the period of April 1 to June 15, when Proctor will be operating in a run-of-river mode. In addition, peaking constraints would be utilized under normal operations of no greater than a 4.5:1 ratio between maximum and minimum flow in a 24-hour period.

Central Vermont is also proposing to alter the existing bypassed reach minimum flows at the Proctor and Beldens developments. At the Proctor development, Central Vermont is proposing to provide a continuous bypassed reach minimum flow of 54 cfs, and to provide the remainder of the existing 100-cfs minimum tailrace flow through the powerhouse. At the Beldens development, Central Vermont is proposing to provide a 10-cfs minimum flow in both the east and west channels.

Central Vermont is also proposing the following environmental measures: (1) Improve and enhance the existing take-out for the canoe portage around the Beldens dam; (2) formalize and enhance the tailwater access site at the Proctor development; and (3) provide expanded public recreational use of the site adjacent to the Proctor development's penstock that would provide viewing opportunities with interpretive signage for public education about the historic Vermont Marble buildings and local cultural history.

l. Locations of the Application Amendment: A copy of the application amendment is available for review at the Commission in the Public Reference Room or may be viewed on the Commission's Web site at *http://www.ferc.gov* using the ''eLibrary'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, contact FERC Online Support. A copy is also available for inspection and reproduction at the address in item h above.

You may register online at *http://www.ferc.gov/docs-filing/esubscription.asp* to be notified via email of new filings and issuances related to this or other pending projects. For assistance, contact FERC Online Support.

m. Procedural Schedule: The application amendment will be processed according to the following revised Hydro Licensing Schedule. Revisions to the schedule may be made as appropriate.

Milestone	Target date
Issuance of additional information request.	December 2011.
Filing of requested additional information.	March 2012.
Re-issue Notice of Ready for Environmental Analysis.	March 2012.
Issue single EA	September 2012.

n. Final amendments to the application must be filed with the Commission no later than 30 days from the issuance date of this notice.

Dated: November 18, 2011.

Kimberly D. Bose,

Secretary.

[FR Doc. 2011–30375 Filed 11–23–11; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EL12–10–000]

PJM Interconnection, LLC; Notice of Petition for Declaratory Order

Take notice that on November 9, 2011, pursuant to Rule 207(a)(2) of the Rules of Practice and Procedure of the Federal Energy Regulatory Commission (Commission), 18 CFR 385.207(a)(2) (2011), PJM Interconnection, LLC (PJM) filed a Petition for Declaratory Order, seeking a declaratory order to resolve uncertainty regarding how PJM should recover from its members the costs allocated to PJM pursuant to the Commission's December 30, 2010 order in *Midwest Independent Transmission System Operator, Inc.,* 133 FERC ¶ 61, 275 (2010) in Docket No. ER11–1844.

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. The Respondent's answer and all interventions, or protests must be filed on or before the comment date. The Respondent's answer, motions to intervene, and protests must be served on the Complainants.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov.* Persons unable to file electronically should submit an original and 14 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov,* using the ''eLibrary'' link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an ''eSubscription'' link on the web site that enables subscribers to receive email notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please email *FERCOnlineSupport@ferc.gov,* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Comment Date: 5 p.m. Eastern Time on December 2, 2011.

Dated: November 17, 2011.

Kimberly D. Bose,

Secretary.

[FR Doc. 2011–30374 Filed 11–23–11; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. P–14248–000]

KC Hydro LLC of New Hampshire; Notice of Preliminary Permit Application Accepted for Filing and Soliciting Comments, Motions To Intervene, and Competing Applications

On August 8, 2011, KC Hydro LLC of New Hampshire, filed an application for a preliminary permit, pursuant to section 4(f) of the Federal Power Act (FPA), proposing to study the feasibility of the Milton Three Ponds Dam Hydropower Project (project) to be located on the Falls River, near the Town of Milton, Strafford County, New Hampshire. The sole purpose of a preliminary permit, if issued, is to grant the permit holder priority to file a license application during the permit term. A preliminary permit does not authorize the permit holder to perform any land-disturbing activities or otherwise enter upon lands or waters owned by others without the owners' express permission.

The proposed project would consist of: (1) The existing 156-foot-long, 19-foot-high Milton stone masonry and concrete gravity Three Ponds Dam equipped with an electronically controlled Obermeyer crest gate, two motor-driven outlet gates, and twenty stoplog bays; (2) an existing 1,400-acre

impoundment that includes Milton Pond, Northeast Pond, and Town House Pond with a normal maximum pool elevation of 413.87 feet National Geodetic Vertical Datum; (3) either a new 80-foot-long power canal or two 80-foot-long concrete penstocks located below an the existing Obermeyer outlet gate; (4) a new 1,250-square-foot powerhouse containing one or two submersible or tubular-type turbine generators with a total installed capacity of 210 kilowatts; (5) a new 150-foot-long tailrace; (6) a new 400-foot-long, 34.5-kilovolt transmission line; and (7) appurtenant facilities. The project would have an estimated average annual energy generation of 1,000 megawatt-hours, which would be sold to Public Service of New Hampshire.

Applicant Contact: Ms. Kelly Sackheim, Principal, KC Hydro LLC of New Hampshire, 5096 Cocoa Palm Way, Fair Oaks, California 95628; *phone:* (301) 401–5978.

FERC Contact: Michael Watts; *phone:* (202) 502–6123.

Deadline for filing comments, motions to intervene, competing applications (without notices of intent), or notices of intent to file competing applications: 60 days from the issuance of this notice. Competing applications and notices of intent must meet the requirements of 18 CFR 4.36. Comments, motions to intervene, notices of intent, and competing applications may be filed electronically via the Internet. See 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site *http://www.ferc.gov/docs-filing/efiling.asp.* Commenters can submit brief comments up to 6,000 characters, without prior registration, using the eComment system at *http://www.ferc.gov/docs-filing/ecomment.asp.* You must include your name and contact information at the end of your comments. For assistance, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov* or toll free at 1–(866) 208–3676, or for TTY, (202) 502–8659. Although the Commission strongly encourages electronic filing, documents may also be paper-filed. To paper-file, mail an original and seven copies to: Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

More information about this project, including a copy of the application, can be viewed or printed on the ''eLibrary'' link of Commission's Web site at *http://www.ferc.gov/docs-filing/elibrary.asp.* Enter the docket number (P–14248–000) in the docket number field to access the document. For assistance, contact FERC Online Support.

Dated: November 18, 2011.

Kimberly D. Bose,

Secretary.

[FR Doc. 2011–30376 Filed 11–23–11; 8:45 am]

BILLING CODE 6717–01–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OAR–2011–0901; FRL–9496–6]

Agency Information Collection Activities; Proposed Collections; Comment Request; Prevention of Significant Deterioration and Nonattainment Area New Source Review (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 EPA is planning to submit a request to renew an existing approved Information Collection Request (ICR) to the Office of Management and Budget (OMB). This ICR is scheduled to expire on April 30, 2012. Before submitting this 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 January 24, 2012.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–HQ–OAR–2011–0901, by one of the following methods:

- *http://www.regulations.gov:* Follow the on-line instructions for submitting comments.
- *Email: a-and-r-docket@epa.gov.*
- *Fax:* (202) 566–9744.
- *Mail:* Agency Information Collection Activities; Proposed Collection; Comment Request; Prevention of Significant Deterioration and Nonattainment Area New Source Review (Renewal) Docket, Environmental Protection Agency, Air and Radiation Docket and Information Center, Mailcode: 2822T, 1200 Pennsylvania Ave. NW., Washington, DC 20460. Please include a total of two copies.
- *Hand Delivery:* EPA Docket Center, Public Reading Room, EPA West, Room 3334, 1301 Constitution Ave. NW., Washington, DC 20460. Such deliveries are only accepted during the Docket's normal hours of operation, and special arrangements should be made for deliveries of boxed information.

Instructions: Direct your comments to Docket ID No. EPA–HQ–OAR–2011–0901. The EPA's policy is that all comments received will be included in the public docket without change and may be made available online at *http://www.regulations.gov,* including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through *http://www.regulations.gov* or email. The *http://www.regulations.gov* Web site is an ''anonymous access'' system, which means the EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an email comment directly to the EPA without going through *http://www.regulations.gov,* your email address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, the EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD–ROM you submit. If the EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, the EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption and be free of any defects or viruses. For additional information about the EPA's public docket visit the EPA Docket Center homepage at *http://www.epa.gov/epahome/dockets.htm.*

FOR FURTHER INFORMATION CONTACT: Mr. David Painter, Air Quality Policy Division, Office of Air Quality Planning and Standards (C504–03), Environmental Protection Agency, Research Triangle Park, North Carolina 27711; *telephone number:* (919) 541–5515; *fax number:* (919) 541–5509; *email address: painter.david@epa.gov.*

SUPPLEMENTARY INFORMATION:

How can I access the docket and/or submit comments?

The EPA has established a public docket for this ICR under Docket ID No. EPA–HQ–OAR–2011–0901, which is available for online viewing at *http://www.regulations.gov,* or in person viewing at the Air and Radiation 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 Public Reading Room is (202) 566–1744.

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 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, the 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, the EPA is requesting comments from very small businesses (those that employ less than 25) on examples of specific additional efforts that the EPA could make to reduce the paperwork burden for very small businesses affected by this collection.

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 the 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 does this apply to?

Affected entities: Entities potentially affected by this action are those which must apply for and obtain a preconstruction permit under part C or D or section 110(a)(2)(C) of title I of the Clean Air Act (Act).

Title: Prevention of Significant Deterioration and Nonattainment Area New Source Review (Renewal).

ICR number: EPA ICR No. 1230.29, OMB Control No. 2060–0003.

ICR status: This ICR is scheduled to expire on April 30, 2012.

Abstract: Part C of the Clean Air Act (Act)—''Prevention of Significant Deterioration,'' and Part D—''Plan Requirements for Nonattainment Areas,'' require all states to adopt preconstruction review programs for new or modified stationary sources of air pollution. In addition, the provisions of section 110 of the Act include a requirement for states to have a preconstruction review program to manage the emissions from the construction and modification of any stationary source of air pollution to assure that the National Ambient Air Quality Standards (NAAQS) are achieved and maintained. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information request unless it displays a currently valid OMB control number. The OMB control numbers for the EPA's regulations in 40 CFR are listed in 40 CFR part 9 and 48 CFR chapter 15. Section 176(c) of the Clean Air Act (42 U.S.C. 7401 *et seq.*) requires that all Federal actions conform with the state implementation plans (SIPs) to attain and maintain the NAAQS. Depending on the type of action, the Federal entities must collect information themselves, hire consultants to collect the information, or require applicants/sponsors of the Federal action to provide the information.

Implementing regulations for these three programs are promulgated at 40 CFR 51.160 through 51.166; 40 CFR part 51, Appendix S; and 40 CFR 52.21 and 52.24. In order to receive a construction permit for a major new source or major modification, the applicant must conduct the necessary research, perform the appropriate analyses and prepare the permit application with documentation to demonstrate that their project meets all applicable statutory and regulatory New Source Review requirements. Specific activities and requirements are listed and described in the Supporting Statement for the ICR.

State, local, or Federal reviewing authorities review permit applications and provide for public review of proposed projects and issue permits based on their consideration of all technical factors and public input. The EPA, more broadly, reviews a fraction of the total applications and audits the state and local programs for their effectiveness. Consequently, information prepared and submitted by sources is essential for sources to receive permits, and for Federal, state, and local environmental agencies to adequately review the permit applications and thereby properly administer and manage the NSR programs.

Since the previous renewal of this ICR, the EPA has filled regulatory voids that existed in Indian country (where state NSR programs do not apply) by promulgating a Part D program and a minor NSR program for Indian country. (The EPA was already implementing a Part C program in Indian country.) The implementing regulations for these programs are at 40 CFR 49.151 through 49.173. The EPA acts as the reviewing authority for these programs.

Information that is collected is handled according to EPA's policies set forth in title 40, chapter 1, part 2, subpart B—Confidentiality of Business Information (see 40 CFR part 2). See also section 114(c) of the Act.

Burden Statement: 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; 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 annual public reporting and recordkeeping burden for this collection of information is broken down as follows:

Type of permit action	Major PSD	Major Part D	Minor
State Programs:			
Number of Sources	1,610	486	72,841
Burden Hours per Response			
Industry	1,006	642	39
Reviewing Authorities	336	128	29
Total Annual Burden Hours:			
Industry	1,619,660	312,012	2,822,885
Reviewing Authorities	540,960	62,208	2,095,140
Indian Country Program:			
Number of Sources	a	a	12,432
Industry Burden Hours per Response	a	a	39
Industry Total Annual Burden Hours	a	a	479,435

Any minor discrepencies are due to rounding.
[a] The PSD and Part D programs in Indian country are included in the state program figures.

In addition, we estimate that the 112 state and local reviewing authorities will prepare and submit an average of 51 SIP revisions per year to conform to changes in the NSR regulations, for a total annual burden of 2,040 hours. Besides the burden hours tallied above for permitting and SIP revisions, we estimate that 34 of the sources subject to PSD permitting are required to conduct pre-construction monitoring which they outsource, representing start-up costs totaling $12,444,204.

Respondents/Affected Entities: Industrial plants; state and local reviewing authorities.

Estimated Number of Respondents: 87,481, including 87,369 industry sources and 112 state and local reviewing authorities generating a total of 162,357 responses.

Estimated Total Annual Burden: 7,934,340 hours and $12,444,204.

Are there changes in the estimates from the last approval?

Since the last renewal of this ICR (October 2008), the estimated number of responses has increased by 11,536 due primarily to the addition of the minor NSR program for Indian country which requires all existing minor sources to register within the first 3 years of the program. In addition, actions under the Act unrelated to NSR rule changes brought greenhouse gases into the prevention of significant deterioration (PSD) program, but the potentially overwhelming increase in permit actions that this might have caused was limited to a manageable level (fewer than 1,350 sources) by the Greenhouse Gas Tailoring Rule. Partially counteracting these increases, the Flexible Air Permitting Rule had the effect of reducing the number of respondents under the PSD, Part D, and minor NSR programs.

The burden per PSD permit has increased due to the addition of greenhouse gases to the program. In addition, provisions were added to the PSD regulations that allow for full implementation of the program for particulate matter less than 2.5 micrograms ($PM_{2.5}$), which has resulted in an increase in the modeling required for PSD permits and, thus, an increase in the per-permit burden. The Flexible Air Permitting Rule marginally increased the per-permit burden for the PSD and Part D programs, although the overall effect of the rule was to reduce total burden because of the reduction in the number of permit actions. The Flexible Air Permitting Rule also slightly reduced the burden per minor NSR permit.

As a result of all these changes to the NSR program, the total burden for the program has increased by 1,983,272 hours.

What is the next step in the process for this ICR?

The EPA will consider the comments received and amend the ICR as appropriate. The final ICR package 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 this ICR or the approval process, please contact the technical person listed under **FOR FURTHER INFORMATION CONTACT**.

Dated: November 21, 2011.

Mary Henigin,

Acting, Office of Air Quality Planning and Standards.

[FR Doc. 2011–30360 Filed 11–23–11; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[ER–FRL–9000–2]

Environmental Impacts Statements; Notice of Availability

Responsible Agency: Office of Federal Activities, General Information (202) 564–1399 or *http://www.epa.gov/compliance/nepa/.*

Weekly receipt of Environmental Impact Statements
Filed 11/14/2011 through 11/18/2011.
Pursuant to 40 CFR 1506.9.

Notice

Section 309(a) of the Clean Air Act requires that EPA make public its comments on EISs issued by other Federal agencies. EPA's comment letters on EIS are available at: *http://www.epa.gov/compliance/nepa/eisdata.html.*

EIS No. 20110393, Draft EIS, BLM, 00, Baker Field Office Resource Management Plan, Implementation, Baker, Union, Wallowa, Malheur, Morrow and Umatilla Counties, OR and Asotin County, WA, Comment Period Ends: 02/22/2012, Contact: Marc Pierce (541) 523–1256.

EIS No. 20110394, Draft EIS, NPS, 00, Appalachian National Scenic Trail, Delaware Water Gap National Recreation Area, Middle Delaware National Scenic and Recreational River, Proposal Susquehanna to Roseland 500kV Transmission Line Right-of-Way and Special-Use-Permit, NJ and PA, Comment Period Ends: 01/23/2012, Contact: Morgan Elmer (303) 969–2317.

EIS No. 20110395, Draft Supplement, FHWA, 00, Louisville-Southern Indiana Ohio River Bridges Projects, New Circumstances, Cross-River Mobility Improvements betweenJefferson County, KY and Clark County, IN, Coast Guard BridgePermit, COE Section 10 and

404 Permits, Jefferson County, KY and Clark County, IN, Comment Period Ends: 01/09/2012, Contact: Janice Osadczuk (317) 226–7486.

EIS No. 20110396, Final EIS, NOAA, 00, Comprehensive Annual Catch Limit (ACL) Amendment for the South Atlantic Regions: Amendment 2 to the Fishery Management Plan for the Dolphin Wahoo Fishery; Amendment 2 to the Fishery Management Plan for Pelagic Sargassum Habitat; Amendment 5 to the Fishery Management Plan for the Golden Crab Fishery and Amendment 25 to the Fishery Management Plan for the Snapper Grouper Fishery, South Atlantic Region, Review Period Ends: 12/27/2011, Contact: Roy E. Crabtree (727) 824–5305.

EIS No. 20110397, Draft EIS, USFS, CO, Beaver Creek Mountain Improvement Project, Improvement to Birds of Prey Racecourse, Widening and Grading the Addition of Women's Downhill and Giant Slalom Racecourses, New and Replaced Snowmaking Infrastructure, Replacement of the Red Tail Camp Restaurant, White River National Forest, Eagle County, CO, Comment Period Ends: 01/09/2012, Contact: Scott Fitzwilliams (970) 945–3255.

EIS No. 20110398, Final EIS, FRBSF, WA, 1015 Second Avenue Property, Involving Disposition of the Property Either Through Transfer, Donations, or Sale, Downtown Seattle, WA, Review Period Ends: 12/27/2011, Contact: Robert Kellar (415) 974–2655.

EIS No. 20110399, Draft EIS, NHTSA, 00, Corporate Average Fuel Economy (CAFE) Standards Passenger Car and Light Trucks Model Years 2017–2025, To Improve the Fuel Economy of and Reduce Greenhouse Gas Emissions from Model Year 2017–2025 Light-Duty Vehicles, Implementation, Comment Period Ends: 01/31/2012, Contact: Angel Jackson (202) 366–0154.

EIS No. 20110400, Draft EIS, BIA, NV, K Road Moapa Solar Generation Facility, Moapa Band of Paiutes (Tribe), to lease Land up to 50 Years on the Moapa River Indian Reservation for Constructing and Operating a 350MV PV Solar Generating Station and Associated Infrastructure, Clark County, NV, Comment Period Ends: 01/09/2012, Contact: Amy Heuslein (602) 379–6570.

EIS No. 20110401, Final EIS, STB, PA, R.J. Corman Railroad/Pennsylvania Lines Project, Construction, Operation, and Reactivation to Approximately 20 Miles of Railline in Clearfield and Centre Counties, PA, Review Period Ends: 12/27/2011, Contact: Danielle Gossolin (202) 245–0300.

Amended Notices

EIS No. 20110328, Draft EIS, NPS, CA, Drakes Bay Oyster Company (DBOC) Special Use Permit (SUP) for the Period of 10 Years for its Shellfish Operation, which Consists of Commercial Production, Harvesting, Processing, and Sale of Shellfish at Point Reyes National Seashore, CA, Comment Period Ends: 12/09/2011, Contact: Cicely Muldoon (415) 464–5101.

This document is available on the Internet at: *http://parkplanning.nps.gov/document.cfm?parkID=333&projectID=33043&documentID=43390.*

Revision to FR Notice 9/30/2011: Extending Comment Period from 11/29/2011 to 12/09/2011.

Dated: November 21, 2011.

Cliff Rader,

Acting Director, NEPA Compliance Division, Office of Federal Activities.

[FR Doc. 2011–30363 Filed 11–23–11; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–9496–4]

Meeting of the National Drinking Water Advisory Council—Notice of Public Meeting

AGENCY: Environmental Protection Agency.

ACTION: Notice of a public meeting.

SUMMARY: Notice is hereby given of a meeting of the National Drinking Water Advisory Council (NDWAC or Council), established under the Safe Drinking Water Act. The Council will consider various issues associated with drinking water protection and public water systems including actions to assist small water systems and efforts underway to address nutrient pollution of drinking water supplies. The Council will also receive updates about several on-going drinking water program activities.

DATES: The Council meeting will be held on December 14, 2011, from 8:30 a.m. to 5 p.m., and December 15, 2011, from 8:30 a.m. to 5 p.m., Eastern Standard Time.

ADDRESSES: The meeting will be held at the Hyatt Regency Crystal City Hotel, 2799 Jefferson Davis Highway, Arlington, VA 22202.

FOR FURTHER INFORMATION CONTACT: Members of the public who would like to attend the meeting, present an oral statement, or submit a written statement, should contact Suzanne Kelly, by email, *Kelly.Suzanne@epa.gov,* by phone, (202) 564–3887, or by regular mail at the U.S. Environmental Protection Agency, Office of Ground Water and Drinking Water (MC 4601M), 1200 Pennsylvania Avenue NW., Washington, DC 20460.

SUPPLEMENTARY INFORMATION:

National Drinking Water Advisory Council: The Council was created by Congress on December 16, 1974, as part of the Safe Drinking Water Act (SDWA) of 1974, Public Law 93–523, 42 U.S.C. 300j–5 and is operated in accordance with the provisions of the Federal Advisory Committee Act (FACA), 5 U.S.C. App. 2. The Council was established under the SDWA to provide practical and independent advice, consultation and recommendations to the EPA Administrator on the activities, functions, policies, and regulations required by the SDWA.

December 14–15, 2011 Public Meeting

The meeting is open to the public. The Council encourages the public's input and will allocate one hour (11 a.m.–12 p.m.) on December 15, 2011, for this purpose. Oral statements will be limited to five minutes. It is preferred that only one person present the statement on behalf of a group or organization. To ensure adequate time for public involvement, individuals or organizations interested in presenting an oral statement should notify Suzanne Kelly by telephone at (202) 564–3887 no later than December 6, 2011. Any person who wishes to file a written statement can do so before or after a Council meeting. Written statements received by December 6, 2011 will be distributed to all members of the Council before any final discussion or vote is completed. Any statements received December 7, 2011, or after the meeting will become part of the permanent meeting file and will be forwarded to the Council members for their information.

Special Accommodations

For information on access or services for individuals with disabilities, please contact Suzanne Kelly at (202) 564–3887 or by email at *Kelly.Suzanne@epa.gov.* To request accommodation of a disability, please contact Suzanne Kelly, preferably, at least 10 days prior to the meeting to give EPA as much time as possible to process your request.

Dated: November 17, 2011.

Ronald W. Bergman,

Acting Director, Office of Ground Water and Drinking Water.

[FR Doc. 2011–30362 Filed 11–23–11; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

Information Collection Approved by the Office of Management and Budget (OMB)

AGENCY: Federal Communications Commission.

ACTION: Notice.

SUMMARY: The Federal Communications Commission (FCC) has received Office of Management and Budget (OMB) approval for the following public information collections pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520). An agency may not conduct or sponsor a collection of information unless it displays a currently valid OMB control number, and no person is required to respond to a collection of information unless it displays a currently valid control number. Comments concerning the accuracy of the burden estimates and any suggestions for reducing the burden should be directed to the person listed in the **FOR FURTHER INFORMATION CONTACT** section below.

FOR FURTHER INFORMATION CONTACT: Cathy Williams, Office of the Managing Director, at (202) 418–2918, or *email: Cathy.Williams@fcc.gov*.

SUPPLEMENTARY INFORMATION:

OMB Control Number: 3060–0386.

OMB Approval Date: November 17, 2011.

OMB Expiration Date: November 30, 2014.

Title: Special Temporary Authorization (STA) Requests; Notifications; and Informal Filings; Sections 1.5, 73.1615, 73.1635, 73.1740, and 73.3598; CDBS Informal Forms; Section 74.788; Low Power Television, TV Translator and Class A Television Digital Transition Notifications; FCC Form 337.

Form Number: FCC Form 337.

Number of Respondents and Responses: 6,509 respondents; 6,509 responses.

Estimated Hours per Response: 0.5 to 4 hours.

Frequency of Response: On occasion reporting requirement; one time reporting requirement.

Total Annual Burden: 5,325 hours.

Total Annual Cost: $2,126,510.

Obligation To Respond: Required to obtain or retain benefits. The statutory authority for this information collection is contained in Sections 1, 4(i) and (j), 7, 301, 302, 303, 307, 308, 309, 312, 316, 318, 319, 324, 325, 336 and 337 of the Communications Act of 1934, as amended.

Nature and Extent of Confidentiality: There is no need for confidentiality with this collection of information.

Privacy Act Assessment: No impact(s).

Needs and Uses: On July 15, 2011, the Commission adopted the Second Report and Order, In the Matter of Amendment of Parts 73 and 74 of the Commission's Rules To Establish Rules for Digital Low Power Television Translator, and Television Booster Stations and To Amend Rules for Digital Class A Television Stations, MB Docket No. 03–185, FCC 11–110 (''LPTV Digital Second Report and Order''). The LPTV Digital Second Report and Order contains rules and policies for low power stations (''LPTV'') to transition from analog to digital broadcasting and states that low *61359 power television, TV translator, and Class A television stations that have not already transitioned to digital must submit a notification to the Commission (through an informal filing) of their decision to either flash cut on their existing analog channel or to continue operating their digital companion channel and return their analog license. OMB approved the collection of information on November 17, 2011.

Federal Communications Commission.

Marlene H. Dortch,

Secretary, Office of the Secretary, Office of the Managing Director.

[FR Doc. 2011–30334 Filed 11–23–11; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

[DA 11–1880]

Emergency Access Advisory Committee; Announcement of Date of Next Meeting

AGENCY: Federal Communications Commission.

ACTION: Notice.

SUMMARY: This document announces the date of the Emergency Access Advisory Committee's (Committee or EAAC) next meeting. The November meeting will consider final draft language for recommendations to the Commission as required in the Twenty-First Century Communications and Video Accessibility Act of 2010 (CVAA).

DATES: The Committee's next meeting will take place on Friday, November 18, 2011, 10:30 a.m. to 3:30 p.m. (EST), at the headquarters of the Federal Communications Commission (FCC).

ADDRESSES: Federal Communications Commission, 445 12th Street SW., Washington, DC 20554, in the Commission Meeting Room.

FOR FURTHER INFORMATION CONTACT: Cheryl King, Consumer and Governmental Affairs Bureau, (202) 418–2284 (voice) or (202) 418–0416 (TTY), *email: Cheryl.King@fcc.gov* and/or Patrick Donovan, Public Safety and Homeland Security Bureau, (202) 418–2413, *email: Patrick.Donovan@fcc.gov*.

SUPPLEMENTARY INFORMATION: On December 7, 2010, in document DA 10–2318, Chairman Julius Genachowski announced the establishment and appointment of members and Co-Chairpersons, of the EAAC, an advisory committee required by the CVAA, Public Law 111–260, which directs that an advisory committee be established for the purpose of achieving equal access to emergency services by individuals with disabilities as part of our nation's migration to a national Internet protocol-enabled emergency network, also known as the next generation 9–1–1 system (NG9–1–1). The purpose of the EAAC is to determine the most effective and efficient technologies and methods by which to enable access to NG9–1–1 emergency services by individuals with disabilities. In order to fulfill this mission, the CVAA directs that within one year after the EAAC's members are appointed, the Committee shall conduct a national survey, with the input of groups represented by the Committee's membership, after which the Committee shall develop and submit to the Commission recommendations to implement such technologies and methods. The EAAC survey has been completed and the EAAC is now considering recommendations based on the survey results. Under the CVAA, those recommendations are due to the Commission by December 7, 2011.

The meeting site is fully accessible to people using wheelchairs or other mobility aids. Sign language interpreters, open captioning, and assistive listening devices will be provided on site. Other reasonable accommodations for people with disabilities are available upon request. In your request, include a description of the accommodation you will need and a way we can contact you if we need more information. Last minute requests will be accepted, but may be impossible to fill. Send an email to: *fcc504@fcc.gov*

or call the Consumer and Governmental Affairs Bureau at (202) 418–0530 (voice), (202) 418–0432 (TTY).

To request materials in accessible formats for people with disabilities (Braille, large print, electronic files, audio format), send an email to *fcc504@fcc.gov* or call the Consumer and Governmental Affairs Bureau at (202) 418–0530 (voice), (202) 418–0432 (TTY).

Federal Communications Commission.

Karen Peltz Strauss,

Deputy Chief, Consumer and Governmental Affairs Bureau.

[FR Doc. 2011–30396 Filed 11–23–11; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

Radio Broadcasting Services; AM or FM Proposals To Change the Community of License

AGENCY: Federal Communications Commission.

ACTION: Notice.

SUMMARY: The following applicants filed AM or FM proposals to change the community of license: DOUGLAS BROADCASTING, INC., Station KLNQ, Facility ID161152, BMP–20111107ALX, From CASPER, WY, To EVANSVILLE, WY; HISPANIC TARGET MEDIA INC., Station NEW, Facility ID 183311, BNPH–20091019ADD, From KERNVILLE, CA, To RIDGECREST, CA; OLIVET NAZARENE UNIVERSITY, Station WTMK, Facility ID 90498, BPED–20111103AGS, From LOWELL, IN, To WANATAH, IN; RADIO LICENSE HOLDING CBC, LLC, Station KSMB, Facility ID 41057, BPH–20111012AEE, From LAFAYETTE, LA, To BAKER, LA.

DATES: The agency must receive comments on or before January 24, 2012.

ADDRESSES: Federal Communications Commission, 445 12th Street SW., Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: Tung Bui, (202) 418–2700.

SUPPLEMENTARY INFORMATION: The full text of these applications is available for inspection and copying during normal business hours in the Commission's Reference Center, 445 12th Street SW., Washington, DC 20554 or electronically via the Media Bureau's Consolidated Data Base System, *http://svartifoss2.fcc.gov/prod/cdbs/pubacc/prod/cdbs_pa.htm.*

A copy of this application may also be purchased from the Commission's duplicating contractor, Best Copy and Printing, Inc., 445 12th Street SW., Room CY–B402, Washington, DC 20554, telephone 1–(800) 378–3160 or *http://www.BCPIWEB.com.*

Federal Communications Commission.

James D. Bradshaw,

Deputy Chief, Audio Division, Media Bureau.

[FR Doc. 2011–30395 Filed 11–23–11; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL RESERVE SYSTEM

Proposed Agency Information Collection Activities; Comment Request

Correction

In notice document 2011–29874 appearing on pages 71968–71975 in the issue of November 21, 2011, make the following correction:

On page 71969, in the first column, under the **DATES** heading, in the second line, ''December 12, 2011'' should read ''January 20, 2012''.

[FR Doc. C1–2011–29874 Filed 11–23–11; 8:45 am]

BILLING CODE 1505–01–D

FEDERAL RESERVE SYSTEM

Change in Bank Control Notices; Acquisitions of Shares of a Bank or Bank Holding Company

The notificants listed below have applied under the Change in Bank Control Act (12 U.S.C. 1817(j)) and § 225.41 of the Board's Regulation Y (12 CFR 225.41) to acquire shares of a bank or bank holding company. The factors that are considered in acting on the notices are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The notices are available for immediate inspection at the Federal Reserve Bank indicated. The notices also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank indicated for that notice or to the offices of the Board of Governors. Comments must be received not later than December 9, 2011.

A. Federal Reserve Bank of Cleveland (Nadine Wallman, Vice President) 1455 East Sixth Street, Cleveland, Ohio 44101–2566:

1. David J. Bursic and Valerie L. Bursic, both of Pittsburgh, Pennsylvania; to acquire voting shares of WVS Financial Corp., and thereby indirectly acquire voting shares of West View Savings Bank, both in Pittsburgh, Pennsylvania.

B. Federal Reserve Bank of Minneapolis (Jacqueline G. King, Community Affairs Officer) 90 Hennepin Avenue, Minneapolis, Minnesota 55480–0291:

1. *Danita Louise McVay,* as executor, of the M.D. McVay Estate, and Trustee of the Mary M. McVay Family Trust, the Elizabeth McVay Greene Irrevocable Trust, and the Marianna Marcelle Greene Irrevocable Trust; all in Minneapolis, Minnesota, and Jenny Lynn Verner, Victoria, Minnesota, Zachary Miller Zacek, Chicago, Illinois, Elizabeth McVay Greene, Brooklyn, New York, and Marianna Marcelle Greene, Minneapolis, Minnesota, to join the McVay Family Group, and retain voting shares of Minnwest Corporation, Minnetonka, Minnesota, and thereby indirectly retain voting shares of Minnwest Bank, M.V., Redwood Falls, Minnesota; Minnwest Bank South, Tracy, Minnesota; Minnwest Bank Luverne, Luverne, Minnesota; Minnwest Bank Central, Montevideo, Minnesota; Minnwest Bank Metro, Eagan, Minnesota, and Minnwest Bank Sioux Falls, Sioux Falls, South Dakota.

Board of Governors of the Federal Reserve System, November 21, 2011.

Robert deV. Frierson,

Deputy Secretary of the Board.

[FR Doc. 2011–30355 Filed 11–23–11; 8:45 am]

BILLING CODE 6210–01–P

FEDERAL RESERVE SYSTEM

Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied to the Board for approval, pursuant to the Bank Holding Company Act of 1956 (12 U.S.C. 1841 *et seq.*) (BHC Act), Regulation Y (12 CFR part 225), and all other applicable statutes and regulations to become a bank holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a bank or bank holding company and all of the banks and nonbanking companies owned by the bank holding company, including the companies listed below.

The applications listed below, as well as other related filings required by the Board, are available for immediate inspection at the Federal Reserve Bank indicated. The application also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the standards enumerated in the BHC Act (12 U.S.C. 1842(c)). If the proposal also involves the acquisition of a nonbanking company, the review also includes whether the acquisition of the

nonbanking company complies with the standards in section 4 of the BHC Act (12 U.S.C. 1843). Unless otherwise noted, nonbanking activities will be conducted throughout the United States.

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than December 19, 2011.

A. Federal Reserve Bank of Kansas City (Dennis Denney, Assistant Vice President), 1 Memorial Drive, Kansas City, Missouri 64198–0001:

1. *Oklahoma Bancshares Holdings, Inc.,* Norman, Oklahoma; to become a bank holding company by acquiring 100 percent of the voting shares of Town & Country Bancshares, Inc., and thereby indirectly acquire voting shares of Oklahoma State Bank, both in Guthrie, Oklahoma.

Board of Governors of the Federal Reserve System, November 21, 2011.

Robert deV. Frierson,

Deputy Secretary of the Board.

[FR Doc. 2011–30356 Filed 11–23–11; 8:45 am]

BILLING CODE 6210–01–P

FEDERAL TRADE COMMISSION

Agency Information Collection Activities; Submission for OMB Review; Comment Request

AGENCY: Federal Trade Commission (''FTC'' or ''Commission'').

ACTION: Notice.

SUMMARY: The FTC intends to ask the Office of Management and Budget (''OMB'') to extend through January 31, 2015, the current Paperwork Reduction Act (''PRA'') clearance for information the FTC would seek from a combined ten or more of the largest cigarette manufacturers and smokeless tobacco manufacturers. The current clearance expires on January 31, 2012.

DATES: Comments on the proposed information requests must be received on or before December 27, 2011.

ADDRESSES: Interested parties may file a comment online or on paper, by following the instructions in the Request for Comment part of the **SUPPLEMENTARY INFORMATION** section below. Write: ''Tobacco Reports: Paperwork Comment, FTC File No. P054507'' on your comment, and file your comment online at *https://ftcpublic.commentworks.com/ftc/tobaccoreportspra2* by following the instructions on the web-based form. If you prefer to file your comment on paper, mail or deliver your comment to the following address: Federal Trade Commission, Office of the Secretary, Room H–113 (Annex J), 600 Pennsylvania Avenue NW, Washington, DC 20580.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the proposed collection of information should be addressed to Shira Modell, Division of Advertising Practices, Bureau of Consumer Protection, Federal Trade Commission, 600 Pennsylvania Avenue NW., NJ–3212, Washington, DC 20580. *Telephone:* (202) 326–3116.

SUPPLEMENTARY INFORMATION:

Title: FTC Cigarette and Smokeless Tobacco Data Collection.

OMB Control Number: 3084–0134.

Type of Review: Extension of currently approved collection.

Abstract: For more than forty years, the FTC has published periodic reports containing data on domestic cigarette sales and marketing expenditures by the major U.S. cigarette manufacturers. It has published comparable reports on smokeless tobacco sales and marketing expenditures for more than twenty years. Both reports originally were issued pursuant to statutory mandates. After those statutory mandates ended, the Commission continued to collect and publish information obtained from the cigarette and smokeless tobacco industries through compulsory process under the authority of Section 6(b) of the FTC Act, 15 U.S.C. 46(b).

The FTC plans to continue sending information requests annually to the ultimate parent company of several of the largest U.S. cigarette c and smokeless tobacco companies (''industry members''). The information requests will seek data regarding, among other things: (1) The tobacco sales of industry members; (2) how much industry members spend advertising and promoting their tobacco products, and the amounts spent in each of several specified expenditure categories; (3) whether industry members are involved in the appearance of their products or brand imagery in television shows, motion pictures, or the Internet; (4) how much industry members spend on advertising intended to reduce youth tobacco use; (5) the events, if any, during which industry members' tobacco brands are televised; and (6) for the cigarette industry, the tar, nicotine, and carbon monoxide ratings of their cigarettes, to the extent they possess such data.[1] The information will again be sought under the authority of Section 6(b) of the FTC Act.

On August 4, 2011, the FTC sought public comment on its proposed information collection requests to the major cigarette and smokeless tobacco manufacturers. 76 FR 47187. No comments were received. Pursuant to the OMB regulations, 5 CFR part 1320, that implement the PRA, 44 U.S.C. 3501 *et seq.,* the FTC is providing a second opportunity for the public to comment while seeking OMB approval to extend the existing paperwork clearance for the information collection requests.

Burden Statement [2]

Estimated Number of Respondents, Estimated Average Burden per year per Respondent

(a) Information requests to the five largest cigarette companies and five largest smokeless tobacco companies, at a per company average each year of 180 hours = 1,800 hours, cumulatively, per year; and

(b) Information requests to a five additional respondents, of smaller size, at a per company average each year of 60 hours = 300 hours, cumulatively, per year.

Thus, the overall estimated burden for an assumed maximum of 15 recipients of the information requests is 2,100 hours per year.[3] These estimates include any time spent by separately incorporated subsidiaries and other entities affiliated with the ultimate parent company that has received the information request.

Total Annual Labor Cost: $210,000 (2,100 hours per year @ $100 per hour).

Total Annual Capital or Other Non-Labor Cost: minimal.[4]

Request for comment: You can file a comment online or on paper. For the Commission to consider your comment, we must receive it on or before

[1] Although the Commission has rescinded the 1966 enforcement policy that allowed factual statements of tar and nicotine yields supported by testing conducted under what was commonly referred to as ''the FTC Test Method,'' 73 FR 74500 (Dec. 8, 2008), the Commission believes it is important to continue collecting these data, which researchers and policymakers use to track trends over time.

[2] See 76 FR 47187 for further details underlying the estimates that follow.

[3] The Commission intends to use this PRA clearance renewal to collect information from the companies regarding their marketing and sales activities for the years 2011, 2012, and 2013. Although the Commission anticipates that it will issue compulsory process orders one year at a time, it is possible that it might not do so and instead issue an order in an ensuing year for information covering two years. The estimates in this notice for hours and labor costs are annualized to reflect an average year over the course of a prospective three-year PRA clearance.

[4] Although industry members may have to preserve relevant business records to accommodate the Commission's information requirements, they already have the means in place to do so.

December 27, 2011. Write ''Tobacco Reports: Paperwork Comment, FTC File No. P054507'' on your comment. Your comment, including your name and your state, will be placed on the public record of this proceeding, including, to the extent practicable, on the public Commission Web site, at *http://www.ftc.gov/os/publiccomments.shtm.* As a matter of discretion, the Commission tries to remove individuals' home contact information from comments before placing them on the Commission Web site.

Because your comment will be made public, you are solely responsible for making sure that your comment does not include any sensitive personal information, such as anyone's Social Security number, date of birth, driver's license number or other state identification number or foreign country equivalent, passport number, financial account number, or credit or debit card number. You are also solely responsible for making sure that your comment does not include any sensitive health information, such as medical records or other individually identifiable health information. In addition, don't 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 FTC Rule 4.10(a)(2), 16 CFR 4.10(a)(2). In particular, don't include competitively sensitive information, such as costs, sales statistics, inventories, formulas, patterns, devices, manufacturing processes, or customer names.

If you want the Commission to give your comment confidential treatment, you must file it in paper form, with a request for confidential treatment, and you have to follow the procedure explained in FTC Rule 4.9(c), 16 CFR 4.9(c).[5] Your comment will be kept confidential only if the FTC General Counsel, in his or her sole discretion, grants your request in accordance with the law and the public interest.

Postal mail addressed to the Commission is subject to delay due to heightened security screening. As a result, we encourage you to submit your comments online, or to send them to the Commission by courier or overnight service. To make sure that the Commission considers your online comment, you must file it at *https://ftcpublic.commentworks.com/ftc/tobaccoreportspra2,* by following the instructions on the web-based form. If this Notice appears at *http://www.regulations.gov/#!home,* you also may file a comment through that Web site.

If you file your comment on paper, write ''Tobacco Reports: Paperwork Comment, FTC File No. P054507'' on your comment and on the envelope, and mail or deliver it to the following address: Federal Trade Commission, Office of the Secretary, Room H–113 (Annex J), 600 Pennsylvania Avenue NW., Washington, DC 20580. If possible, submit your paper comment to the Commission by courier or overnight service.

Visit the Commission Web site at *http://www.ftc.gov* to read this Notice and the news release describing it. The FTC Act and other laws that the Commission administers permit the collection of public comments to consider and use in this proceeding as appropriate. The Commission will consider all timely and responsive public comments that it receives on or before December 27, 2011. You can find more information, including routine uses permitted by the Privacy Act, in the Commission's privacy policy, at *http://www.ftc.gov/ftc/privacy.htm.*

Comments on the information collection requirements subject to review under the PRA should additionally be submitted to OMB. If sent by U.S. mail, they should be addressed to Office of Information and Regulatory Affairs, Office of Management and Budget, Attention: Desk Officer for the Federal Trade Commission, New Executive Office Building, Docket Library, Room 10102, 725 17th Street, NW., Washington, DC 20503. Comments sent to OMB by U.S. postal mail, however, are subject to delays due to heightened security precautions. Thus, comments instead should be sent by facsimile to (202) 395–5167.

David C. Shonka,

Acting General Counsel.

[FR Doc. 2011–30344 Filed 11–23–11; 8:45 am]

BILLING CODE 6750–01–P

[5] In particular, the written request for confidential treatment that accompanies the comment must include the factual and legal basis for the request, and must identify the specific portions of the comment to be withheld from the public record. See FTC Rule 4.9(c), 16 CFR 4.9(c).

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of the Assistant Secretary for Planning and Evaluation; Medicare Program; Meeting of the Technical Advisory Panel on Medicare Trustee Reports

AGENCY: Assistant Secretary for Planning and Evaluation, HHS.

ACTION: Notice of meeting.

SUMMARY: This notice announces public meetings of the Technical Advisory Panel on Medicare Trustee Reports (Panel). Notice of these meetings is given under the Federal Advisory Committee Act (5 U.S.C. App. 2, section 10(a)(1) and (a)(2)). The Panel will discuss the long range (75 year) projection methods and assumptions in projecting Medicare health expenditures and projecting National Health Expenditures and may make recommendations to the Medicare Trustees on how the Trustees might more accurately estimate health spending in the long run. The Panel's discussion is expected to be very technical in nature and will focus on the actuarial and economic assumptions and methods by which Trustees might more accurately project health spending. Although panelists are not limited in the topics they may discuss, the Panel is not expected to discuss or recommend changes in current or future Medicare provider payment rates or coverage policy.

DATES: *Meeting Date:* December 14, 2011, 9:15 a.m. to 5 p.m.

ADDRESSES: The meeting will be held at HHS headquarters at 200 Independence Ave., SW., Washington, DC, 20201, Room TBD.

Comments: The meeting will allocate time on the agenda to hear public comments at the end of the meeting. In lieu of oral comments, formal written comments may be submitted for the record to Donald T. Oellerich, OASPE, 200 Independence Ave., SW., 20201, Room 405F. Those submitting written comments should identify themselves and any relevant organizational affiliations.

FOR FURTHER INFORMATION CONTACT: Donald T Oellerich (202) 690–7409, *Don.oellerich@hhs.gov.* **Note:** Although the meeting is open to the public, procedures governing security procedures and the entrance to Federal buildings may change without notice. Those wishing to attend the meeting must call or email Dr. Oellerich by Monday December 12, 2011, so that their name may be put on a list of expected attendees and forwarded to the security officers at HHS Headquarters.

SUPPLEMENTARY INFORMATION: Topics of the Meeting: The Panel is specifically charged with discussing and possibly making recommendations to the Medicare Trustees on how the Trustees might more accurately project health spending in the United States. The discussion is expected to focus on highly technical aspects of estimation involving economics and actuarial science. Panelists are not restricted,

however, in the topics that they choose to discuss.

Procedure and Agenda: This meeting is open to the public. The Panel will likely hear presentations by panel members and HHS staff regarding long range projection methods and assumptions. After any presentations, the Panel will deliberate openly on the topic. Interested persons may observe the deliberations, but the Panel will not hear public comments during this time. The Panel will also allow an open public session for any attendee to address issues specific to the topic.

Authority: 42 U.S.C. 217a; Section 222 of the Public Health Services Act, as amended. The panel is governed by provisions of Public Law 92–463, as amended (5 U.S.C. appendix 2), which sets forth standards for the formation and use of advisory committees.

Dated: November 18, 2011.

Sherry Glied,

Assistant Secretary for Planning and Evaluation.

[FR Doc. 2011–30337 Filed 11–23–11; 8:45 am]

BILLING CODE P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

[CMS–1593–N]

Medicare Program; Renaming and Other Changes to the Advisory Panel on Hospital Outpatient Payment Charter (Formerly the Advisory Panel on Ambulatory Payment Classification Groups) and Request for Nominations

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

ACTION: Notice.

SUMMARY: This notice announces the name change of the Advisory Panel on Ambulatory Payment Classification Groups to the Advisory Panel on Hospital Outpatient Payment (HOP) (the Panel). In addition, it announces the renewal and amendments to the charter including changing the scope of the Panel to include supervision of outpatient hospital services, changing the Panel membership to include Critical Access Hospitals (CAH), and the solicitation of six nominations for individuals to serve on the Panel in 2012.

DATES: *Submission of Nominations:* We will consider nominations if they are received no later than 5 p.m. (e.s.t.), December 27, 2011.

ADDRESSES: Please email, mail or hand deliver nominations to the following address: Centers for Medicare & Medicaid Services; Attn: Paula Smith, Advisory Panel on HOP; Center for Medicare, Hospital & Ambulatory Policy Group, Division of Outpatient Care; 7500 Security Boulevard, Mail Stop C4–05–17; Woodlawn, MD 21244–1850, *Paula.Smith@cms.hhs.gov.*

FOR FURTHER INFORMATION CONTACT: For questions or other information about the Panel, submit a written request to Paula Smith at the addresses provided above or call (410) 786–4709.

Advisory Committees' Information Lines: You may also refer to the CMS Federal Advisory Committee Hotlines at 1–(877) 449–5659 (toll-free) or (410) 786–9379 (local) for additional information.

Web site: For additional information on the Panel, the revised charter and updates to the Panel's activities, please access our Web site: *http://www.cms.hhs.gov/FACA/05_AdvisoryPanelonAmbulatoryPaymentClassificationGroups.asp#TopOfPage.* (*Note:* There is an UNDERSCORE after FACA/05_; there is no space.)

News Media: Representatives should contact the CMS Press Office at (202) 690–6145.

Copies of the Charter: Copies of the Charter are available on the Internet at: *http://www.cms.gov/FACA/05_AdvisoryPanelonAmbulatoryPaymentClassificationGroups.asp#TopOfPage.* (*Note:* There is an UNDERSCORE after FACA/05_; there is no space.)

SUPPLEMENTARY INFORMATION:

I. Background

The Secretary of the Department of Health and Human Services (the Secretary) is required by section 1833(t)(9)(A) of the Social Security Act (the Act) and section 222 of the Public Health Service Act (PHS Act) to consult with an expert outside advisory panel regarding the clinical integrity of the Ambulatory Payment Classification (APC) groups and relative payment weights. The Advisory Panel on Hospital Outpatient Payment (HOP) (the Panel, which was formerly known as the Advisory Panel on Ambulatory Payment Classification Groups) is governed by the provisions of the Federal Advisory Committee Act (FACA) (Pub. L. 92–463), as amended (5 U.S.C. Appendix 2), which sets forth standards for the formation and use of advisory panels.

The Charter provides that the Panel shall meet up to 3 times annually. We consider the technical advice provided by the Panel as we prepare the proposed and final rules to update the outpatient prospective payment system (OPPS) for the next calendar year.

The Panel shall consist of a chair and up to 19 members (previously 15) who are full-time employees of hospitals, hospital systems, or other Medicare providers. For purposes of the Panel, consultants or independent contractors are not considered to be full-time employees in these organizations.

The current Panel consists of the following members: (The asterisk [*] indicates the Panel member whose term will end on February 29, 2012.)

- E. L. Hambrick, M.D., J.D., Chair, a CMS Medical Officer.
- Ruth L. Bush, M.D., M.P.H.
- Kari S. Cornicelli, C.P.A., FHFMA.
- Dawn L. Francis, M.D., M.H.S.
- Kathleen Graham, R.N., M.S.H.A.*
- David A. Halsey, M.D.
- Brian D. Kavanagh, M.D., M.P.H.
- Judith T. Kelly, B.S.H.A., RHIT, RHIA, CCS.
- Scott Manaker, M.D., Ph.D.
- John Marshall, CRA, RCC, CIRCC, RT(R), FAHRA.
- Randall A. Oyer, M.D.
- Jacqueline Phillips.
- Daniel J. Pothen, M.S., RHIA, CHPS, CPHIMS, CCS, CCS–P, CHC.
- Gregory J. Przbylski, M.D.
- Marianna V. Spanaki-Varela, M.D., Ph.D., M.B.A.

Panel members serve without compensation, according to an advance written agreement. For the meetings, we reimburse travel, meals, lodging, and related expenses in accordance with standard Government travel regulations. We have a special interest in attempting to ensure, while taking into account the nominee pool, that the Panel is diverse in all respects of the following: Geography, rural or urban practice, points of view, medical or technical specialty, type of hospital, hospital health system, or other Medicare provider.

Based upon either self-nominations or nominations submitted by providers or interested organizations, the Secretary, or her designee, appoints new members to the Panel from among those candidates determined to have the required expertise. New appointments are made in a manner that ensures a balanced membership under the FACA guidelines.

The Secretary signed the original charter establishing the Panel on November 21, 2000, and approved the renewal, renaming, and amendment of the Panel charter on November 15, 2011. The charter will terminate on November 15, 2013, unless renewed or amended by appropriate actions.

II. Criteria for Nominees

The Panel must be fairly balanced in its membership in terms of the points of

view represented and the functions to be performed. The Panel shall consist of up to 19 total members (previously 15) representing providers. The Secretary or the Administrator of the Centers for Medicare & Medicaid Services (the Administrator) selects the member based upon their technical expertise in hospital payment systems; hospital medical care delivery systems; provider billing and accounting systems; APC grouping; Current Procedural Terminology codes and Healthcare Common Procedure Coding System coding experts; the use of, and payment for, drugs and medical devices, and other services in the hospital outpatient setting; and other forms of relevant expertise. For supervision deliberations, the Panel shall have members that represent the interests of Critical Access Hospitals (CAHs), who advise CMS only regarding the level of supervision for hospital outpatient services.

All members shall have a minimum of 5 years experience in their areas of expertise, but it is not necessary that any member be an expert in all of the areas listed above. Panel members are full-time employees of hospitals, hospital systems, or other Medicare providers.

For purposes of this Panel, consultants or independent contractors are not considered to be representatives of providers. All members shall serve on a voluntary basis, without compensation, pursuant to advance written agreement. Members of the Panel shall be entitled to receive reimbursement for travel expenses and per diem in lieu of subsistence, in accordance with standard government travel regulations. Panel members may serve for up to 4-year terms. A member may serve after the expiration of his or her term until a successor has been sworn in.

Any interested person or organization may nominate one or more qualified individuals. Self-nominations will also be accepted. Each nomination must include the following:

- Letter of Nomination stating the reasons why the nominee should be considered,
- Curriculum vitae or resume of the nominee,
- Written and signed statement from the nominee that the nominee is willing to serve on the Panel under the conditions described in this notice and further specified in the Charter, and
- The hospital or hospital system name and address, or CAH name and address, as well as all Medicare hospital and or Medicare CAH billing numbers of the facility where the nominee is employed.

III. Provisions of the Notice

A. Renaming, Renewal, and Amendment of the Charter

Over the last decade, the role of the Panel in assisting CMS in decisions about the clinical integrity of the APC groups and their associated weights, which are major elements of the OPPS, has led to the overall improved functioning of the OPPS.

As previously stated, this notice renames the Advisory Panel on APC Groups (APC Panel), which is now called the Advisory Panel on Hospital Outpatient Payment (HOP Panel) and referred to as ''the Panel.'' The Panel advises the Secretary and Administrator on developing and implementing national practices that support consistent implementation of supervision for hospital outpatient services by determining the appropriate supervision level for hospital outpatient services, in addition to its current role of advising on clinical integrity of the APC groups and their associated weights.

B. Increasing the Panel Membership From 15 to 19 Members

We are also increasing the number of members on the Panel from 15 to 19, some of which will represent CAHs for the deliberation of supervision of outpatient hospital services.

C. Changing the Scope of the Panel To Include Supervision

The Panel may advise the Secretary and the Administrator on the following:

- The clinical integrity of the APC groups and their associated weights, which are major elements of the OPPS; and
- The appropriate supervision level for hospital outpatient services. With respect to supervision, the Panel may recommend a supervision level (general, direct, or personal) to ensure an appropriate level of quality and safety for delivery of a given service, as described by a Healthcare Common Procedure Code System (HCPCS) code.

D. Description of Duties of Panel Members

The Panel is technical in nature, and may consider the following issues:

- Addressing whether procedures within an APC group are similar both clinically and in terms of resource use.
- Reconfiguring APCs (for example, separating a single APC into two APCs, moving HCPCS codes from one APC to another, and moving HCPCS codes from new technology APCs to clinical APCs).
- Evaluating APC group weights.
- Reviewing packaging the cost of items and services, including drugs and devices, into procedures and services, including the methodology for packaging and the impact of packaging the cost of those items and services on APC group structure and payment.
- Removing procedures from the inpatient list for payment under the OPPS.
- Using claims and cost report data for CMS determination of APC group costs.
- Addressing other technical issues concerning APC group structure.
- Evaluating the required level of supervision for hospital outpatient services.

The subject matter before the Panel shall be limited to these and related topics. Unrelated topics are not subjects for discussion. Unrelated topics include, but are not limited to, the conversion factor, charge compression, revisions to the cost report, pass-through payments, correct code usage, new technology applications (including supporting information/documentation), provider payment adjustments, and which types of practitioners are permitted to supervise hospital outpatient services.

E. Requests for Nominations

We are soliciting six nominees to add to the Panel. With this expansion, we are particularly interested in adding representatives who have experience in working with issues related to CAHs and rural hospitals.

IV. Collection of Information Requirements

This document does not impose information collection and recordkeeping requirements. Consequently, it need not be reviewed by the Office of Management and Budget under the authority of the Paperwork Reduction Act of 1995 (44 U.S.C. 35).

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

Dated: November 17, 2011.

Donald M. Berwick,

Administrator, Centers for Medicare & Medicaid Services.

[FR Doc. 2011–30417 Filed 11–23–11; 8:45 am]

BILLING CODE 4120–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2011–N–0231]

Agency Information Collection Activities; Announcement of Office of Management and Budget Approval; Adverse Experience Reporting for Licensed Biological Products; and General Records

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that a collection of information entitled ''Adverse Experience Reporting for Licensed Biological Products; and General Records'' has been approved by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995.

FOR FURTHER INFORMATION CONTACT: Ila S. Mizrachi, Office of Information Management, Food and Drug Administration, 1350 Piccard Dr., PI50–400B, Rockville, MD 20850, (301) 796–7726, *ila.mizrachi@fda.hhs.gov*.

SUPPLEMENTARY INFORMATION: On July 19, 2011, the Agency submitted a proposed collection of information entitled ''Adverse Experience Reporting for Licensed Biological Products; and General Records'' to OMB for review and clearance under 44 U.S.C. 3507. 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. OMB has now approved the information collection and has assigned OMB control number 0910–0308. The approval expires on November 30, 2014. A copy of the supporting statement for this information collection is available on the Internet at *http://www.reginfo.gov/public/do/PRAMain.*

Dated: November 18, 2011.

Leslie Kux,

Acting Assistant Commissioner for Policy.

[FR Doc. 2011–30326 Filed 11–23–11; 8:45 am]

BILLING CODE 4160–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2010–D–0350]

Agency Information Collection Activities; Proposed Collection; Comment Request; Draft Guidance for Tobacco Retailers on Tobacco Retailer Training Programs

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing an opportunity for public comment on the proposed collection of certain information by the Agency. Under the Paperwork Reduction Act of 1995 (the PRA), Federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information and to allow 60 days for public comment in response to the notice. This notice solicits comments on the information collection provisions of the draft guidance entitled ''Tobacco Retailer Training Programs.''

DATES: Submit written or electronic comments on the collection of information by January 24, 2012.

ADDRESSES: Submit electronic comments on the collection of information to *http://www.regulations.gov*. Submit written comments on the collection of information to the Division of Dockets Management (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852. Identify comments with the docket number found in brackets in the heading of this document.

FOR FURTHER INFORMATION CONTACT: Daniel Gittleson, Office of Information Management, Food and Drug Administration, 1350 Piccard Dr., PI50–400B, Rockville, MD 20850, (301) 796–5156, *daniel.gittleson@fda.hhs.gov*.

SUPPLEMENTARY INFORMATION: Under the Paperwork Reduction Act of 1995 (PRA)(44 U.S.C. 3501–3520), Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. ''Collection of information'' is defined in 44 U.S.C. 3502(3) and 5 CFR 1320.3(c) and includes Agency requests or requirements that members of the public submit reports, keep records, or provide information to a third party. Section 3506(c)(2)(A) of the PRA (44 U.S.C. 3506(c)(2)(A)) requires Federal agencies to provide a 60-day notice in the **Federal Register** concerning each proposed collection of information before submitting the collection to OMB for approval. To comply with this requirement, in the **Federal Register** of July 16, 2010 (75 FR 41498), FDA published a notice of availability of the draft guidance document providing a 60-day public comment period on the collection of information provisions. An electronic version of the guidance document is available on the Internet at http://www.regulations.gov (Docket No. FDA–2010–D–0350) and *http://www.fda.gov/TobaccoProducts/GuidanceComplianceRegulatoryInformation/default.htm*. FDA received seven comments in response to the notice of availability, with four comments pertaining to the information collection.

FDA is republishing notice of the proposed collection of information in order to comply with section 3506(c)(2)(A) of the PRA. We invite comments only on the proposed collection of information set forth in this document. FDA will respond to comments on the collection of information provisions received in response to this notice and to the July 16, 2010, notice in a 30-day notice announcing that a proposed collection of information has been submitted to OMB for review and clearance under the PRA.

With respect to the collection of information associated with the draft guidance, FDA invites comments on these topics: (1) Whether the proposed collection of information is necessary for the proper performance of FDA's functions, including whether the information will have practical utility; (2) the accuracy of FDA's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques, when appropriate, and other forms of information technology.

Information Request Regarding Draft Guidance for Tobacco Retailers on Tobacco Retailer Training Programs (OMB Control Number 0910–New)

The Tobacco Control Act does not require retailers to implement retailer training programs. However, the statute does provide for lesser civil money penalties for violations of access, advertising, and promotion restrictions of regulations promulgated under section 906(d) of the Federal Food,

Drug, and Cosmetic Act, as amended by the Tobacco Control Act, for retailers who have implemented a training program that complies with standards developed by the FDA for such programs. The FDA intends to promulgate regulations establishing standards for approved retailer training programs. In the interim, the draft guidance is intended to assist tobacco retailers in implementing effective training programs for employees.

The draft guidance discusses the elements that should be covered in a training program, such as: (1) Federal laws restricting the access to, and the advertising and promotion of, cigarettes and smokeless tobacco products; (2) the health and economic effects of tobacco use, especially when the tobacco use begins at a young age; (3) written company policies against sales to minors; (4) identification of the tobacco products sold in the retail establishment that are subject to the Federal laws prohibiting their sale to persons under the age of 18; and (5) age verification methods. The draft guidance recommends that retailers require current and new employees to take a written test prior to selling tobacco products and that refresher training be provided at least annually and more frequently as needed. The draft guidance recommends that retailers maintain certain written records documenting that all individual employees have been trained and that retailers retain these records for 4 years in order to be able to provide evidence of a training program during the 48-month time period covered by the civil money penalty schedules in section 103(q)(2)(A) of the Tobacco Control Act.

The draft guidance also recommends that retailers implement certain hiring and management practices as part of an effective retailer training program. The draft guidance suggests that applicants and current employees be notified both verbally and in writing of the importance of complying with laws prohibiting the sales of tobacco products to persons under the age of 18 and that they should be required to sign an acknowledgement stating that they have read and understand the information. In addition, FDA recommends that retailers implement an internal compliance check program and document the procedures and corrective actions for the program.

FDA's estimate of the number of respondents in tables 1 and 2 of this document is based on data reported to the U.S. Department of Health and Human Services Substance Abuse and Mental Health Services Administration (SAMHSA). According to the fiscal year 2009 Annual Synar Report, there are 372,677 total retail tobacco outlets in the 50 States, District of Columbia, and 8 U.S. territories that are accessible to youth (meaning that there is no State law restricting access to these outlets to individuals older than age 18). Inflating this number by about 10 percent to account for outlets in States that sell tobacco but are, by law, inaccessible to minors results in an estimated total number of tobacco outlets of 410,000. We assume that 75 percent of tobacco retailers already have some sort of training program for age and identification verification. We expect that some of those retailer training programs already meet the elements in the draft guidance, some retailers would update their training program to meet the elements in the draft guidance, and other retailers would develop a training program for the first time. Thus, we estimate that two-thirds of tobacco retailers would develop a training program that meets the elements in the draft guidance (66 percent of 410,000 = 270,600).

FDA estimates the burden of this collection of information as follows:

TABLE 1—ESTIMATED ONE TIME REPORTING BURDEN[1]

Activity	Number of Respondents	Annual frequency per response	Total annual responses	Hours per response	Total hours
Develop training program	270,600	1	270,600	16	4,329,600
Develop written policy against sales to minors & employee acknowledgment	270,600	1	270,600	1	270,600
Develop internal compliance check program	270,600	1	270,600	8	2,164,800
Total					6,765,000

[1] There are no capital costs or operating and maintenance costs associated with this collection of information.

TABLE 2—ESTIMATED ANNUAL RECORDKEEPING BURDEN [1]

Activity	Number of Record-keepers	Annual frequency per record-keeping	Total annual records	Hours per record	Total hours
Training program	270,600	4	1,082,400	.25	270,600
Written policy against sales to minors & employee acknowledgment	270,600	4	1,082,400	.10	108,240
Internal compliance check program	270,600	2	541,200	.5	270,600
Total					649,440

[1] There are no capital costs or operating and maintenance costs associated with this collection of information.

Dated: November 18, 2011.

Leslie Kux,

Acting Assistant Commissioner for Policy.

[FR Doc. 2011–30327 Filed 11–23–11; 8:45 am]

BILLING CODE 4160–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2011–N–0841]

Agency Emergency Processing Under the Office of Management and Budget Review; Submission for Office of Management and Budget Review; Comment Request; Food and Drug Administration Food Safety Modernization Act: Economic Hardship Fee Reduction Guidance

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that a proposed collection of information has been submitted to the Office of Management and Budget (OMB) for review and clearance under the Paperwork Reduction Act of 1995 (PRA). The proposed collection of information concerns a guidance document that outlines the criteria and the process through which firms may request a reduction of fees based on severe economic hardship of the FDA Food Safety Modernization Act (FSMA) reinspection and recall user fees that are mandated by the Federal Food, Drug, and Cosmetic Act (the FD&C Act).

DATES: Fax written comments on the collection of information by December 15, 2011. FDA is requesting OMB approval of this emergency processing by January 6, 2012.

ADDRESSES: To ensure that comments on the information collection are received, OMB recommends that written comments be faxed to the Office of Information and Regulatory Affairs, OMB, Attn: FDA Desk Officer, FAX: (202) 395–7285, or emailed to *oira_submission@omb.eop.gov*. All comments should be identified with the OMB control number 0910–New and title ''FDA Food Safety Modernization Act: Economic Hardship Fee Reduction Guidance.'' Also include the FDA docket number found in brackets in the heading of this document.

FOR FURTHER INFORMATION CONTACT: Denver Presley, Jr., Office of Information Management, Food and Drug Administration, 1350 Piccard Dr., PI50–400B, Rockville, MD 20850, (301) 796–3793.

SUPPLEMENTARY INFORMATION: FDA has requested emergency processing of this proposed collection of information under section 3507(j) of the PRA (44 U.S.C. 3507(j) and 5 CFR 1320.13). FDA requests permission to use the emergency clearance procedures to obtain OMB approval of the information collection related to the economic hardship fee reduction guidance. FDA expects to use a print-and-mail or an email form for fee reduction requests. If FDA were to use the normal clearance procedures, the approval of the information collection would not be finalized in time to issue invoices in January 2012. FDA seeks OMB approval of the information collection by January 6, 2012, so the Agency can issue such guidance no later than January 2012.

With respect to the following collection of information, FDA invites comments on these topics: (1) Whether the proposed collection of information is necessary for the proper performance of FDA's functions, including whether the information will have practical utility; (2) the accuracy of FDA's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques, when appropriate, and other forms of information technology.

FDA Food Safety Modernization Act: Economic Hardship Fee Reduction Guidance (OMB Control Number 0910–NEW)

On January 4, 2011, the President signed into law FSMA (Pub. L. 111–353). Section 743 of the FD&C Act (21 U.S.C. 379j–31) amended by FSMA, requires FDA to consider the burden of fee amounts on small businesses.

Section 743(b)(2)(B)(iii) of FD&C Act states, ''* * *the Secretary shall publish in the **Federal Register** a proposed set of guidelines in consideration of the burden of fee amounts on small business. Such consideration may include reduced fee amounts for small businesses.* * *'' Before publishing such guidelines, FDA believes it is important to gather additional information related to small business burdens associated with fees to set forth criteria and a rational for such criteria for when a user fee reduction is appropriate. Therefore, FDA published a document in the **Federal Register** of August 1, 2011 (76 FR 45818) (FRN) to seek public comments and information to assist the Agency to develop such guidelines. FDA will review the comments (comment period closes on November 30, 2011) and then develop the proposed set of guidelines; these will likely be implemented in fiscal year (FY) 2013. However, FDA recognizes that, meanwhile, for some small businesses the reinspection or the recall user fees, which went into effect on October 1, 2011, could impose severe economic hardship and there may be unique circumstances in which some relief would be appropriate. During FY 2012, FDA will consider waiving some or all of an invoiced fee based on a severe economic hardship. FDA intends to protect businesses and preserve free competitive enterprise.

FDA is currently developing a guidance to outline the criteria and the process through which firms may request a reduction of fees based on economic hardship. FDA wants to consider the public comments from the small business FRN before finalizing such guidance. Also, in the recent ''Guidance for Industry: Implementation of the Fee Provisions of Section 107 of the FDA Food Safety Modernization Act'' that published in the **Federal Register** of October 6, 2011 (76 FR 62073), FDA stated that it would ''not intend to issue invoices for reinspection or recall order fees until this guidance document has been finalized.'' Therefore, FDA needs to publish such guidance soon after November 30, 2011, in order to: (1) Issue invoices and (2) provide important information for qualified firms to apply for fee reductions, which will help them to sustain their businesses. Given such a short timeframe, use of the normal clearance process to obtain OMB approval under the PRA for the information collection related to the economic hardship fee reduction guidance is likely to cause delay of publishing such guidance and subsequently cause delay of issuing invoices. The fees, required by FSMA, are to cover 100 percent of the costs of certain reinspection and recall order activities conducted by FDA.

FDA estimates the burden of this collection of information as follows:

TABLE 1—ESTIMATED ANNUAL REPORTING BURDEN [1]

Activity	Number of Respondents	Number of Responses per Respondent	Total annual responses	Average burden per response	Total hours
Request for reduction of fees collected under section 743 of the FD&C Act	235	1	235	2	470

[1] There are no capital costs or operating and maintenance costs associated with this collection of information.

FDA estimates that 510 facilities will be subject to the reinspection and the recall fees under section 743 of the FD&C Act. Of these facilities, we estimate that 46 percent will be small businesses with annual gross sales under $250,000. Therefore, 46 percent of 510 equals to 235 respondents. Each respondent will submit 1 request for reduction of fees. Total annual responses are 235. The average burden is 2 hours, giving a total of 470 hours annual burden.

Dated: November 22, 2011.

Leslie Kux,

Acting Assistant Commissioner for Policy.

[FR Doc. 2011–30471 Filed 11–22–11; 11:15 am]

BILLING CODE 4160–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration

Centers for Disease Control and Prevention

Statement of Delegation of Authority

I hereby delegate to the Administrator, Health Resources and Services Administration (HRSA), and the Director, Centers for Disease Control and Prevention (CDC), with authority to redelegate, the authority vested in the Secretary under Title III, Part P, Section 399T (42 U.S.C. 280g–8), titled ''Support for Patients Receiving a Positive Diagnosis of Down Syndrome or Other Prenatally or Postnatally Diagnosed Conditions,'' of the Public Health Service Act, as amended, insofar as such authority pertains to the functions of HRSA and CDC, respectively. HRSA and CDC will coordinate and collaborate with each other and with the National Institutes of Health, as appropriate, in implementing this authority.

This delegation excludes the authority to issue regulations, to establish advisory committees and councils, and appoint their members, and shall be exercised in accordance with the Department's applicable policies, procedures, and guidelines.

I hereby affirm and ratify any actions taken by the Administrator, HRSA, the Director, CDC, or other HRSA and CDC officials, which involve the exercise of these authorities prior to the effective date of this delegation.

This delegation is effective upon date of signature.

Dated: November 14, 2011.

Kathleen Sebelius,

Secretary.

[FR Doc. 2011–30411 Filed 11–23–11; 8:45 am]

BILLING CODE 4165–15–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Government-Owned Inventions; Availability for Licensing

AGENCY: National Institutes of Health, Public Health Service, HHS.

ACTION: Notice.

SUMMARY: The inventions listed below are owned by an agency of the U.S. Government and are available for licensing in the U.S. in accordance with 35 U.S.C. 207 to achieve expeditious commercialization of results of federally-funded research and development. Foreign patent applications are filed on selected inventions to extend market coverage for companies and may also be available for licensing.

ADDRESSES: Licensing information and copies of the U.S. patent applications listed below may be obtained by writing to the indicated licensing contact at the Office of Technology Transfer, National Institutes of Health, 6011 Executive Boulevard, Suite 325, Rockville, Maryland 20852–3804; *telephone:* (301) 496–7057; *fax:* (301) 402–0220. A signed Confidential Disclosure Agreement will be required to receive copies of the patent applications.

Genetically Engineered Mouse Model for Use as an Alternative Screening Method for Evaluating P-glycoprotein (P-gp) Substrate Toxicity in Avermectin-sensitive Dogs

Description of Technology: A pitfall to avermectins is central nervous system (CNS) toxicities in herding dogs. As a result, all new avermectins must be tested in a ''Collie Safety Study'' to determine the degree of CNS toxicity. The toxicity is due to a 4 base pair mutation in the ATP-binding cassette, sub-family B member 1 (ABCB1) gene. This gene encodes for the P-glycoprotein (P-gp) that affects absorption, distribution and elimination of certain drugs. Researchers at FDA have developed an alternate animal model that includes two transgenic mouse models, one containing the mutant form of the canine ABCB1 gene (Yancy 1 line) and the other containing the canine wild-type gene (Yancy 2 line). The paired mouse system can be utilized to assess the safety of avermectins and other canine drugs by determining the toxicity to canines with the mutated form of the ABCB1 gene. Ivermectin, a derivative of the avermectin family of heartworm drugs used to treat and control parasitic infections, was used to verify this mouse model. This technology will enhance the population predictions derived from clinical safety data and serve to reduce the use of dogs in avermectin derivative safety studies that are part of the Investigational New Animal Drug (INAD) approval process.

Potential Commercial Applications: Drug screening technology to assess the toxicity of canine drugs to canines with the mutated form of the ABCB1 gene.

Competitive Advantages: Use as an alternative in vivo model to canines for assessment of drug safety in the presence of the ABCB1 mutation.

Development Stage: In vivo data available (animal).

Inventor: Haile F. Yancy (FDA).

Publication: Orzechowski K, *et al.,* in press Am J Vet Res.

Intellectual Property: HHS Reference No. E–292–2011/0—Research Tool. Patent protection is not being pursued for this technology.

Licensing Contact: Jaime Greene; (301) 435–5559; *greenejaime@mail.nih.gov*.

Collaborative Research Opportunity: The FDA Center for Veterinary Medicine is seeking statements of capability or interest from parties interested in collaborative research to further develop, evaluate or

commercialize this alternative mouse model. For collaboration opportunities, please contact Haile F. Yancy at *haile.yancy@fda.hhs.gov* or (301) 210–4096.

Treatment of Tuberculosis—Adjuvant Therapies To Increase the Efficiency of Antibiotic Treatments

Description of Technology: There is growing evidence that resistance to *Mycobacterium tuberculosis* infection is governed in large part by the regulation of host cell death. Lipid mediators called eicosanoids are thought to play a central role in this process. The subject invention is a novel method of enhancing the efficacy of antibiotic treatments for *Mycobacterium tuberculosis* infection by co-administering an inhibitor of 5-lipoxygenase and a COX–2 dependent prostaglandin. Inhibition of 5-lipoxygenase and treatment with prostaglandin E2 results in alteration of the eicosanoid balance. The synergistic effects of altering the eicosanoid balance and treatment with antibiotics is believed to result in more efficient reduction of the bacterial burden and thus, the period of antibiotic administration and antibiotic dosage could potentially be reduced. In vivo data from mouse models can be provided upon request.

Potential Commercial Applications: The subject invention can be used as an adjuvant therapy for existing antibiotic treatment regimens against tuberculosis.

Competitive Advantages: The disclosed method can be applied to increase the efficacy of existing antibiotic treatments for tuberculosis, potentially reducing both the duration and dosage of the antibiotic treatment.

Development Stage:

- Early-stage.
- Pre-clinical.
- In vitro data available.
- In vivo data available (animal).

Inventors: Katrin D. Mayer, Bruno Bezerril D. Andrade, F. Alan Sher, and Daniel L. Barber (NIAID).

Intellectual Property:

- HHS Reference No. E–189–2011/0—U.S. Provisional Patent Application No. 61/515,229 filed 04 Aug 2011.
- HHS Reference No. E–189–2011/1—U.S. Provisional Patent Application No. 61/515,237 filed 04 Aug 2011.

Licensing Contact: Kevin W. Chang, Ph.D.; (301) 435–5018; *changke@mail.nih.gov*.

Collaborative Research Opportunity: The National Institute of Allergy and Infectious Diseases is seeking statements of capability or interest from parties interested in collaborative research to further develop, evaluate or commercialize adjuvant therapy for antibiotic treatment regimens against tuberculosis. For collaboration opportunities, please contact Katrin Mayer, Ph.D. at *mayerk@niaid.nih.gov* or (301) 594–8061.

DPEP1 and TPX2 as Prognostic Biomarkers for Pancreatic Ductal Adenocarcinoma

Description of Technology: Scientists at NIH have developed prognostic biomarkers and a candidate therapeutic target for pancreatic ductal adenocarcinoma (PDAC). PDAC is a devastating cancer, and patients have an average survival of six months. The 5-year survival for PDAC patients is only 6%. This high lethality in pancreatic cancer is due to the late diagnosis and lack of any effective treatment. Greater than 80% of patients are diagnosed in an advanced stage of the disease. The instant invention is a discovery of biomarkers to make prognostic conclusions about the progression of PDAC by measuring the expression of DPEP1 and TPX2. Patients with decreased DPEP1 and increased TPX2 expression have poorer outcome. Furthermore, DPEP1 and TPX2 are controlled by the MAPK pathway. A MAPK inhibitor can be used as a treatment because it can lead to increased DPEP1 and decreased TPX2 expression, which is associated with better survival.

Potential Commercial Applications

- Prognostic biomarker to identify high-risk patients.
- Identification of MAPK inhibitor(s) altering DPEP1 and TPX2 expression.

Competitive Advantages

- Combination of measuring DPEP1 and TPX2 expression levels results in improved prognosis prediction.
- Development of expression level patterns during tumorigenesis that are representative of PDAC.

Development Stage: In vivo data available (human).

Inventors: Syed P. Hussain and Geng Zhang (NCI).

Publication: DPEP1 and TPX2 as Independent Predictors of Cancer-Specific Mortality in Pancreatic Ductal Adenocarcinoma, submitted April 2011.

Intellectual Property: HHS Reference No. E–171–2011/0—U.S. Patent Application No. 61/512,302 filed 27 July 2011.

Licensing Contact: Uri Reichman, Ph.D., MBA; (301) 435–4616; *reichmau@mail.nih.gov.*

AAV Mediated CTLA–4 Gene Transfer To Treat Sjögren's Syndrome

Description of Technology: Sjögren's syndrome is an autoimmune disease that affects over 2 million Americans, primarily over the age of 40. One of the major outcomes of Sjögren's syndrome is xerostomia (dry mouth) that is caused by immune system attack on moisture producing salivary glands. Researchers at the National Institute of Dental and Craniofacial Research have developed a therapy that alleviates xerostomia in a murine model of Sjögren's syndrome. This technology consists of a local delivery of adeno-associated virus (AAV) mediated cytotoxic T-lymphocyte antigen 4 Immunoglobulin-G (CTLA4IgG) fusion protein to salivary glands. The system effectively blocks CTLA4 ligand interactions with T cell surface receptors, resulting in immune suppression and reversal of autoimmune-related xerostomia. Targeted delivery of the AAV–CTLA4–IgG system makes this invention a novel therapeutic for the prevention of xerostomia-associated pain and discomfort caused by Sjögren's syndrome.

Potential Commercial Applications: Prevention of salivary gland destruction and xerostomia development in patients with Sjögren's syndrome.

Competitive Advantages

- Current treatments temporarily reduce the discomfort of xerostomia but do not prevent the deleterious effects of this disorder.
- AAV gene transfer to salivary glands is highly efficient.
- AAV therapy is safe and noninflammatory.

Development Stage

- In vitro data available.
- In vivo data available (animal).

Inventors: Hongen Yin and John Chiorini (NIDCR).

Publications

1. Zheng C, *et al.* Assessment of the safety and biodistribution of a regulated AAV2 gene transfer vector after delivery to murine submandibular glands. *Toxicol Sci.* 2011 Sep;123(1):247–255. [PMID: 21625005]
2. Kanaya K, *et al.* Combined gene therapy with adenovirus vectors containing CTLA4Ig and CD40Ig prolongs survival of composite tissue allografts in rat model. *Transplantation.* 2003 Feb 15;75(3):275–281. [PMID: 12589145]
3. Genovese MC, *et al.* Abatacept for rheumatoid arthritis refractory to tumor necrosis factor alpha inhibition. *N Engl J Med.* 2005 Sep 15;353(11):1114–1123. [PMID: 16162882]

Intellectual Property: HHS Reference No. E–087–2011/0—U.S. Provisional Application No. 61/476,168 filed 15 April 2011.

Licensing Contact: Jaime Greene; (301) 435–5559; *greenejaime@mail.nih.gov.*

Collaborative Research Opportunity: The NIDCR is seeking statements of capability or interest from parties interested in collaborative research to further develop, evaluate or commercialize this technology. For collaboration opportunities, please contact David Bradley at *bradleyda@nidcr.nih.gov*.

Dated: November 18, 2011.

Richard U. Rodriguez,

Director, Division of Technology Development and Transfer, Office of Technology Transfer, National Institutes of Health.

[FR Doc. 2011–30357 Filed 11–23–11; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Environmental Health Sciences; Notice of Meeting

Pursuant to section 10(a) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of a meeting of the Interagency Breast Cancer and Environmental Research Coordinating Committee.

The meeting will be open to the public, with attendance limited to space available. Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should notify the Contact Person listed below in advance of the meeting.

Name of Committee: Interagency Breast Cancer and Environmental Research Coordinating Committee.

Date: December 13, 2011.

Time: 3 p.m. to 5 p.m.

Agenda: The purpose of the meeting is to continue the work of the Research Translation, Dissemination, and Policy Implications Subcommittee as it addresses a broad set of objectives related to the overall mandate of the IBCERC. The meeting agenda will be available on the Web at *http://www.niehs.nih.gov/about/orgstructure/boards/ibcercc/.*

Place: Nat. Inst. of Environmental Health Sciences, Building 101, Rodbell Auditorium, 111 T.W. Alexander Drive, Research Triangle Park, NC 27709. (This meeting will be conducted remotely. To attend the meeting, please RSVP via email to *ibcercc@niehs.nih.gov* at least 10 days in advance and instructions for joining the meeting will be provided.)

Contact Person: Gwen Collman, Ph.D., Director, Division of Extramural Research & Training, National Institutes of Health, Nat. Inst. of Environmental Health Sciences, 615 Davis Dr., KEY615/3112, Research Triangle Park, NC 27709, (919) 541–4980, *collman@niehs.nih.gov.*

Any interested person may file written comments with the committee by forwarding the statement to the Contact Person listed on this notice. The statement should include the name, address, telephone number and when applicable, the business or professional affiliation of the interested person.

(Catalogue of Federal Domestic Assistance Program Nos. 93.115, Biometry and Risk Estimation— Health Risks from Environmental Exposures; 93.142, NIEHS Hazardous Waste Worker Health and Safety Training; 93.143, NIEHS Superfund Hazardous Substances—Basic Research and Education; 93.894, Resources and Manpower Development in the Environmental Health Sciences; 93.113, Biological Response to Environmental Health Hazards; 93.114, Applied Toxicological Research and Testing, National Institutes of Health, HHS)

Dated: November 17, 2011.

Jennifer S. Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 2011–30352 Filed 11–23–11; 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 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 patentablematerial, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Center for Scientific Review Special Emphasis Panel, Member Conflict: AIDS/HIV.

Date: December 13–14, 2011.

Time: 9 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Virtual Meeting).

Contact: Kenneth A Roebuck, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5106, MSC 7852, Bethesda, MD 20892, (301) 435–1166, *roebuckk@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel, Member Conflict: Diabetes and Obesity.

Date: December 14, 2011.

Time: 1:30 p.m. to 4:30 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: Krish Krishnan, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 6164, MSC 7892, Bethesda, MD 20892, (301) 435–1041, *krishnak@csr.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.306, Comparative Medicine; 93.333, Clinical Research, 93.306, 93.333, 93.337, 93.393–93.396, 93.837–93.844, 93.846–93.878, 93.892, 93.893, National Institutes of Health, HHS)

Dated: November 17, 2011.

Jennifer S. Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 2011–30348 Filed 11–23–11; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HOMELAND SECURITY

U.S. Customs and Border Protection

Agency Information Collection Activities: Cargo Manifest/Declaration, Stow Plan, Container Status Messages and Importer Security Filing

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: 1651–0001.

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 Cargo Manifest/Declaration, Stow Plan, Container Status Messages and Importer Security Filing. 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 January 24, 2012, 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: Cargo Manifest/Declaration, Stow Plan, Container Status Messages and Importer Security Filing.

OMB Number: 1651–0001.

Form Numbers: CBP Forms 1302, 1302A, 7509, 7533.

Abstract: CBP Form 1302: The master or commander of a vessel arriving in the United States from abroad with cargo on board must file CBP Form 1302, *Inward Cargo Declaration,* or submit the information on this form using a CBP-approved electronic equivalent. CBP form 1302 is part of the manifest requirements for vessels entering the United States and was agreed upon by treaty at the United Nations Inter-government Maritime Consultative Organization (IMCO). This form is provided for by 19 CFR 4.5, 4.7, 4.8, 4.33, 4.34, 4.84, 4.85, 4.86, 4.91 and 4.99. It is accessible at: *http://forms.cbp.gov/pdf/CBP_Form_1302.pdf.*

CBP Form 1302A: The master or commander of a vessel departing from the United States must file CBP Form 1302A, *Cargo Declaration Outward With Commercial Forms,* with copies of bills of lading or equivalent commercial documents relating to all cargo encompassed by the manifest. This form is provided for by 19 CFR 4.62, 4.63, 4.75, 4.82, and 4.87–4.89 and is accessible at: *http://forms.cbp.gov/pdf/CBP_Form_1302.pdf.*

CBP Form 7509: The aircraft commander or agent must file two copies of CBP Form 7509, *Air Cargo Manifest,* with CBP at the departure airport, or respondents may submit the information on this form using a CBP-approved electronic equivalent. CBP Form 7509 contains information about the cargo onboard the aircraft. This form is provided for by 19 CFR 122.35, 122.48, 122.52, 122.54, 122.73, 122.113, and 122.118 and is accessible at: *http://forms.cbp.gov/pdf/CBP_Form_7509.pdf.*

CBP Form 7533: The master or person in charge of a conveyance files CBP Form 7533, *INWARD CARGO MANIFEST FOR VESSEL UNDER FIVE TONS, FERRY, TRAIN, CAR, VEHICLE, ETC,* which is required for a vehicle or a vessel of less than 5 net tons arriving in the United States from Canada or Mexico, otherwise than by sea, with baggage or merchandise. Respondents may also submit the information on this form using a CBP-approved electronic equivalent. CBP Form 7533 is provided for by 19 CFR 123.4 and is accessible at: *http://forms.cbp.gov/pdf/CBP_Form_7533.pdf.*

Manifest Confidentiality: An importer or consignee may request confidential treatment of its name and address contained in manifests by following the procedure set forth in 19 CFR 103.31.

Vessel Stow Plan: For all vessels transporting goods to the U.S., except for any vessel exclusively carrying bulk cargo, the incoming carrier is required to electronically submit a vessel stow plan no later than 48 hours after the vessel departs from the last foreign port which includes information about the vessel and cargo. For voyages less than 48 hours in duration, CBP must receive the vessel stow plan prior to arrival at the first port in the U.S. The vessel stow plan is provided for by 19 CFR 4.7c.

Container Status Messages (CSMs): For all containers destined to arrive within the limits of a U.S. port from a foreign port by vessel, the incoming carrier must submit messages regarding the status of the events if the carrier creates or collects a container status message (CSM) in its equipment tracking system reporting that event. CSMs must be transmitted to CBP via a CBP-approved electronic data interchange system. These messages transmit information regarding events such as the status of a container (full or empty); booking a container destined to arrive in the U.S.; loading or unloading a container from a vessel; and a container arriving or departing the U.S. CSMs are provided for by 19 CFR 4.7d.

Importer Security Filing (ISF): For most cargo arriving in the U.S. by vessel, the importer, or its authorized agent, must submit the data elements listed in 19 CFR 149.3 via a CBP-approved electronic interchange system within prescribed time frames. Transmission of these data elements provide CBP with advanced information about the shipment.

Current Actions: CBP proposes to extend the expiration date of this information collection with no changes to the information collected on the forms or regulations included in this information collection request. However, CBP has revised its estimates of the burden hours and response times based on analysis of recent data as follows:

CBP Form 7509, *Air Cargo Manifest:* the time per response was lowered from 34 minutes to 15 minutes.

CBP Form 1302, *Cargo Declaration:* the time per response was raised from 10 minutes to 30 minutes.

Importer Security Filing: the number of total annual responses was lowered from 11,300,000 to 8,100,000.

Vessel Stow Plan: the number of respondents was lowered from 440 to 163.

Container Status Messages: the number of respondents was lowered from 74 to 60, and the number of total responses was raised from 72,121,193 to 257,100,000.

Type of Review: Extension (with change).

Affected Public: Businesses.

ESTIMATES OF THE BURDEN HOURS AND RESPONSE TIMES

Collection	Total burden hours	Number of respondents	Number of responses per respondent	Total responses	Time per response
Air Cargo Manifest (CBP Form 7509)	366,600	260	5,640	1,466,400	15 minutes.

ESTIMATES OF THE BURDEN HOURS AND RESPONSE TIMES—Continued

Collection	Total burden hours	Number of respondents	Number of responses per respondent	Total responses	Time per response
Inward Cargo Manifest for Truck, Rail, Vehicles, Vessels, etc. (CBP Form 7533).	963,056	33,000	291.8	9,630,555	6 minutes.
Cargo Declaration (CBP Form 1302)	1,500,000	10,000	300	3,000,000	30 minutes.
Export Cargo Declaration (CBP Form 1302A)	10,000	500	400	200,000	3 minutes.
Importer Security Filing	17,739,000	240,000	33.75	8,100,000	2.19 hours.
Vessel Stow Plan	31,862	163	109	17,800	1.79 hours.
Container Status Messages	23,996	60	4,285,000	257,100,000	.0056 minutes.
Request for Manifest Confidentiality	1,260	5,040	1	5,040	15 minutes.
Total	20,635,774	289,023		279,519,795	

Dated: November 21, 2011.

Tracey Denning,

Agency Clearance Officer, U.S. Customs and Border Protection.

[FR Doc. 2011–30343 Filed 11–23–11; 8:45 am]

BILLING CODE 9111–14–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–5477–N–47]

Federal Property Suitable as Facilities To Assist the Homeless

AGENCY: Office of the Assistant Secretary for Community Planning and Development, HUD.

ACTION: Notice.

SUMMARY: This Notice identifies unutilized, underutilized, excess, and surplus Federal property reviewed by HUD for suitability for possible use to assist the homeless.

FOR FURTHER INFORMATION CONTACT: Juanita Perry, Department of Housing and Urban Development, 451 Seventh Street SW., Room 7262, Washington, DC 20410; telephone (202) 708–1234; TTY number for the hearing- and speech-impaired (202) 708–2565 (these telephone numbers are not toll-free), or call the toll-free Title V information line at (800) 927–7588.

SUPPLEMENTARY INFORMATION: In accordance with the December 12, 1988 court order in *National Coalition for the Homeless* v. *Veterans Administration,* No. 88–2503–OG (D.D.C.), HUD publishes a Notice, on a weekly basis, identifying unutilized, underutilized, excess and surplus Federal buildings and real property that HUD has reviewed for suitability for use to assist the homeless. Today's Notice is for the purpose of announcing that no additional properties have been determined suitable or unsuitable this week.

Dated: November 17, 2011.

Mark R. Johnston,

Deputy Assistant Secretary for Special Needs.

[FR Doc. 2011–30153 Filed 11–23–11; 8:45 am]

BILLING CODE 4210–67–P

INTER-AMERICAN FOUNDATION

Sunshine Act Meetings

TIME AND DATE: December 12, 2011; 9 a.m.–1:45 p.m.

PLACE: 901 N. Stuart Street, Tenth Floor, Arlington, Virginia 22203.

STATUS: Open session.

Matters To Be Considered

- Approval of the Minutes of the September 26, 2011, Meeting of the Board of Directors.
- Advisory Council.
- Management Report.
- Next Meetings.

Portions To Be Open to the Public

- Approval of the Minutes of the September 26, 2011, Meeting of the Board of Directors.
- Advisory Council.
- Management Report.
- Next Meetings.

Portions To Be Closed to the Public

- None.

CONTACT PERSON FOR MORE INFORMATION: Mara Quintero, Associate General Counsel, (703) 306–0002.

Mara Quintero,

Associate General Counsel.

[FR Doc. 2011–30517 Filed 11–22–11; 4:15 pm]

BILLING CODE 7025–01–P

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

Draft Environmental Impact Statement for the Proposed KRoad Moapa Solar Generation Facility, Clark County, NV

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Notice of availability.

SUMMARY: This notice advises the public that the Bureau of Indian Affairs (BIA) as the lead Federal agency, with the Bureau of Land Management (BLM), the Environmental Protection Agency (EPA), the United States Army Corps of Engineers (USACE) and the Moapa Band of Paiute Indians (Tribe) as Cooperating Agencies, intends to file a Draft Environmental Impact Statement (DEIS) for the proposed KRoad Moapa Solar Generation Facility on the Moapa River Indian Reservation (Reservation) in Clark County, Nevada. This notice also announces the DEIS is now available for public review and that public meetings will be held to solicit comments on the draft document.

DATES: Written comments on the scope and implementation of the proposal must arrive by January 9, 2012. Notices will be published in local newspapers announcing the dates and times of the DEIS public meetings.

ADDRESSES: You may mail, email, hand carry or telefax written comments to Ms. Amy Heuslein, Regional Environmental Protection Officer, BIA Western Regional Office Branch of Environmental Quality Services, 2600 North Central Avenue, 4th Floor Mail Room, Phoenix, Arizona 85004–3008; fax (602) 379–3833; *email: amy.heuslein@bia.gov.* Notices will be published in local newspapers announcing the address locations of the DEIS public meetings.

FOR FURTHER INFORMATION CONTACT: Amy Heuslein or Garry Cantley, BIA Western Regional Office, Branch of

Environmental Quality Services, 2600 North Central Avenue, Phoenix, Arizona 85004–3008, telephone (602) 379–6750.

SUPPLEMENTARY INFORMATION: The purpose of the Proposed Project is to construct a 350 megawatt (MW) solar generation facility and associated infrastructure on the Reservation, including the development of a 12 kV transmission line and water line along with obtaining a grant of easement on BLM lands for an up to 500 kV transmission line and access roads. The primary need for the Proposed Project is to provide land lease income, sustainable renewable resources, new jobs and other benefits for the Tribe by using solar resources from Reservation lands where exposure to levels of high solar radiation exists. A secondary need for the Proposed Project is to assist utilities in meeting their renewable energy goals by providing electricity generated from solar resources from tribal lands that may be efficiently connected to existing transmission lines in a manner that minimizes adverse site impacts.

The proposed Federal action is the BIA approval of a solar energy ground lease and agreements entered into by the Tribe with KRoad Moapa Solar LLC (KRoad), and approval of rights-of-way (ROW) and easements for KRoad to construct, operate and maintain an up-to 350 MW solar photovoltaic electricity generating facility on the Reservation. The proposed Federal action also includes the BLM approval of the up-to 500 kV transmission line and access road ROW's within an existing utility corridor, of which 5.0 miles are located on the Reservation and 0.5 miles are located on BLM land just south of the Reservation boundary. The BIA and BLM will use the EIS to make decisions on the land lease and ROW applications under their respective jurisdiction while the EPA and USACE may use the document to make decisions under their authorities. The Tribe may also use the EIS to make decisions under their Tribal Environmental Policy Ordinance and the U.S. Fish and Wildlife Service may use the EIS to support its decision under the Endangered Species Act.

Directions for Submitting Comments: Please include your name, return address and the caption ''DEIS Comments, Proposed KRoad Moapa Solar Generation Facility'' on the first page of your written comments.

Locations where the DEIS is Available for Review: The DEIS may be found on the following Web site: *http://projects2.pirnie.com/MoapaSolar/*. Hard copies of the document will be available at: BIA Western Regional Office, 2600 North Central Avenue, 12th Floor, Suite 210, Phoenix, Arizona; BIA Southern Paiute Agency, 180 North 200 East, Suite 111, St. George, Utah; and BLM Southern Nevada District Office, 4701 N. Torrey Pines Drive, Las Vegas, Nevada.

Public Comment Availability: Written comments, including names and addresses of respondents will be available for public review at the BIA mailing addresses shown in the ADDRESSES section during regular business hours, 8 a.m. to 4:30 p.m., Monday through Friday, except holidays. Before including your address, telephone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Authority: This notice is published pursuant to Sec. 1503.1 of the Council of Environmental Quality Regulations (40 CFR parts 1500 through 1508) and Sec. 46.305 of the Department of the Interior regulations (43 CFR part 46), implementing the procedural requirements of the National Environmental Policy Act of 1969, as amended (42 U.S.C. 4371 *et seq.*), and is in the exercise of authority delegated to the Assistant Secretary—Indian Affairs by 209 DM 8.

Dated: November 16, 2011.

Larry Echo Hawk,

Assistant Secretary—Indian Affairs.

[FR Doc. 2011–30311 Filed 11–23–11; 8:45 am]

BILLING CODE 4310–W7–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[LLORV05000 L16100000.DO0000 LX.SS.054H0000.HAG11–0127]

Notice of Availability of the Draft Baker Resource Management Plan and Environmental Impact Statement, Oregon/Washington

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: In accordance with the National Environmental Policy Act of 1969 (NEPA), as amended, and the Federal Land Policy and Management Act of 1976 (FLPMA), as amended, the Bureau of Land Management (BLM) has prepared a Draft Resource Management Plan (RMP) and Draft Environmental Impact Statement (EIS) for the Baker Resource Area of the BLM Vale District and, by this notice, is announcing the opening of the comment period.

DATES: To ensure that comments will be considered, the BLM must receive written comments on the Draft RMP/EIS within 90 days following the date the Environmental Protection Agency publishes this notice of the Draft RMP/EIS in the **Federal Register**. The BLM will announce future meetings or hearings and any other public participation activities at least 15 days in advance through public notices, media releases, and/or mailings.

ADDRESSES: You may submit comments related to the Draft Baker RMP/EIS by any of the following methods:

- *Web site: http://www.blm.gov/or/districts/vale/plans/bakerrmp/contact.php.*
- *Email: BakerRMP@blm.gov.*
- *Fax:* (541) 523–1965.
- *Mail:* Bureau of Land Management, Baker Field Office, P.O. Box 947, Baker City, Oregon 97814.

Copies of the Draft RMP/EIS are available in the Baker Field Office at the above address or may be viewed at: *http://www.blm.gov/or/districts/vale/plans/bakerrmp/index.php.*

FOR FURTHER INFORMATION CONTACT: Allison Kuehl, RMP Team Leader, at (541) 523–1931 or Ted Davis, BLM Baker Field Manager, at (541) 523–1431 at the above mailing address or via email at *BakerRMP@blm.gov.* Persons who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–(800) 877–8339 to contact the above individual during normal business hours. The FIRS is available 24 hours a day, 7 days a week, to leave a message or question with the above individual. You will receive a reply during normal business hours.

SUPPLEMENTARY INFORMATION: The Planning Area is located in Baker, Malheur, Union, Wallowa, Morrow, and Umatilla Counties in Oregon and in Asotin County, Washington. This planning activity encompasses approximately 428,425 acres of public lands. The RMP will fulfill the needs and obligations set forth by NEPA, FLPMA, and BLM management policies. This Baker RMP/EIS will revise the existing Baker RMP of 1989 and provide the Baker Field Office with an updated framework in which to administer public lands. This RMP/EIS addresses new issues, changes in resource conditions, and changes in resource management practices since the Baker RMP of 1989.

The Draft RMP/EIS was developed through a collaborative planning

process. Formal scoping for public comments began with the publication of the Notice of Intent, a legal document notifying the public and any affected agencies of the intent to revise the 1989 RMP and prepare an EIS. The notice includes draft planning criteria for review and was published in the **Federal Register** on January 15, 2008 (73 FR 2520). Public scoping meetings and comment solicitation began on June 25, 2008, and ended on August 31, 2008.

Scoping events included open houses in nine communities, attendance at local government meetings in six communities, a mailing of 1,188 letters soliciting written comments, a Web site, plus meetings and conversations with various Federal and State government agencies. All Tribes with lands or with interest in lands within the BLM Baker Field Office Planning Area were invited to participate in the planning process. Three Tribes responded to the BLM's offer, and scoping presentations were made to those Tribes. Consultation with these Tribal governments will be ongoing.

The information obtained from the scoping process was used to define the relevant issues that are addressed in a range of alternative management actions, the environmental impacts of which are analyzed in the Draft EIS. Based on the scoping comments received and their subsequent analysis and evaluation, four major planning issues were identified as being within the scope of the BLM Baker Field Office Draft RMP/EIS.

- *Issue 1:* Landscape Health/Land Use—How should the diverse landscapes and resources within the Planning Area be managed?
- *Issue 2:* Renewable Energy Development—How should the BLM Baker Field Office manage renewable energy development?
- *Issue 3:* Transportation and Access—How should the BLM Baker Field Office manage transportation and access?
- *Issue 4:* Livestock Grazing—How will livestock grazing on public lands be addressed?

All four issues center on the larger question of just how much resource use and human activity is acceptable, while still providing the mandated level of resource protection.

In addition to the existing no-action alternative, five action alternatives and one sub-alternative were developed to respond to these key issues. The alternatives also address the following: Vegetation and soils, fire management, water quality/aquatic resources/fisheries, wildlife, recreation, visual resources, minerals, lands and realty, special management areas, climate change, lands with wilderness characteristics, and Tribal-government and community interests.

Special management areas considered in the Draft RMP/EIS include wild and scenic rivers, wilderness study areas, areas of critical environmental concern (ACEC), research natural areas (RNA), national historic trails, backcountry byways, and lands with wilderness characteristics. The BLM Baker Field Office intends to apply appropriate management to these areas to protect the values and resources for which they were designated. The BLM Baker Field Office considered carrying forward or dropping current administrative designations (i.e., ACECs and RNAs), depending on whether or not they still meet the criteria for which they were originally designated. Additional areas were nominated for designation as ACECs and those that met relevance and importance criteria and merit special management are proposed for designation in the Draft RMP/EIS. The BLM Baker Field Office conducted an inventory of rivers and streams to determine eligibility and suitability for inclusion into the National Wild and Scenic Rivers System for designation by Congress and drafted interim management prescriptions for the waterway segment determined ''suitable'' in the planning process. Wilderness-character inventory maintenance was completed for the Decision Area. This inventory identified lands with wilderness characteristics on 3,380 acres contiguous with BLM Wilderness Study Areas and 9,843 acres adjacent to U.S. Forest Service potential Wilderness Areas. The Draft EIS considers a range of management alternatives for these lands with wilderness characteristics.

Following the close of the public review and comment period, public comments will be used to revise the BLM Baker Field Office Draft RMP/EIS in preparation for its release to the public as the BLM Baker Field Office Proposed RMP and Final EIS. The BLM will respond to each substantive comment by making appropriate revisions to the document or by explaining why a comment did not warrant a change. Notice of the availability of the Proposed RMP and Final EIS will be posted in the **Federal Register**.

Please note that public comments and information submitted including names, street addresses, and email addresses of persons who submit comments will be available for public review and disclosure at the above address during regular business hours (8 a.m. to 4 p.m.), Monday through Friday, except holidays.

Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Authority: 40 CFR 1506.6, 40 CFR 1506.10, 43 CFR 1610.2.

Edward W. Shepard,

State Director, Oregon/Washington.

[FR Doc. 2011–30212 Filed 11–23–11; 8:45 am]

BILLING CODE 4310–33–P

INTERNATIONAL TRADE COMMISSION

[Investigation Nos. 731–TA–1186–1187 (Final)]

Certain Stilbenic Optical Brightening Agents From China and Taiwan; Scheduling of the Final Phase of Antidumping Investigations

AGENCY: United States International Trade Commission.

ACTION: Notice.

SUMMARY: The Commission hereby gives notice of the scheduling of the final phase of antidumping investigation Nos. 731–TA–1186–1187 (Final) under section 735(b) of the Tariff Act of 1930 (19 U.S.C. 1673d(b)) (the Act) to determine whether an industry in the United States is materially injured or threatened with material injury, or the establishment of an industry in the United States is materially retarded, by reason of less-than-fair-value imports from China and Taiwan of certain stilbenic optical brightening agents (''CSOBAs''), provided for in subheading 3204.20.80 of the Harmonized Tariff Schedule of the United States, but they may also enter under subheadings 2933.69.6050, 2921.59.40, and 2921.59.8090.[1]

[1] For purposes of these investigations, the Department of Commerce has defined the subject merchandise as ''all forms (whether free acid or salt) of compounds known as triazinylaminostilbenes (*i.e.,* all derivatives of 4,4′-bis[1,3,5-triazin-2-yl]amino-2,2′-stilbenedisulfonic acid), except for compounds listed in the following paragraph. The certain stilbenic OBAs covered by these investigations include final stilbenic OBA products, as well as intermediate products that are themselves triazinylaminostilbenes produced

Continued

For further information concerning the conduct of this phase of the investigation, hearing procedures, and rules of general application, consult the Commission's Rules of Practice and Procedure, part 201, subparts A through E (19 CFR part 201), and part 207, subparts A and C (19 CFR part 207).

DATES: *Effective Date:* November 3, 2011.

FOR FURTHER INFORMATION CONTACT: Cynthia Trainor (202) 205–3354), Office of Investigations, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436. Hearing-impaired persons can obtain information on this matter by contacting the Commission's TDD terminal on (202) 205–1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at (202) 205–2000. General information concerning the Commission may also be obtained by accessing its Internet server (*http://www.usitc.gov*). The public record for this investigation may be viewed on the Commission's electronic docket (EDIS) at *http://edis.usitc.gov.*

SUPPLEMENTARY INFORMATION:

Background.—The final phase of these investigations is being scheduled as a result of affirmative preliminary determinations by the Department of Commerce that imports of CSOBAs from China and Taiwan are being sold in the United States at less than fair value within the meaning of section 733 of the Act (19 U.S.C. 1673b). These investigations were requested in a petition filed on March 31, 2011 by Clariant Corp., Charlotte, NC.

Participation in the investigation and public service list.—Persons, including industrial users of the subject merchandise and, if the merchandise is sold at the retail level, representative consumer organizations, wishing to participate in the final phase of these investigations as parties must file an entry of appearance with the Secretary to the Commission, as provided in section 201.11 of the Commission's rules, no later than 21 days prior to the hearing date specified in this notice. A party that filed a notice of appearance during the preliminary phase of the investigations need not file an additional notice of appearance during this final phase. The Secretary will maintain a public service list containing the names and addresses of all persons, or their representatives, who are parties to the investigations.

Limited disclosure of business proprietary information (BPI) under an administrative protective order (APO) and BPI service list.—Pursuant to section 207.7(a) of the Commission's rules, the Secretary will make BPI gathered in the final phase of these investigations available to authorized applicants under the APO issued in the investigations, provided that the application is made no later than 21 days prior to the hearing date specified in this notice. Authorized applicants must represent interested parties, as defined by 19 U.S.C. 1677(9), who are parties to the investigations. A party granted access to BPI in the preliminary phase of the investigations need not reapply for such access. A separate service list will be maintained by the Secretary for those parties authorized to receive BPI under the APO.

Staff report.—The prehearing staff report in the final phase of these investigations will be placed in the nonpublic record on March 1, 2012, and a public version will be issued thereafter, pursuant to section 207.22 of the Commission's rules.

Hearing.—The Commission will hold a hearing in connection with the final phase of these investigations beginning at 9:30 a.m. on March 15, 2012. Requests to appear at the hearing should be filed in writing with the Secretary to the Commission on or before March 7, 2012. A nonparty who has testimony that may aid the Commission's deliberations may request permission to present a short statement at the hearing. All parties and nonparties desiring to appear at the hearing and make oral presentations should attend a prehearing conference to be held at 9:30 a.m. on March 9, 2012, at the U.S. International Trade Commission Building. Oral testimony and written materials to be submitted at the public hearing are governed by sections 201.6(b)(2), 201.13(f), and 207.24 of the Commission's rules. Parties must submit any request to present a portion of their hearing testimony *in camera* no later than 7 business days prior to the date of the hearing.

Written submissions.—Each party who is an interested party shall submit a prehearing brief to the Commission. Prehearing briefs must conform with the provisions of section 207.23 of the Commission's rules; the deadline for filing is March 8, 2012. Parties may also file written testimony in connection with their presentation at the hearing, as provided in section 207.24 of the Commission's rules, and posthearing briefs, which must conform with the provisions of section 207.25 of the Commission's rules. The deadline for filing posthearing briefs is March 22, 2012; witness testimony must be filed no later than three days before the hearing. In addition, any person who has not entered an appearance as a party to the investigations may submit a written statement of information pertinent to the subject of the investigations, including statements of support or opposition to the petition, on or before March 22, 2012. On April 12, 2012, the Commission will make available to parties all information on which they have not had an opportunity to comment. Parties may submit final comments on this information on or before April 16, 2012, but such final comments must not contain new factual information and must otherwise comply with section 207.30 of the Commission's rules. All written submissions must conform with the provisions of section 201.8 of the Commission's rules; any submissions that contain BPI must also conform with the requirements of sections 201.6, 207.3, and 207.7 of the Commission's rules. Please consult the Commission's rules, as amended, 76 FR 61937 (Oct. 6, 2011) and the Commission's Handbook on Filing Procedures, 76 FR 62092 (Oct. 6, 2011), available on the Commission's web site at *http://edis.usitc.gov.*

Additional written submissions to the Commission, including requests pursuant to section 201.12 of the Commission's rules, shall not be accepted unless good cause is shown for accepting such submissions, or unless the submission is pursuant to a specific request by a Commissioner or Commission staff.

In accordance with sections 201.16(c) and 207.3 of the Commission's rules, each document filed by a party to the investigations must be served on all other parties to the investigations (as identified by either the public or BPI service list), and a certificate of service must be timely filed. The Secretary will not accept a document for filing without a certificate of service.

Authority: These investigations are being conducted under authority of title VII of the Tariff Act of 1930; this notice is published pursuant to section 207.21 of the Commission's rules.

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during the synthesis of final stilbenic OBA products.

The compounds *excluded* from these investigations are all forms of 4,4′-bis[4-anilino-6-morpholino-1,3,5-triazin-2yl]amino-2,2′stilbenedisulfonic acid, $C_{40}H_{40}N_{12}O_8S_2$ (''Fluorescent Brightener 71''). These investigations cover the above-described compounds in any state (including but not limited to powder, slurry, or solution), of any concentrations of active certain stilbenic OBA ingredient, as well as any compositions regardless of additives (*i.e.,* mixtures or blends, whether of certain stilbenic OBAs with each other, or of certain stilbenic OBAs with additives that are not certain stilbenic OBAs) and in any type of packaging.''

By order of the Commission.
Issued: November 18, 2011.

James R. Holbein,

Secretary to the Commission.

[FR Doc. 2011–30317 Filed 11–23–11; 8:45 am]

BILLING CODE P

INTERNATIONAL TRADE COMMISSION

[Investigation Nos. 701–TA–479 (Final) and 731–TA–1183–1184 (Final)]

Galvanized Steel Wire From China and Mexico; Scheduling of the Final Phase of Countervailing Duty and Antidumping Investigations

AGENCY: United States International Trade Commission.

ACTION: Notice.

SUMMARY: The Commission hereby gives notice of the scheduling of the final phase of countervailing duty investigation No. 701–TA–479 (Final) under section 705(b) of the Tariff Act of 1930 (19 U.S.C. 1671d(b)) (the Act) and the final phase of antidumping investigation Nos. 731–TA–1183–1184 (Final) under section 735(b) of the Act (19 U.S.C. 1673d(b)) to determine whether an industry in the United States is materially injured or threatened with material injury, or the establishment of an industry in the United States is materially retarded, by reason of subsidized and less-than-fair-value imports from China and Mexico of galvanized steel wire, provided for in subheading 7217.20 of the Harmonized Tariff Schedule of the United States.[1]

For further information concerning the conduct of this phase of the investigations, hearing procedures, and rules of general application, consult the Commission's Rules of Practice and Procedure, part 201, subparts A through E (19 CFR part 201), and part 207, subparts A and C (19 CFR part 207).

DATES: *Effective Date:* November 4, 2011.

FOR FURTHER INFORMATION CONTACT: Angela M.W. Newell (202) 708–5409), Office of Investigations, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436. Hearing-impaired persons can obtain information on this matter by contacting the Commission's TDD terminal on (202) 205–1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at (202) 205–2000. General information concerning the Commission may also be obtained by accessing its Internet server (*http://www.usitc.gov*). The public record for these investigations may be viewed on the Commission's electronic docket (EDIS) at *http://edis.usitc.gov.*

SUPPLEMENTARY INFORMATION:

Background.—The final phase of these investigations is being scheduled as a result of affirmative preliminary determinations by the Department of Commerce that certain benefits which constitute subsidies within the meaning of section 703 of the Act (19 U.S.C. 1671b) are being provided to manufacturers, producers, or exporters in China of galvanized steel wire, and that such products are being sold in the United States at less than fair value within the meaning of section 733 of the Act (19 U.S.C. 1673b). The investigations were requested in a petition filed on March 31, 2011, by Davis Wire Corporation, Irwindale, CA; Johnstown Wire Technologies, Inc., Johnstown, PA; Mid-South Wire Company, Inc, Nashville, TN; National Standard, LLC, Niles, MI; and Oklahoma Steel & Wire Company, Inc., Madill, OK.

Participation in the investigations and public service list.—Persons, including industrial users of the subject merchandise and, if the merchandise is sold at the retail level, representative consumer organizations, wishing to participate in the final phase of these investigations as parties must file an entry of appearance with the Secretary to the Commission, as provided in section 201.11 of the Commission's rules, no later than 21 days prior to the hearing date specified in this notice. A party that filed a notice of appearance during the preliminary phase of the investigations need not file an additional notice of appearance during this final phase. The Secretary will maintain a public service list containing the names and addresses of all persons, or their representatives, who are parties to the investigations.

Limited disclosure of business proprietary information (BPI) under an administrative protective order (APO) and BPI service list.—Pursuant to section 207.7(a) of the Commission's rules, the Secretary will make BPI gathered in the final phase of these investigations available to authorized applicants under the APO issued in the investigations, provided that the application is made no later than 21 days prior to the hearing date specified in this notice. Authorized applicants must represent interested parties, as defined by 19 U.S.C. § 1677(9), who are parties to the investigations. A party granted access to BPI in the preliminary phase of the investigations need not reapply for such access. A separate service list will be maintained by the Secretary for those parties authorized to receive BPI under the APO.

Staff report.—The prehearing staff report in the final phase of these investigations will be placed in the nonpublic record on March 8, 2012, and a public version will be issued thereafter, pursuant to section 207.22 of the Commission's rules.

Hearing.—The Commission will hold a hearing in connection with the final phase of these investigations beginning at 9:30 a.m. on March 22, 2012, at the U.S. International Trade Commission Building. Requests to appear at the hearing should be filed in writing with the Secretary to the Commission on or before March 19, 2012. A nonparty who has testimony that may aid the Commission's deliberations may request permission to present a short statement at the hearing. All parties and nonparties desiring to appear at the hearing and make oral presentations should attend a prehearing conference to be held at 9:30 a.m. on March 19, 2012, at the U.S. International Trade Commission Building. Oral testimony and written materials to be submitted at the public hearing are governed by sections 201.6(b)(2), 201.13(f), and 207.24 of the Commission's rules. Parties must submit any request to present a portion of their hearing testimony *in camera* no later than 7 business days prior to the date of the hearing.

Written submissions.—Each party who is an interested party shall submit a prehearing brief to the Commission. Prehearing briefs must conform with the provisions of section 207.23 of the Commission's rules; the deadline for filing is March 15, 2012. Parties may also file written testimony in connection

[1] For purposes of these investigations, the Department of Commerce has defined the subject merchandise as galvanized steel wire which is a cold- drawn carbon quality steel product in coils, of solid, circular cross section with an actual diameter of 0.5842 mm (0.0230 inch) or more, plated or coated with zinc (whether by hot-dipping or electroplating). Steel products to be included in the scope of this investigation, regardless of Harmonized Tariff Schedule of the United States (HTSUS) definitions, are products in which: (1) Iron predominates, by weight, over each of the other contained elements; (2) the carbon content is two percent or less, by weight; and (3) none of the elements listed below exceeds the quantity, by weight, respectively indicated: 1.80 percent of manganese, or 1.50 percent of silicon, or 1.00 percent of copper, or 0.50 percent of aluminum, or 1.25 percent of chromium, or 0.30 percent of cobalt, or 0.40 percent of lead, or 1.25 percent of nickel, or 0.30 percent of tungsten, or 0.02 percent of boron, or 0.10 percent of molybdenum, or 0.10 percent of niobium, or 0.41 percent of titanium, or 0.15 percent of vanadium, or 0.15 percent of zirconium. Specifically excluded from the scope of this investigation is galvanized steel wire in coils of 15 feet or less which is pre-packed in individual retail packages.

with their presentation at the hearing, as provided in section 207.24 of the Commission's rules, and posthearing briefs, which must conform with the provisions of section 207.25 of the Commission's rules. The deadline for filing posthearing briefs is March 29, 2012; witness testimony must be filed no later than three days before the hearing. In addition, any person who has not entered an appearance as a party to the investigations may submit a written statement of information pertinent to the subject of the investigations, including statements of support or opposition to the petition, on or before March 29, 2012. On April 16, 2012, the Commission will make available to parties all information on which they have not had an opportunity to comment. Parties may submit final comments on this information on or before April 18, 2012, but such final comments must not contain new factual information and must otherwise comply with section 207.30 of the Commission's rules. All written submissions must conform with the provisions of section 201.8 of the Commission's rules; any submissions that contain BPI must also conform with the requirements of sections 201.6, 207.3, and 207.7 of the Commission's rules. Please consult the Commission's rules, as amended, 76 FR 61937 (Oct. 6, 2011) and the Commission's Handbook on Filing Procedures, 76 FR 62092 (Oct. 6, 2011), available on the Commission's Web site at *http://edis.usitc.gov.*

Additional written submissions to the Commission, including requests pursuant to section 201.12 of the Commission's rules, shall not be accepted unless good cause is shown for accepting such submissions, or unless the submission is pursuant to a specific request by a Commissioner or Commission staff.

In accordance with sections 201.16(c) and 207.3 of the Commission's rules, each document filed by a party to the investigations must be served on all other parties to the investigations (as identified by either the public or BPI service list), and a certificate of service must be timely filed. The Secretary will not accept a document for filing without a certificate of service.

Authority: These investigations are being conducted under authority of title VII of the Tariff Act of 1930; this notice is published pursuant to section 207.21 of the Commission's rules.

By order of the Commission.

Issued: November 21, 2011.

James R. Holbein,

Secretary to the Commission.

[FR Doc. 2011–30377 Filed 11–23–11; 8:45 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

[Investigation Nos. 731–TA–624 and 625 (Third Review)]

Helical Spring Lock Washers From China and Taiwan

Determination

On the basis of the record [1] developed in the subject five-year reviews, the United States International Trade Commission (Commission) determines, pursuant to section 751(c) of the Tariff Act of 1930 (19 U.S.C. 1675(c)), that revocation of the antidumping duty orders on helical spring lock washers from China and Taiwan would be likely to lead to continuation or recurrence of material injury to an industry in the United States within a reasonably foreseeable time.[2]

Background

The Commission instituted these reviews on June 1, 2011 (76 FR 31629) and determined on September 6, 2011, that it would conduct expedited reviews (76 FR 57075, September 15, 2011).

The Commission transmitted its determinations in these reviews to the Secretary of Commerce on November 18, 2011. The views of the Commission are contained in USITC Publication 4276 (November 2011), entitled Helical Spring Lock Washers from China and Taiwan: Investigation Nos. 731–TA–624 and 625 (Third Review).

By order of the Commission.

Issued: November 18, 2011.

James R. Holbein,

Secretary to the Commission.

[FR Doc. 2011–30319 Filed 11–23–11; 8:45 am]

BILLING CODE P

[1] The record is defined in sec. 207.2(f) of the Commission's Rules of Practice and Procedure (19 CFR 207.2(f)).

[2] Chairman Deanna Tanner Okun and Commissioner Daniel R. Pearson dissenting with respect to helical spring lock washers from Taiwan.

INTERNATIONAL TRADE COMMISSION

[Investigation No. 337–TA–815]

Certain Projectors With Controlled-Angle Optical Retarders, Components Thereof, and Products Containing Same; Institution of Investigation

AGENCY: U.S. International Trade Commission

ACTION: Notice.

SUMMARY: Notice is hereby given that a complaint was filed with the U.S. International Trade Commission on October 21, 2011, under section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. 1337, on behalf of Compound Photonics Ltd. of the United Kingdom and Compound Photonics U.S. Corporation of Phoenix, Arizona. A supplement to the Complaint was filed on November 2, 2011. The complaint alleges violations of section 337 based upon the importation into the United States, the sale for importation, and the sale within the United States after importation of certain projectors with controlled-angle optical retarders, components thereof, and products containing same by reason of infringement of certain claims of U.S. Patent No. 6,829,027 (''the '027 patent''). The complaint further alleges that an industry in the United States exists or is in the process of being established as required by subsection (a)(2) of section 337.

The complainants request that the Commission institute an investigation and, after the investigation, issue an exclusion order and cease and desist orders.

ADDRESSES: The complaint and supplement, except for any confidential information contained therein, are available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 500 E Street SW., Room 112, Washington, DC 20436, telephone (202) 205–2000. Hearing impaired individuals are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on (202) 205–1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at (202) 205–2000. General information concerning the Commission may also be obtained by accessing its Internet server at *http://www.usitc.gov.* The public record for this investigation may be viewed on the

Commission's electronic docket (EDIS) at *http://edis.usitc.gov.*

FOR FURTHER INFORMATION CONTACT: The Office of Unfair Import Investigations, U.S. International Trade Commission, telephone (202) 205–2560.

Authority: The authority for institution of this investigation is contained in section 337 of the Tariff Act of 1930, as amended, and in section 210.10 of the Commission's Rules of Practice and Procedure, 19 CFR 210.10 (2011).

Scope of Investigation: Having considered the complaint, the U.S. International Trade Commission, on November 17, 2011, *ordered that*—

(1) Pursuant to subsection (b) of section 337 of the Tariff Act of 1930, as amended, an investigation be instituted to determine whether there is a violation of subsection (a)(1)(B) of section 337 in the importation into the United States, the sale for importation, or the sale within the United States after importation of certain projectors with controlled-angle retarders, components thereof, and products containing same that infringe one or more of claims 10, 11, and 13–15 of the '027 patent, and whether an industry in the United States exists or is in the process of being established as required by subsection (a)(2) of section 337;

(2) For the purpose of the investigation so instituted, the following are hereby named as parties upon which this notice of investigation shall be served:

(a) The complainants are:

Compound Photonics Ltd., Gunpowder House, 66–68 Great Suffolk Street, Southwark, London SE1 0BL, United Kingdom;

Compound Photonics U.S. Corporation, 1110 North 52nd Street, Phoenix, AZ 85008.

(b) The respondents are the following entities alleged to be in violation of section 337, and are the parties upon which the complaint is to be served:

Sony Corporation, 1–7–1 Konan, Minato-ku, Tokyo, Japan 108–0075;

Sony Corporation of America, 550 Madison Avenue, New York, NY 10022;

Sony Electronics Inc., 16530 Via Esprillo, San Diego, CA 92127.

(c) The Office of Unfair Import Investigations, U.S. International Trade Commission, 500 E Street SW., Suite 401, Washington, DC 20436; and

(3) For the investigation so instituted, the Chief Administrative Law Judge, U.S. International Trade Commission, shall designate the presiding Administrative Law Judge.

Responses to the complaint and the notice of investigation must be submitted by the named respondents in accordance with section 210.13 of the Commission's Rules of Practice and Procedure, 19 CFR 210.13. Pursuant to 19 CFR 201.16(d)–(e) and 210.13(a), such responses will be considered by the Commission if received not later than 20 days after the date of service by the Commission of the complaint and the notice of investigation. Extensions of time for submitting responses to the complaint and the notice of investigation will not be granted unless good cause therefor is shown.

Failure of a respondent to file a timely response to each allegation in the complaint and in this notice may be deemed to constitute a waiver of the right to appear and contest the allegations of the complaint and this notice, and to authorize the administrative law judge and the Commission, without further notice to the respondent, to find the facts to be as alleged in the complaint and this notice and to enter an initial determination and a final determination containing such findings, and may result in the issuance of an exclusion order or a cease and desist order or both directed against the respondent.

By order of the Commission.

Issued: November 18, 2011.

James R. Holbein,

Secretary to the Commission.

[FR Doc. 2011–30260 Filed 11–23–11; 8:45 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

[USITC SE–11–034]

Sunshine Act Meeting Notice

AGENCY HOLDING THE MEETING: United States International Trade Commission.

TIME AND DATE: December 5, 2011 at 2 p.m.

PLACE: Room 100, 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–388–391 and 731–TA–817–821 (Second Review)(Cut-to-Length Carbon-Quality Steel Plate from India, Indonesia, Italy, Japan, and Korea). The Commission is currently scheduled to transmit its determinations and Commissioners' opinions to the Secretary of Commerce on or before December 16, 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: November 21, 2011.

William R. Bishop,

Hearings and Meetings Coordinator.

[FR Doc. 2011–30433 Filed 11–22–11; 11:15 am]

BILLING CODE 7020–02–P

DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to the National Cooperative Research and Production Act of 1993—Fieldbus Foundation

Notice is hereby given that, on October 20, 2011, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* (''the Act''), Fieldbus Foundation (''Fieldbus'') has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing (1) The name and principal place of business of the standards development organization and (2) the nature and scope of its standards development activities. The notifications were filed for the purpose of invoking the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances.

Pursuant to Section 6(b) of the Act, the name and principal place of business of the standards development organization is: Fieldbus Foundation, Austin, TX. More information about Fieldbus can be found at *http://www.fieldbus.org/index.html.* The nature and scope of Fieldbus's standards development activities are: development (by end users, manufacturers, universities and research organizations working together) of automation infrastructure that provides integrity, business intelligence and open scalable integration in a managed environment. Current Fieldbus teams for specification development and maintenance are described at: *http://www.fieldbus.org/index.php?option=com_content&task=view&id=941&Itemid=454.*

Additional information about Fieldbus specifications is available at: *http://www.fieldbus.org/index.php?*

option=com_content&task=view &id=943&Itemid=310.

Patricia A. Brink,

Director of Civil Enforcement, Antitrust Division.

[FR Doc. 2011–30307 Filed 11–23–11; 8:45 am]

BILLING CODE P

DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to the National Cooperative Research and Production Act of 1993—National Warheads and Energetics Consortium

Notice is hereby given that, on November 04, 2011, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* (''the Act''), National Warheads and Energetics Consortium (''NWEC'') has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing changes in its membership. The notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, Accurate Munition Systems, Inc., Austin, TX; Excelitas Technologies Sensors, Inc., Miamisburg, OH; Miltec Corporation, Huntsville, AL; Northrop Grumman Electronic Systems—ISR Systems Division, Azusa, CA; Northrop Grumman Systems Corporation—acting through Northrop Grumman Information Systems sector, Defense Technologies Division, Herndon, VA; Phillips Plastic Corporation, Hudson, WI; R4 Incorporated, Eatontown, NJ; Technology Service Corporation, Silver Spring, MD; and TRAX International Corporation, Las Vegas, NV, have been added as parties to this venture.

Also, Texas Tech University, Lubbock, TX; and Technikon, LLC, McClellan, CA, have withdrawn as parties to this venture.

No other changes have been made in either the membership or planned activity of the group research project. Membership in this group research project remains open, and NWEC intends to file additional written notifications disclosing all changes in membership.

On May 2, 2000, NWEC filed its original notification pursuant to Section 6(a) of the Act. The Department of Justice published a notice in the *Federal Register* pursuant to Section 6(b) of the Act on June 30, 2000 (65 FR 40693).

The last notification was filed with the Department on August 9, 2011. A notice was published in the **Federal Register** pursuant to Section 6(b) of the Act on September 23, 2011 (76 FR 16820).

Patricia A. Brink,

Director of Civil Enforcement, Antitrust Division.

[FR Doc. 2011–30308 Filed 11–23–11; 8:45 am]

BILLING CODE P

NATIONAL SCIENCE FOUNDATION

Advisory Committee For Biological Sciences; Notice of Meeting

In accordance with the Federal Advisory Committee Act (Pub. L., 92–463, as amended), the National Science Foundation announces the following meeting:

Name: Biological Sciences Advisory Committee (#1110).

Date and Time: December 15, 2011; 8 a.m. to 5 p.m. December 16, 2011; 8:30 a.m. to 5 p.m.

Place: National Science Foundation, 4201 Wilson Blvd., Arlington, VA 22230.

Type of Meeting: Open.

Contact Person: Chuck Liarakos, National Science Foundation, Room 605, 4201 Wilson Boulevard, Arlington, VA 22230 Tel No.: (703) 292–8400.

Purpose of Meeting: The Advisory Committee for BIO provides advice, recommendations, and oversight concerning major program emphases, directions, and goals for the research-related activities of the divisions that make up BIO.

Agenda: Items on the agenda include approval of the Committee of Visitors reports for the Divisions of Molecular and Cellular Biosciences and Integrated Organismal Systems, reports about NSF efforts to improve the merit review process, and discussions of fundamental biological research that is the basis for the 21st century bio-economy and the undergraduate and graduate biology education pipeline.

Dated: November 21, 2011.

Susanne Bolton,

Committee Management Officer.

[FR Doc. 2011–30367 Filed 11–23–11; 8:45 am]

BILLING CODE 7555–01–P

NATIONAL SCIENCE FOUNDATION

Notice of Permit Applications Received Under the Antarctic Conservation Act of 1978 (Pub. L. 95–541)

AGENCY: National Science Foundation.

ACTION: Notice of Permit Applications Received under the Antarctic Conservation Act of 1978, Public Law 95–541.

SUMMARY: The National Science Foundation (NSF) is required to publish a notice of permit applications received to conduct activities regulated under the Antarctic Conservation Act of 1978. NSF has published regulations under the Antarctic Conservation Act at Title 45 Part 670 of the Code of Federal Regulations. This is the required notice of permit applications received.

DATES: Interested parties are invited to submit written data, comments, or views with respect to this permit application by December 27, 2011. This application may be inspected by interested parties at the Permit Office, address below.

ADDRESSES: Comments should be addressed to Permit Office, Room 755, Office of Polar Programs, National Science Foundation, 4201 Wilson Boulevard, Arlington, Virginia 22230.

FOR FURTHER INFORMATION CONTACT: Polly A. Penhale at the above address or (703) 292–7420.

SUPPLEMENTARY INFORMATION: The National Science Foundation, as directed by the Antarctic Conservation Act of 1978 (Pub. L. 95–541), as amended by the Antarctic Science, Tourism and Conservation Act of 1996, has developed regulations for the establishment of a permit system for various activities in Antarctica and designation of certain animals and certain geographic areas a requiring special protection. The regulations establish such a permit system to designate Antarctic Specially Protected Areas.

The applications received are as follows:

Permit Application: 2012-011

1. *Applicant:* Daniel P. Costa, Department of Ecology and Evolutionary Biology, University of California—Santa Cruz, Long Marine Lab, 100 Shaffer Road, Santa Cruz, CA 95060.

Permit Application: 2012–011.

Activity for Which Permit is Requested

Take and Enter Antarctic Specially Protected Areas. The applicant plans to enter the Antarctic Specially Protect Areas of Cape Evans (ASPA 155), Backdoor Bay (ASPA 157), and Hut Point (ASPA 158) to collect 1 cm^2 samples of skin and fur, and 1 whisker from up to 50 dead seals caught during the early 1900's by the explorers and are found in and around the historic huts located in these protected areas. Naturally occurring stable isotopes of carbon ($\delta^{13}C$) and nitrogen ($\delta^{15}N$) have been increasingly used to study trophic relationships and feeding habits of marine mammals, based on the

demonstration that isotopic ratios in tissue samples from a given species are correlated with those of the prey items included in the diet. As stable isotope composition does not change over time, the isotope signature of seals collected by the historic explorers early in the 20th century will reflect the diet of Weddell seals at that time. These data will be compared to the isotopic signature of Weddell seals in the Ross Sea today. Such data may provide evidence of a potential shift in the diet of this apex predator that might be indicative of ecosystem change.

Location

Cape Evans (ASPA 155), Backdoor Bay (ASPA 157), and Hut Point (ASPA 158).

Dates

December 1, 2011 to December 31, 2012.

Nadene G. Kennedy,

Permit Officer, Office of Polar Programs.

[FR Doc. 2011–30336 Filed 11–23–11; 8:45 am]

BILLING CODE 7555–01–P

NUCLEAR REGULATORY COMMISSION

[Docket Nos. 52–018 and 52–019; NRC–2008–0170; Docket Nos. 52–022 and 52–023; NRC–2008–0231; Docket Nos. 52–029 and 52–030; NRC–2008–0558; Docket Nos. 52–040 and 52–041; NRC–2009–0337]

Notice of Availability of Combined License Applications

ACTION: Combined license applications; receipt.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) is giving notice once each week for four consecutive weeks of combined license (COL) applications from Progress Energy Florida, Inc., Duke Energy Carolinas, LLC, Progress Energy Carolinas, Inc., and Florida Power & Light Company.

ADDRESSES: You can access publicly available documents related to this action 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, 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 email to *pdr.resource@nrc.gov*. The ADAMS accession numbers for the initial application cover letters are as follows: ML073510494 for William States Lee III Nuclear Station Units 1 and 2, ML080580078 for Shearon Harris Nuclear Power Plant Units 2 and 3; ML082260277 for Levy Nuclear Plant Units 1 and 2; and ML091830589 for Turkey Point Units 6 and 7.

• *Federal Rulemaking Web Site:* Public comments and supporting materials related to this action can be found at *http://www.regulations.gov* by searching on Docket ID NRC–2008–0170 (William States Lee III Nuclear Station Units 1 and 2), NRC–2008–0231 (Shearon Harris Nuclear Power Plant Units 2 and 3), NRC–2008–0558 (Levy Nuclear Plant Units 1 and 2), and NRC–2009–0337 (Turkey Point Units 6 and 7). Address questions about NRC dockets to Carol Gallagher, *telephone:* (301) 492–3668; *email: Carol.Gallagher@nrc.gov*.

The applications are also available at *http://www.nrc.gov/reactors/new-reactors/col.html*.

FOR FURTHER INFORMATION CONTACT: Donald Habib, Office of New Reactors, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, *telephone:* (301) 415–1035, *email: Donald.Habib@nrc.gov*.

SUPPLEMENTARY INFORMATION: The following parties have filed applications for COLs with the NRC, pursuant to Section 103 of the Atomic Energy Act of 1954, as amended, and Title 10 of the Code of Federal Regulations (10 CFR) Part 52, ''Licenses, Certifications, and Approvals for Nuclear Power Plants:''

1. On December 12, 2007, Duke Energy Carolinas, LLC, submitted an application for COLs for two AP1000 advanced passive pressurized water reactors designated as William States Lee III Nuclear Station Units 1 and 2 in Cherokee County, South Carolina.

2. On February 18, 2008, Progress Energy Carolinas, Inc., submitted an application for COLs for two AP1000 advanced passive pressurized water reactors designated as Shearon Harris Nuclear Power Plant Units 2 and 3 in Wake County, North Carolina.

3. On July 28, 2008, Progress Energy Florida, Inc., submitted an application for COLs for two AP1000 advanced passive pressurized water reactors designated as Levy Nuclear Plant Units 1 and 2 in Levy County, Florida.

4. On June 30, 2009, Florida Power & Light Company submitted an application for COLs for two AP1000 advanced passive pressurized water reactors designated as Turkey Point Units 6 and 7 in Miami-Dade County, Florida.

These four applications are currently under review by the NRC staff.

An applicant may seek a COL in accordance with Subpart C of 10 CFR Part 52. The information submitted by the applicant includes certain administrative information, such as financial qualifications submitted pursuant to 10 CFR 52.77, as well as technical information submitted pursuant to 10 CFR 52.79. These notices are being provided in accordance with the requirements in 10 CFR 50.43(a)(3).

Dated at Rockville, Maryland, this 21st day of November 2011.

For the Nuclear Regulatory Commission.

Jeffrey Cruz,

Chief, AP1000 Projects Branch 1, Division of New Reactor Licensing, Office of New Reactors.

[FR Doc. 2011–30407 Filed 11–23–11; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[NRC–2011–0191]

Draft License Renewal Interim Staff Guidance LR–ISG–2011–05: Ongoing Review of Operating Experience

AGENCY: Nuclear Regulatory Commission.

ACTION: Revision of draft interim staff guidance; request for public comment.

SUMMARY: On August 24, 2011, in the **Federal Register** (76 FR 52995), the U.S. Nuclear Regulatory Commission (NRC) requested public comments on Draft License Renewal Interim Staff Guidance (LR–ISG), LR–ISG–2011–05, ''Ongoing Review of Operating Experience.'' This LR–ISG provides guidance and clarification concerning ongoing review of plant-specific and industry-wide operating experience as an attribute of aging management programs used at nuclear power plants. As noticed on September 20, 2011 (76 FR 58311), the public comment period was extended and, as of October 23, 2011, is now closed. However, since issuing the draft LR–ISG for public comment, the NRC has identified the need to incorporate additional guidance. As such, the NRC is re-issuing draft LR–ISG–2011–05 to request public comments on the changes.

DATES: The comment period on the revised draft LR–ISG–2011–05 expires on December 15, 2011. Comments received after this date will be considered, if it is practical to do so, but the NRC is able to ensure consideration only for comments received on or before this date.

ADDRESSES: Please include Docket ID NRC–2011–0191 in the subject line of your comments. For additional instructions on submitting comments and instructions on accessing documents related to this action, see ''Submitting Comments and Accessing Information'' in the **SUPPLEMENTARY INFORMATION** section of this document. 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–2011–0191. Address questions about NRC dockets to Carol Gallagher, telephone: (301) 492–3668; email: *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.

FOR FURTHER INFORMATION CONTACT: Mr. Matthew Homiack, Division of License Renewal, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001; telephone: (301) 415–1683; or email: *Matthew.Homiack@nrc.gov*.

SUPPLEMENTARY INFORMATION:

Submitting Comments and Accessing Information

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 can access publicly available documents related to this notice using the following methods:

• *NRC's Public Document Room:* The public may examine and have copied, for a fee, publicly available documents at the NRC's Public Document 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 email to *pdr.resource@nrc.gov*. The revised draft LR–ISG–2011–05 is available electronically under ADAMS Accession No. ML11293A022. In this document, bars in the margin denote changes to the draft LR–ISG since it was initially issued for public comment.

• *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–2011–0191.

• *NRC's Interim Staff Guidance Web site:* LR–ISG documents are available online under the ''License Renewal'' heading at *http://www.nrc.gov/reading-rm/doc-collections/#int*.

Background

The NRC issues LR–ISG to communicate insights and lessons learned and to address emergent issues not covered in license renewal guidance documents, such as NUREG–1801, Revision 2, ''Generic Aging Lessons Learned (GALL) Report'' (ADAMS Accession No. ML103490041), and NUREG–1800, Revision 2, ''Standard Review Plan for Review of License Renewal Applications for Nuclear Power Plants'' (SRP–LR) (ADAMS Accession No. ML103490036). In this way, the NRC staff and stakeholders may use the guidance in an LR–ISG document until it is incorporated into a formal license renewal guidance document revision. The NRC staff issues LR–ISG in accordance with the LR–ISG Process, Revision 2 (ADAMS Accession No. ML100920158), for which a notice of availability was published in the **Federal Register** on June 22, 2010 (75 FR 35510).

The NRC staff developed draft LR–ISG–2011–05 to clarify guidance on how the ongoing review of operating experience should be used to ensure the effectiveness of the license renewal aging management programs used at nuclear power plants to meet the requirements of Title 10 of the Code of Federal Regulations (10 CFR) part 54, ''Requirements for Renewal of Operating Licenses for Nuclear Power Plants.'' The draft LR–ISG proposes to revise the NRC staff's recommended aging management programs in the GALL Report and the NRC staff's aging management review procedures and acceptance criteria in the SRP–LR.

On August 24, 2011, the NRC requested public comments on draft LR–ISG–2011–05. By letter dated August 29, 2011 (ADAMS Accession No. ML11242A114), the Nuclear Energy Institute (NEI) requested a 30-day extension to the comment period and a public meeting to discuss draft comments and questions concerning implementation of the LR–ISG. The NRC staff granted the NEI's requests, as noticed on September 20, 2011 (76 FR 58311). The public meeting was held on October 12, 2011, and the comment period was extended until October 23, 2011.

Since first issuing draft LR–ISG–2011–05 for comment, the NRC has identified the need to include additional guidance on areas where license renewal applicants should ensure their programmatic activities for operating experience reviews are appropriate for considering operating experience related to aging management. The NRC identified the need for this additional guidance through its ongoing reviews of license renewal applications and through recent insights gained on how nuclear power plant licensees carry out their operating experience review activities. The additional guidance covers areas where enhancements may need to be made for license renewal, such as the specific kind of information that should be considered as operating experience; the training of plant personnel who screen, assign, evaluate, and submit operating experience information; information to consider in operating experience evaluations; criteria for identifying and categorizing operating experience as related to aging; and guidelines for reporting operating experience on age-related degradation to the industry. The NRC staff outlined these changes at the October 12, 2011, public meeting, and is now requesting public comments on them. The revised draft LR–ISG–2011–05 includes change bars in the margin to help comment providers identify those areas that have

changed. By this action, the NRC is requesting comments on these changes.

The NRC will make a final determination regarding issuance of the LR–ISG after considering comments received in response to this request, in addition to those comments received in response to the original request.

For the Nuclear Regulatory Commission.

Dated at Rockville, Maryland, this 16th day of November, 2011.

Melanie A. Galloway,

Acting Director, Division of License Renewal, Office of Nuclear Reactor Regulation.

[FR Doc. 2011–30397 Filed 11–23–11; 8:45 am]

BILLING CODE 7590–01–P

POSTAL REGULATORY COMMISSION

Sunshine Act Meetings

TIME AND DATE: Wednesday, December 7, 2011, at 11 a.m.

PLACE: Commission Hearing Room, 901 New York Avenue NW., Suite 200, Washington, DC 20268–0001.

STATUS: Part of this meeting will be open to the public. The rest of the meeting will be closed to the public. The open session will be audiocast. The audiocast may be accessed via the Commission's Web site at *http://www.prc.gov.*

MATTERS TO BE CONSIDERED: The agenda for the Commission's December 2011 meeting includes the items identified below.

Portions Open to the Public

1. Election of the Vice Chairman.
2. Report on legislative activities.
3. Report on public participation.
4. Report on international activities.
5. Report on the status of the strategic rulemaking process.
6. Report on pending dockets.
7. Report on the activities of the Office of the Secretary.

Portion Closed to the Public

8. Discussion of pending litigation.

CONTACT PERSON FOR MORE INFORMATION: Stephen L. Sharfman, General Counsel, Postal Regulatory Commission, 901 New York Avenue NW., Suite 200, Washington, DC 20268–0001, at (202) 789–6820 (for agenda-related inquiries) and Shoshana M. Grove, Secretary of the Commission, at (202) 789–6800 or *shoshana.grove@prc.gov* (for inquiries related to meeting location, access for handicapped or disabled persons, the audiocast, or similar matters).

Dated: November 21, 2011.

By the Commission.

Ruth Ann Abrams,

Acting Secretary.

[FR Doc. 2011–30512 Filed 11–22–11; 4:15 pm]

BILLING CODE 7710–FW–P

POSTAL REGULATORY COMMISSION

[Docket No. A2012–51; Order No. 980]

Post Office Closing

AGENCY: Postal Regulatory Commission.

ACTION: Notice.

SUMMARY: This document informs the public that an appeal of the closing of the Lafayette, Kentucky post office 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:

November 18, 2011: Administrative record due (from Postal Service);

December 12, 2011, 4:30 p.m., Eastern Time: Deadline for notices to intervene. *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), on November 3, 2011, the Commission received a petition for review of the Postal Service's determination to close the Lafayette post office in Lafayette, Kentucky. The petition for review was filed by Ellin Francis, Mayor of Lafayette (Petitioner) and is postmarked October 17, 2011. The Commission hereby institutes a proceeding under 39 U.S.C. 404(d)(5) and establishes Docket No. A2012–51 to consider Petitioner's appeal. If Petitioner would like to further explain her position with supplemental information or facts, Petitioner may either file a Participant Statement on PRC Form 61 or file a brief with the Commission no later than December 8, 2011.

Categories of issues apparently raised. Petitioner contends that (1) the Postal Service failed to consider whether or not it will continue to provide a maximum degree of effective and regular postal services to the community (*see* 39 U.S.C. 404(d)(2)(A(iii)); and (2) there are factual errors contained in the Final Determination.

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 applicable administrative record with the Commission is November 18, 2011. *See* 39 CFR 3001.113. In addition, the due date for any responsive pleading by the Postal Service is November 18, 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 also will be posted on the 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., Eastern Time, 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, *http://www.prc.gov,* or by contacting the Commission's docket section at *prc-dockets@prc.gov* or via telephone at (202) 789–6846.

Commission reserves the right to redact personal information which may infringe on an individual's privacy

rights from documents filed in this proceeding.

Intervention. Persons, other than the Petitioners and respondents, 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 are to be filed on or before December 12, 2011. A notice of intervention shall be filed using the Internet (Filing Online) at the Commission's Web site, *http://www.prc.gov,* 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 the applicable administrative record regarding this appeal no later than November 18, 2011.

2. Any responsive pleading by the Postal Service to this notice is due no later than November 18, 2011.

3. The procedural schedule listed below is hereby adopted.

4. Pursuant to 39 U.S.C. 505, Pamela A. Thompson 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 and Procedural Schedule in the **Federal Register**.

By the Commission.

Ruth Ann Abrams,

Acting Secretary.

PROCEDURAL SCHEDULE

November 3, 2011	Filing of Appeal.
November 18, 2011	Deadline for the Postal Service to file the applicable administrative record in this appeal.
November 18, 2011	Deadline for the Postal Service to file any responsive pleading.
December 12, 2011	Deadline for notices to intervene (*see* 39 CFR 3001.111(b)).
December 8, 2011	Deadline for Petitioners' Form 61 or initial brief in support of petition (*see* 39 CFR 3001.115(a) and (b)).
December 28, 2011	Deadline for answering brief in support of the Postal Service (*see* 39 CFR 3001.115(c)).
January 12, 2012	Deadline for reply briefs in response to answering briefs (*see* 39 CFR 3001.115(d)).
January 19, 2012	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).
February 14, 2012	Expiration of the Commission's 120-day decisional schedule (*see* 39 U.S.C. 404(d)(5)).

[FR Doc. 2011–30272 Filed 11–23–11; 8:45 am]

BILLING CODE 7710–FW–P

POSTAL REGULATORY COMMISSION

[Docket No. A2012–52; Order No. 983]

Post Office Closing

AGENCY: Postal Regulatory Commission.

ACTION: Notice.

SUMMARY: This document informs the public that an appeal of the closing of the Swaledale, Iowa post office 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: November 21, 2011: Administrative record due (from Postal Service); December 13, 2011, 4:30 p.m., Eastern Time: Deadline for notices to intervene. *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 three petitions for review of the Postal Service's determination to close the Swaledale post office in Swaledale, Iowa. The first petition for review received November 4, 2011, was filed by Kim Groh. The second petition for review received November 10, 2011, was filed by Scott Bonner. The third petition for review received November 14, 2011, was filed by John Drury, Mayor. The earliest postmark date is October 25, 2011. The Commission hereby institutes a proceeding under 39 U.S.C. 404(d)(5) and establishes Docket No. A2012–52 to consider Petitioners' appeal. If Petitioners would like to further explain their position with supplemental information or facts, Petitioners may either file a Participant Statement on PRC Form 61 or file a brief with the Commission no later than December 9, 2011.

Categories of issues apparently raised. Petitioners contend that (1) The Postal Service failed to consider the effect of the closing on the community (*see* 39 U.S.C. 404(d)(2)(A)(i)); (2) the Postal Service failed to consider whether or not it will continue to provide a maximum degree of effective and regular postal services to the community (*see* 39 U.S.C. 404(d)(2)(A)(iii)); (3) the Postal Service failed to adequately consider the economic savings resulting from the closure (*see* 39 U.S.C. 404(d)(2)(A)(iv)); (4) the Postal Service failed to follow procedures required by law regarding closures (*see* 39 U.S.C. 404(d)(5)(B)); and (5) there are factual errors contained in the Final Determination.

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 applicable administrative record with the Commission is November 21, 2011. *See* 39 CFR 3001.113. In addition, the due date for any responsive pleading by the Postal Service is November 21, 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 also will be posted on the 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., Eastern Time, 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, *http://www.prc.gov,* or by contacting the Commission's docket section at *prc-dockets@prc.gov* or via telephone at (202) 789–6846.

Commission reserves the right to redact personal information which may infringe on an individual's privacy rights from documents filed in this proceeding.

Intervention. Persons, other than the Petitioners and respondents, 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 are to be filed on or before December 13, 2011. A notice of intervention shall be filed using the Internet (Filing Online) at the Commission's Web site, *http://www.prc.gov,* 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 the applicable administrative record regarding this appeal no later than November 21, 2011.

2. Any responsive pleading by the Postal Service to this notice is due no later than November 21, 2011.

3. The procedural schedule listed below is hereby adopted.

4. Pursuant to 39 U.S.C. 505, Katrina R. Martinez 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 and Procedural Schedule in the **Federal Register**.

By the Commission.

Ruth Ann Abrams,

Acting Secretary.

PROCEDURAL SCHEDULE

November 4, 2011	Filing of Appeal.
November 21, 2011	Deadline for the Postal Service to file the applicable administrative record in this appeal.
November 21, 2011	Deadline for the Postal Service to file any responsive pleading.
December 13, 2011	Deadline for notices to intervene (*see* 39 CFR 3001.111(b)).
December 9, 2011	Deadline for Petitioners' Form 61 or initial brief in support of petition (*see* 39 CFR 3001.115(a) and (b)).
December 29, 2011	Deadline for answering brief in support of the Postal Service (*see* 39 CFR 3001.115(c)).
January 13, 2012	Deadline for reply briefs in response to answering briefs (*see* 39 CFR 3001.115(d)).
January 20, 2012	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).
February 22, 2012	Expiration of the Commission's 120-day decisional schedule (*see* 39 U.S.C. 404(d)(5)).

[FR Doc. 2011–30351 Filed 11–23–11; 8:45 am]

BILLING CODE 7710–FW–P

SECURITIES AND EXCHANGE COMMISSION

[Investment Company Act Release No. 29866; File No. 812–13929]

SEI Investments Management Corporation, et al.

November 18, 2011.

AGENCY: Securities and Exchange Commission (''Commission'').

ACTION: Notice of an application under section 6(c) of the Investment Company Act of 1940 (''Act'') for an exemption from rule 12d1–2(a) under the Act.

SUMMARY: *Summary of Application:* Applicants request an order to permit open-end management investment companies relying on rule 12d1–2 under the Act to invest in certain financial instruments.

APPLICANTS: SEI Investments Management Corporation (''SIMC''); SEI Investments Distribution Co. (''SIDCo.''); SEI Asset Allocation Trust, SEI Daily Income Trust, SEI Institutional International Trust, SEI Institutional Investments Trust, SEI Institutional Managed Trust, SEI Liquid Asset Trust, SEI Tax Exempt Trust, SEI Alpha Strategy Portfolios, LP (''SASP''), and Adviser Managed Trust (''AMT'') (each a ''Trust'' and collectively the ''Trusts'').

DATES: *Filing Dates:* The application was filed on July 27, 2011.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the Commission orders a hearing. Interested persons may request a hearing by writing to the Commission's Secretary and serving applicants with a copy of the request, personally or by mail. Hearing requests should be received by the Commission by 5:30 p.m. on December 13, 2011 and should be accompanied by proof of service on applicants, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request notification by writing to the Commission's Secretary.

ADDRESSES: Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090; Applicants: Timothy D. Barto, Esq., SEI Investments Management Corporation, One Freedom Valley Drive, Oaks, PA 19456.

FOR FURTHER INFORMATION CONTACT: Courtney S. Thornton, Senior Counsel, at (202) 551–6812, or Mary Kay Frech, Branch Chief, at (202) 551–6821 (Division of Investment Management, Office of Investment Company Regulation).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained via the Commission's Web site by searching for the file number, or an applicant using the Company name box, at *http://www.sec.gov/search/search.htm* or by calling (202) 551–8090.

Applicants' Representations

1. Each Trust is registered under the Act as an open-end management investment company and is organized as a Massachusetts business trust, with the exception of AMT, which is organized as a Delaware statutory trust, and SASP, which is organized as a Delaware limited partnership. SIMC, a Delaware corporation, is registered as an investment adviser under the Investment Advisers Act of 1940, as amended (''Advisers Act''), and currently serves as investment adviser to each existing Applicant Fund (as defined below). SIDCo., a Pennsylvania corporation, is registered as a broker-dealer under the Securities Exchange Act of 1934 (the ''Exchange Act'') and serves as the distributor for the existing Applicant Funds.

2. Applicants request the exemption to the extent necessary to permit any existing or future series of the Trusts and any other existing or future registered open-end investment company or series thereof that (a) is advised by SIMC or any person controlling, controlled by or under common control with SIMC (any such adviser or SIMC, an ''Adviser'');[1] (b) invests in other registered open-end investment companies (''Underlying Funds'') in reliance on section 12(d)(1)(G) of the Act; and (c) is also eligible to invest in securities (as defined in section 2(a)(36) of the Act) in reliance on rule 12d1–2 under the Act (each an ''Applicant Fund''), to also invest, to the extent consistent with its investment objectives, policies, strategies and limitations, in financial instruments that may not be securities within the meaning of section 2(a)(36) of the Act (''Other Investments'').[2] Applicants also request that the order exempt any entity controlling, controlled by or under common control with SIDCo. that now or in the future acts as principal underwriter with respect to the transactions described in the application.

3. Consistent with its fiduciary obligations under the Act, each Applicant Fund's board of trustees or directors will review the advisory fees charged by the Applicant Fund's Adviser to ensure that they are based on services provided that are in addition to, rather than duplicative of, services provided pursuant to the advisory agreement of any investment company in which the Applicant Fund may invest.

Applicants' Legal Analysis

1. Section 12(d)(1)(A) of the Act provides that no registered investment company (''acquiring company'') may acquire securities of another investment company (''acquired company'') if such securities represent more than 3% of the acquired company's outstanding voting stock or more than 5% of the acquiring company's total assets, or if such securities, together with the securities of other investment companies, represent more than 10% of the acquiring company's total assets. Section 12(d)(1)(B) of the Act provides that no registered open-end investment company may sell its securities to another investment company if the sale will cause the acquiring company to own more than 3% of the acquired company's voting stock, or cause more than 10% of the acquired company's voting stock to be owned by investment companies and companies controlled by them.

2. Section 12(d)(1)(G) of the Act provides that section 12(d)(1) will not apply to securities of an acquired company purchased by an acquiring company if: (a) The acquired company and acquiring company are part of the same group of investment companies; (b) the acquiring company holds only securities of acquired companies that are part of the same group of investment companies, government securities, and short-term paper; (c) the aggregate sales loads and distribution-related fees of the acquiring company and the acquired company are not excessive under rules adopted pursuant to section 22(b) or section 22(c) of the Act by a securities association registered under section 15A of the Exchange Act or by the Commission; and (d) the acquired company has a policy that prohibits it from acquiring securities of registered open-end investment companies or registered unit investment trusts in reliance on section 12(d)(1)(F) or (G) of the Act.

3. Rule 12d1–2 under the Act permits a registered open-end investment company or a registered unit investment trust that relies on section 12(d)(1)(G) of the Act to acquire, in addition to securities issued by another registered investment company in the same group of investment companies, government securities, and short-term paper: (a) Securities issued by an investment company that is not in the same group of investment companies, when the acquisition is in reliance on section 12(d)(1)(A) or 12(d)(1)(F) of the Act; (b) securities (other than securities issued by an investment company); and (c) securities issued by a money market fund, when the acquisition is in reliance on rule 12d1–1 under the Act. For the purposes of rule 12d1–2, ''securities'' means any security as defined in section 2(a)(36) of the Act.

4. Section 6(c) of the Act provides that the Commission may exempt any person, security, or transaction from any provision of the Act, or from any rule under the Act, if such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

5. Applicants state that the Applicant Funds will comply with rule 12d1–2 under the Act, but for the fact that the Applicant Funds may invest a portion of their assets in Other Investments. Applicants request an order under section 6(c) of the Act for an exemption from rule 12d1–2(a) to allow the Applicant Funds to invest in Other Investments while investing in Underlying Funds. Applicants assert that permitting the Applicant Funds to invest in Other Investments as described in the application would not raise any of the concerns that the requirements of section 12(d)(1) were designed to address.

Applicants' Condition

Applicants agree that any order granting the requested relief will be subject to the following condition:

Applicants will comply with all provisions of rule 12d1–2 under the Act, except for paragraph (a)(2) to the extent

[1] Any other Adviser also will be registered under the Advisers Act.

[2] Every existing entity that currently intends to rely on the requested order is named as an applicant. Any existing or future entity that relies on the order in the future will do so only in accordance with the terms and conditions in the application.

that it restricts any Applicant Fund from investing in Other Investments as described in the application.

For the Commission, by the Division of Investment Management, under delegated authority.

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2011–30350 Filed 11–23–11; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Investment Company Act Release No. 29865; File No. 812–13621]

John Hancock Variable Insurance Trust, et al.; Notice of Application

November 18, 2011.

AGENCY: Securities and Exchange Commission (''Commission'').

ACTION: Notice of an application for an order pursuant to: (a) Section 6(c) of the Investment Company Act of 1940 (''Act'') granting an exemption from sections 18(f) and 21(b) of the Act; (b) section 12(d)(1)(J) of the Act granting an exemption from section 12(d)(1) of the Act; (c) sections 6(c) and 17(b) of the Act granting an exemption from sections 17(a)(1), 17(a)(2) and 17(a)(3) of the Act; and (d) section 17(d) of the Act and rule 17d–1 under the Act to permit certain joint arrangements and transactions.

SUMMARY: *Summary of the Application:* Applicants request an order that would permit certain registered open-end management investment companies to participate in a joint lending and borrowing facility.

APPLICANTS: John Hancock Variable Insurance Trust, John Hancock Funds II, John Hancock Funds III, John Hancock Bond Trust, John Hancock California Tax-Free Income Fund, John Hancock Capital Series, John Hancock Collateral Investment Trust, John Hancock Current Interest, John Hancock Investment Trust, John Hancock Investment Trust II, John Hancock Investment Trust III, John Hancock Municipal Securities Trust, John Hancock Series Trust, John Hancock Sovereign Bond Fund, John Hancock Strategic Series, John Hancock Tax-Exempt Series Fund (each a ''John Hancock Fund'' and collectively the ''John Hancock Funds''), John Hancock Advisers, LLC (''JHA''), Manulife Asset Management (US) LLC (''JHAM'') and John Hancock Investment Management Services, LLC (''JHIMS'') (each of JHA, JHAM and JHIMS, an ''Adviser,'' and such entities together, the ''Advisers'').

DATES: *Filing Dates:* The application was filed on December 31, 2008, and amended on July 8, 2009, November 15, 2010, November 4, 2011 and November 18, 2011. Applicants have agreed to file an amendment during the notice period, the substance of which is reflected in this notice.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the Commission orders a hearing. Interested persons may request a hearing by writing to the Commission's Secretary and serving applicants with a copy of the request, personally or by mail. Hearing requests should be received by the Commission by 5:30 p.m. on December 13, 2011, and should be accompanied by proof of service on applicants, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request notification by writing to the Commission's Secretary.

ADDRESSES: Secretary, U.S. Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549–1090; Applicants: c/o Stuart E. Fross, K&L Gates LLP, State Street Financial Center, One Lincoln Street, Boston, MA 02111; John J. Danello, John Hancock Financial Services, Inc., 601 Congress Street, Boston, MA 02210; Carolyn M. Flanagan, Manulife Asset Management (US), LLC, 101 Huntington Avenue, Boston, MA 02199.

FOR FURTHER INFORMATION CONTACT: Laura L. Solomon, Senior Counsel, at (202) 551–6915 or Janet M. Grossnickle, Assistant Director, at (202) 551–6821 (Division of Investment Management, Office of Investment Company Regulation).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained via the Commission's Web site by searching for the file number, or an applicant using the Company name box, at *http://www.sec.gov/search/search.htm* or by calling (202) 551–8090.

Applicants' Representations

1. Each John Hancock Fund is organized as a Massachusetts business trust and is registered under the Act as an open-end, management investment company. Some of the trusts have not created separate series of shares but most issue one or more series, each series of shares having a different investment objective and different investment policies and each such series is deemed to be a John Hancock Fund. Certain of the John Hancock Funds either are or may be money market funds that comply with rule 2a–7 of the Act (each a ''Money Market Hancock Fund'' and collectively, the ''Money Market Hancock Funds'' and they are included in the term ''John Hancock Funds''). JHA, JHAM and JHIMS are each a Delaware limited liability company that is registered as an investment adviser under the Investment Advisers Act of 1940 (''Advisers Act''), each are indirect subsidiaries of Manulife Financial Corporation and act as investment adviser to the John Hancock Funds.[1]

2. John Hancock Funds may lend cash to banks or other entities by entering into repurchase agreements, purchasing short-term instruments or under arrangements whereby custodian fees are reduced. In order to meet an unexpected volume of redemptions or to cover unanticipated cash shortfalls, John Hancock Funds contracted for committed lines of credit with State Street Bank and Trust Company and The Bank of New York Mellon Corporation (''Bank Borrowing''). The amount of borrowing under each of these lines of credit is limited to the amount specified by fundamental investment restrictions and/or other policies of the applicable John Hancock Fund and section 18 of the Act.

3. If John Hancock Funds that experience a cash shortfall were to draw down on their Bank Borrowing, they would pay interest at a rate that is likely to be higher (and currently actually is higher) than the rate that could be earned by non-borrowing John Hancock Funds on investments in repurchase agreements and other short-term money market instruments of the same maturity as the Bank Borrowing (''Short-Term Instruments''). Applicants assert the difference between the higher rate paid on Bank Borrowing and what the bank pays to borrow under repurchase agreements or other arrangements represents the bank's profit for serving as the middleperson between a borrower and lender and is not attributable to any material difference in the credit quality or risk of such transactions.

[1] Applicants request that the order also apply to any existing or future series of the John Hancock Funds, to any other registered open-end management investment company or its series for which JHA, JHAM or JHIMS or a person controlling, controlled by, or under common control (within the meaning of section 2(a)(9) of the Act) with JHA, JHAM, or JHIMS serves as investment adviser (''Adviser''). All John Hancock Funds that currently intend to rely on the requested order have been named as applicants. Any other John Hancock Fund that relies on the requested order in the future will comply with the terms and conditions of the application.

4. The John Hancock Funds seek to enter into master interfund lending agreements (''Credit Facility'') with each other that would permit each John Hancock Fund to lend money directly to and borrow money directly from other John Hancock Funds for temporary purposes through the Credit Facility (an ''Interfund Loan''). The Money Market Hancock Funds typically will not participate as borrowers in the Credit Facility. Applicants state that the Credit Facility would enable the John Hancock Funds to access an available source of money and reduce costs incurred by the John Hancock Funds that need to obtain loans for temporary purposes and permit those John Hancock Funds that have cash available: (i) To earn a return on the money that they might not otherwise be able to invest; or (ii) to earn a higher rate of interest on investment of their short-term balances. Although the proposed Credit Facility would reduce the John Hancock Funds' need to borrow from banks, the John Hancock Funds would be free to establish and/or continue committed lines of credit or other borrowing arrangements with banks.

5. Applicants anticipate that the proposed Credit Facility would provide a borrowing John Hancock Fund with significant savings at times when the cash position of the John Hancock Fund is insufficient to meet temporary cash requirements. This situation could arise when shareholder redemptions exceed anticipated cash volumes and certain John Hancock Funds have insufficient cash on hand to satisfy such redemptions. When the John Hancock Funds liquidate portfolio securities to meet redemption requests, they often do not receive payment in settlement for up to three days (or longer for certain foreign transactions). However, redemption requests normally are effected immediately. The proposed credit facility would provide a source of immediate, short-term liquidity pending settlement of the sale of portfolio securities.

6. Applicants also anticipate that a John Hancock Fund could use the Credit Facility when a sale of securities ''fails'' due to circumstances beyond the John Hancock Fund's control, such as a delay in the delivery of cash to the John Hancock Fund's custodian or improper delivery instructions by the broker effecting the transaction. ''Sales fails'' may present a cash shortfall if the John Hancock Fund has undertaken to purchase a security using the proceeds from securities sold. Alternatively, the John Hancock Fund could ''fail'' on its intended purchase due to lack of funds from the previous sale, resulting in additional cost to the John Hancock Fund, or sell a security on a same-day settlement basis, earning a lower return on the investment. Use of the Credit Facility under these circumstances would enable the John Hancock Fund to have access to immediate short-term liquidity.

7. While Bank Borrowing generally could supply John Hancock Funds with needed cash to cover unanticipated redemptions and sales fails, under the proposed Credit Facility, a borrowing John Hancock Fund would pay lower interest rates than those that would be payable under short-term loans offered by banks. In addition, John Hancock Funds making short-term cash loans directly to other John Hancock Funds would earn interest at a rate higher than they otherwise could obtain from investing their cash in Short-Term Instruments. Thus, applicants assert that the proposed Credit Facility would benefit both borrowing and lending John Hancock Funds.

8. The interest rate to be charged to the John Hancock Funds on any Interfund Loan (the ''Interfund Loan Rate'') would be the average of the ''Repo Rate'' and the ''Bank Loan Rate,'' both as defined below. The Repo Rate would be the highest current overnight repurchase agreement rate available to a lending John Hancock Fund. The Bank Loan Rate for any day would be calculated by the Credit Facility Team, as defined below, on each day an Interfund Loan is made according to a formula established by each John Hancock Fund's board of trustees (the ''Board'') intended to approximate the lowest interest rate at which a bank short-term loan would be available to the John Hancock Fund. The formula would be based upon a publicly available rate (*e.g.,* federal funds rate plus 25 basis points) and would vary with this rate so as to reflect changing bank loan rates. The initial formula and any subsequent modifications to the formula would be subject to the approval of each John Hancock Fund's Board. In addition, the Board of each John Hancock Fund would periodically review the continuing appropriateness of reliance on the formula used to determine the Bank Loan Rate, as well as the relationship between the Bank Loan Rate and current bank loan rates that would be available to the John Hancock Fund.

9. Certain members of the Adviser's fund administration personnel and money market portfolio managers or analysts (the ''Credit Facility Team'') would administer the Credit Facility. No portfolio manager (other than a Money Market Hancock Fund portfolio manager) of any John Hancock Fund will serve as a member of the Credit Facility Team. Under the proposed Credit Facility, the portfolio managers for each participating John Hancock Fund could provide standing instructions to participate daily as a borrower or lender. The Credit Facility Team on each business day would collect data on the uninvested cash and borrowing requirements of all participating John Hancock Funds. Once the Credit Facility Team has determined the aggregate amount of cash available for loans and borrowing demand, the Credit Facility Team would allocate loans among borrowing John Hancock Funds without any further communication from the portfolio managers of the John Hancock Funds. Applicants anticipate that there typically will be far more available uninvested cash each day than borrowing demand. Therefore, after the Credit Facility Team has allocated cash for Interfund Loans, the Credit Facility Team will invest any remaining cash in accordance with the standing instructions of the portfolio managers or such remaining amounts will be invested directly by the portfolio managers of the John Hancock Funds.

10. The Credit Facility Team would allocate borrowing demand and cash available for lending among the John Hancock Funds on what the Credit Facility Team believes to be an equitable basis, subject to certain administrative procedures applicable to all John Hancock Funds, such as the time of filing requests to participate, minimum loan lot sizes, and the need to minimize the number of transactions and associated administrative costs. To reduce transaction costs, each Interfund Loan normally would be allocated in a manner intended to minimize the number of participants necessary to complete the loan transaction. The method of allocation and related administrative procedures would be approved by the Boards of the John Hancock Funds, including a majority of the Board members who are not ''interested persons'' of the John Hancock Fund, as that term is defined in section 2(a)(19) of the Act (''Independent Board Members''), to ensure that both borrowing and lending John Hancock Funds participate on an equitable basis.

11. The Adviser would: (a) Monitor the Interfund Loan Rate and the other terms and conditions of the Interfund Loans; (b) limit the borrowings and loans entered into by each John Hancock Fund to ensure that they comply with the John Hancock Fund's investment policies and limitations; (c)

ensure equitable treatment of each John Hancock Fund; and (d) make quarterly reports to the Board of each John Hancock Fund concerning any transactions by the applicable John Hancock Fund under the Credit Facility and the Interfund Loan Rate.

12. The Advisers, through the Credit Facility Team, would administer the Credit Facility as a disinterested fiduciary as part of its duties under the investment management and administrative agreements with each John Hancock Fund and would receive no additional fee as compensation for its services in connection with the administration of the Credit Facility.

13. No John Hancock Fund may participate in the Credit Facility unless: (a) the John Hancock Fund has obtained shareholder approval for its participation, if such approval is required by law; (b) the John Hancock Fund has fully disclosed all material information concerning the Credit Facility in its registration statement on form N–1A; and (c) the John Hancock Fund's participation in the Credit Facility is consistent with its investment objectives, limitations and organizational documents.

14. In connection with the Credit Facility, applicants request an order under section 6(c) of the Act exempting them from the provisions of sections 18(f) and 21(b) of the Act; under section 12(d)(1)(J) of the Act exempting them from section 12(d)(1) of the Act; under sections 6(c) and 17(b) of the Act exempting them from sections 17(a)(1), 17(a)(2), and 17(a)(3) of the Act; and under section 17(d) of the Act and rule 17d–1 under the Act to permit certain joint arrangements and transactions.

Applicants' Legal Analysis

1. Section 17(a)(3) of the Act generally prohibits any affiliated person of a registered investment company, or affiliated person of an affiliated person, from borrowing money or other property from the registered investment company. Section 21(b) of the Act generally prohibits any registered management company from lending money or other property to any person, directly or indirectly, if that person controls or is under common control with that company. Section 2(a)(3)(C) of the Act defines an ''affiliated person'' of another person, in part, to be any person directly or indirectly controlling, controlled by, or under common control with, such other person. Section 2(a)(9) of the Act defines ''control'' as the ''power to exercise a controlling influence over the management or policies of a company,'' but excludes circumstances in which ''such power is solely the result of an official position with such company.'' Applicants state that the John Hancock Funds may be under common control by virtue of having common investment advisers and/or by having common directors, trustees and officers.

2. Section 6(c) of the Act provides that an exemptive order may be granted where an exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act. Section 17(b) of the Act authorizes the Commission to exempt a proposed transaction from section 17(a) provided that the terms of the transaction, including the consideration to be paid or received, are fair and reasonable and do not involve overreaching on the part of any person concerned, and the transaction is consistent with the policy of the investment company as recited in its registration statement and with the general purposes of the Act. Applicants believe that the proposed arrangements satisfy these standards for the reasons discussed below.

3. Applicants assert that sections 17(a)(3) and 21(b) of the Act were intended to prevent a party with strong potential adverse interests to, and some influence over the investment decisions of, a registered investment company from causing or inducing the investment company to engage in lending transactions that unfairly inure to the benefit of such party and that are detrimental to the best interests of the investment company and its shareholders. Applicants assert that the proposed transactions do not raise these concerns because: (a) The Advisers, through the Credit Facility Team members, would administer the Credit Facility as a disinterested fiduciary as part of its duties under the investment management and administrative agreements with each John Hancock Fund; (b) all Interfund Loans would consist only of uninvested cash reserves that the John Hancock Fund otherwise would invest in short-term repurchase agreements or other short-term investments; (c) the Interfund Loans would not involve a significantly greater risk than such other investments; (d) the lending John Hancock Fund would receive interest at a rate higher than it could otherwise obtain through such other investments; and (e) the borrowing John Hancock Fund would pay interest at a rate lower than otherwise available to it under its bank loan agreements and avoid the quarterly commitment fees associated with committed lines of credit. Moreover, applicants assert that the other terms and conditions that applicants propose also would effectively preclude the possibility of any John Hancock Fund obtaining an undue advantage over any other John Hancock Fund.

4. Section 17(a)(1) of the Act generally prohibits an affiliated person of a registered investment company, or any affiliated person of such a person, from selling securities or other property to the investment company. Section 17(a)(2) of the Act generally prohibits an affiliated person of a registered investment company, or any affiliated person of such a person, from purchasing securities or other property from the investment company. Section 12(d)(1) of the Act generally prohibits a registered investment company from purchasing or otherwise acquiring any security issued by any other investment company except in accordance with the limitations set forth in that section.

5. Applicants state that the obligation of a borrowing John Hancock Fund to repay an Interfund Loan could be deemed to constitute a security for the purposes of sections 17(a)(1) and 12(d)(1). Applicants also state that any pledge of securities to secure an Interfund Loan by the borrowing John Hancock Fund to the lending John Hancock Fund could constitute a purchase of securities for purposes of section 17(a)(2) of the Act. Section 12(d)(1)(J) of the Act provides that the Commission may exempt persons or transactions from any provision of section 12(d)(1) if and to the extent that such exemption is consistent with the public interest and the protection of investors. Applicants contend that the standards under sections 6(c), 17(b), and 12(d)(1)(J) are satisfied for all the reasons set forth above in support of their request for relief from sections 17(a)(3) and 21(b) and for the reasons discussed below. Applicants state that the requested relief from section 17(a)(2) of the Act meets the standards of section 6(c) and 17(b) because any collateral pledged to secure an Interfund Loan would be subject to the same conditions imposed by any other lender to a John Hancock Fund that imposes conditions on the quality of or access to collateral for a borrowing (if the lender is another John Hancock Fund) or the same or better conditions (in any other circumstance).

6. Applicants state that section 12(d)(1) was intended to prevent the pyramiding of investment companies in order to avoid imposing on investors additional and duplicative costs and fees attendant upon multiple layers of investment companies. Applicants submit that the proposed Credit Facility

does not involve these abuses. Applicants note that there will be no duplicative costs or fees to the John Hancock Funds or their shareholders, and that each Adviser will receive no additional compensation for its services in administering the Credit Facility. Applicants also note that the purpose of the proposed Credit Facility is to provide economic benefits for all the participating John Hancock Funds and their shareholders.

7. Section 18(f)(1) of the Act prohibits open-end investment companies from issuing any senior security except that a company is permitted to borrow from any bank, provided, that immediately after the borrowing, there is asset coverage of at least 300 per centum for all borrowings of the company. Under section 18(g) of the Act, the term ''senior security'' generally includes any bond, debenture, note or similar obligation or instrument constituting a security and evidencing indebtedness. Applicants request exemptive relief under section 6(c) from section 18(f)(1) to the limited extent necessary to implement the Credit Facility (because the lending John Hancock Funds are not banks).

8. Applicants believe that granting relief under section 6(c) is appropriate because the Funds would remain subject to the requirement of section 18(f)(1) that all borrowings of a John Hancock Fund, including combined Interfund Loans and bank borrowings, have at least 300% asset coverage. Based on the conditions and safeguards described in the application, applicants also submit that to allow the John Hancock Funds to borrow from other John Hancock Funds pursuant to the proposed Credit Facility is consistent with the purposes and policies of section 18(f)(1).

9. Section 17(d) of the Act and rule 17d–1 under the Act generally prohibit an affiliated person of a registered investment company, or any affiliated person of such a person, when acting as principal, from effecting any joint transaction in which the investment company participates, unless, upon application, the transaction has been approved by the Commission. Rule 17d–1(b) under the Act provides that in passing upon an application filed under the rule, the Commission will consider whether the participation of the registered investment company in a joint enterprise on the basis proposed is consistent with the provisions, policies and purposes of the Act and the extent to which such participation is on a basis different from or less advantageous than that of the other participants.

10. Applicants assert that the purpose of section 17(d) is to avoid overreaching by and unfair advantage to insiders. Applicants assert that the Credit Facility is consistent with the provisions, policies and purposes of the Act in that it offers both reduced borrowing costs and enhanced returns on loaned funds to all participating John Hancock Funds and their shareholders. Applicants note that each John Hancock Fund would have an equal opportunity to borrow and lend on equal terms consistent with its investment policies and fundamental investment limitations. Applicants assert that each John Hancock Fund's participation in the proposed Credit Facility would be on terms that are no different from or less advantageous than that of other participating John Hancock Funds.

Applicants' Conditions

Applicants agree that any order granting the requested relief will be subject to the following conditions:

1. The Interfund Loan Rate will be the average of the Repo Rate and the Bank Loan Rate.

2. On each business day, when an interfund loan is to be made, the Credit Facility Team will compare the Bank Loan Rate with the Repo Rate and will make cash available for Interfund Loans only if the Interfund Loan Rate is: (a) More favorable to the lending John Hancock Fund than the Repo Rate; and (b) more favorable to the borrowing John Hancock Fund than the Bank Loan Rate.

3. If a John Hancock Fund has outstanding bank borrowings, any Interfund Loan to the John Hancock Fund will: (a) Be at an interest rate equal to or lower than the interest rate of any outstanding bank loan; (b) be secured at least on an equal priority basis with at least an equivalent percentage of collateral to loan value as any outstanding bank loan that requires collateral; (c) have a maturity no longer than any outstanding bank loan (and in any event not over seven days); and (d) provide that, if an event of default occurs under any agreement evidencing an outstanding bank loan to the John Hancock Fund, that the event of default by the John Hancock Fund, automatically (without need for action or notice by the lending John Hancock Fund) will constitute an immediate event of default under the interfund lending agreement that both (i) entitles the lending John Hancock Fund to call the Interfund Loan immediately and exercise all rights with respect to any collateral and (ii) causes the call to be made if the lending bank exercises its right to call its loan under its agreement with the borrowing John Hancock Fund.

4. A John Hancock Fund may borrow on an unsecured basis through the Credit Facility only if the relevant borrowing fund's outstanding borrowings from all sources immediately after the interfund borrowing total 10% or less of its total assets, provided that if the borrowing fund has a secured loan outstanding from any other lender, including but not limited to another John Hancock Fund, the lending John Hancock Fund's Interfund Loan will be secured on at least an equal priority basis with at least an equivalent percentage of collateral to loan value as any outstanding loan that requires collateral. If a borrowing John Hancock Fund's total outstanding borrowings immediately after an Interfund Loan would be greater than 10% of its total assets, the John Hancock Fund may borrow through the Credit Facility only on a secured basis. A John Hancock Fund may not borrow through the Credit Facility or from any other source if its total outstanding borrowings immediately after the borrowing would be more than 33 ⅓% of its total assets.

5. Before any John Hancock Fund that has outstanding interfund borrowings may, through additional borrowings, cause its outstanding borrowings from all sources to exceed 10% of its total assets, it must first secure each outstanding Interfund Loan to a John Hancock Fund by the pledge of segregated collateral with a market value at least equal to 102% of the outstanding principal value of the loan. If the total outstanding borrowings of a John Hancock Fund with outstanding Interfund Loans exceed 10% of its total assets for any other reason (such as a decline in net asset value or because of shareholder redemptions), the John Hancock Fund will within one business day thereafter either: (a) Repay all its outstanding Interfund Loans to John Hancock Funds; (b) reduce its outstanding indebtedness to John Hancock Funds to 10% or less of its total assets; or (c) secure each outstanding Interfund Loan to John Hancock Funds by the pledge of segregated collateral with a market value at least equal to 102% of the outstanding principal value of the loan until the John Hancock Fund's total outstanding borrowings cease to exceed 10% of its total assets, at which time the collateral called for by this condition 5 shall no longer be required. Until each Interfund Loan that is outstanding at any time that a John Hancock Fund's total outstanding borrowings exceed 10% of its total assets is repaid or the John Hancock Fund's total outstanding borrowings cease to exceed 10% of its total assets, the John Hancock Fund will

mark the value of the collateral to market each day and will pledge such additional collateral as is necessary to maintain the market value of the collateral that secures each outstanding Interfund Loan to John Hancock Funds at least equal to 102% of the outstanding principal value of the Interfund Loans.

6. No John Hancock Fund may lend to another John Hancock Fund through the Credit Facility if the loan would cause the lending John Hancock Fund's aggregate outstanding loans through the Credit Facility to exceed 15% of its current net assets at the time of the loan.

7. A John Hancock Fund's Interfund Loans to any one John Hancock Fund shall not exceed 5% of the lending John Hancock Fund's net assets.

8. The duration of Interfund Loans will be limited to the time required to receive payment for securities sold, but in no event more than seven days. Loans effected within seven days of each other will be treated as separate loan transactions for purposes of this condition.

9. A John Hancock Fund's borrowings through the Credit Facility, as measured on the day when the most recent loan was made, will not exceed the greater of 125% of the John Hancock Fund's total net cash redemptions for the preceding seven calendar days or 102% of the John Hancock Fund's sales fails for the preceding seven calendar days.

10. Each Interfund Loan may be called on one business day's notice by a lending John Hancock Fund and may be repaid on any day by a borrowing John Hancock Fund.

11. A John Hancock Fund's participation in the Credit Facility must be consistent with its investment policies, limitations and organizational documents.

12. The Credit Facility Team will calculate total John Hancock Fund borrowing and lending demand through the Credit Facility, and allocate Interfund Loans on an equitable basis among the John Hancock Funds, without the intervention of any portfolio manager of the John Hancock Funds (other than a money market portfolio manager or managers acting in his or her or their capacity as a member of the Credit Facility Team). All allocations will require the approval of at least one member of the Credit Facility Team who is a high level employee and is not a money market portfolio manager. The Credit Facility Team will not solicit cash for the Credit Facility from any John Hancock Fund or prospectively publish or disseminate loan demand data to portfolio managers (except to the extent that a money market portfolio manager or managers on the Credit Facility Team has or have access to loan demand data). The Credit Facility Team will invest all amounts remaining after satisfaction of borrowing demand in accordance with the standing instructions of the portfolio managers or such remaining amounts will be invested directly by the portfolio managers of the John Hancock Funds.

13. The Credit Facility Team will monitor the Interfund Loan Rate and the other terms and conditions of the Interfund Loans and will make a quarterly report to the Boards of the John Hancock Funds concerning the participation of the John Hancock Funds in the Credit Facility and the terms and other conditions of any extensions of credit under the Credit Facility.

14. The Board of each John Hancock Fund, including a majority of the Independent Board Members, will:

(a) Review, no less frequently than quarterly, each of the John Hancock Fund's participation in the Credit Facility during the preceding quarter for compliance with the conditions of any order permitting such participation;

(b) establish the Bank Loan Rate formula used to determine the interest rate on Interfund Loans;

(c) review, no less frequently than annually, the continuing appropriateness of the Bank Loan Rate formula; and

(d) review, no less frequently than annually, the continuing appropriateness of each John Hancock Fund's participation in the Credit Facility.

15. Each John Hancock Fund will maintain and preserve for a period of not less than six years from the end of the fiscal year in which any transaction by it under the Credit Facility occurred, the first two years in an easily accessible place, written records of all such transactions setting forth a description of the terms of the transaction, including the amount, the maturity and the Interfund Loan Rate, the rate of interest available at the time each Interfund Loan is made on overnight repurchase agreements and Bank Borrowing, and such other information presented to the Boards of the John Hancock Funds in connection with the review required by conditions 13 and 14.

16. In the event an Interfund Loan is not paid according to its terms and the default is not cured within two business days from its maturity or from the time the lending John Hancock Fund makes a demand for payment under the provisions of the interfund lending agreement, the Adviser promptly will refer the loan for arbitration to an independent arbitrator selected by the Board of any John Hancock Fund involved in the loan who will serve as arbitrator of disputes concerning Interfund Loans.[2] The arbitrator will resolve any problem promptly, and the arbitrator's decision will be binding on both John Hancock Funds. The arbitrator will submit, at least annually, a written report to the Board of each John Hancock Fund setting forth a description of the nature of any dispute and the actions taken by the John Hancock Funds to resolve the dispute.

17. The Advisers will prepare and submit to the Board for review an initial report describing the operations of the Credit Facility and the procedures to be implemented to ensure that all John Hancock Funds are treated fairly. After the commencement of the Credit Facility, the Advisers will report on the operations of the Credit Facility at the Board's quarterly meetings. Each John Hancock Fund's chief compliance officer, as defined in rule 38a–1(a)(4) under the Act, shall prepare an annual report for its Board each year that the John Hancock Fund participates in the Credit Facility, that evaluates the John Hancock Fund's compliance with the terms and conditions of the application and the procedures established to achieve such compliance. Each John Hancock Fund's chief compliance officer will also annually file a certification pursuant to Item 77Q3 of Form N–SAR as such Form may be revised, amended or superseded from time to time, for each year that the John Hancock Fund participates in the Credit Facility, that certifies that the John Hancock Fund and the Advisers have established procedures reasonably designed to achieve compliance with the terms and conditions of the order. In particular, such certification will address procedures designed to achieve the following objectives:

(a) That the Interfund Loan Rate will be higher than the Repo Rate but lower than the Bank Loan Rate;

(b) Compliance with the collateral requirements as set forth in the application;

(c) Compliance with the percentage limitations on interfund borrowing and lending;

(d) Allocation of interfund borrowing and lending demand in an equitable manner and in accordance with procedures established by the Board; and

[2] If the dispute involves John Hancock Funds that do not have common Boards, the Board of each affected John Hancock Fund will select an independent arbitrator that is satisfactory to each John Hancock Fund.

(e) That the Interfund Loan Rate does not exceed the interest rate on any third party borrowings of a borrowing John Hancock Fund at the time of the Interfund Loan.

Additionally, each John Hancock Fund's independent public accountants, in connection with their audit examination of the John Hancock Fund, will review the operation of the Credit Facility for compliance with the conditions of the application and their review will form the basis, in part, of the auditor's report on internal accounting controls in Form N–SAR.

18. No John Hancock Fund will participate in the Credit Facility, upon receipt of requisite regulatory approval, unless it has fully disclosed in its registration statement on Form N–1A (or any successor form adopted by the Commission) all material facts about its intended participation.

For the Commission, by the Division of Investment Management, under delegated authority.

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2011–30349 Filed 11–23–11; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–65791; File No. SR–FINRA–2011–053]

Self-Regulatory Organizations; Financial Industry Regulatory Authority, Inc.; Order Granting Approval of Proposed Rule Change to Amend Certain TRACE Rules

November 18, 2011.

I. Introduction

On September 22, 2011, the Financial Industry Regulatory Authority, Inc. (''FINRA'') filed with the Securities and Exchange Commission (''SEC'' or ''Commission''), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the ''Act'') [1] and Rule 19b–4 thereunder,[2] a proposed rule change to consolidate all TRACE-Eligible Securities transaction processing and data management on a single technology platform, the Multi Product Platform (''MPP''), and make various changes to the rules governing how TRACE-Eligible Securities other than Asset-Backed Securities are required to be reported. The proposed rule change was published for comment in the **Federal Register** on October 6, 2011.[3] The Commission received two comments in response to the proposal.[4] On November 10, 2011, FINRA responded to the comments.[5] This order grants approval of the proposed rule change.

II. Description of the Proposal

Currently, transactions only in TRACE-Eligible Securities that are Asset-Backed Securities are processed on the MPP.[6] The proposed rule change would make certain amendments to the reporting requirements of Rule 6730 that would permit FINRA to migrate all other TRACE-Eligible Securities to the MPP. These new requirements are substantially similar to those that currently apply to transactions in Asset-Backed Securities and are described below.

TRACE-Eligible Securities Transactions Executed on a Non-Business Day

Currently, as set forth in Rules 6730(a)(1)(D) and 6730(a)(2)(B), transactions in TRACE-Eligible Securities, except Asset-Backed Securities, that are executed on a weekend, holiday, or other day when the TRACE system is not open must be reported the next business day (T + 1), designated ''as/of,'' and are subject to two unique requirements. First, the date of execution (''Trade Date'') reported to TRACE is not the actual date the trade was executed; instead, a member must report as the Trade Date the day (*i.e.,* T + 1) that the report must be timely submitted. Second, the execution time reported must be ''12:01 a.m. Eastern Time'' (''00:01:00''), instead of the actual Time of Execution.[7] As described in the Notice, the two requirements were established at the inception of TRACE because, at that time, the TRACE system did not recognize any day on which the TRACE system is closed as a valid Trade Date, and the two current required elements allow FINRA to distinguish transactions in TRACE-Eligible Securities executed on non-business days from all other reported transactions.

FINRA has enhanced the TRACE system to recognize, for all types of TRACE-Eligible Securities, any calendar date as a valid Trade Date. Accordingly, the proposed rule change would amend Rules 6730(a)(1)(D) and 6730(a)(2)(B) to delete in both provisions the two data elements described above, and instead require members to report transactions executed on non-business days in the same manner that transactions executed after or before TRACE System Hours on business days are reported currently.[8] The proposal also would combine and renumber certain rules and incorporate minor technical changes.

Size (Volume), Commission, and Settlement Terms

In addition, the proposed rule change would amend the technical requirements for reporting the size (volume) of a transaction, the commission (if any), and the settlement of transactions in TRACE-Eligible Securities, other than Asset-Backed Securities.

Currently, FINRA requires members to report the size (volume) of a transaction in a TRACE-Eligible Security, other than an Asset-Backed Security, by reporting the number of bonds transacted.[9] For example, a sale of corporate bonds having a par or principal value of $10,000 is reported as a sale of ten bonds. The proposal would amend Rules 6730(c)(2) and 6730(d)(2) to require a member to report the size of such transactions using the total par value or principal value traded, rather than the number of bonds.[10]

The proposed rule change would make similar change to the reporting of commissions. Under current Rules 6730(c)(11) and 6730(d)(1), in cases where a commission is charged in a transaction in a TRACE-Eligible Security, the commission must be reported ''stated in points per bond (*e.g.,* for corporate bonds, 1 point equals $10.00 per bond).'' [11] As amended by the proposal, Rules 6730(c)(11) and 6730(d)(1) would require members to report the total dollar amount of the

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Securities Exchange Act Release No. 65459 (September 30, 2011), 76 FR 62128 (''Notice'').

[4] *See* letter from Suzanne H. Shatto, dated October 20, 2011 (''Shatto Letter''); letter from Christopher Killian, Vice President, Securities Industry and Financial Markets Association (''SIFMA''), to Elizabeth M. Murphy, Secretary, Commission, dated October 27, 2011 (''SIFMA Letter'').

[5] *See* letter from Sharon Zackula, Associate Vice President and Associate General Counsel, FINRA, to Elizabeth M. Murphy, Secretary, Commission, dated November 10, 2011 (''FINRA Letter'').

[6] ''TRACE-Eligible Security'' and ''Asset-Backed Security'' are defined in, respectively, Rule 6710(a) and Rule 6710(m).

[7] ''Time of Execution'' is defined in Rule 6710(d). Also, when the reporting method used includes a ''special price memo'' field, the member must enter the actual date of execution and Time of Execution in such field.

[8] ''TRACE System Hours'' is defined in Rule 6710(t).

[9] *See* Rules 6730(c)(2) and 6730(d)(2).

[10] Previously, FINRA adopted similar provisions for reporting the size (volume) of transactions in Asset-Backed Securities that do not amortize. *See* Securities Exchange Act Release No. 61566 (February 22, 2010), 75 FR 9262 (March 1, 2010) (order approving File No. SR–FINRA–2009–065).

[11] Rule 6730(d)(1).

commission, rather than the points per bond.[12]

The proposed rule change also would simplify the requirements for reporting the settlement of a transaction in a TRACE-Eligible Security. Currently, as provided in Rule 6730(d)(4)(B)(i), if a transaction, other than a transaction in an Asset-Backed Security, will not settle on
T + 3, a member must report the settlement using one of three modifiers.[13] To streamline the requirements regarding settlement, new Rule 6730(c)(12) would require a member simply to report the date of settlement.[14] In addition, the proposal would delete Rule 6730(d)(4)(B), which sets forth the three settlement modifiers that will no longer be used in TRACE reporting, delete certain obsolete references, and renumber certain related rules.

Finally, the proposed rule change would make minor technical amendments to Rule 6730(a) through (d).

In the Notice, FINRA stated that it would announce the effective date of the proposed rule change in a *Regulatory Notice* to be published no later than 60 days following Commission approval, and that the effective date would be no later than 180 days following publication of that *Regulatory Notice*. In its response to comments, FINRA stated that it had several communications with its members about the migration to the MPP.[15] In connection with these communications, FINRA noted that, although subject to Commission approval of the proposed rule change, FINRA anticipates that the MPP migration would occur on February 6, 2012.[16]

[12] Previously, FINRA adopted similar provisions for reporting a commission in a transaction in an Asset-Backed Security. *See* Securities Exchange Act Release No. 61566 (February 22, 2010), 75 FR 9262 (March 1, 2010) (order approving File No. SR–FINRA–2009–065).

[13] Current Rule 6730(c)(12) will be renumbered as Rule 6730(c)(13). If a trade will not settle on T + 3, the three modifiers that are used to indicate the day the transaction will be settled are ''.c'' (date of execution), ''.nd'' (T + 1), or ''.sNN'' (settlement on a date other than the date of execution, T + 1 or T + 3).

[14] Previously, FINRA adopted a similar requirement in connection with transactions in Asset-Backed Securities. *See* Securities Exchange Act Release No. 61566 (February 22, 2010), 75 FR 9262 (March 1, 2010) (order approving File No. SR–FINRA–2009–065); Securities Exchange Act Release No. 64364 (April 28, 2011), 76 FR 25385 (May 4, 2011) (order approving File No. SR–FINRA–2011–012).

[15] *See* FINRA Letter at note 3.

[16] *See id.*

III. Summary of Comments and FINRA's Response

The Commission received two comments on the proposed rule change.[17]

One commenter was generally supportive of the proposed rule change, but raised concerns that FINRA's anticipated implementation date of February 6, 2012 would not provide firms adequate time to develop new systems and processes.[18] According to the commenter, many firms have internal information technology policies that include a year-end ''code freeze,'' which would make it difficult to engage in development or testing for some portion of December 2011 and/or January 2012.[19] The commenter requested that the MPP migration and the proposed rule changes be implemented not earlier than the end of the first quarter of 2012.[20]

In response, FINRA stated that it believed the February 6, 2012 implementation date for the proposed rule change and the MPP migration ''provides firms sufficient time to take the steps necessary to make system and procedural changes, test and successfully convert to MPP for reporting corporate bonds and Agency Debt Securities to TRACE.'' [21] In support of its assertion, FINRA noted that MPP is already part of some firms' interface with TRACE with regard to Asset-Backed Securities reporting.[22] Further, FINRA stated that it has provided and will continue to provide the technical specifications that members need to prepare for MPP migration and the implementation of the proposed rule change.[23]

FINRA also stated that it will continue to give guidance and assistance to members to prepare for the MPP migration and ''will continue to work with members to provide sufficient opportunities to test systems'' before implementation.[24] Finally, in arguing that the migration of corporate bonds and Agency Debt Securities to MPP should not be delayed, FINRA highlighted the ''significant benefits that MPP offers regarding the processing of transactions and the management of important TRACE data.'' [25] FINRA responded to the commenter's request that FINRA permit the legacy TRACE system to run in parallel with the FIX protocols and revised CTCI protocols (used in connection with MPP) by explaining that FINRA is not able to support these two reporting formats simultaneously, but that if a firm has a system-related issue during the MPP migration, the firm should contact the appropriate department in FINRA.[26]

FINRA also clarified, in response the commenter's request for guidance regarding the reporting of certain bonds with sinking funds, that ''FINRA is engaged in an ongoing review of issues raised by the MPP migration, and will address this and other specific trade reporting questions prior to the MPP migration in its usual and periodic communications with members.'' [27]

Another commenter raised issues not germane to the proposed rule change and to which FINRA did not respond.[28]

IV. Discussion

After carefully considering the proposal, the comments submitted, and FINRA's response to those comments, the Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities association.[29] In particular, the Commission finds that the proposed rule change is consistent with Section 15A(b)(6) of the Act,[30] which requires, among other things, that FINRA rules be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, and, in general, to protect investors and the public interest.

Transactions in TRACE-Eligible Securities that are Asset-Backed Securities already are processed on the MPP. FINRA now proposes to migrate all other TRACE-Eligible Securities to the MPP and consolidate the reporting of TRACE-Eligible Securities on a single technology platform using common reporting formats. The Commission believes that this change will support more timely and accurate reporting of all transactions in TRACE-Eligible Securities and enhance FINRA's ability to surveil the debt markets for the protection of investors and in furtherance of the public interest. The

[17] *See supra* note 4.

[18] *See* SIFMA Letter.

[19] *See id.* at 1–2.

[20] *See id.* at 2. The commenter also made minor comments inquiring about: (1) whether both current and future reporting systems protocols could be used simultaneously during the transition; and (2) how certain transactions involving ''sinking bonds'' should be reported. *See id.* at 2–3.

[21] *See* FINRA Letter at 3.

[22] *See id.*

[23] *See id.*

[24] *Id.* at 4.

[25] *Id.*

[26] *See id.* at 5.

[27] *See id.*

[28] *See* Shatto Letter.

[29] In approving this proposal, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

[30] 15 U.S.C. 78o–3(b)(6).

Commission notes that the proposed changes being approved today are substantially similar to requirements that already apply to transactions in Asset-Backed Securities that previously have been approved by the Commission.[31] The Commission believes, therefore, that it is reasonable and consistent with the Act for FINRA to modify the TRACE reporting rules to facilitate MPP migration for corporate bond and Agency Debt Securities in the manner set forth in the proposal.

The Commission does not believe that the commenters raise any issue that would preclude approval of the proposal. The Commission acknowledges the potential for firms covered by these new reporting requirements to incur certain compliance burdens and notes one commenter's objection to FINRA's suggested implementation date of February 6, 2012. The Commission notes that FINRA has indicated a willingness to continue to provide guidance and assistance to market participants throughout the implementation process, including providing ample testing opportunities.

V. Conclusion

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,[32] that the proposed rule change (SR–FINRA–2011–053) be, and hereby is, approved.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[33]

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2011–30284 Filed 11–23–11; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–65793; File No. SR–NYSEAmex–2011–87]

Self-Regulatory Organizations; NYSE Amex LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Correcting an Error by Renumbering the Subsections of Section 101 of the Company Guide

November 18, 2011.

Pursuant to Section 19(b)(1)[1] of the Securities Exchange Act of 1934 (''Act'')[2] and Rule 19b–4 thereunder,[3] notice is hereby given that on November 16, 2011, NYSE Amex LLC (the ''Exchange'' or ''NYSEAmex'') filed with the Securities and Exchange Commission (the ''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of the Substance of the Proposed Rule Change

The Exchange proposes to correct [sic] error by renumbering the closed-end fund listing standard as Section 101(g). 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 self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of those statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant parts of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

NYSE Amex recently amended Section 101 of Company Guide to adopt listing requirements applicable to reverse merger companies.[4] In doing so, the Exchange designated that new rule as Section 101(e) of the Company Guide, notwithstanding the fact that this rule number was already in use for the Exchange's listing standard for closed-end funds. The Exchange proposes to correct this error by renumbering the closed-end fund listing standard as Section 101(g). The Exchange also proposes to update a cross-reference to the closed-end fund standard in Section 102(a) so that it would refer to Section 101(g). Finally, there is text at the very end of Section 101 which advises that (i) additional criteria applicable to various classes of securities and issuers are set forth elsewhere in the Company Guide and (ii) applicants should also consider the policies regarding conflicts of interest, independent directors and voting rights described in Sections 120–125. This text is applicable to issuers listing under any of the initial listing standards set forth in the Company Guide. However, its placement could lead the reader to mistakenly conclude that it was only applicable to issuers listing under the unit listing standard which immediately precedes it in the current rule text. The Exchange proposes to redesignate this text as Section 101(h) to avoid any such confusion. In doing so, the Exchange is not amending the text itself or its intended application in any way.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b)[5] of the Securities Exchange Act of 1934 (the ''Act''),[6] in general, and furthers the objectives of Section 6(b)(5) of the Act,[7] in particular in that it is designed to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest. The Exchange believes that the proposed rule change is consistent with Section 6(b)(5) of the Act in that it simply corrects a non substantive error in the text of Section 101 as recently amended and clarifies the application of existing rule text by renumbering it, in each case with the purpose of avoiding confusion.

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.

[31] *See* Securities Exchange Act Release No. 61566 (February 22, 2010), 75 FR 9262 (March 1, 2010) (order approving File No. SR–FINRA–2009–065); Securities Exchange Act Release No. 64364 (April 28, 2011), 76 FR 25385 (May 4, 2011) (order approving File No. SR–FINRA–2011–012).

[32] 15 U.S.C. 78s(b)(2).

[33] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 15 U.S.C. 78a.

[3] 17 CFR 240.19b–4.

[4] *See* Securities Exchange Act Release No. 34–65710 (November 8, 2011) (SR–NYSEAmex–2011–55). For purposes of this new rule, a ''reverse merger company'' means an operating company which becomes an Exchange Act reporting company by combining directly or indirectly with a shell company which is an Exchange Act reporting company, whether through a reverse merger, exchange offer, or otherwise.

[5] 15 U.S.C. 78f(b).

[6] 15 U.S.C. 78a.

[7] 15 U.S.C. 78f(b)(5).

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 [8] and Rule 19b–4(f)(6) thereunder.[9] 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.[10]

The Exchange has requested that the Commission waive the 30-day operative delay. The Commission believes that waiver of the operative delay is consistent with the protection of investors and the public interest because the proposal corrects a non-substantive error in the numbering of recently adopted text under Section 101 and clarifies the application of existing rule text by renumbering it, and thus avoiding confusion. Therefore, the Commission designates the proposal operative upon filing.[11]

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.

[8] 15 U.S.C. 78s(b)(3)(A)(iii).

[9] 17 CFR 240.19b–4(f)(6).

[10] 17 CFR 240.19b–4(f)(6). In addition, Rule 19b–4(f)(6)(iii) requires the Exchange to give the Commission written notice of the Exchange's intent to file the proposed rule change, along with a brief description and text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this requirement.

[11] 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).

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–NYSEAmex–2011–87 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–NYSEAmex–2011–87. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro/shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549, on official business days between the hours of 10 a.m. and 3 p.m. Copies of such filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File No. SR–NYSEAmex–2011–87 and should be submitted on or before December 16, 2011.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[12]

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2011–30323 Filed 11–23–11; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–65792; File No. SR–CHX–2011–31]

Self-Regulatory Organizations; Chicago Stock Exchange, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend the Trade Processing Fee

November 18, 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 November 9, 2011, the Chicago Stock Exchange, Inc. (''CHX'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. CHX has filed the proposal pursuant to Section 19(b)(3)(A) of the Act [3] and Rule 19b–4(f)(2) thereunder,[4] which renders the proposal effective upon filing with the Commission. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

CHX proposes to amend its Fee Schedule to amend the Trade Processing Fee. The text of this proposed rule change is available on the Exchange's Web site at *http://www.chx.com* and in 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 CHX included statements concerning the purpose of and basis for the proposed rule changes and discussed any comments it received regarding the proposal. The text of these statements may be examined at the places specified

[12] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 15 U.S.C. 78s(b)(3)(A).

[4] 17 CFR 240.19b–4(f)(2).

in Item IV below. The CHX 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

Through this proposal, the Exchange seeks to modify the definition of its Trade Processing Fee to conform to recent rule changes. Trade Processing Fees are charged by the Exchange for certain non-CHX trades to the Clearing Participants to the transaction. These non-CHX transactions are entered into the Exchange's systems by an Institutional Broker and submitted by the Exchange to a Qualified Clearing Agency for clearance and settlement.[5]

Earlier this year, the Exchange restricted the imposition of Trade Processing Fees on transactions executed directly in the over-the-counter (''OTC'') marketplace by an Institutional Broker. As part of this change, Trade Processing Fees could only be imposed on cross trades which originated with an Institutional Broker and were transmitted to and executed by another broker-dealer (which was not an Institutional Broker) in the OTC marketplace and which were submitted to clearing by the Exchange's systems.[6] This amendment reflected discussions between the Exchange and the staff of the Commission regarding limitations on the ability of Institutional Brokers to directly execute trades in the OTC marketplace. Since that time, the Exchange has reclassified Institutional Brokers as not operating on the Exchange, which permits such firms to directly execute trades in the OTC marketplace.[7] The Exchange therefore proposes to modify the definition of Trade Processing Fee in its Fee Schedule to remove that restriction. Moreover, the Exchange has added Article 21, Rule 6 governing the submission by the Exchange of non-CHX trades entered through an Institutional Broker to a Qualified Clearing Agency for clearance and settlement. In recognition of these two new provisions of the CHX rules, the Exchange proposes to define Trade Processing Fees as fees are charged for transactions entered by an Institutional Broker into the Exchange's systems and submitted to a Qualified Clearing Agency pursuant to Article 21, Rule 6(a).

Pursuant to the proposed definition, Trade Processing Fees would be charged for transactions executed otherwise than on the Exchange (in most cases, in the OTC marketplace) that originated with an Institutional Broker and were executed by that Institutional Broker, or transmitted to and executed by another broker-dealer, and reported to a Qualified Clearing Agency by the Exchange after entry of the relevant clearing information by the Institutional Broker into the Exchange's systems. The fees are also charged for transactions which were executed in another trading center by a third party broker-dealer, which then utilizes an Institutional Broker as its agent to enter them into the Exchange's systems for submission to a Qualified Clearing Agency for clearance and settlement. These third-party transactions may include both cross transactions executed in the OTC marketplace by the third-party broker-dealer, as well as purchases or sales of securities by the third party broker-dealer on another exchange or other trading center. The Exchange does not propose to charge a Trade Processing Fee for single-sided purchases and sales of securities on another exchange or in the OTC marketplace by Institutional Brokers and submitted to clearing as a riskless principal transaction pursuant to Article 21, Rule 6(b).[8]

The Exchange does not propose to alter the rate imposed for Trade Processing Fees as part of this proposal. The proposed changes would become effective on November 29, 2011.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Act[9] in general, and furthers the objectives of Section 6(b)(4) of the Act[10] in particular, in that it provides for the equitable allocation of reasonable dues, fees and other charges among members and other persons using any facility or system which the Exchange operates or controls. Pursuant to this proposal, Trade Processing Fees are charged to the Clearing Participants involved in certain transactions which were not executed on the CHX's trading facilities, but submitted for clearance and settlement by the Exchange's systems. The Exchange believes that it is fair and reasonable for it to charge a fee for the services it provides to its Participants which elect to submit non-CHX trades to clearing via the Exchange's systems. This proposal conforms the definition of Trade Processing Fees to recent changes in its rules, including both changes in the status of Institutional Brokers which permits them to directly execute trades in the OTC marketplace and the addition of new Rule 6 under Article 21, which permits Institutional Brokers to submit those trades (and others) to a Qualified Clearing Agency through the Exchange's systems. Pursuant to the proposed new definition, a Trade Processing Fee would be charged for transactions submitted to a Qualified Clearing Agency pursuant to Article 21, Rule 6(a). These fees would be imposed based upon the nature of the activity handled through the Exchange's systems and are fair and non-discriminatory in nature, and the Exchange therefore believes that the imposition of a Trade Processing Fee as defined in this proposal is appropriate. Permitting the Exchange to charge a Trade Processing Fee for its services associated with the clearing submissions would allow it to compete with other exchanges, such as Nasdaq, which provide similar services to its members for a fee.

B. Self-Regulatory Organization's Statement of 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 Regarding the Proposed Rule Change Received From Members, Participants or Others

No written comments were either solicited or received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The proposed rule change is to take effect pursuant to Section 19(b)(3)(A)(ii) of the Act[11] and subparagraph (f)(2) of Rule 19b–4 thereunder[12] because it establishes or changes a due, fee or

[5] *See* Securities Exchange Act Rel. No. 65615 (Oct. 24, 2011), 76 FR 67239 (Oct. 31, 2011) (SR–CHX–2011–17) which added Article 21, Rule 6 describing the process by which Institutional Brokers can submit non-CHX trades for clearance and settlement via the Exchange's systems.

[6] *See* Securities Exchange Act Rel. No. 64953 (July 25, 2011), 76 FR 45626 (July 29, 2011) (SR–CHX–2011–19).

[7] *See* Securities Exchange Act Rel. No. 65633 (Oct. 26, 2011), 76 FR 67509 (Nov. 1, 2011) (SR–CHX–2011–29).

[8] The execution of the first leg of a riskless principal transaction may well have entailed the payment of a transactional fee to the trading center on which it was executed. The Exchange believes that an imposition of a Trade Processing Fee on riskless principal transactions could result in higher transactional costs for the parties to the transaction, which could render the Exchange's provision of clearing submission services non-competitive.

[9] 15 U.S.C. 78f(b).

[10] 15 U.S.C. 78f(b)(4).

[11] 15 U.S.C. 78s(b)(3)(A)(ii).

[12] 17 CFR 240.19b–4(f)(2).

other charge applicable to the Exchange's members and non-members, which renders the proposed rule change effective upon filing.

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–CHX–2011–31 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–CHX–2011–31. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549, on official business days between the hours of 10 a.m. and 3 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–CHX–2011–31 and should be submitted on or before December 16, 2011.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[13]

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2011–30354 Filed 11–23–11; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–65788; File No. SR–NSCC–2011–10]

Self-Regulatory Organizations; National Securities Clearing Corporation; Notice of Filing of Proposed Rule Change To Amend Rules Relating to the Creation of a Service To Provide Post-Trade Information

November 18, 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 November 7, 2011, National Securities Clearing Corporation (''NSCC'') 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 primarily by NSCC. 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 purpose of this proposed rule change is to establish an optional service, ''Trade Risk Pro,'' that would enable NSCC members to monitor intraday trading activity through review of post-trade data.[3]

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, NSCC 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. NSCC has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of these statements.[4]

(A) Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

(1) Purpose

NSCC is proposing to create an optional service for NSCC members, ''Trade Risk Pro'' or ''DTCC Trade Risk Pro,'' which will enable members to monitor intraday trading activity of their organizations, their correspondent firms, or both through review of post-trade data. An effective risk management structure provides for multiple check points, including pre-trade controls and post-trade surveillance. Industry participants have indicated to NSCC that pre-trade monitoring as a stand-alone risk management tool may not provide adequate protection for firms or against systemic risk. For example, many orders are never actually executed and thus a pre-trade filter could overestimate potential positions or could generate false positives if not combined with information about what orders are actually executed. In addition, clearing firms only see their correspondents' orders that are routed through the clearing firm's trading desks or through the firm's order entry systems. Orders sent directly to the market can bypass pre-trade controls. Trade Risk Pro, as more fully described below, would provide NSCC's members with a method to monitor clearing activity in their accounts and to set parameters that enable them to monitor exposure.

As proposed, the service would be available to NSCC members on a voluntary basis to provide those members electing to participate in the service with: (i) Post-trade data relating to unsettled equity and fixed income securities trades for a given day that have been compared or recorded through NSCC's trade capture mechanisms on that day (''RP Trade Date Data'') and (ii) other information based upon data the participating member may itself provide at start of or throughout the day (''RP Member-provided Data''), as provided in NSCC's Rules and Procedures governing the proposed service (RP Trade Date Data

[13] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] The text of the proposed rule change is attached as Exhibit 5 to NSCC's filing, which is available at *http://www.dtcc.com/downloads/legal/rule_filings/2011/nscc/2011-10.pdf.*

[4] The Commission has modified the text of the summaries prepared by NSCC.

and RP Member-provided Data shall collectively be referred to as ''RP Transaction Data''). This would include allowing members the ability to input or load trade information from prior days into the system on their own to supplement their view of overall risk exposure. As such, the proposed Trade Risk Pro service would offer an industry-wide post-trade reporting system that would allow Members to monitor their U.S. equity and fixed-income trading exposure.

Overview of the Trade Risk Pro Service

Through Trade Risk Pro, NSCC would utilize market and other information to report post-trade activity to participating members. Such reporting would incorporate RP Trade Date Data from transactions in equity and municipal and corporate debt securities after such transactions have: (i) Passed through the NSCC's edit checks and not been pended or rejected and (ii) been recorded or compared through NSCC's Universal Trade Capture and/or Real-Time Trade Matching trade capture and comparison systems. In addition, as proposed, Trade Risk Pro would allow participating members to input or load start of day and intra-day positions (*i.e.,* RP Member-provided Data) to allow member to view their organization's (or one or more correspondent's) aggregate open positions in securities cleared through NSCC. Within Trade Risk Pro, members would be able to create ''Risk Entities'' to track activity for specific correspondents and clients as well as their own trading desks and to define the rules for the aggregation of trade data, set parameters on open positions allowable for each Risk Entity, and receive alerts for the display of breaches or near breaches of the parameters.[5] Trade Risk Pro would provide members with a screen-based view of their trade data residing in Trade Risk Pro for a given day aggregated and organized according to parameters set by the member. Displays provided to participating members will offer the option to view aggregate and net value, to view share exposure across markets and other liquidity destinations, and to see exposure at the CUSIP and individual trade levels. In conformance with NSCC's Rule 49 (Release of Clearing Data and Clearing Fund Data), each member would only be able to view information with respect to its own clearing account(s). Trade Risk Pro would be a reporting service only and any action taken by a member as a result of any alert, parameter breach, or other information associated with the service would be at the discretion of the member and not either in whole or part by NSCC.

NSCC proposes to create a new Rule 54 (Trade Risk Pro) and Procedure XVII (Trade Risk Pro) to reflect the proposed rule changes described below. The proposed rule change also proposes to amend Rule 58 (Limitations of Liability) and to update Rule 1 (Definitions) to include definitions for RP Trade Data, RP Member-provided Data, and RP Transaction Data, as described more fully below.

1. Establishing and Maintaining Risk Entities and Limits

As an initial step in using the Trade Risk Pro service, members would have to establish Risk Entities. These designations could include the trading activity of a single desk, a correspondent, a single clearing number within the member's NSCC account structure, or the overall firm. The member could also look at a combination of entities or other recognized groups. Trade Risk Pro would provide members with the ability to create Risk Entities through the defining and updating of the data structure and relationships for the entities to which they assign a parameter or risk limit. The Risk Entity definitions entered by Members would drive position calculation and displays in Trade Risk Pro. Trade Risk Pro would provide Members with a facility to set share and dollar limits with respect to each Risk Entity at a gross and net level, and it may provide for additional limits as NSCC may determine from time to time are appropriate.

Each member may define the Risk Entities so that only trades that the member intended to belong to that Risk Entity are included through the use of trade arrays. For each trade, relevant data elements to create a trade array may include: (i) The member's account number(s), (ii) the executing broker, (iii) the submitting market or firm, and (iv) other categories as allowed by NSCC from time to time. Use of these elements will create an array so that each transaction would be assigned by virtue of the array to one or more Risk Entities. Users can assign multiple trade arrays to a single Risk Entity.

Upon implementation of the service, updates and changes made to Risk Entities by the member would take effect overnight with a cut-off time designated by NSCC from time to time.[6] Although Trade Risk Pro would prohibit double counting of trades within the same Risk Entity, it is possible that two separate Risk Entities may contain defined elements as specified by the member that cause a specific trade to be included into both Risk Entities. Because Risk Entities would be defined by members, the members would control the ability to either uniquely define Risk Entities or create Risk Entities that intersect with one another.

2. Limit Monitoring

As proposed, Trade Risk Pro would aggregate and make available position information for purposes of the member's limit monitoring. The aggregate data would be the sum of RP Member-provided data and RP Trade Date Data, with the aggregated data defined as RP Transaction Data in NSCC's Rules and Procedures. Under the proposal, RP Trade Date Data, RP Member-provided Data, and other relevant data would be aggregated and sorted, and the data would then be displayed to the member. The display may include shares and values on a gross or net basis or any other total aggregation and sorting methods as NSCC may from time to time make available to members. RP Trade Date Data would be carried at contract amount unless another pricing method is implemented by NSCC. RP Member-provided Data would be priced according to information provided by the member.

Intraday allocations in the settlement system would not be taken into consideration as they are not fully effective until money settlement completes (after the day cycle). The totals would be compared to the parameters set by the members, and the members would be alerted to breaches based upon their set parameters. The alerts may take the form of visual screen changes or other notification methods. The service would also provide updated information when the alert is resolved (*i.e.,* when the Risk Entity is within the relevant limit say, for example, as a result of an offsetting transaction reducing the position or the participant raises the limit for a Risk Entity). Information such as alert history, members' Risk Entity definitions, end of day positions, and other data that NSCC provides from time to time will be supplied to members in an end of day report.

[5] Members would be able to input such limits into the Trade Risk Pro interface in order to receive system alerts in the event of a breach; however, these limits would not trigger a block by NSCC on any activity processed through NSCC's clearance and settlement systems.

[6] NSCC may eventually, at its discretion, provide for real-time updates post-implementation.

3. No Effect on Trade Guaranty and Other Considerations

The proposed rule change would provide that any reports and data supplied to members through Trade Risk Pro is not intended to impact the timing or status of the guaranty of any transaction in CNS or Balance Order Securities. In addition, the issuance of information or data through Trade Risk Pro to Member or the lack of the issuance of information would not of itself indicate or have any bearing on the status of any trade, including but not limited to, as compared, locked-in, validated, guaranteed or not guaranteed.

4. Limitation of Liability

Trade Risk Pro provides members with a facility to review and monitor trade activity in a manner they select, including providing members with the ability to populate the service (but not limited to the ability to input or load positions), define Risk Entities and set limits, and receive alerts and position data of their choosing. Since NSCC is not the originator of information made available through Trade Risk Pro, NSCC proposes to make clear that it is not responsible for the completeness or accuracy of Trade Date Data or other information or data which it receives from members or third parties used in offering the Trade Risk Pro service, for information or data that is received and compared or recorded by NSCC, or for any errors, omissions, or delays which may occur in the transmission of such data or information. In addition, because not all transactions are submitted to NSCC on a real-time basis, thus NSCC can only provide members using the service with Trade Date Data as it is compared or recorded. Accordingly, members should be aware that such Trade Date Data may not be complete.

5. Indemnification

Since each member may use the information for purposes of its own discretion, the proposed rule change would provide that any member participating in Trade Risk Pro shall indemnify NSCC and any or all of its employees, officers, directors, shareholders, agents, and participants who may sustain any loss, liability or expense as a result of a third party claim related to any act or omission of the member made in reliance upon data or information transmitted through Trade Risk Pro by NSCC to the Member.

6. Implementation Time Frame

Subject to regulatory approval, NSCC is proposing to implement the above changes during the first quarter of 2012 or soon thereafter. Upon Commission approval of this proposed rule change, the actual implementation date will be announced to members through an Important Notice. NSCC is also proposing to implement a pilot program of the service among a limited number of members in November 2011.

(2) Statutory Basis

The proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to NSCC because as proposed Trade Risk Pro should provide NSCC members with mechanism to monitor post-trade activity on an intraday basis and thereby allow for enhanced risk management by those members. By providing for enhanced risk management, the proposed rule change should better facilitate the prompt and accurate clearance and settlement of securities transactions. In addition, the proposal is consistent with the Recommendations for Central Counterparties of the Committee on Payment and Settlement Systems and the Technical Committee of the International Organization of Securities Commissions in that it provides members with a tool for the measurement and management of credit exposures and thus provides enhanced transparency to members with respect to their transactions submitted to NSCC.

(B) Self-Regulatory Organization's Statement on Burden on Competition

NSCC does not believe that the proposed rule change would impose any burden on competition.

(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

Written comments relating to the proposed rule change have not been solicited NSCC.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within forty-five days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to ninety days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve or disapprove the proposed rule change or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*) or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–NSCC–2011–10 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 submission should refer to File Number SR–NSCC–2011–10. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Section, 100 F Street NE., Washington, DC 20549–1090, on official business days between the hours of 10 a.m. and 3 p.m. Copies of such filings will also be available for inspection and copying at the principal office of NSCC and on NSCC's Web site at *http://www.dtcc.com/downloads/legal/rule_filings/2011/nscc/2011-10.pdf.* 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–NSCC–2011–10 and should be submitted on or before December 16, 2011.

For the Commission by the Division of Trading and Markets, pursuant to delegated authority.[7]

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2011–30285 Filed 11–23–11; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–65790; File No. SR–Phlx–2011–150]

Self-Regulatory Organizations; NASDAQ OMX PHLX LLC; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Reduce Transaction Fees for Members Engaging in Certain Accommodation Transactions

November 18, 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 November 7, 2011, NASDAQ OMX PHLX LLC (''Phlx'' or ''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 Substance of the Proposed Rule Change

The Exchange proposes to amend its Fee Schedule to adopt a transaction fee for members transacting certain Accommodation Transactions, specifically cabinet trading.[3]

While changes to the Fee Schedule pursuant to this proposal are effective upon filing, the Exchange has designated these changes to be operative on December 1, 2011.

The text of the proposed rule change is available on the Exchange's Web site at *http://nasdaqtrader.com/micro.aspx?id=PHLXfilings,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The purpose of the proposed rule change is to create a new fee for equity options transactions executed pursuant to Exchange Rule 1059 entitled ''Accommodation Trading.'' Cabinet or accommodation trading of option contracts is intended to accommodate persons wishing to effect closing transactions in those series of options dealt in on the Exchange for which there is no auction market.[4] Currently, the fees which members are assessed when transacting cabinet trades are the standard equity option fees.[5] The Exchange believes that the proposed fee reduction will encourage members to transact cabinet trades on the Exchange.

The Exchange is proposing to reduce transaction fees to $.10 per contract for Cabinet Trades which occur pursuant to Rule 1059, for all participants, except Customers.[6] Specifically, the Exchange proposes to assess a $.10 per contract transaction charge on Professionals,[7] Specialists,[8] Registered Options Traders,[9] SQTs,[10] RSQTs,[11] Broker-Dealers and Firms. Customers would continue to remain free of charge when transacting cabinet trades. Additionally, the Exchange currently waives the Firm equity options transaction fees for members executing facilitation orders pursuant to Exchange Rule 1064 when such members are trading in their own proprietary account.[12] Similar to the equity option fees, which are currently subject to the aforementioned waiver, the Exchange would continue to apply the waiver to members executing facilitation orders pursuant to Exchange Rule 1064 to cabinet trade equity option transactions.

In order to capture the necessary information electronically, the Exchange requires members to designate on the trade ticket that the option trade is a cabinet trade by entering the code, ''Z5'', on the trading ticket and into the system, or directly into the Floor Broker Management System (''FBMS'').[13]

While changes to the Fee Schedule pursuant to this proposal are effective upon filing, the Exchange has

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[7] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] An ''accommodation'' or ''cabinet'' trade refers to trades in listed options on the Exchange that are worthless or not actively traded. Cabinet trading is generally conducted in accordance with Exchange Rules, except as provided in Exchange Rule 1059 entitled ''Accommodation Trading'', which sets forth specific procedures for engaging in cabinet trading below $1 per option contract.

[4] On December 30, 2010, the Exchange extended a pilot program through December 1, 2011 to allow cabinet transactions to take place in open outcry at a price of at least $0 but less than $1 per option contract. These lower priced transactions are traded pursuant to the same procedures applicable to $1 cabinet trades, except that pursuant to the pilot program (i) bids and offers for opening transactions are only permitted to accommodate closing transactions in order to limit use of the procedure to liquidations of existing positions, and (ii) the procedures are also made available for trading in options participating in the Penny Pilot Program. *See* Securities Exchange Act Release No. 64571 (May 31, 2011), 76 FR 32385 (June 6, 2011) (SR–Phlx–2011–72).

[5] The equity options fees are in Section II of the Fee Schedule.

[6] The Exchange is not proposing to otherwise amend its equity option fees.

[7] The term ''professional'' means any person or entity that (i) is not a broker or dealer in securities, and (ii) places more than 390 orders in listed options per day on average during a calendar month for its own beneficial account(s). *See* Rule 1000(b)(14).

[8] A Specialist is an Exchange member who is registered as an options specialist pursuant to Rule 1020(a).

[9] A Registered Options Trader (''ROT'') includes a Streaming Quote Trader (''SQT''), a Remote Streaming Quote Trader (''RSQT'') and a Non-SQT, which by definition is neither a SQT or a RSQT. A Registered Option Trader is defined in Exchange Rule 1014(b) as a regular member or a foreign currency options participant of the Exchange located on the trading floor who has received permission from the Exchange to trade in options for his own account. *See* Exchange Rule 1014 (b)(i) and (ii).

[10] An SQT is defined in Exchange Rule 1014(b)(ii)(A) as an ROT who has received permission from the Exchange to generate and submit option quotations electronically in options to which such SQT is assigned.

[11] An RSQT is defined Exchange Rule in 1014(b)(ii)(B) as an ROT that is a member or member organization with no physical trading floor presence who has received permission from the Exchange to generate and submit option quotations electronically in options to which such RSQT has been assigned. An RSQT may only submit such quotations electronically from off the floor of the Exchange.

[12] The waiver does not apply to orders where a member is acting as agent on behalf of a non-member. *See* Securities Exchange Act Release No. 60477 (August 11, 2009), 74 FR 41777 (August 18, 2009) (SR–Phlx–2009–67).

[13] FBMS is designed to enable Floor Brokers and/or their employees to enter, route and report transactions stemming from options orders received on the Exchange. FBMS also is designed to establish an electronic audit trail for options orders represented and executed by Floor Brokers on the Exchange, such that the audit trail provides an accurate, time-sequenced record of electronic and other orders, quotations and transactions on the Exchange, beginning with the receipt of an order by the Exchange, and further documenting the life of the order through the process of execution, partial execution, or cancellation of that order. *See* Exchange Rule 1080, Commentary .06.

designated these changes to be operative on December 1, 2011.

2. Statutory Basis

The Exchange believes that its proposal to amend its Fee Schedule is consistent with Section 6(b) of the Act [14] in general, and furthers the objectives of Section 6(b)(4) of the Act [15] in particular, in that it is an equitable allocation of reasonable fees and other charges among Exchange members.

The Exchange believes that it is reasonable to lower the fees for cabinet trades to incentivize members to transact cabinet trades. The proposed fees for cabinet trades would be lower for all market participants, except Customers who will remain free of charge. The Exchange believes that it is reasonable, equitable and not unfairly discriminatory to not assess Customers a fee for transacting cabinet trades because Customer order flow attracts liquidity to the Exchange which in turn benefits of all market participants. The Exchange believes that it is equitable and not unfairly discriminatory to amend and lower fees for cabinet trades because all market participants will be assessed a uniform transaction fee, with the exception of Customers who will not be assessed a fee. The Chicago Board Options Exchange, Incorporated assesses fees for cabinet trading that are within the range of fees proposed by the Exchange.[16]

The Exchange operates in a highly competitive market comprised of nine U.S. options exchanges in which sophisticated and knowledgeable market participants readily can, and do, send order flow to competing exchanges if they deem fee levels at a particular exchange to be excessive. The Exchange believes that the proposed fee must be competitive with fees offered on other options exchanges. The Exchange believes that this competitive marketplace impacts the fees present on the Exchange today and influences the proposals set forth above.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act.

[14] 15 U.S.C. 78f(b).

[15] 15 U.S.C. 78f(b)(4).

[16] *See* Securities Exchange Act Release No. 61295 (January 6, 2010), 75 FR 2166 (January 14, 2010) (SR–CBOE–2009–098) (A rule change to assess equity option transaction fees for cabinet trades).

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were either solicited or received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A)(ii) of the Act.[17] At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov*. Please include File Number SR–Phlx–2011–150 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–Phlx–2011–150. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549, on official business days between the hours of 10 a.m. and 3 p.m. Copies of such filing also will be available for inspection and copying at the principal office of 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 publicly available. All submissions should refer to File Number SR–Phlx–2011–150 and should be submitted on or before December 16, 2011.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[18]

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2011–30322 Filed 11–23–11; 8:45 am]

BILLING CODE 8011–01–P

[17] 15 U.S.C. 78s(b)(3)(A)(ii).

[18] 17 CFR 200.30–3(a)(12).

DEPARTMENT OF STATE

[Public Notice 7694]

Defense Trade Advisory Group; Notice of Membership

AGENCY: Department of State.

ACTION: Notice.

The U.S. Department of State's Bureau of Political-Military Affairs' Defense Trade Advisory Group (DTAG) is accepting membership applications. The Bureau of Political-Military Affairs is interested in applications from subject matter experts from the United States defense industry, relevant trade and labor associations, academic, and foundation personnel.

The DTAG was established as a continuing committee under the authority of 22 U.S.C. Sections 2651a and 2656 and the Federal Advisory Committee Act, 5 U.S.C. App. (''FACA''). The purpose of the DTAG is to provide the Bureau of Political-Military Affairs with a formal channel for regular consultation and coordination with U.S. private sector defense exporters and defense trade specialists on issues involving U.S. laws, policies, and regulations for munitions exports. The DTAG advises the Bureau on its support for and

regulation of defense trade to help ensure that impediments to legitimate exports are reduced while the foreign policy and national security interests of the United States continue to be protected and advanced in accordance with the Arms Export Control Act (AECA), as amended. Major topics addressed by the DTAG include (a) policy issues on commercial defense trade and technology transfer; (b) regulatory and licensing procedures applicable to defense articles, services, and technical data; (c) technical issues involving the U.S. Munitions List (USML); and (d) questions relating to actions designed to carry out the AECA and International Traffic in Arms Regulations (ITAR).

Members are appointed by the Assistant Secretary of State for Political-Military Affairs on the basis of individual substantive and technical expertise and qualifications, and must be representatives of United States defense industry, relevant trade and labor associations, academic, and foundation personnel. In accordance with the DTAG Charter, all DTAG members must be U.S. citizens, DTAG members will represent the views of their organizations. All DTAG members shall be aware of the Department of State's mandate that arms transfers must further U.S. national security and foreign policy interests. DTAG members also shall be versed in the complexity of commercial defense trade and industrial competitiveness, and all members must be able to advise the Bureau on these matters. While members are expected to use their expertise and provide candid advice, national security and foreign policy interests of the United States shall be the basis for all policy and technical recommendations.

DTAG members' responsibilities include:

- Service for a consecutive two-year term which may be renewed or terminated at the discretion of the Assistant Secretary of State for Political-Military Affairs (membership shall automatically terminate for members who fail to attend two consecutive DTAG plenary meetings).
- Making recommendations in accordance with the DTAG Charter and the FACA.
- Making policy and technical recommendations within the scope of the U.S. commercial export control regime as mandated in the AECA, the ITAR, and appropriate directives.

Please note that DTAG members may not be reimbursed for travel, per diem, and other expenses incurred in connection with their duties as DTAG members. An individual who is currently registered, or was registered at any time during the period of January 1, 2010 to the present, as a Federal lobbyist is not eligible to serve on the DTAG.

How to apply: Applications in response to this notice must contain the following information: (1) Name of applicant; (2) affirmation of U.S. citizenship; (3) organizational affiliation and title, as appropriate; (4) mailing address; (5) work telephone number; (6) email address; (7) résumé; (8) summary of qualifications for DTAG membership and (9) confirmation that you have not been registered as a Federal lobbyist at any time from January 1, 2010 to the present.

This information may be provided via two methods:

- *Emailed to the following address: SlyghPC@state.gov*. In the subject field, please write, ''DTAG Application.''
- *Send in hardcopy to the following address:* Patricia C. Slygh, PM/DDTC, SA–1, 12th Floor, Directorate of Defense Trade Controls, Bureau of Political-Military Affairs, U.S. Department of State, Washington, DC 20522–0112.

All applications must be postmarked by December 15, 2011.

Dated: November 17, 2011.

Robert S. Kovac,

Designated Federal Official, Defense Trade Advisory Group, Department of State.

[FR Doc. 2011–30403 Filed 11–23–11; 8:45 am]

BILLING CODE 4710–25–P

DEPARTMENT OF TRANSPORTATION

Federal Transit Administration

Notice of Limitation on Claims Against Proposed Public Transportation Projects

AGENCY: Federal Transit Administration (FTA), DOT.

ACTION: Notice of Limitation on Claims.

SUMMARY: This notice announces final environmental actions taken by the Federal Transit Administration (FTA) for projects in the following locations: City of Aurora and Arapahoe County, CO; Chicago, IL; Birmingham, AL; Sacramento, CA; New York, NY; and King County, WA. The purpose of this notice is to announce publicly the environmental decisions by FTA on the subject projects and to activate the limitation on any claims that may challenge these final environmental actions.

DATES: By this notice, FTA is advising the public of final agency actions subject to Section 139(l) of Title 23, United States Code (U.S.C.). A claim seeking judicial review of the FTA actions announced herein for the listed public transportation project will be barred unless the claim is filed on or before May 23, 2012.

FOR FURTHER INFORMATION CONTACT: Christopher Van Wyk, Attorney-Advisor, Office of Chief Counsel, (202) 366–1733, or Terence Plaskon, Environmental Protection Specialist, Office of Human and Natural Environment, (202) 366–0442. FTA is located at 1200 New Jersey Avenue SE., Washington, DC 20590. Office hours are from 9 a.m. to 5:30 p.m., EST, Monday through Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION: Notice is hereby given that FTA has taken final agency actions by issuing certain approvals for the public transportation projects listed below. The actions on these projects, as well as the laws under which such actions were taken, are described in the documentation issued in connection with the project to comply with the National Environmental Policy Act (NEPA) and in other documents in the FTA administrative record for the projects. Interested parties may contact either the project sponsor or the relevant FTA Regional Office for more information on the project. Contact information for FTA's Regional Offices may be found at *http://www.fta.dot.gov.*

This notice applies to all FTA decisions on the listed projects as of the issuance date of this notice and all laws under which such actions were taken, including, but not limited to, NEPA [42 U.S.C. 4321–4375], Section 4(f) of the Department of Transportation Act of 1966 [49 U.S.C. 303], Section 106 of the National Historic Preservation Act [16 U.S.C. 470f], and the Clean Air Act [42 U.S.C. 7401–7671q]. This notice does not, however, alter or extend the limitation period of 180 days for challenges of project decisions subject to previous notices published in the **Federal Register.** The projects and actions that are the subject of this notice are:

1. *Project name and location:* I–225 Minimum Operable Segment (MOS) Extending Transit Service from the Nine Mile Light Rail Transit Station to Iliff, City of Aurora and Arapahoe County, CO. *Project sponsor:* Regional Transportation District. *Project description:* The project will extend light rail transit (LRT) from the current terminus at the existing Nine Mile LRT Station on the Southeast Corridor LRT north and east to the proposed Iliff Station. The Nine Mile to Iliff Station proposed action is a Minimum Operable

Segment (MOS) of the full 10.5-mile I–225 LRT corridor. *Final agency actions:* no use of Section 4(f) resources; Section 106 finding of no adverse effect; project-level air quality conformity; and a Finding of No Significant Impact (FONSI), dated September 2011. *Supporting documentation:* Environmental Assessment, dated July 2011.

2. *Project name and location:* Union Pacific North Line Bridge Project, Chicago, IL. *Project sponsor:* Northeast Illinois Regional Commuter Rail Corporation (Metra). *Project description:* The project involves replacement of eleven 100-year railroad bridges located between Grace Street and Balmoral Avenue on the north side of Chicago. These bridges will be replaced and some existing railroad tracks will be relocated within the existing right-of-way. *Final agency actions:* Section 106 finding of no adverse effect; project-level air quality conformity, and Documented Categorical Exclusion. *Supporting documentation:* Documented Categorical Exclusion, dated September 2011.

3. *Project name and location:* Birmingham Intermodal Transfer Facility, Phase II, Birmingham, AL. *Project sponsor:* City of Birmingham. *Project description:* The project is to construct a new facility housing Amtrak and Greyhound stations and MAX (Metro Area Express, Birmingham-Jefferson County Transit Authority) public transportation offices in conjunction with the expanded MAX bus facility as an integrated, multimodal transportation center. *Final agency actions:* Section 106 finding of no adverse effect; project-level air quality conformity; and a Finding of No Significant Impact (FONSI), dated September 2011. *Supporting documentation:* Supplemental Environmental Assessment, September 2011.

4. *Project name and location:* South Sacramento Corridor Light Rail Project Phase 2 Extension Project Modifications, City of Sacramento, CA. *Project sponsor:* Sacramento Regional Transit District. *Project description:* The project extends light rail transit service approximately 4.3 miles south from the South Sacramento Corridor Light Rail Project Phase 1 terminus at Meadowview Road to Cosumnes River College. This finding is on modifications to the previously approved project resulting from refinements to the project's design. *Final agency actions:* Section 106 finding of no adverse effect; project-level air quality conformity; and a Finding of No Significant Impact (FONSI), dated October 2011. *Supporting documentation:* Final Environmental Assessment, dated September 2011.

5. *Project name and location:* Second Avenue Subway, New York, NY. *Project sponsor:* Metropolitan Transportation Authority. *Project description:* The Second Avenue Subway project is the phased construction of a new 8.5-mile subway line under Second Avenue in Manhattan from 125th Street to Hanover Square in Lower Manhattan. It includes 16 new stations that will be accessible by persons with disabilities. FTA has agreed to partially fund the first phase of the project, which will run between 105th Street and 62nd Street and will connect to the existing F Line at 63rd Street. Various changes to Phase 1 of the project as well as final design of certain elements of Phase 1 of the project have been evaluated in a number of technical memoranda. *Final agency actions:* FTA determination that neither a supplemental environmental impact statement nor a supplemental environmental assessment is necessary. *Supporting documentation:* Technical Memorandum No. 9, assessing the design of one of two ancillary facilities related to the 96th Street Station, dated October 2011.

6. *Project name and location:* East Link Light Rail Transit Project, King County, WA. *Project sponsor:* Central Puget Sound Regional Transit Authority (Sound Transit). *Project description:* The project extends the current light rail system an additional 18 miles from Downtown Seattle to Mercer Island and Bellevue along Interstate 90 (I–90), and then through Bellevue to Overlake and Redmond in the Puget Sound region of Washington State. The project includes 12 stations, four park-and-ride lots, and supporting facilities. The project also includes storage tracks and facilities located just north of the Hospital Station to allow for overnight storage of vehicles and daily startup operations. *Final agency actions:* Section 4(f) determination; Section 106 finding of no adverse effect; regional and project-level air quality conformity; and Record of Decision, dated November 2011. *Supporting documentation:* East Link Final Environmental Impact Statement, dated July 2011.

Issued on: November 21, 2011.

Lucy Garliauskas,

Associate Administrator for Planning and Environment, Washington, DC.

[FR Doc. 2011–30366 Filed 11–23–11; 8:45 am]

BILLING CODE P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket No. NHTSA–2011–0154]

Reports, Forms, and Recordkeeping Requirements

AGENCY: National Highway Traffic Safety Administration (NHTSA), Department of Transportation.

ACTION: Request for public comment on proposed collection of information.

SUMMARY: This notice solicits public comments on continuation of the requirements for the collection of information on safety standards. Before a Federal agency can collect certain information from the public, it must receive approval from the Office of Management and Budget (OMB). Under procedures established by the Paperwork Reduction Act of 1995, before seeking OMB approval, Federal agencies must solicit public comment on proposed collections of information, including extensions and reinstatement of previously approved collections.

This document describes a collection of information on nine Federal motor vehicle safety standards (FMVSSs) and two regulations, for which NHTSA intends to seek OMB approval. The information collection pertains to requirements that specify certain description, instructions and safety precautions regarding items of motor vehicle equipment must appear in the vehicle owner's manual.

DATES: Comments must be received on or before January 24, 2012.

ADDRESSES: You may submit comments to the docket number identified in the heading of this document by any of the following methods:

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

You may call the Docket Management Facility at (202) 366–9826.

Regardless of how you submit your comments, you should mention the docket number of this document.

FOR FURTHER INFORMATION CONTACT: Complete copies of each request for

collection of information may be obtained at no charge from Mr. Lou Molino, NHTSA, 1200 New Jersey Avenue SE., Room W43–311, NVS–112, Washington, DC 20590.

Mr. Lou Molino's telephone number is (202) 366–1740. Please identify the relevant collection of information by referring to its OMB Control Number.

SUPPLEMENTARY INFORMATION: Under the Paperwork Reduction Act of 1995, before an agency submits a proposed collection of information to OMB for approval, it must first publish a document in the **Federal Register** providing a 60-day comment period and otherwise consult with members of the public and affected agencies concerning each proposed collection of information. The OMB has promulgated regulations describing what must be included in such a document. Under OMB's regulation (at 5 CFR 1320.8(d)), an agency must ask for public comment on the following:

(i) 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) 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) How to enhance the quality, utility, and clarity of the information to be collected;

(iv) How to minimize the burden of the collection of information on those who are to respond, including the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g. permitting electronic submission of responses.

In compliance with these requirements, NHTSA asks for public comments on the following proposed collections of information:

(1) *Title:* Consolidated Vehicle Owner's Manual Requirements for Motor Vehicles and Motor Vehicle Equipment.

OMB Control Number: 2127–0541.

Form Number: This collection of information uses no standard form.

Requested Expiration Date of Approval: Three years from the approval date.

Type of Request: Extension of a currently approved collection.

Affected Public: Individuals, households, business, other for-profit, not-for-profit, farms, Federal Government and state, local or Tribal government.

Abstract: 49 U.S.C. 30111 authorizes the issuance of Federal motor vehicle safety standards (FMVSS) and regulations. The agency, in prescribing a FMVSS or regulation, considers available relevant motor vehicle safety data, and consults with other agencies, as it deems appropriate. Further, the statute mandates that in issuing any FMVSS or regulation, the agency considers whether the standard or regulation is ''reasonable, practicable and appropriate for the particular type of motor vehicle or item of motor vehicle equipment for which it is prescribed,'' and whether such a standard will contribute to carrying out the purpose of the Act. The Secretary is authorized to invoke such rules and regulations as deemed necessary to carry out these requirements. Using this authority, the agency issued the following FMVSS and regulations, specifying that certain safety precautions regarding items of motor vehicle equipment appear in the vehicle owner's manual to aid the agency in achieving many of its safety goals: FMVSS No. 108, ''Lamps, reflective devices, and associated equipment,'' FMVSS No. 110, ''Tire selection and rims,'' FMVSS No. 138, ''Tire Pressure Monitoring Systems,'' FMVSS No. 202, ''Head restraints,'' FMVSS No. 205, ''Glazing materials,'' FMVSS No. 208, ''Occupant crash protection,'' FMVSS No. 210, ''Seat belt assembly anchorages,'' FMVSS No. 226, ''Ejection mitigation,'' FMVSS No. 213, ''Child restraint systems,'' Part 575 Section 103, ''Camper loading,'' and Part 575 Section 105, ''Utility vehicles.'' This notice requests comments on the information collections of these FMVSS and regulations.

Description of the need for the information and proposed use of the information: In order to ensure that manufacturers are complying with the FMVSS and regulations, NHTSA requires a number of information collections in FMVSS No. 108, 110, 138, 202, 205, 208, 210, 213 and 226, and Part 575 Sections 103 and 105.

FMVSS No. 108, ''Lamps, reflective devices, and associated equipment.'' This standard requires that certain lamps and reflective devices with certain performance levels be installed on motor vehicles to assure that the roadway is properly illuminated, that vehicles can be readily seen, and the signals can be transmitted to other drivers sharing the road, during day, night and inclement weather. Since the specific manner in which headlamp aim is to be performed is not regulated (only the performance of the device is), aiming devices manufactured or installed by different vehicle and headlamp manufacturers may work in significantly different ways. As a consequence, to assure that headlamps can be correctly aimed, instructions for proper use must be part of the vehicle as a label, or optionally, in the vehicle owner's manual.

FMVSS No. 110, ''Tire selection and rims.'' This standard specifies requirements for tire selection to prevent tire overloading. The vehicle's normal load and maximum load on the tire shall not be greater than applicable specified limits. The standard requires a permanently affixed vehicle placard specifying vehicle capacity weight, designated seating capacity, manufacturer recommended cold tire inflation pressure and manufacturer's recommended tire size. The standard further specifies rim construction requirements, load limits of non-pneumatic spare tires, and labeling requirements for non-pneumatic spare tires, including a required placard. Owner's manual information is required for ''Use of Spare Tire.'' FMVSS No. 110 requires additional owner's manual information on the revised vehicle placard and tire information label, on revised tire labeling, and on tire safety and load limits and terminology.

FMVSS No. 138, ''Tire pressure monitoring systems.'' This standard specifies requirements for a tire pressure monitoring system to warn the driver of an under-inflated tire condition. Its purpose is to reduce the likelihood of a vehicle crash resulting from tire failure due to operation in an under-inflated condition. The standard requires the Owner's Manual to include specific information on the low pressure warning telltale and the malfunction indicator telltale.

FMVSS No. 202, ''Head restraints.'' This standard specifies requirements for head restraints. The standard, which seeks to reduce whiplash injuries in rear collisions, currently requires head restraints for front outboard designated seating positions in passenger cars and in light multipurpose passenger vehicles, trucks and buses. In a final rule published on December 14, 2004 (69 FR 74880), the standard requires that vehicle manufacturers include information in owner's manuals for vehicles manufactured on or after September 1, 2008. The owner's manual must clearly identify which seats are equipped with head restraints. If the head restraints are removable, the owner's manual must provide instructions on how to remove the head restraint by a deliberate action distinct from any act necessary for adjustment, and how to reinstall head restraints. The owner's manual must warn that all head restraints must be reinstalled to

properly protect vehicle occupants. Finally, the owner's manual must describe, in an easily understandable format, the adjustment of the head restraints and/or seat back to achieve appropriate head restraint position relative to the occupant's head.

FMVSS No. 205, ''Glazing materials.'' This standard specifies requirement for all glazing material used in windshields, windows, and interior partitions of motor vehicles. Its purpose is to reduce the likelihood of lacerations and to minimize the possibility of occupants penetrating the windshield in a crash. More detailed information regarding the care and maintenance of such glazing items, as the glass-plastic windshield, is required to be placed in the vehicle owner's manual.

FMVSS No. 208, ''Occupant crash protection.'' This standard specifies requirements for both active and passive occupant crash protection systems for passenger cars, multipurpose passenger vehicles, trucks and small buses. Certain safety features, such as air bags, or the care and maintenance of air bag systems, are required to be explained to the owner by means of the owner's manual. For example, the owner's manual must describe the vehicle's air bag system and provide precautionary information about the proper positioning of the occupants, including children. The owner's manual must also warn that no objects, such as shotguns carried in police cars, should be placed over or near the air bag covers.

FMVSS No. 210, ''Seat belt assembly anchorages.'' This standard specifies requirements for seat belt assembly anchorages to ensure effective occupant restraint and to reduce the likelihood of failure in a crash. The standard requires that manufacturers place the following information in the vehicle owner's manual: a. An explanation that child restraints are designed to be secured by means of the vehicle's seat belts, and, b. A statement alerting vehicle owners that children are always safer in the rear seat.

FMVSS No. 213, ''Child restraint systems.'' This standard specifies requirements for child restraint systems and requires that manufacturers provide consumers with detailed information relating to child safety in air bag equipped vehicles. The vehicle owner's manual must include information about the operation and do's and don'ts of built-in child seats.

FMVSS No. 226, ''Ejection mitigation.'' This standard establishes vehicle requirements intended to reduce the partial and complete ejection of vehicle occupants through side windows in crashes, particularly rollover crashes. The standard applies to vehicles with a gross vehicle weight rating of 4,536 kg or less. Written information must be provided with every vehicle describing any ejection mitigation countermeasure that deploys in the event of a rollover and a discussion of the readiness indicator specifying a list of the elements of the system being monitored by the indicator, a discussion of the purpose and location of the telltale, and instructions to the consumer on the steps to take if the telltale is illuminated.

Part 575 Section 103, ''Camper loading.'' This regulation requires manufacturers of slide-in campers to affix to each camper a label that contains information relating to identification and proper loading of the camper and to provide more detailed loading information in the owner's manual. This regulation also requires manufacturers of trucks that would accommodate slide-in campers to specify the cargo weight ratings and the longitudinal limits within which the center of gravity for the cargo weight rating should be located.

Part 575 Section 105, ''Vehicle rollover.'' This regulation requires manufacturers of utility vehicles to alert utility vehicle drivers of the higher possibility of rollover compared to other vehicle types and to advise them of steps that can be taken to reduce the possibility of rollover and/or to reduce the likelihood of injury in a rollover. A statement is provided in the regulation, which manufacturers shall include in its entirety or equivalent form, in the Owner's Manual.

Estimated Total Annual Burden: 3,724 hours.

Estimated Number of Respondents: 22.

Instructions: For detailed instructions on submitting comments and additional information on the rulemaking process, see the Public Participation heading of the Supplementary Information section of this document. Note that all comments received will be posted without change to *http://www.regulations.gov,* including any personal information provided.

Comments are invited on:

Whether the proposed collections of information are necessary for the proper performance of the functions of the Department, including whether the information will have practical utility; 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.

Public Participation

How do I prepare and submit comments?

Your comments must be written and in English. To ensure that your comments are correctly filed in the Docket, please include the docket number of this document in your comments. Your comments must not be more than 15 pages long.[1] We established this limit to encourage you to write your primary comments in a concise fashion. However, you may attach necessary additional documents to your comments. There is no limit on the length of the attachments.

If you are submitting comments electronically as a PDF (Adobe) file, we ask that the documents submitted be scanned using Optical Character Recognition (OCR) process, thus allowing the agency to search and copy certain portions of your submissions.[2]

Please note that pursuant to the Data Quality Act, in order for substantive data to be relied upon and used by the agency, it must meet the information quality standards set forth in the OMB and DOT Data Quality Act guidelines. Accordingly, we encourage you to consult the guidelines in preparing your comments. OMB's guidelines may be accessed at *http://www.whitehouse.gov/omb/fedreg/reproducible.html.* DOT's guidelines may be accessed at *http://dmses.dot.gov/submit/DataQualityGuidelines.pdf.*

How can I be sure that my comments were received?

If you submit your comments by mail and wish Docket Management to notify you upon its receipt of your comments, enclose a self-addressed, stamped postcard in the envelope containing your comments. Upon receiving your comments, Docket Management will return the postcard by mail.

How do I submit confidential business information?

If you wish to submit any information under a claim of confidentiality, you should submit three copies of your complete submission, including the information you claim to be confidential business information, to the Chief Counsel, NHTSA, at the address given

[1] *See* 49 CFR 553.21.

[2] Optical character recognition (OCR) is the process of converting an image of text, such as a scanned paper document or electronic fax file, into computer-editable text.

above under **FOR FURTHER INFORMATION CONTACT**. When you send a comment containing information claimed to be confidential business information, you should include a cover letter setting forth the information specified in our confidential business information regulation.[3]

In addition, you should submit a copy, from which you have deleted the claimed confidential business information, to the Docket by one of the methods set forth above.

Will the agency consider late comments?

We will consider all comments received before the close of business on the comment closing date indicated above under **DATES**. To the extent possible, we will also consider comments received after that date.

How can I read the comments submitted by other people?

You may read the materials placed in the docket for this document (e.g., the comments submitted in response to this document by other interested persons) at any time by going to *http://www.regulations.gov*. Follow the online instructions for accessing the dockets. You may also read the materials at the Docket Management Facility by going to the street address given above under **ADDRESSES**. The Docket Management Facility is open between 9 a.m. and 5 p.m. Eastern Time, Monday through Friday, except Federal holidays.

Authority: 44 U.S.C. 3506(c); delegation of authority at 49 CFR 1.50.

Issued on: November 18, 2011.

Lori K. Summers,

Acting Associate Administrator for Rulemaking.

[FR Doc. 2011–30391 Filed 11–23–11; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[NHTSA Docket No. NHTSA–2011–0151]

Meeting Notice—Federal Interagency Committee on Emergency Medical Services

AGENCY: National Highway Traffic Safety Administration (NHTSA), DOT.

ACTION: Meeting notice.

SUMMARY: NHTSA announces a meeting of the Federal Interagency Committee on Emergency Medical Services (FICEMS) to be held in the Washington, DC area. This notice announces the date, time and location of the meeting, which will be open to the public. Pre-registration is required to attend.

DATES: The meeting will be held on December 19, 2011, from 1:30 p.m. EST to 4:30 p.m. EST.

ADDRESSES: The meeting will be held at the Department of Homeland Security (DHS), Office of Health Affairs at 1120 Vermont Avenue NW., 4th Floor Conference Room, Washington, DC 20005.

FOR FURTHER INFORMATION CONTACT: Drew Dawson, Director, Office of Emergency Medical Services, National Highway Traffic Safety Administration, 1200 New Jersey Avenue SE., NTI–140, Washington, DC 20590, Telephone number (202) 366–9966; Email *Drew.Dawson@dot.gov*.

Required Registration Information: This meeting will be open to the public, however pre-registration is required to comply with security procedures. Picture I.D. must be provided to enter the DHS Building and it is suggested that visitors arrive 20–30 minutes early in order to facilitate entry. Members of the public wishing to attend must provide their name, affiliation, phone number, and email address to Noah Smith by email at *Noah.Smith@dot.gov* or by telephone at (202) 366–5030 no later than December 15, 2011, or they will not be allowed into the building. Please be aware that visitors to DHS are subject to search and must pass through a magnetometer. Weapons of any kind are strictly forbidden in the building unless authorized through the performance of the official duties of your employment (*i.e.* law enforcement officer).

SUPPLEMENTARY INFORMATION: Section 10202 of the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy For Users (SAFETEA–LU), Public Law 109–59, provides that the FICEMS consist of several officials from Federal agencies as well as a State emergency medical services director appointed by the Secretary of Transportation. SAFETEA–LU directs the Administrator of NHTSA, in cooperation with the Administrator of the Health Resources and Services Administration of the Department of Health and Human Services and the Director of the Preparedness Division, Directorate of Emergency Preparedness and Response of the Department of Homeland Security, to provide administrative support to the Interagency Committee, including scheduling meetings, setting agendas, keeping minutes and records, and producing reports.

This meeting of the FICEMS will focus on addressing the requirements of SAFETEA–LU and the opportunities for collaboration among the key Federal agencies involved in emergency medical services. The tentative agenda currently includes:

- Discussion of Response to Recommendations from the National Transportation Safety Board.
  - Update on Helicopter Emergency Medical Services recommendations.
  - Final response to the Mexican Hat, Utah Motorcoach Crash recommendations.
- Reports and updates from Technical Working Group committees.
- A discussion of FICEMS strategic planning initiatives.
- Reports, updates, and recommendations from FICEMS members.
- A public comment period.

There will not be a call-in number provided for this FICEMS meeting, however minutes of the meeting will be available to the public online at *http://www.ems.gov*.

Issued on: November 18, 2011.

Jeffrey P. Michael,

Associate Administrator, Research and Program Development.

[FR Doc. 2011–30309 Filed 11–23–11; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[U.S. DOT Docket Number NHTSA–2011–0156]

Reports, Forms, and Recordkeeping Requirements

AGENCY: National Highway Traffic Safety Administration (NHTSA), Department of Transportation.

ACTION: Request for public comment on an extension of a currently approved collection.

SUMMARY: Before a Federal agency can collect certain information from the public, it must receive approval from the Office of Management and Budget (OMB). Under procedures established by the Paperwork Reduction Act of 1995, before seeking OMB approval, Federal agencies must solicit public comment on proposed collections of information, including extensions and reinstatement of previously approved collections.

This document describes one collection of information for which NHTSA intends to seek OMB approval.

[3] *See* 49 CFR 512.

DATES: Comments must be received on or before January 24, 2012.

ADDRESSES: Comments must refer to the docket notice numbers cited at the beginning of this notice and be submitted to Docket Management, Room W12–140, ground level, 1200 New Jersey Ave. SE., Washington, DC 20590 by any of the following methods.

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.
- *Mail:* Docket Management Facility, U.S. Department of Transportation, 1200 New Jersey Avenue SE., West Building Ground Floor, Room W12–140, Washington, DC 20590.
- *Hand Delivery/Courier:* 1200 New Jersey Avenue SE., West Building Ground Floor, Room W12–140, Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal Holidays. Telephone: 1–(800) 647–5527.
- *Fax:* (202) 493–2251.

Instructions: For detailed instructions on submitting comments and additional information on the rulemaking process, see the Public Participation heading of the Supplementary Information section of this document. Note that all comments received will be posted without change to *http://www.regulations.gov,* including any personal information provided. Please see the Privacy Act heading below.

Privacy Act: Anyone is able to search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, *etc.*). You may review DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (65 FR 19477–78) or you may visit *http://DocketInfo.dot.gov.*

Docket: For access to the docket to read background documents or comments received, go to the street address listed above. The Internet access to the docket will be at *http://www.regulations.gov.* Follow the online instructions for accessing the dockets.

FOR FURTHER INFORMATION CONTACT: Complete copies of each request for collection of information may be obtained at no charge from Carlita Ballard, NHTSA 1200 New Jersey Ave. SE., Room W43–439, NVS–131, Washington, DC 20590. Ms. Ballard's telephone number is (202) 366–5222. Please identify the relevant collection of information by referring to its OMB Control Number.

SUPPLEMENTARY INFORMATION: Under the Paperwork Reduction Act of 1995, before an agency submits a proposed collection of information to OMB for approval, it must first publish a document in the **Federal Register** providing a 60-day comment period and otherwise consult with members of the public and affected agencies concerning each proposed collection of information. The OMB has promulgated regulations describing what must be included in such a document. Under OMB's regulation (at 5 CFR 1320.8(d)), an agency must ask for public comment on the following:

(i.) 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.) 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.) How to enhance the quality, utility and clarity of the information to be collected;

(iv.) How to minimize the burden of the collection of information on those who are to respond, including the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology (*e.g.* permitting electronic submission of responses).

In compliance with these requirements, NHTSA asks for public comments on the following proposed collections of information:

Title: Insurer Reporting Requirement for 49 CFR part 544.

OMB Control Number: 2127–0547.

Form Number: None.

Affected Public: Business or other for profit.

Requested Expiration Date of Approval: Three years from approval date.

Abstract: This information collection supports the Department's strategic goal of Economic Growth and Trade. The Motor Vehicle Theft Law Enforcement Act of 1984, added Title VI to the Motor Vehicle and Information Cost Savings Act (recodified as Chapter 331 of Title 49, United States Code) which mandated this information collection. The 1984 Theft Act was amended by the Anti Car Theft Act (ACTA) of 1992 (Pub. L. 102–519). NHTSA is authorized under 49 U.S.C. 33112, to collect this information. This information collection supports the agency's economic growth and trade goal through rulemaking implementation developed to help reduce the cost of vehicle ownership by reducing the cost of comprehensive insurance coverage. 49 U.S.C. 33112 requires certain passenger motor vehicle insurance companies and rental/leasing companies to provide information to NHTSA on comprehensive insurance premiums, theft, recoveries and actions taken to address motor vehicle theft.

Estimated Annual Burden: Based on prior years' insurer compilation information, the agency estimates that the time to review and compile information for the reports has decreased and is expected to take approximately a total of 13,375 burden hours (12,950 man-hours for 25 insurance companies and 425 man-hours for 5 rental and leasing companies). Claim adjusters duties are those of normal business practice and do no assist in preparing or compiling information for the reports. There has also been a decrease in the number of companies required to report since the last reporting period. The number of annual reports range between 30 to 35 as a group (includes insurance companies and rental and leasing companies). More insurers are now submitting their reports electronically (approximately 70%). The agency has re-estimated the burden hours to be 13,375 total annual hours in lieu of 63,238 as the current OMB inventory. This is a decrease of 49,863 hours. Most recent year insurer compilation information estimates also reveal that it takes an average cost of $47.00 per hour for clerical and technical staff to prepare the annual reports. Therefore, the agency estimates the total cost associated with the burden hours are $628,625.

The burden hour for rental and leasing companies is significantly less than that for insurance companies because rental and leasing companies comply with fewer reporting requirements than the insurance companies. The reporting burden is based on insurers' salaries, clerical and technical expenses, and labor costs.

Number of Respondents: 30.

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: November 18, 2011.

Lori Summers,

Director, Office of Crashworthiness Standards.

[FR Doc. 2011–30389 Filed 11–23–11; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[Docket No. FD 35095]

Alaska Railroad Corporation—Construction and Operation Exemption—A Rail Line Extension to Port MacKenzie, AK

AGENCY: Surface Transportation Board, DOT.

ACTION: Notice of construction and operation exemption.

SUMMARY: The Board is granting an exemption under 49 U.S.C. 10502 from the prior approval requirements of 49 U.S.C. 10901 for Alaska Railroad Corporation (ARRC) to construct and operate an approximately 35-mile rail line connecting the Port MacKenzie District in south-central Alaska to a point on ARRC's existing main line near Houston, Alaska. The rail line would provide freight services between Port MacKenzie and the interior of Alaska and would support Port MacKenzie's continuing development as an intermodal and bulk material resources export and import facility. This exemption is subject to environmental mitigation conditions and the condition that ARRC build the route designated as environmentally preferable.

DATES: The exemption will be effective on December 21, 2011; petitions for reconsideration must be filed by December 12, 2011.

ADDRESSES: An original and 10 copies of all pleadings, referring to Docket No. FD 35095, must be filed with the Surface Transportation Board, 395 E Street SW., Washington, DC 20423–0001. In addition, 1 copy of each filing in this proceeding must be served on petitioner's representative: Kathryn Kusske Floyd, Dorsey & Whitney LLP, 1801 K Street NW., Suite 750, Washington, DC 20006.

FOR FURTHER INFORMATION CONTACT: Julia Farr, (202) 245–0359.

Assistance for the hearing impaired is available through the Federal Information Relay Service (FIRS) at: 1–(800) 877–8339.

Copies of written comments will be available for viewing and self-copying at the Board's Public Docket Room, Room 131, and will be posted to the Board's Web site.

SUPPLEMENTARY INFORMATION: Additional information is contained in the Board's decision, which is available on our Web site at *http://www.stb.dot.gov.*

By the Board, Chairman Elliott, Vice Chairman Begeman, and Commissioner Mulvey. Commissioner Mulvey dissented with a separate expression.

Decided: November 17, 2011.

Jeffrey Herzig,

Clearance Clerk.

[FR Doc. 2011–30346 Filed 11–23–11; 8:45 am]

BILLING CODE 4915–01–P

DEPARTMENT OF TRANSPORTION

Surface Transportation Board

[STB Docket No. EP 670 (Sub-No. 2)]

Notice of Rail Energy Transportation Advisory Committee Vacancy

AGENCY: Surface Transportation Board, DOT.

ACTION: Notice of vacancy on Federal advisory committee and solicitation of nominations.

SUMMARY: The Surface Transportation Board (Board), hereby gives notice of a vacancy on the Board's Rail Energy Transportation Advisory Committee for a representative of a state- or municipally-owned electric utility. The Board is soliciting suggestions for candidates to fill that vacancy.

DATES: Suggestions of candidates for membership on RETAC are due December 21, 2011.

ADDRESSES: Suggestions may be submitted either via the Board's e-filing format or in the traditional paper format. Any person using e-filing should attach a document and otherwise comply with the instructions at the E–FILING link on the Board's Web site, at *http://www.stb.dot.gov.* Any person submitting a filing in the traditional paper format should send an original and 10 copies to: Surface Transportation Board, Attn: STB Docket No. EP 670 (Sub-No. 2), 395 E Street SW., Washington, DC 20423–0001.

FOR FURTHER INFORMATION CONTACT: Scott M. Zimmerman at (202) 245–0386. [Assistance for the hearing impaired is available through the Federal Information Relay Service (FIRS) at 1–(800) 877–8339.]

SUPPLEMENTARY INFORMATION: The Board, created by Congress in 1996 to take over many of the functions previously performed by the Interstate Commerce Commission, exercises broad authority over transportation by rail carriers, including regulation of railroad rates and service (49 U.S.C. 10701–10747, 11101–11124), as well as the construction, acquisition, operation, and abandonment of rail lines (49 U.S.C. 10901–10907) and railroad line sales, consolidations, mergers, and common control arrangements (49 U.S.C. 10902, 11323–11327).

In 2007, the Board established RETAC as a Federal advisory committee consisting of a balanced cross-section of energy and rail industry stakeholders to provide independent, candid policy advice to the Board and to foster open, effective communication among the affected interests on issues such as rail performance, capacity constraints, infrastructure planning and development, and effective coordination among suppliers, carriers, and users of energy resources. RETAC operates subject to the Federal Advisory Committee Act.

RETAC's membership is balanced and representative of interested and affected parties, consisting of not less than: 5 representatives from the Class I railroads, 3 representatives from Class II and III railroads, 3 representatives from coal producers, 5 representatives from electric utilities (including at least 1 rural electric cooperative and 1 state- or municipally-owned utility), 4 representatives from biofuel refiners, processors, or distributors, or biofuel feedstock growers or providers, and 2 representatives from private car owners, car lessors, or car manufacturers. RETAC may also include up to 3 members with relevant experience but not necessarily affiliated with one of the aforementioned industries or sectors. Members are selected by the Chairman of the Board with the concurrence of a majority of the Board. The Chairman of the Board may invite representatives from the U.S. Departments of Agriculture, Energy and Transportation and the Federal Energy Regulatory Commission to serve on RETAC in advisory capacities as *ex officio* (non-voting) members, and the 3 members of the Board serve as *ex officio* members of the Committee as well.

RETAC meets at least twice per year. Meetings are generally held at the Board's headquarters in Washington, DC, but may be held in other locations. Members of RETAC serve without compensation and without reimbursement of travel expenses unless reimbursement of such expenses is authorized in advance by the Board's Managing Director. RETAC members appointed or reappointed after June 18, 2010, are prohibited from serving as federally registered lobbyists during their RETAC term.

One vacancy currently exists on RETAC for a representative of a state- or municipally-owned electric utility to complete the remainder of a 3-year term ending September 30, 2012. (Under the RETAC Charter, once appointed, RETAC members may be reappointed by the Chairman of the Board.) Suggestions for a representative to fill this vacancy should be submitted in letter form and should include: (1) The name of the candidate, (2) the interest the candidate will represent, (3) a summary of the candidate's experience and qualifications for the position, (4) a representation that the candidate is willing to serve as a member of RETAC, and (5) a representation that the candidate is not a federally registered lobbyist. Suggestions for candidates for membership on RETAC should be filed with the Board by December 21, 2011. Please note that submissions will be available to the public at the Board's offices and posted on the Board's Web site under Docket No. EP 670 (Sub-No. 2).

This action will not significantly affect either the quality of the human environment or the conservation of energy resources.

Authority: 49 U.S.C. 721, 49 U.S.C. 11101; 49 U.S.C. 11121.

Decided: November 21, 2011.

By the Board.

Joseph H. Dettmar,

Acting Director, Office of Proceedings.

Raina S. White,

Clearance Clerk.

[FR Doc. 2011–30347 Filed 11–23–11; 8:45 am]

BILLING CODE 4915–07–P

DEPARTMENT OF THE TREASURY

Submission for OMB Review; Comment Request

November 21, 2011.

The Department of the Treasury will submit the following public information collection requirements to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104–13 on or after the date of publication of this notice. A copy of the submissions may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding these information collections should be addressed to the OMB reviewer listed and to the Treasury PRA Clearance Officer, Department of the Treasury, 1750 Pennsylvania Avenue NW., Suite 11010, Washington, DC 20220.

DATES: Written comments should be received on or before December 27, 2011 to be assured consideration.

Internal Revenue Service (IRS)

OMB Number: 1545–0184.

Type of Review: Revision of a currently approved collection.

Title: Sales of Business Property.

Forms: 4797.

Abstract: This form is used to report the details of gains and losses from the sale, exchange, involuntary conversion (from other than casualty or theft loss), or disposition of the following: Property used in your trade or business, depreciable or amortizable property, capital and non-capital (other than inventory) assets held in connection with the trade or business, or capital assets not reported on Schedule D. The form may also be used to compute the recapture amount under section 179 and 280F(b)(2) when the business use of the property decreases to 50 percent or below.

Respondents: Individuals and Households.

Estimated Total Burden Hours: 100,633,248.

OMB Number: 1545–0238.

Type of Review: Extension without change of a currently approved collection.

Title: Certain Gambling Winnings.

Forms: W–2G.

Abstract: IRC section 6041 requires payers of certain gambling winnings to report them to IRS. If applicable, section 3402(g) and section 3406 require tax withholding on these winnings. We use the information to ensure taxpayer income reporting compliance.

Respondents: Individuals and Households.

Estimated Total Burden Hours: 1,272,479.

OMB Number: 1545–0819.

Type of Review: Extension without change of a currently approved collection.

Title: Instructions for Requesting Rulings and Determination Letters (T.D. 9006).

Abstract: This document contains final regulations relating to the notice to interested parties requirement. Before the IRS can issue an advance determination regarding the qualification of a retirement plan, a plan sponsor must provide evidence that it has notified all persons who qualify as interested parties that an application for an advance determination will be filed with the IRS. These regulations set forth standards by which a plan sponsor may satisfy the notice to interested parties requirement. The final regulations affect retirement plan sponsors, plan participants and other interested parties with respect to a determination letter application, and certain representatives of interested parties.

Respondents: Private Sector: Businesses or other for-profits.

Estimated Total Burden Hours: 248,496.

OMB Number: 1545–0967.

Type of Review: Extension without change of a currently approved collection.

Title: U.S. Estate or Trust Income Tax Declaration and Signature for Electronic and Magnetic Media Filing.

Forms: 8453–F, 8879–F.

Abstract: This form is used to secure taxpayer signatures and declarations in conjunction with electronic and magnetic media filing of trust and fiduciary income tax returns. This form, together with the electronic and magnetic media transmission, will comprise the taxpayer's income tax return (Form 1041).

Respondents: Private Sector: Businesses or other for-profits.

Estimated Total Burden Hours: 1,750.

OMB Number: 1545–1012.

Type of Review: Extension without change of a currently approved collection.

Title: Salary Reduction Simplified Employee Pension-Individual Retirement Accounts Contribution Agreement.

Forms: 5305A–SEP.

Abstract: Form 5305A–SEP is used by an employer to make an agreement to provide benefits to all employees under a salary reduction Simplified Employee Pension (SEP) described in section 408(k). This form is not to be filed with IRS, but is to be retained in the employer's records as proof of establishing such a plan, thereby justifying a deduction for contributions made to the SEP. The data is used to verify the deduction.

Respondents: Private Sector: Businesses or other for-profits.

Estimated Total Burden Hours: 972,000.

OMB Number: 1545–1028.

Type of Review: Extension without change of a currently approved collection.

Title: INTL–941–86 (NPRM) and INTL–655–87 (Temporary) (TD 8178) Passive Foreign Investment Companies.

Abstract: These regulations specify how U.S. persons who are shareholders of passive foreign investment companies (PFICs) make elections with respect to their PFIC stock.

Respondents: Private Sector: Businesses or other for-profits.

Estimated Total Burden Hours: 112,000.

OMB Number: 1545–1073.

Type of Review: Extension without change of a currently approved collection.

Title: Credit for Prior Year Minimum Tax—Individuals, Estates and Trusts.

Form: 8801.

Abstract: Form 8801 is used by individuals, estates, and trusts to compute the minimum tax credit, if any, available from a tax year beginning after 1986 to be used in the current year or to be carried forward for use in a future year.

Respondents: Individuals and Households.

Estimated Total Burden Hours: 93,756.

OMB Number: 1545–1091.

Type of Review: Extension without change of a currently approved collection.

Title: Corporate Passive Activity Loss and Credit Limitations.

Form: 8810.

Abstract: Under section 469, losses and credits from passive activities, to the extent they exceed passive income (or, in the case of credits, the tax attributable to meet passive income), are not allowed. Form 8810 is used by personal service corporations and closely held corporations to figure the passive activity loss and credits allowed and the amount of loss and credit to be reported on their tax return.

Respondents: Private Sector: Businesses or other for-profits.

Estimated Total Burden Hours: 3,749,000.

OMB Number: 1545–1218.

Type of Review: Extension without change of a currently approved collection.

Title: CO–25–96 (TD 8824—Final) Regulations Under Section 1502 of the Internal Revenue Code of 1986; Limitations on Net Operating Loss Carryforwards and Certain Built-in Losses and Credits Following.

Abstract: Section 1502 provides for the promulgation of regulations with respect to corporations that file consolidated income tax returns. Section 382 limits the amount of income that can be offset by loss carryovers and credits after an ownership change. These final regulations provide rules for applying section 382 to groups of corporations that file a consolidated return.

Respondents: Private Sector: Businesses or other for-profits.

Estimated Total Burden Hours: 662.

OMB Number: 1545–1364.

Type of Review: Extension without change of a currently approved collection.

Title: REG–144615–02 (TD 9441) Methods to Determine Taxable Income in Connection with a Cost Sharing Arrangement.

Abstract: This document contains temporary regulations that provide further guidance and clarification regarding methods under section 482 to determine taxable income in connection with a cost sharing arrangement in order to address issues that have arisen in administering the current regulations. The temporary regulations affect domestic and foreign entities that enter into cost sharing arrangements described in the temporary regulations.

Respondents: Private Sector: Businesses or other for-profits.

Estimated Total Burden Hours: 9,350.

OMB Number: 1545–1484.

Type of Review: Extension without change of a currently approved collection.

Title: REG–242282–97 (formerly Intl–62–90, Intl–32–93, Intl–52–86, and Intl–52–94) (TD–8881–final) General Revision of Regulations Relating to Withholding of Tax on Certain U.S. Source Income Paid to Foreign Persons.

Abstract: This document contains amendments to final regulations relating to the withholding of income tax under sections 1441, 1442, and 1443 on certain U.S. source income paid to foreign persons and related requirements governing collection, deposit, refunds, and credits of withheld amounts under sections 1461 through 1463. Additionally, this document contains amendments under sections 6041, 6041A, 6042, 6045, 6049, and 3406. This regulation affects persons making payments of U.S. source income to foreign persons.

Respondents: Private Sector: Businesses or other for-profits.

Estimated Total Burden Hours: 1.

OMB Number: 1545–1490.

Type of Review: Extension without change of a currently approved collection.

Title: FI–28–96 (Final) Arbitrage Restrictions on Tax-Exempt Bonds.

Abstract: The recordkeeping requirements are necessary for the Service to determine that an issuer of tax-exempt bonds has not paid more than fair market value for non-purpose investments under section 148 of the Internal Revenue Code.

Respondents: State, Local, and Tribal Governments.

Estimated Total Burden Hours: 1,425.

OMB Number: 1545–1644.

Type of Review: Extension without change of a currently approved collection.

Title: REG–126024–01 (final) Reporting of Gross Proceeds Payment to Attorneys; TD 9270.

Abstract: Information is required to implement section 1021 of the Taxpayer Relief Act of 1997. This information will be used by the IRS to verify compliance with section 6045 and to determine that the taxable amount of these payments has been computed correctly.

Respondents: Private Sector: Businesses or other for-profits.

Estimated Total Burden Hours: 1.

OMB Number: 1545–1675.

Type of Review: Extension without change of a currently approved collection.

Title: REG–122450–98 (Final) Real Estate Mortgage Investment Conduits; REG–100276–97; REG–122450–98 (NPRM) Financial Asset Securitization Investment Trusts; Real Estate Mortgage Investment (TD 9004).

Abstract: REG–122450–98 Sections 1.860E–1(c)(4)–(10) of the Treasury Regulations provide circumstances under which a transferor of a noneconomic residual interest in a Real Estate Mortgage Investment Conduit (REMIC) meeting the investigation, and two representation requirements may avail itself of the safe harbor by satisfying either the formula test or asset test. This regulation provides start-up and transitional rules applicable to financial asset securitization investment trust.

Respondents: Private Sector: Businesses or other for-profits.

Estimated Total Burden Hours: 1,220.

OMB Number: 1545–1779.

Type of Review: Extension without change of a currently approved collection.

Title: Notice 2002–27—IRA Required Minimum Distribution Reporting.

Abstract: This notice provides guidance with respect to the reporting requirements, that is, data that custodians and trustees of IRAs must furnish IRA owners in those instances where there must be a minimum distribution from an individual retirement arrangement.

Respondents: Private Sector: Businesses or other for-profits.

Estimated Total Burden Hours: 1,170,000.

OMB Number: 1545–1784.

Type of Review: Extension without change of a currently approved collection.

Title: Rev. Proc. 2002–32, Waiver of 60-month Bar on Reconsolidation after Disaffiliation; Rev. Proc. 2006–21–Modifications to Rev. Proc. 2002–32.

Abstract: Revenue Procedure 2002–32 provides qualifying taxpayers with a waiver of the general rule of § 1504(a)(3)(A) of the Internal Revenue Code barring corporations from filing consolidated returns as a member of a group of which it had been a member

for 60 months following the year of disaffiliation; Revenue Procedure 2006–21 modifies Rev. Proc. 89–56, 1989–2 C.B. 643, Rev. Proc.90–39, 1990–2 C.B. 365, and Rev. Proc. 2002–32, 2002–20 IRB p.959, to eliminate impediments to the electronic filing of Federal income tax returns (e-filing) and to reduce the reporting requirements in each of these revenue procedures.

Respondents: Private Sector: Businesses or other for-profits.

Estimated Total Burden Hours: 100.

OMB Number: 1545–1786.

Type of Review: Extension without change of a currently approved collection.

Title: Rev. Procs. 2002–39, 2006–45 (Previous 2002–37), 2006–46 (Previous 2002–38) and Rev. Proc 2007–64; Changes in Periods of Accounting.

Abstract: The collections of information in these three (3) revenue procedures is necessary for the Commissioner to determine whether a taxpayer may properly obtain approval to adopt, change, or retain an annual accounting period.

Respondents: Private Sector: Businesses or other for-profits.

Estimated Total Burden Hours: 700.

OMB Number: 1545–1793.

Type of Review: Extension without change of a currently approved collection.

Title: Rev. Proc. 2002–43, Determination of Substitute Agent for a Consolidated Group.

Abstract: The information is needed in order for (i) a terminating common parent of a consolidated group to notify the IRS that it will terminate and to designate another corporation to be the group's substitute agent, pursuant to Treas. Reg. Sec. 1.1502–77(d)(1) or Sec. 1.1052–77A(d); (ii) the remaining members of a consolidated group to designate a substitute agent pursuant to Sec. 1.1502–77A (d); (iii) the default substitute agent to notify the IRS that it is the default substitute agent pursuant to Sec. 1.1502–77(d)(2); or (iv) requests by a member of the group for the IRS to designate a substitute agent or replace a previously designated substitute agent. The IRS will use the information to determine whether to approve the designation (if approval is required), to designate a substitute agent, or to replace a substitute agent, and to change the IRS's records to reflect the name and other information about the substitute agent.

Respondents: Private Sector: Businesses or other for-profits.

Estimated Total Burden Hours: 400.

OMB Number: 1545–1795.

Type of Review: Extension without change of a currently approved collection.

Title: T.D. 9079 (Final) Ten or More Employer Plan Compliance Information.

Abstract: This document contains final regulations that provide rules regarding the requirements for a welfare benefit fund that is part of a 10 or more employer plan. The regulations affect certain employers that provide welfare benefits to employees through a plan to which more than one employer contributes.

Respondents: Private Sector: Businesses or other for-profits.

Estimated Total Burden Hours: 2,500.

OMB Number: 1545–1797.

Type of Review: Extension without change of a currently approved collection.

Title: REG–106876–00 (TD9082) (Final), Revision of Income Tax Regulations under Sections 897, 1445, and 6109 to require use of Taxpayer Identifying Numbers on Submission under the Section 897 and 1445.

Abstract: The collection of information relates to applications for withholding certificates under Treas. Reg. 1.1445–1 to be filed with the IRS with respect to (1) dispositions of U.S. real property interests that have been used by foreign persons as a principle residence within the prior 5 years and excluded from gross income under section 121 and (2) dispositions of U.S. real property interests by foreign persons in deferred like kind exchanges that qualify for nonrecognition under section 1031.

Respondents: Private Sector: Businesses or other for-profits.

Estimated Total Burden Hours: 600.

OMB Number: 1545–1798.

Type of Review: Extension without change of a currently approved collection.

Title: User Fee for Exempt Organization Determination Letter Request.

Form: 8718.

Abstract: The Omnibus Reconciliation Act of 1990 requires payment of a ''user fee'' with each application for a determination letter. Because of this requirement, the Form 8718 was created to provide filers the means to make payment and indicate the type of request.

Respondents: Private Sector: Businesses or other for-profits.

Estimated Total Burden Hours: 16,667.

OMB Number: 1545–1930.

Type of Review: Extension without change of a currently approved collection.

Title: (T.D. 9248) (Final and Temporary) Residence and Source Rules Involving U.S. Possessions and Other Conforming Changes.

Abstract: The regulations provide rules for determining whether an individual is a bona fide resident of a U.S. possession and whether income is derived from sources in a possession or effectively connected with the conduct of a trade or business in a possession.

Respondents: Individuals and Households.

Estimated Total Burden Hours: 30,000.

OMB Number: 1545–1935.

Type of Review: Extension without change of a currently approved collection.

Title: Notice 2005–40, Election to Defer Net Experience Loss in a Multiemployer Plan.

Abstract: This notice describes the election that must be filed by an eligible multiemployer plan's enrolled actuary to the Service in order to defer a net experience loss. The notice also describes the notification that must be given to plan participants and beneficiaries, to labor organization, to contributing employers and to the Pension Benefit Guaranty Corporation within 30 days of making an election with the Service and the certification that must be filed if a restricted amendment is adopted.

Respondents: Private Sector: Businesses or other for-profits.

Estimated Total Burden Hours: 960.

OMB Number: 1545–1937.

Type of Review: Extension without change of a currently approved collection.

Title: Notice 2005–41, Guidance Regarding Qualified Intellectual Property Contributions.

Abstract: This notice explains new section 170(e)(1)(B)(iii) and 170(m) as added by section 882 of the American Jobs Creation Act of 2004. Under section 170(e)(1)(B)(iii), a donor's initial charitable contribution deduction for a gift of qualified intellectual property is limited to the lesser of the donor's adjusted basis is the property or its fair market value. Under section 170(m), the donor may claim additional deduction in subsequent years if the property produces income.

Respondents: Private Sector: Businesses or other for-profits.

Estimated Total Burden Hours: 30.

OMB Number: 1545–1939.

Type of Review: Extension without change of a currently approved collection.

Title: Notice 2005–32—Notification Requirement for Transfer of Partnership

Interest in Electing Investment Partnership (EIP).

Abstract: The American Jobs Creation Act of 2004, Public Law 108–357, 118 Stat. 1418 (the Act), was enacted on October 22, 2004. The Treasury Department and the Internal Revenue Service intend to issue regulations implementing §§ 833 and 834 of the Act, which amended 704, 734, 743, and 6031 of the Internal Revenue Code. This notice provides interim procedures for partnerships and their partners to comply with the mandatory basis provisions of 734 and 743, as amended by the Act. This notice also provides interim procedures for electing investment partnerships (EIPs) and their partners to comply with §§ 743(e) and 6031(f), as provided in § 833(b) of the Act.

Respondents: Private Sector: Businesses or other for-profits.

Estimated Total Burden Hours: 552,100.

OMB Number: 1545–1940.

Type of Review: Extension without change of a currently approved collection.

Title: RP–2005–26—Revenue Procedure Regarding Extended Period of Limitations for Listed Transaction Situations.

Abstract: This revenue procedure provides procedures that taxpayers and material advisors may use to disclose a listed transaction that the taxpayer previously failed to disclose.

Respondents: Individuals and Households.

Estimated Total Burden Hours: 430.

OMB Number: 1545–2129.

Type of Review: Extension without change of a currently approved collection.

Title: Exercise of an Incentive Stock Option Under * * *; Transfer of Stock Acquired Through an * * *; REG–103146–08—Information Reporting Requirements Under Code Sec. 6039.

Forms: 3922, 3921.

Abstract: Form 3921 is a copy of the information return filed with the IRS which transferred shares of stock to a recipient through exercise of an incentive stock option under section 422(b). Form 3922 is used to record a transfer of the legal title of a share of stock acquired by the employee where the stock was acquired pursuant to the exercise of an option described in section 423(c). REG–103146–08—reflects the changes to section 6039 of the Internal Revenue Code made by section 403 of the Tax Relief and Health Care Act of 2006.

Respondents: Private Sector: Businesses or other for-profits.

Estimated Total Burden Hours: 25,205.

Bureau Clearance Officer: Yvette Lawrence, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224; (202) 927–4374.

OMB Reviewer: Shagufta Ahmed, Office of Management and Budget, New Executive Office Building, Room 10235, Washington, DC 20503; (202) 395–7873.

Dawn D. Wolfgang,

Treasury PRA Clearance Officer.

[FR Doc. 2011–30353 Filed 11–23–11; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Finding That the Islamic Republic of Iran Is a Jurisdiction of Primary Money Laundering Concern

AGENCY: The Financial Crimes Enforcement Network (''FinCEN''), Treasury.

ACTION: Notice of finding.

SUMMARY: Pursuant to the authority contained in 31 U.S.C. 5318A, the Secretary of the Treasury, through his delegate, the Director of FinCEN, finds that reasonable grounds exist for concluding that the Islamic Republic of Iran is a jurisdiction of primary money laundering concern.

DATES: The finding made in this notice is effective as of November 25, 2011.

FOR FURTHER INFORMATION CONTACT: Regulatory Policy and Programs Division, FinCEN, (800) 949–2732.

SUPPLEMENTARY INFORMATION:

I. Background

A. Statutory Provisions

On October 26, 2001, the President signed into law the Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act of 2001 (the ''USA PATRIOT Act''), Public Law 107–56. Title III of the USA PATRIOT Act amends the anti-money laundering provisions of the Bank Secrecy Act (''BSA''), codified at 12 U.S.C. 1829b, 12 U.S.C 1951–1959, and 31 U.S.C. 5311–5314 and 5316–5332, to promote prevention, detection, and prosecution of international money laundering and the financing of terrorism. Regulations implementing the BSA appear at 31 CFR Chapter X.

Section 311 of the USA PATRIOT Act (''section 311'') added 31 U.S.C. section 5318A to the BSA, granting the Secretary of the Treasury (the ''Secretary'') the authority, upon finding that reasonable grounds exist for concluding that a foreign jurisdiction, institution, class of transactions, or type of account is of ''primary money laundering concern,'' to require domestic financial institutions and financial agencies to take certain ''special measures'' against the primary money laundering concern. Section 311 identifies factors for the Secretary to consider and requires Federal agencies to consult before the Secretary may conclude that a jurisdiction, institution, class of transaction, or type of account is of primary money laundering concern. The statute also provides similar procedures, *i.e.,* factors and consultation requirements, for selecting the specific special measures to be imposed against the primary money laundering concern. For purposes of the finding contained in this notice, the Secretary has delegated his authority under section 311 to the Director of FinCEN.[1]

Taken as a whole, section 311 provides the Secretary with a range of options that can be adapted to target specific money laundering and terrorist financing concerns most effectively. Through the imposition of various special measures, the Secretary can gain more information about the jurisdictions, institutions, transactions, or accounts of concern; can more effectively monitor the respective jurisdictions, institutions, transactions, or accounts; or can prohibit U.S. financial institutions from involvement with jurisdictions, institutions, transactions, or accounts that pose a money laundering concern.

Before making a finding that reasonable grounds exist for concluding that a jurisdiction is of primary money laundering concern, the Secretary is required to consult with both the Secretary of State and the Attorney General. The Secretary is also required by section 311, as amended,[2] to consider ''such information as the Secretary determines to be relevant, including the following potentially relevant factors,'' which extend the Secretary's consideration beyond traditional money laundering concerns to issues involving, inter alia, terrorist financing and weapons proliferation:

- Evidence that organized criminal groups, international terrorists, or entities involved in the proliferation of weapons of mass destruction (''WMD'') or missiles, have transacted business in that jurisdiction;

[1] Therefore, references to the authority and findings of the Secretary in this document apply equally to the Director of FinCEN.

[2] 31 U.S.C. 5318A was amended by section 501 of the Iran Freedom Support Act of 2006, Public Law 109–293.

• The extent to which that jurisdiction or financial institutions operating in that jurisdiction offer bank secrecy or special regulatory advantages to nonresidents or nondomiciliaries of that jurisdiction;
• The substance and quality of administration of the bank supervisory and counter-money laundering laws of that jurisdiction;
• The relationship between the volume of financial transactions occurring in that jurisdiction and the size of the economy of the jurisdiction;
• The extent to which that jurisdiction is characterized as an offshore banking or secrecy haven by credible international organizations or multilateral expert groups;
• Whether the United States has a mutual legal assistance treaty with that jurisdiction, and the experience of U.S. law enforcement officials and regulatory officials in obtaining information about transactions originating in or routed through or to such jurisdiction; and
• The extent to which that jurisdiction is characterized by high levels of official or institutional corruption.

If the Secretary determines that reasonable grounds exist for concluding that a jurisdiction is of primary money laundering concern, the Secretary is authorized to impose one or more of the special measures in section 311 to address the specific money laundering risks. Section 311 provides a range of special measures that can be imposed individually, jointly, in any combination, and in any sequence.[3] Before imposing special measures, the statute requires the Secretary to consult with appropriate federal agencies and other interested parties[4] and to consider the following specific factors:

• Whether similar action has been or is being taken by other nations or multilateral groups;
• Whether the imposition of any particular special measures would create a significant competitive disadvantage, including any undue cost or burden associated with compliance, for financial institutions organized or licensed in the United States;
• The extent to which the action or the timing of the action would have a significant adverse systemic impact on the international payment, clearance, and settlement system, or on legitimate business activities involving the particular jurisdiction; and
• The effect of the action on U.S. national security and foreign policy.

B. Iran

Iran's banking sector comprises Iranian state-owned commercial banks, specialized Iranian government banks, and privately owned Iranian financial institutions.[5] Some of these Iranian financial institutions[6] operate multiple overseas branches and subsidiaries in Asia, Europe, and the Middle East[7] and maintain relationships in key global financial centers.[8]

In recent years, many international financial institutions have severed ties with Iranian banks and entities because of a growing body of public information about their illicit and deceptive conduct designed to facilitate the Iranian government's support for terrorism and its pursuit of nuclear and ballistic missile capabilities. This illicit conduct by Iranian banks and companies has been highlighted in a series of United Nations Security Council (''UN Security Council'') resolutions related to Iranian proliferation sensitive activities. The Financial Action Task Force[9] (''FATF'') has also warned publicly of the risks that Iran's deficiencies in countering money laundering and, particularly, terrorism finance, pose to the international financial system, and has called on FATF members and all jurisdictions to implement counter measures to protect against these risks. Despite the resulting reduction in Iranian financial institutions' access to correspondent and other financial relationships with major financial institutions,[10] both designated and non-designated Iranian banks continue to maintain a presence in the international financial system.

II. Analysis of Factors

Based upon a review and analysis of the administrative record in this matter, consultations with relevant Federal agencies and departments, and after consideration of the factors enumerated in section 311, the Director of FinCEN has determined that reasonable grounds exist for concluding that Iran is a jurisdiction of primary money laundering concern. While FinCEN has considered all potentially relevant factors set forth in Section 5318A, a discussion of those most pertinent to this finding follows. FinCEN has reason to believe that Iran directly supports terrorism and is pursuing nuclear/ballistic missile capabilities, relies on state agencies or state-owned or controlled financial institutions to facilitate WMD proliferation and financing, and uses deceptive financial practices to facilitate illicit conduct and evade sanctions. All of these factors, when taken together, make the international financial system increasingly vulnerable to the risk that otherwise responsible financial institutions will unwittingly participate in Iran's illicit activities.

A. Evidence That Organized Criminal Groups, International Terrorists, or Entities Involved in the Proliferation of Weapons of Mass Destruction or Missiles, Have Transacted Business in That Jurisdiction

1. Iran's Support for Terrorism and Pursuit of Nuclear and Ballistic Missile Capabilities

Support for Terrorism: The Department of State designated Iran as a state sponsor of international terrorism in 1984,[11] and has reiterated this designation every year since 2000 in its annual Country Reports on Terrorism.[12] Iran remains the most active of the listed state sponsors of terrorism, routinely providing substantial

[3] Available special measures include requiring: (1) Recordkeeping and reporting of certain financial transactions; (2) collection of information relating to beneficial ownership; (3) collection of information relating to certain payable-through accounts; (4) collection of information relating to certain correspondent accounts; and (5) prohibition or conditions on the opening or maintaining of correspondent or payable-through accounts. 31 U.S.C. 5318A(b)(1)–(5). For a complete discussion of the range of possible countermeasures, *See* 68 FR 18917 (April 17, 2003) (proposing special measures against Nauru).

[4] Section 5318A(a)(4)(A) requires the Secretary to consult with the Chairman of the Board of Governors of the Federal Reserve System, any other appropriate Federal banking agency, the Secretary of State, the Securities and Exchange Commission (''SEC''), the Commodity Futures Trading Commission (''CFTC''), the National Credit Union Administration (''NCUA''), and, in the sole discretion of the Secretary, ''such other agencies and interested parties as the Secretary may find to be appropriate.'' The consultation process must also include the Attorney General if the Secretary is considering prohibiting or imposing conditions on domestic financial institutions opening or maintaining correspondent account relationships with the targeted entity.

[5] Central Bank of the Islamic Republic of Iran. (*http://www.cbi.ir/simplelist/1462.aspx*). At various points in this finding, FinCEN references public media sources to support statements of fact. FinCEN has utilized both public and non-public sources in reaching such conclusions.

[6] *Id.*

[7] The Bankers Almanac, September 2011.

[8] *Id.*

[9] The Financial Action Task Force is an inter-governmental body whose purpose is the development and promotion of national and international policies to combat money laundering and terrorist financing. The FATF is therefore a ''policy-making body'' that works to generate the necessary political will to bring about legislative and regulatory reforms in these areas. (*http://www.fatf-gafi.org*).

[10] ''Sanctions Against Iran: A Promising Struggle,'' The Washington Quarterly, Summer 2008.

[11] *See* ''State Sponsors of Terrorism,'' U.S. Department of State, August 18, 2011 (*http://www.state.gov/s/ct/rls/crt/2010/170260.htm*).

[12] *Id.*

resources and guidance to multiple terrorist organizations.[13] Iran has provided extensive funding, training, and weaponry to Palestinian terrorist groups, including Hamas and the Palestinian Islamic Jihad (''PIJ'').[14] In fact, Hamas,[15] PIJ,[16] and Hizballah[17] have maintained offices in Tehran to help coordinate Iranian financing and training of these groups.

Iran's Islamic Revolutionary Guard Corps (''IRGC'') was founded in the aftermath of the 1979 Islamic Revolution to defend the government against internal and external threats.[18] Since then, it has expanded far beyond its original mandate and evolved into a social, military, political, and economic force with strong influence on Iran's power structure.[19] In addition, elements of the IRGC have been directly involved in the planning and support of terrorist acts throughout the Middle East region.[20]

In particular, Iran has used the IRGC–Qods Force[21] (''Qods Force'') to cultivate and support terrorists and militant groups abroad. The Qods Force reportedly has been active in the Levant, where it has a long history of supporting Hizballah's military, paramilitary, and terrorist activities, and provides Hizballah with as much as $200 million in funding per year.[22] Additionally, the Qods Force provides the Taliban in Afghanistan with weapons, funding, logistics, and training in support of anti-U.S. and anti-coalition activity.[23] Information dating from at least 2006 indicates that Iran has arranged frequent shipments to the Taliban of small arms and associated ammunition, rocket propelled grenades, mortar rounds, 107 mm rockets, and plastic explosives.[24] Iran also has helped train Taliban fighters within Iran and Afghanistan.[25] Taliban commanders have stated that they were paid by Iran to attend three month training courses within Iran.[26] In August 2011, a Taliban commander claimed to have trained in Iran and been offered $50,000 by Iranian officials in return for destroying a dam in Afghanistan.[27] Most recently, on October 11, 2011, the Department of Justice charged two individuals for their alleged participation in a plot directed by the Qods Force to murder the Saudi ambassador to the United States with explosives while the Ambassador was in the United States.[28] On the same day, the Treasury Department announced the designation of five individuals, including the commander of the Qods Force and three other senior Qods Force officers connected to the assassination plot, as well as the individual responsible for arranging the assassination plot on behalf of the Qods Force.[29]

Iran has also permitted al-Qaida to funnel funds and operatives through its territory. In July 2011, the U.S. Department of the Treasury (''Treasury'') designated an al-Qa'ida network headed by an individual living and operating in Iran under an agreement between al-Qa'ida and the Iranian government.[30] The designation of six members of this network illustrated Iran's role as a critical transit point for funding to support al-Qa'ida's activities in Afghanistan and Pakistan as this network serves as a pipeline through which al-Qa'ida moves money, facilitators, and operatives from across the Middle East to South Asia.[31]

Finally, Iran is known to have used state-owned banks to facilitate terrorist financing. In 2007, the Treasury designated Bank Saderat under E.O. 13224 for its financial support of terrorist organizations, noting that from 2001 to 2006 Bank Saderat transferred $50 million from the Central Bank of Iran through its subsidiary in London to its branch in Beirut for the benefit of Hizballah fronts in Lebanon that support acts of violence.[32]

Pursuit of nuclear/ballistic missile capabilities: Iran also continues to defy the international community by pursuing nuclear capabilities and developing ballistic missiles in violation of seven UNSCRs.[33] Iran's failure to comply with these resolutions has resulted in the UN Security Council's imposition of sanctions against Iran. These have included specific provisions aimed at preventing Iran from accessing the international financial system in order to pursue nuclear capabilities and to develop ballistic missiles.[34] To date, Iran has not complied with the UN Security Council resolutions regarding its nuclear and missile activities,[35] and continues to assert that it will not abandon its program to create nuclear fuel and enrich uranium.[36] This summer, Iran announced that it would triple production of its most concentrated uranium fuel, which is enriched to near 20% purity, and that some of this production would be transferred to Iran's facility near Qom.[37] This is a significant development because the technical work required to produce 20% enriched uranium from 3.5% is more difficult than that required to advance from 20% to the 90% weapons-grade level.[38]

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[13] *Id.*

[14] *Id.*

[15] ''Ex-Iranian President Offers Mediation Between Hamas, Fatah, Kuwait KUNA,'' KUNA, June 30, 2007.

[16] *See* ''Palestine Islamic Jihad envoy to Tehran says moderate Arabs hamper victory,'' Tehran Jomhouri-ye Eslami. December 10, 2007.

[17] *See* ''Hezbollah's hate, made in Iran,'' National Post, July 28, 2006.

[18] *See* ''Iran's Revolutionary Guards,'' Council on Foreign Relations, June 22, 2009 (*http://www.cfr.org/publication/14324/irans_revolutionary_guards.html*).

[19] *Id.*

[20] *See* ''Country Reports on Terrorism 2010,'' U.S. Department of State, August 18, 2011 (*http://www.state.gov/s/ct/rls/crt/2010/170260.htm*).

[21] IRGC–Qods Force was designated under E.O. 13224 for providing material support for the Taliban and other terrorist groups. *See* ''Fact Sheet: Designation of Iranian Entities and Individuals for Proliferation Activities and Support for Terrorism,'' U.S. Treasury, October 25, 2007 (*http://www.treasury.gov/press-center/press-releases/Pages/hp644.aspx*).

[22] *See* ''Islamic Revolutionary Guards Corps,'' Anti-Defamation League, May 26, 2010.

[23] *See* ''Country Reports on Terrorism 2010,'' U.S. Department of State, August 18, 2011 (*http://www.state.gov/s/ct/rls/crt/2010/170260.htm*).

[24] *Id.*

[25] ''Taliban Fighters Training in Iran, U.S. Officials Say,'' CNN, March 23, 2010 (*http://articles.cnn.com/2010–03–23/world/iran.taliban_1_taliban-fighters-afghan-taliban-iranian-official?_s=PM:WORLD*).

[26] ''Iranians Train Taliban to Use Roadside Bombs,'' The Sunday Times, March 21, 2010.

[27] *See* ''Captured Taliban Commander: 'I Received Iranian Training','' Radio Free Europe, August 23, 2011.

[28] *See* ''Attorney General Holder Holds National Security Enforcement Press Conference,'' October 11, 2011 (*http://www.justice.gov/iso/opa/ag/speeches/2011/ag-speech-111011.html*).

[29] *See* ''Treasury Sanctions Five Individuals Tied to Iranian Plot to Assassinate the Saudi Arabian Ambassador to the United States,'' October 11, 2011 (*http://www.treasury.gov/press-center/press-releases/pages/tg1320.aspx*).

[30] *See* ''Treasury Targets Key Al-Qa'ida Funding and Support Network Using Iran as a Critical Transit Point,'' Press Release, July 28, 2011 (*http://www.treasury.gov/press-center/press-releases/Pages/tg1261.aspx*).

[31] *Id.*

[32] *See* Treasury's ''Fact Sheet: Treasury Designation of Iranian Entities and Individuals for Proliferation Activities and Support for Terrorism,'' October 25, 2007 (*http://www.treasury.gov/press-center/press-releases/Pages/hp644.aspx*).

[33] *See* UNSCRs 1696, 1737, 1747, 1803, 1835, 1887, and 1929 (*http://www.un.org/documents/scres.htm*).

[34] *Id.*

[35] ''Iran's Nuclear Program,'' New York Times, June 8, 2011 (*http://topics.nytimes.com/top/news/international/countriesandterritories/iran/nuclear_program/index.html?scp=1-spot&sq=iran%20nuclear%20program&st=cse*).

[36] ''Iran Claims Progress Speeding Nuclear Program'' Wall Street Journal, August 4, 2011 (*http://online.wsj.com/article/SB10001424052701190345450457648666388127014 4.html?mod=googlenews_wsj*).

[37] ''Iran's Uranium Enrichment Will Increase, It Says,'' New York Times, June 8, 2011. *(http://www.nytimes.com/2011/06/09/world/middleeast/09iran.html).*

[38] Iran Claims Progress Speeding Nuclear Program'' Wall Street Journal, August 4, 2011 (*http://online.wsj.com/article/SB10001424052701190345450457648666388127014 4.html?mod=googlenews_wsj*).

2. Use of government agencies and state-owned or controlled financial institutions to facilitate WMD proliferation and financing

Iran uses government agencies and state-owned or controlled financial institutions to advance its nuclear and ballistic missile ambitions. Specifically, the government agencies rely on state-owned Iranian financial institutions to help finance illicit procurement activities related to WMD proliferation.

Government Agencies: Iran has used the Atomic Energy Organization of Iran (''AEOI''), which was designated by Treasury as the main Iranian organization for research and development activities in the field of nuclear technology, including Iran's uranium enrichment program, to manage the country's overall nuclear program.[39] Additionally, Iran has relied on the Ministry of Defense and Armed Forces Logistics (''MODAFL''), which was designated by the State Department under Executive Order (''E.O.'') 13382 for proliferation activities.[40] Iran also controls the Defense Industries Organization (''DIO''), which has been designated by the UN [41] and the United States,[42] and the Aerospace Industries Organization (''AIO''), which is identified in the Annex to E.O. 13382 for its role in overseeing Iran's missile industries.[43] AIO, the parent entity to Shahid Hemat Industrial Group (SHIG),[44] which is also listed in the Annex to E.O. 13382, was identified for its ballistic missile research, development, and production activities, in addition to overseeing all of Iran's missile industries.[45]

State-owned or controlled banks: Multiple Iranian financial institutions have been directly implicated in facilitating Iran's nuclear and ballistic missile activities. For example, Iranian state-owned Bank Sepah was designated by the Treasury Department under E.O. 13382 and designated in UNSCR 1747 for providing direct and extensive financial services to Iranian entities responsible for developing ballistic missiles, including AIO and SHIG.[46]

Iran's state-owned Bank Melli, which was identified in UNSCR 1803,[47] has also facilitated numerous purchases of sensitive materials for Iran's nuclear and missile programs on behalf of UN-designated entities.[48] Treasury found that Bank Melli has provided a range of financial services to known proliferators, including opening letters of credit and maintaining accounts.[49] Additionally, Treasury found, following the designation of Bank Sepah under UNSCR 1747 for its support for AIO and AIO's subordinates, Bank Melli took precautions not to identify Bank Sepah in transactions.[50] Treasury designated Bank Melli and associated subsidiaries and front companies under E.O. 13382 for its financial support to entities involved in the proliferation of weapons of mass destruction.[51] Multiple jurisdictions also have designated Bank Melli under their respective legal authorities.[52]

Treasury has also designated under E.O. 13382 Bank Mellat, another Iranian state-owned bank, for financially facilitating Iran's nuclear and proliferation activities by supporting AEOI and its main financial conduit, Novin Energy Company (''Novin'').[53] Specifically, the designation noted that as of October 2007, Bank Mellat had facilitated the movement of millions of dollars for Iran's nuclear program since at least 2003.[54] In November 2009, First East Export Bank was designated pursuant to E.O. 13382 as a subsidiary and for its support of Bank Mellat.[55] Furthermore, the international community has raised concerns and taken action against Bank Mellat. In October 2009, the United Kingdom's (''UK'') HM Treasury issued an order to all of its financial and credit institutions to cease all business with Bank Mellat, based on its connection to Iran's proliferation activities and for being involved in transactions related to financing Iran's nuclear and ballistic missile program.[56] Noting that Bank Mellat itself has facilitated hundreds of millions of dollars in transactions for Iranian nuclear, missile, and defense entities, UNSCR 1929 designated First East Export Bank, a Bank Mellat subsidiary in Malaysia.[57] Since the adoption of UNSCR 1929, the European Union (''EU''), Japan, South Korea, Australia, Canada, Norway, and Switzerland have implemented measures against Bank Mellat.[58]

In October 2008, Treasury designated the Export Development Bank of Iran

[39] ''Treasury Designates Iranian Nuclear and Missile Entities,'' August 12, 2008 (*http://www.treasury.gov/press-center/press-releases/Pages/hp1113.aspx*).

[40] ''Fact Sheet: Designation of Iranian Entities and Individuals for Proliferation Activities and Support for Terrorism,'' U.S. Treasury, October 25, 2007 (*http://www.treas.gov/press/releases/hp644.htm*).

[41] United Nations Security Council Resolution 1737, December 23, 2006 (*http://www.un.org/News/Press/docs/2006/sc8928.doc.htm*).

[42] ''Iran's Defense Industries Organization Designated by State,'' U.S. Department of State, March 30, 2007 (*http://2001–2009.state.gov/r/pa/prs/ps/2007/mar/82487.htm*).

[43] Executive Order 13382 of June 28, 2005. (*http://www.fas.org/irp/offdocs/eo/eo-13382.htm*).

[44] *Id.*

[45] Fact Sheet: Designation of Iranian Entities and Individuals for Proliferation Activities and Support for Terrorism,'' U.S. Treasury, October 25, 2007 (*http://www.treas.gov/press/releases/hp644.htm*).

[46] *See* ''Testimony of Stuart Levey, Under Secretary for Terrorism and Financial Intelligence, Before the Senate Committee on Banking, Housing and Urban Affairs,'' Treasury Press Release, March 21, 2007 (*http://www.treasury.gov/press-center/press-releases/Pages/hp325.aspx*); and U.S. Treasury, ''Iran's Bank Sepah Designated by Treasury Sepah Facilitating Iran's Weapons Program,'' January 9, 2007 (*http://www.treasury.gov/press-center/press-releases/Pages/hp219.aspx*).

[47] *See* UNSCR 1803. (*http://www.un.org/Docs/sc/unsc_resolutions08.htm*).

[48] ''Fact Sheet: Designation of Iranian Entities and Individuals for Proliferation Activities and Support for Terrorism,'' U.S. Treasury, October 25, 2007 (*http://www.treas.gov/press/releases/hp644.htm*).

[49] *Id.*

[50] *Id.*

[51] *See* ''Fact Sheet: Designation of Iranian Entities and Individuals for Proliferation Activities and Support for Terrorism,'' U.S. Treasury, October 25, 2007 (*http://www.treas.gov/press/releases/hp644.htm*); ''Treasury Designates Iran-Controlled Bank for Proliferation Future Bank Controlled by Iran's Bank Melli,'' U.S. Treasury, March 12, 2008 (*http://www.treasury.gov/press-center/press-releases/Pages/hp869.aspx*); and ''Treasury Designates Companies Tied to Iran's Bank Melli as Proliferators,'' U.S. Treasury, March 3, 2009 (*http://www.treasury.gov/press-center/press-releases/Pages/tg46.aspx*).

[52] *See e.g.,* ''Media Release: Australia Imposes New Broad-Ranging Sanctions Against Iran,'' Australian Minister for Foreign Affairs and Trade, July 29, 2010 (*http://foreignminister.gov.au/releases/2010/fa-s100729.html*).

[53] *See* ''Fact Sheet: Designation of Iranian Entities and Individuals for Proliferation Activities and Support for Terrorism,'' U.S. Treasury, October 25, 2007 (*http://www.treasury.gov/press-center/press-releases/Pages/hp644.aspx*).

[54] *Id.*

[55] *See* '' Treasury Designates Bank Mellat Subsidiary and Chairman Under Proliferation Authority,'' U.S. Treasury; November 5, 2009 (*http://www.treasury.gov/press-center/press-releases/Pages/tg355.aspx*).

[56] Id.

[57] *See* UNSCR 1929 (*http://www.un.org/Docs/sc/unsc_resolutions10.htm*).

[58] *See* ''Council Implementing Regulation (EU) No 668/2010,'' European Union, July 26, 2010 (*http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2010:195:0025:0036:EN:PDF*); ''Accompanying Measures Pursuant to United Nations Security Council Resolution 1929,'' Ministry of Foreign Affairs of Japan, September 3, 2010 (*http://www.mofa.go.jp/region/middle_e/iran/measures_unsc_1009.html*); ''Government Regarding the Implementation of UNSCR 1929,'' Republic of Korea, September 8, 2010; ''Charter of the United Nations (Sanctions—Iran) (Specified Entities) List 2010, Government of Australia, August 4, 2010 (*http://www.comlaw.gov.au/Details/F2010L02236*); Special Economic Measures (Iran) Regulations, Government of Canada, August 4, 2010 (*http://canadagazette.gc.ca/rp-pr/p2/2010/2010–08–04/html/sor-dors165-eng.html*); ''Press Release,'' Government of Norway, Ministry of Foreign Affairs, January 14, 2011 (*http://www.regjeringen.no/mobil/en/dep/ud/press/news/2011/sanctions_iran_adopted.html?id=630820*); ''Iran: Federal Council Takes Steps to Improve Legal Certainty and Prevent Possible Evasion,'' January 19, 2011, The Federal Authorities of the Swiss Federation (*http://www.admin.ch/aktuell/00089/index.html?lang=en&msg-id=37283*).

(''EDBI'') under E.O. 13382 for providing or attempting to provide financial services to MODAFL.[59] The designation further asserted that EDBI provides financial services to multiple MODAFL-subordinate entities and facilitated the ongoing procurement activities of various front companies associated with MODAFL-subordinate entities.[60] Treasury's designation also noted that, since Bank Sepah's designation by the United States and identification by the UN Security Council, EDBI has served as one of the leading intermediaries handling Bank Sepah's financing, including WMD-related payments, and has facilitated transactions for other sanctioned proliferation-related entities.[61]

As the Iranian banks described above have become increasingly isolated from the international financial system due to international sanctions, other Iranian banks have begun to play a larger role in Iran's illicit activities and efforts to circumvent sanctions.[62] The Treasury Department has continued to target Iranian banks that engage in illicit behavior and act on behalf of U.S.-designated, Iranian-linked banks. Treasury designated Post Bank for operating on behalf of Bank Sepah;[63] the Iranian-owned German bank EIH for providing financial services to Bank Mellat, Persia International Bank, EDBI, and Post Bank;[64] Bank Refah for providing financial services to MODAFL;[65] Bank of Industry and Mine for providing financial services to Bank Mellat and EIH;[66] and Ansar Bank and Mehr Bank for providing financial services to the IRGC.[67] The EU and other jurisdictions have recognized the risks posed by the vast majority of these financial institutions and have imposed similar measures to prohibit banks in their jurisdictions from doing business with these entities.[68] As recently as May 2011, the EU designated EIH for playing a ''key role in assisting a number of Iranian banks with alternative options for completing transactions disrupted by EU sanctions targeting Iran.''[69]

3. The Iranian Government's Use of Deceptive Financial Practices

Since 1979, Iran long has been subject to a variety of U.S. sanctions that have significantly expanded over time, including prohibition of the importation of Iranian-origin goods and services, prohibitions on certain transactions with respect to the development of Iranian petroleum resources, and prohibitions on exports and re-exports to Iran. Today, most trade-related transactions with Iran are prohibited, and U.S. financial institutions are generally prohibited, with only limited exceptions, from doing business with Iranian financial institutions.[70]

To further amplify financial pressure on Iranian financial institutions involved in Iran's support for terrorism and weapons proliferation, President Obama signed into law the Comprehensive Iran Sanctions, Accountability, and Divestment Act of 2010 (''CISADA'') on July 1, 2010, which includes a provision that authorizes the Secretary of the Treasury to impose sanctions on foreign financial institutions that knowingly facilitate certain activities related to Iran.[71] On August 16, 2010, Treasury's Office of Foreign Assets Control (''OFAC'') published a final rule implementing certain aspects of CISADA, [72] and on October 5, 2011, FinCEN published a final rule to implement section 104(e) of CISADA to complement Treasury's ongoing efforts to protect the international financial system from abuse by Iran.[73]

As a result of the strengthened U.S. sanctions and similar measures taken by the United Nations and other members of the global community, Iran now faces significant barriers to conducting international transactions. In response, Iran has used deceptive financial practices to disguise both the nature of transactions and its involvement in them in an effort to circumvent sanctions. This conduct puts any financial institution involved with Iranian entities at risk of unwittingly facilitating transactions related to terrorism, proliferation, or the evasion of U.S. and multilateral sanctions. Iranian financial institutions, including the Central Bank of Iran (''CBI''), and other state-controlled entities, willingly engage in deceptive practices to disguise illicit conduct, evade international sanctions, and undermine the efforts of responsible regulatory agencies around the world.

Iranian financial institutions: Iran employs numerous deceptive practices to disguise the Iranian origin of transactions in order to avoid scrutiny and evade international sanctions. These practices include the transfer of funds from Iran to exchange houses outside Iran and the use of back-to-back letters of credit. Iranian foreign bank branches transfer funds to local banks in the same jurisdiction for onward payments that may conceal the Iranian origin of funds.

In other examples, Bank Sepah has requested that its name be removed from transactions in order to make it

[59] ''Export Development Bank of Iran Designated as a Proliferator,'' U.S. Treasury, October 22, 2008 (*http://www.treasury.gov/press-center/press-releases/Pages/hp1231.aspx*).

[60] *Id.*

[61] *Id.*

[62] *See* ''Testimony of Stuart Levey, Under Secretary of Terrorism and Financial Intelligence, before the Senate Foreign Relations Committee,'' June 22, 2010. (*http://foreign.senate.gov/imo/media/doc/Levey,%20Stuart.pdf*).

[63] *See* ''Fact Sheet: U.S. Treasury Department Targets Iran's Nuclear and Missile Programs,'' U.S. Treasury, June 16, 2010 (*http://www.treasury.gov/press-center/press-releases/Pages/tg747.aspx*).

[64] *See* ''Treasury Department Targets Iranian-Owned Bank in Germany Facilitating Iran's Proliferation Activities,'' U.S. Treasury, September 7, 2010 (*http://www.treasury.gov/press-center/press-releases/Pages/tg847.aspx*).

[65] *See* ''Treasury Targets Iranian Bank for Providing Financial Services to Designated Entities Connected to Iran's Proliferation Activities,'' U.S. Treasury, February 17, 2011 (*http://www.treasury.gov/press-center/press-releases/Pages/tg1067.aspx*).

[66] *See* ''Treasury Designates Iranian State-Owned Bank for Facilitating Iran's Proliferation Activities,'' U.S. Treasury, May 17, 2011 (*http://www.treasury.gov/press-center/press-releases/Pages/tg1178.aspx*).

[67] See ''Fact Sheet: Treasury Designated Iranian Entities Tied to the IRGC and IRISL,'' U.S. Treasury, December 21, 2010 (*http://www.treasury.gov/press-center/press-releases/pages/tg/1010.aspx*).

[68] *See* ''Council Implementing Regulation (EU) No 668/2010,'' European Union, July 26, 2010 (*http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2010:195:0025:0036:EN:PDF*); ''Council Implementing Regulation (EU) No. 2011/301/CFSP,'' European Union, May 23, 2011 (*http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2011:136:0087:0090:EN:PDF*); ''Charter of the United Nations (Sanctions—Iran) (Specified Entities) List 2010, Government of Australia, August 4, 2010 (*http://www.comlaw.gov.au/Details/F2010L02236*).

[69] *See* ''Council Implementing Regulation (EU) No. 2011/299/CFSP,'' European Union, May 23, 2011 (*http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2011:136:0087:0090:EN:PDF*).

[70] On November 14, 1979, the President issued E.O. 12170 blocking Iranian government property. *See* (*http://www.archives.gov/federal-register/codification/executive-order/12170.html*). The Iranian Transactions Regulations (''ITR''), 31 CFT part 560, implement a series of Executive Orders that began with E.O. 12613 issued in 1987, which prohibit the importation of Iranian-origin goods and services. In response to Iran's continued support of international terrorism and active pursuit of weapons of mass destruction, U.S. sanctions have expanded to include E.O. 12957 (March 1997), which imposed prohibition on certain transactions with respect to the development of petroleum resources, and in May 1995, E.O. 12959, which imposed comprehensive trade and financial sanctions on Iran. In August 1997, E.O. 13059 was issued consolidating and clarifying the previous orders. *See* (*http://treasury.gov/resource-center/sanctions/Programs/Documents/iran.pdf*).

[71] For a full discussion of CISADA and its provisions, *See* the U.S. Department of the Treasury Web site (*http://www.treasury.gov/resource-center/sanctions/Documents/hr2194.pdf*).

[72] *See* OFAC CISADA regulations at 75 FR 49836 (August 16, 2010) or 31 CFR part 561 (*http://edocket.access.gpo.gov/2010/pdf/2010–20238.pdf*).

[73] See Fact Sheet ''FinCEN Implements Provision of the Comprehensive Iran Sanctions, Accountability, and Divestment Act of 2010,'' October 5, 2011 (*http://www.fincen.gov/news_room/nr/html/20111005.html*).

more difficult for intermediary financial institutions to determine the true parties to a transaction.[74] As noted in Treasury's designation, Bank Melli took precautions not to identify Bank Sepah in transactions following Bank Sepah's designation under UNSCR 1747 and employed similar deceptive banking practices to obscure its involvement from non-Iranian financial institutions when handling financial transactions on behalf of the IRGC.[75]

In June 2010, Post Bank of Iran was designated by the Treasury Department under E.O. 13382 [76] for facilitating transactions on behalf of Bank Sepah after Bank Sepah was designated by the UN and United States.[77] The designation further notes that, in 2009, Post Bank facilitated business on behalf of Bank Sepah between Iran's defense industries and overseas beneficiaries and transacted millions of dollars worth of business between U.S.-designated Hong Kong Electronics and other overseas beneficiaries.[78]

The Central Bank of Iran, which regulates Iranian banks, has assisted designated Iranian banks by transferring billions of dollars to these banks in 2011. In mid-2011, the CBI transferred several billion dollars to designated banks, including Saderat, Mellat, EDBI and Melli, through a variety of payment schemes. In making these transfers, the CBI attempted to evade sanctions by minimizing the direct involvement of large international banks with both CBI and designated Iranian banks. Additionally, the CBI transfers funds to designated Iranian bank branches outside Iran via non-Iranian foreign banks, often involving deliberate attempts on its part to conceal that the recipient is a designated Iranian bank. In some cases, this activity involves book-to-book transfers and the use of accounts at intermediary banks that hold accounts for the CBI and designated banks. Further, the CBI was believed to have provided financing to the UN-sanctioned Khatem al-Anbiya Constructions Headquarters for defense-related projects.

Front companies: Iran has a well-established history of using front companies and complex corporate ownership structures to disguise the involvement of government entities known to be involved in Iranian proliferation activity when conducting commercial transactions. These companies transact substantial business in Iran and elsewhere around the world. For example, Novin, an AEOI front company that operates as the financial arm of AEOI, has transferred millions of dollars on behalf of AEOI to entities associated with Iran's nuclear program.[79] Additionally, Mesbah Energy Company (''Mesbah''), was designated under EO 13382 for being controlled by, or acting or purporting to act for or on behalf of AEOI, and was cited in UNSCR 1737.[80] Mesbah has been used to procure products for Iran's heavy water project.[81] Heavy water is essential for Iran's heavy-water-moderated reactor, which will provide Iran with a potential source of plutonium that could be used for nuclear weapons.[82]

In some cases, the connection to Iran is not readily apparent, as Iranian entities have formed front companies outside of Iran in an attempt to obtain dual-use items for Iran that could be used in Iran's nuclear or missile programs and that otherwise could not legally be exported directly to Iran.[83] For example, Iranian companies and their fronts have also falsified end-user information on export forms to allow prohibited items to be exported into the country.[84] Iran has colluded with some exporters to enter fictitious end-user names in the importer section of export forms in order to evade international and national controls on shipments to Iran.[85] For example, in May 2010, Balli Aviation Ltd., a UK subsidiary of Balli Group PLC, pled guilty in the U.S. District Court for the District of Columbia to exporting three Boeing 747 aircraft to Iran without obtaining the proper authorization from the United States.[86]

Iranian commercial entities deploy the above mentioned practices specifically to evade those controls put in place by the United States, international community, and responsible financial institutions, controls that are designed to enforce international sanctions, prevent the proliferation of nuclear weapons and their delivery systems, and protect the international financial sector from abuse by illicit actors. These practices by Iranian entities have allowed Iran to engage in illicit activities and operate undetected in the international economy.[87]

The IRGC: The IRGC, which was designated by the Department of State as a primary proliferator under E.O. 13382 in October 2007,[88] owns and/or controls multiple commercial entities across a wide range of sectors within the Iranian economy. For example, the IRGC established Khatam al-Anbiya,[89] the largest major Iranian construction conglomerate, to generate income and fund IRGC operations while presenting the company as a legitimate company

[74] ''Testimony of Stuart Levey, Under Secretary for Terrorism and Financial Intelligence, Before the Senate Committee on Banking, Housing and Urban Affairs,'' March 21, 2007 (*http://www.treasury.gov/press-center/press-releases/Pages/hp325.aspx*).

[75] ''Fact Sheet: Designation of Iranian Entities and Individuals for Proliferation Activities and Support for Terrorism,'' U.S. Treasury, October 25, 2007 (*http://www.treasury.gov/press-center/press-releases/Pages/hp644.aspx*).

[76] ''Fact Sheet: U.S. Treasury Department Targets Iran's Nuclear and Missile Programs,'' U.S. Treasury, June 16, 2010 (*http://www.treasury.gov/press-center/press-releases/Pages/tg747.aspx*).

[77] *Id.*

[78] *Id.*

[79] *See* UNSCR 1747 (*http://www.un.org/Docs/sc/unsc_resolutions07.htm*); and ''Treasury Employs Financial Sanctions Against WMD Proliferation Supporters in Iran,'' U.S. Treasury, January 4, 2006 (*http://www.treasury.gov/press-center/press-releases/Pages/js3069.aspx*).

[80] *See* UNSCR 1737 (*http://www.un.org/Docs/sc/unsc_resolutions06.htm*) and ''Treasury Employs Financial Sanctions Against WMD Proliferation Supporters in Iran,'' U.S. Treasury, January 4, 2006 (*http://www.treasury.gov/press-center/press-releases/Pages/js3069.aspx*).

[81] ''Testimony of Robert W. Werner, Director Office of Foreign Assets Control,'' U.S. Treasury, February 16, 2006 (*http://www.treasury.gov/press-center/press-releases/Pages/js4053.aspx*).

[82] *Id.*

[83] ''Testimony of Stuart Levey, Under Secretary for Terrorism and Financial Intelligence, Before the Senate Committee on Banking, Housing and Urban Affairs,'' March 21, 2007 (*http://www.treasury.gov/press-center/press-releases/Pages/hp325.aspx*).

[84] ''German Report Details Smuggling of Nuclear Bomb, Missile Components to Iran,'' Hamburg Stem, July 16, 2009.

[85] ''Kyodo: Mitutoyo Falsifies Iranian Recipient's Name to Get Export Permission,'' Tokyo Kyodo World Service, August 26, 2006 (*http://www.freerepublic.com/focus/f-news/1690388/posts*).

[86] *See* ''U.K. Firm Fined $2 Million After Pleading Guilty to Illegally Exporting Boeing 747 Aircraft to Iran,'' U.S. Department of Justice, May 11, 2010 (*http://www.justice.gov/opa/pr/2010/May/10-nsd-551.html*).

[87] ''Testimony of Stuart Levey, Under Secretary for Terrorism and Financial Intelligence, Before the Senate Committee on Banking, Housing and Urban Affairs,'' March 21, 2007 (*http://www.treasury.gov/press-center/press-releases/Pages/hp325.aspx*).

[88] *See* ''Fact Sheet: Designation of Iranian Entities and Individuals for Proliferation Activities and Support for Terrorism,'' U.S. Treasury, October 25, 2007 (*http://www.treasury.gov/press-center/press-releases/Pages/hp644.aspx*).

[89] In October 2007, the Treasury Department designated nine IRGC-affiliated companies and five IRGC-affiliated individuals for proliferation activity under E.O. 13382 as derivatives of the IRGC, including Khatam al-Anbiya Construction Headquarters, which secured deals worth at least $7 billion in the oil, gas and transportation sectors, among others, in 2006. *See* Id. The European Union also designated Khatam al-Anbiya for supporting the Iranian ballistic missile and nuclear programs. *See* ''European Council Common Position 2008/479/CFSP,'' Official Journal of the European Union, June 23, 2008 (*http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2008:163:0043:0049:en:PDF*).

working on civilian projects.[90] Khatam al-Anbiya was designated by Treasury in 2007 pursuant to E.O. 13382.[91] U.S.-designated, Iranian-linked financial institutions have served as an important lifeline for Khatam al-Anbiya. The U.S. and EU-designated Iranian banks Melli, Mellat, and state-owned Iranian Bank Tejarat have provided financial support to Khatam al-Anbiya-related business before and after the UN designation of Khatam al-Anbiya and fourteen of its subsidiaries.

The IRGC has continued to expand its control over commercial enterprises within Iran. For example, Tidewater Middle East Company (''Tidewater''), a port operating company, was designated by Treasury under E.O. 13382 in June 2011 as a company that is owned by the IRGC. Tidewater has operations at seven Iranian ports,[92] some of which the Iranian government has repeatedly used to export arms or related material in violation of UNSCRs.[93] Treasury also designated Iran Air under E.O. 13382 for providing material support to the IRGC and MODAFL, both of which used the commercial airline carrier to transport military-related equipment on passenger aircraft.[94] Similarly, as noted in Treasury's designation of the leadership within the IRGC–Qods Force (''IRGC–QF''), the IRGC and the IRGC–QF engage in seemingly legitimate activities that provide cover for intelligence operations and support terrorist groups such as Hizballah, Hamas and the Taliban.[95]

Islamic Republic of Iran Shipping Lines (''IRISL''): Treasury designated IRISL, Iran's national maritime carrier, and affiliated entities pursuant to E.O. 13382 for providing logistical services to MODAFL.[96] The concern over IRISL's role in Iran's illicit activities has grown significantly within the international community. In October 2009, the UK and Bermuda also designated IRISL.[97] Three IRISL-related entities, Irano Hind Shipping Company, IRISL Benelux NV, and South Shipping Line Iran (SSL), were sanctioned by the UN in June 2010.[98] Subsequently, the EU, Australia, Canada, Japan, Norway, South Korea, and Switzerland adopted measures against IRISL.[99] Additionally, as IRISL became increasingly unable to maintain adequate hull and protection-and-indemnity (P&I) insurance because of international sanctions, IRISL was forced to turn to Tehran-based Moallem Insurance Company, which was not in the business of providing maritime insurance. Treasury designated Moallem in December 2010 for providing marine insurance to IRISL vessels.[100]

Iran's main shipping line has long relied upon deceptive techniques to conceal its behavior and to avoid international and U.S. sanctions.[101] IRISL is increasingly employing deceptive practices to disguise its involvement in shipping operations and the designation of its cargo. Since being subjected to U.S. and international sanctions, IRISL has renamed as many as 80 of the ships in its fleet and changed ownership information and flag registries to evade sanctions.[102] IRISL also has renamed its offices in China, Singapore, Germany, and South Korea, has tried to mask its operations in the UAE by using a network of front companies,[103] and has moved its container operations to a subsidiary, HDS Lines.[104] Moreover, IRISL has also since stopped referring to HDS Lines in bills of lading from its shipping agent.[105]

These deceptive practices are designed to avoid scrutiny in financial transactions. As the U.S and other jurisdictions have prohibited financial institutions from processing transactions involving sanctioned entities, IRISL's deceptive practices seek to disguise IRISL's involvement in order to permit the financial transaction. In an advisory to U.S. financial institutions, FinCEN noted IRISL's efforts to rename vessels and adjust information associated with financial transactions and suggested that the International Maritime Organization (''IMO'') registration number, which is a unique identifier assigned to each vessel, could provide a useful indication of whether an IRISL vessel is involved in a transaction.[106] In addition, OFAC issued an advisory to alert shippers, importers, exporters, and freight forwarders of IRISL's efforts to hide its involvement in transactions by using container prefixes registered to another carrier, omitting or listing invalid, incomplete or false container prefixes in shipping container numbers, and naming non-existent ocean vessels in shipping documents.[107]

[90] ''Ex-Iranian Official Tells UK Daily About Likely IRGC Earnings, Activities,'' The Financial Times, March 16, 2007.

[91] ''Fact Sheet: Designation of Iranian Entities and Individuals for Proliferation Activities and Support for Terrorism,'' U.S. Treasury, October 25, 2007 (*http://www.treasury.gov/press-center/press-releases/Pages/hp644.aspx*).

[92] ''*See* U.S. Treasury ''Fact Sheet: Treasury Sanctions Major Iranian Commercial Entities,'' June 23, 2011. *(http://www.treasury.gov/press-center/press-releases/Pages/tg1217.aspx).*

[93] *Id.*

[94] *Id.*

[95] ''Fact Sheet: U.S. Treasury Department Targets Iran's Support for Terrorism,'' U.S. Treasury Department, August 3, 2010 *(http://www.treasury.gov/press-center/press-releases/Pages/tg810.aspx).*

[96] ''Major Iranian Shipping Company Designated for Proliferation Activity,'' U.S. Treasury, September 10, 2008 *(http://www.treasury.gov/press-center/press-releases/Pages/tg1067.aspx).*

[97] *See* ''The Financial Restrictions (Iran) Order 2009,'' HM Treasury, October 12, 2009 *(http://www.hm-treasury.gov.uk/d/fin_crime_iran_order.pdf)* and ''Anti-Terrorism (Financial Restrictions Iran) Order 2010,'' The Minister of Justice, January 15, 2010 *(http://www.bermudalaws.bm/Laws/Consolidated%20Laws/Anti-Terrorism%20(Financial%20Restrictions%20Iran)%20Order%202010.pdf).*

[98] *See* UN Security Resolution 1929 *(http://daccess-dds-ny.un.org/doc/UNDOC/GEN/N10/396/79/PDF/N1039679.pdf?OpenElement).*

[99] *See* ''Council Implementing Regulation (EU) No 668/2010,'' European Union, July 26, 2010 *(http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2010:195:0025:0036:EN:PDF);* ''Accompanying Measures Pursuant to United Nations Security Council Resolution 1929,'' Ministry of Foreign Affairs of Japan, September 3, 2010 *(http://www.mofa.go.jp/region/middle_e/iran/measures_unsc_1009.html);* ''Government Regarding the Implementation of UNSCR 1929,'' Republic of Korea, September 8, 2010; ''Charter of the United Nations (Sanctions—Iran) (Specified Entities) List 2010, Government of Australia, August 4, 2010 *(http://www.comlaw.gov.au/Details/F2010L02236);* Special Economic Measures (Iran) Regulations, Government of Canada, August 4, 2010 *(http://canadagazette.gc.ca/rp-pr/p2/2010/2010–08–04/html/sor-dors165-eng.html);* ''Press Release,'' Government of Norway, Ministry of Foreign Affairs, January 14, 2011 *(http://www.regjeringen.no/mobil/en/dep/ud/press/news/2011/sanctions_iran_adopted.html?id=630820);* ''Iran: Federal Council Takes Steps to Improve Legal Certainty and Prevent Possible Evasion,'' January 19, 2011, The Federal Authorities of the Swiss Federation *(http://www.admin.ch/aktuell/00089/index.html?lang=en&msg-id=37283).*

[100] *See* ''Fact Sheet: Treasury Designates Iranian Entities Tied to the IRGC and IRISL,'' December 21, 2010. *(http://www.treasury.gov/press-center/press-releases/Pages/tg1010.aspx).*

[101] For example, on June 20, 2011, the District Attorney of New York announced a 317-count indictment of eleven corporations and five individuals for their roles in a conspiracy involving IRISL, its regional offices, and its agents. The indictment alleged that the defendants evaded U.S. economic sanctions tied to bans on trade with countries that harbor foreign terrorist and proliferators of weapons of mass destruction. In doing so, the defendants repeatedly falsified the records of banks located in New York County to access illegally the U.S. financial system. The defendants deceived Manhattan banks into processing more than $60 million worth of payments using aliases or corporate alter egos to hide their conduct. *See* ''Iranian Company Charged With Tricking U.S. Banks,'' New York Times, June 20, 2011 *(http://www.nytimes.com/2011/06/20/nyregion/iranian-shipper-accused-of-sneaking-money-through-ny-banks.html).*

[102] ''Iran Shipper Evades US Blacklist,'' Wall Street Journal, April 10, 2010.

[103] *See (http://www.treasury.gov/press-center/press-releases/Pages/tg1212.aspx).*

[104] ''U.S. Keeps Watch on Iranian Shipping,'' Wall Street Journal, May 28, 2010.

[105] *Id.*

[106] *See* ''Update on the Continuing Illicit Finance Threat Emanating from Iran,'' FIN–2010–A008, June 22, 2010 *(http://www.fincen.gov/statutes_regs/guidance/html/fin-2010-a008.html).*

[107] *See* OFAC Nonproliferation and Weapons of Mass Destruction Advisory, ''Presentation of Fraudulent Shipping Documents,'' March 31, 2011. *(http://www.treasury.gov/resource-center/*

B. The Substance and Quality of Administration of the Bank Supervisory and Counter-Money Laundering Laws of That Jurisdiction

Iran's serious deficiencies with respect to anti-money laundering/countering the financing of terrorism (''AML/CFT'') controls has long been highlighted by numerous international bodies and government agencies. Starting in October 2007, the FATF has issued a series of public statements expressing its concern that Iran's lack of a comprehensive AML/CFT regime represents a significant vulnerability within the international financial system. The statements further called upon Iran to address those deficiencies with urgency, and called upon FATF-member countries to advise their institutions to conduct enhanced due diligence with respect to the risks associated with Iran's deficiencies.[108]

The FATF has been particularly concerned with Iran's failure to address the risk of terrorist financing, and starting in February 2009, the FATF called upon its members and urged all jurisdictions to apply effective countermeasures to protect their financial sectors from the terrorist financing risks emanating from Iran.[109] In addition, the FATF advised jurisdictions to protect correspondent relationships from being used to bypass or evade countermeasures and risk mitigation practices, and to take into account money laundering and financing of terrorism risks when considering requests by Iranian financial institutions to open branches and subsidiaries in their jurisdictions.[110] The FATF also called on its members and other jurisdictions to advise their financial institutions to give special attention to business relationships and transactions with Iran, including Iranian companies and financial institutions.[111] Over the past three years, the FATF has repeatedly reiterated these concerns and reaffirmed its call for FATF-member countries and all jurisdictions to implement countermeasures to protect the international financial system from the terrorist financing risk emanating from Iran. In response, numerous countries, including all G7 countries, have issued advisories to their financial institutions.[112]

The FATF's most recent statement in October 2011 reiterated, with a renewed urgency, its concern regarding Iran's failure to address the risk of terrorist financing and the serious threat this poses to the integrity to the international financial system.[113] The FATF reaffirmed its February 2009 call to apply effective countermeasures to protect their financial sectors from ML/FT risks emanating from Iran, and further called upon its members to consider the steps already taken and possible additional safeguards or strengthen existing ones.[114] In addition, the FATF stated that, if Iran fails to take concrete steps to improve its AML/CFT regime, the FATF will consider calling on its members and urging all jurisdictions to strengthen countermeasures in February 2012.[115] The numerous calls by FATF for Iran to urgently address its terrorist financing vulnerability, coupled with the extensive record of Iranian entities using the financial system to finance terrorism, proliferation activities, and other illicit activity,[116] raises significant concern over the willingness or ability of Iran to establish adequate controls to counter terrorist financing.

C. Whether the United States Has a Mutual Legal Assistance Treaty With That Jurisdiction, and the Experience of U.S. Law Enforcement Officials and Regulatory Officials in Obtaining Information About Transactions Originating in or Routed Through or to Such Jurisdiction

Iran has not entered into any mutual legal assistance treaties. Additionally, U.S. law enforcement and regulatory officials have found Iran to be uncooperative regarding access to information about financial transactions. Accordingly, Iran remains a safe haven for those who would commit financial crimes against the United States.

III. Finding

Based on the foregoing factors, the Director of FinCEN hereby finds that the Islamic Republic of Iran is a jurisdiction of primary money laundering concern.

Dated: November 18, 2011

James H. Freis, Jr.,

Director, Financial Crimes Enforcement Network.

[FR Doc. 2011–30332 Filed 11–23–11; 8:45 am]

BILLING CODE 4810–02–P

sanctions/Programs/Documents/20110331_advisory.pdf).

[108] In response to concerns raised by these FATF and IMF reports, FinCEN issued an advisory on October 16, 2007 to financial institutions regarding the heightened risk of Iranian ''money laundering, terrorist financing, and weapons of mass destruction proliferation financing.'' The advisory further cautioned institutions that there may be an increased effort by Iranian entities to circumvent international sanctions and related financial community scrutiny through the use of deceptive practices. *See* ''Guidance to Financial Institutions on the Increasing Money Laundering Threat Involving Illicit Iranian Activity,'' FinCEN, October 16, 2007 *(http://www.fincen.gov/statutes_regs/guidance/pdf/guidance_fi_increasing_mlt_iranian.pdf).* The FATF simultaneously published guidance to assist countries with implementation of UNSCRs 1737 and 1747. *See* ''Guidance Regarding the Implementation of Activity-Based Financial Prohibitions of United Nations Security Council Resolution 1737,'' October 12, 2007 *(http://www.fatf-gafi.org/dataoecd/43/17/39494050.pdf)* and ''Guidance Regarding the Implementation of Financial Provisions of the United Nations Security Council Resolutions to Counter the Proliferation of Weapons of Mass Destruction,'' September 5, 2007 *(http://www.fatf-gafi.org/dataoecd/23/16/39318680.pdf).*

[109] *See* ''FATF Statement on Iran,'' The Financial Action Task Force, February 25, 2009 *(http://www.fatf-gafi.org/dataoecd/18/28/42242615.pdf).*

[110] *Id.*

[111] *Id.*

[112] *See* ''Circular 13/2008 (GW)—Statement of the FATF of 16 October 2008,'' November 7, 2008 *(http://www.bafin.de/cln_171/nn_721228/SharedDocs/Veroeffentlichungen/EN/Service/Circulars/rs__0813__gw.html?__nnn=true);* ''February 27, 2009 FINTRAC Advisory,'' February 27, 2009 *(http://www.fintrac-canafe.gc.ca/publications/avs/2009–02–27-eng.asp);* ''HM Treasury warns businesses of serious threats posed to the international financial system,'' March 11, 2009 *(http://webarchive.nationalarchives.gov.uk/+/http://www.hm-treasury.gov.uk/press_26_09.htm);* ''Letter from French Minister of Economy,'' *(http://www2.economie.gouv.fr/directions_services/dgtpe/sanctions/sanctionsiran.php);* and ''Bank of Italy Circular,'' *(http://www.dt.tesoro.it/it/prevenzione_reati_finanziari/).*

[113] *See* ''FATF Public Statement,'' The Financial Action Task Force, October 28, 2011 *(http://www.fatf-gafi.org/document/55/0,3746,en_32250379_32236992_48966519_1_1_1_1,00.html).*

[114] *Id.*

[115] *Id.*

[116] ''Update on the Continuing Illicit Finance Threat Emanating From Iran,'' FinCEN, June 22, 2010 *(http://www.fincen.gov/statutes_regs/guidance/html/fin-2010-a008.html).*

DEPARTMENT OF THE TREASURY

Office of the Comptroller of the Currency

Proposed Information Collection; Comment Request

AGENCY: Office of the Comptroller of the Currency (OCC), Treasury.

ACTION: Notice and request for comment.

SUMMARY: The OCC, 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 a continuing information collection, as required by the Paperwork Reduction Act of 1995. Currently, the OCC is soliciting comment concerning its extension, without change, of an information collection titled, ''Release of Non-Public Information—12 CFR 4, Subpart C.''

DATES: You should submit written comments by January 24, 2012.

ADDRESSES: You should direct all written comments to: Communications Division, Office of the Comptroller of the Currency, Public Information Room, Mailstop 1–5, *Attention:* 1557–0200, 250 E Street, SW., Washington, DC 20219. In addition, comments may be sent by fax to (202) 874–4448, or by electronic mail to *regs.comments@occ.treas.gov.* You can inspect and photocopy the comments at the OCC's Public Information Room, 250 E Street, SW., Washington, DC 20219. For security reasons, the OCC requires that visitors make an appointment to inspect comments. You may do so by calling (202) 874–5043. Upon arrival, visitors will be required to present valid government-issued photo identification and submit to security screening in order to inspect and photocopy comments.

Additionally, you should send a copy of your comments to: OCC Desk Officer, 1557–0200, by mail to U.S. Office of Management and Budget, 725 17th Street, NW., #10235, Washington, DC 20503, or by fax to (202) 395–6974.

FOR FURTHER INFORMATION CONTACT: You can request additional information or a copy of the collection from Ira L. Mills, OCC Clearance Officer, (202) 874–6055, Legislative and Regulatory Activities Division, Office of the Comptroller of the Currency, 250 E Street, SW., Washington, DC 20219.

SUPPLEMENTARY INFORMATION:

The OCC is proposing to extend OMB approval of the following information collection:

Title: Release of Non-Public Information—12 CFR 4, Subpart C.

OMB Number: 1557–0200.

Form Number: None.

Abstract: This submission covers an existing regulation and involves no change to the regulation or to the information collections embodied in the regulation. The OCC requests only that OMB renew its approval of the information collections in the current regulation.

The information requirements require individuals who are requesting non-public OCC information to provide the OCC with information regarding the requester's legal grounds for the request. The release of non-public OCC information to a requester who did not have sufficient legal grounds to obtain the information would inhibit open consultation between a bank and the OCC, thereby impairing the OCC's supervisory and regulatory mission. The OCC is entitled, under statute and caselaw, to require requesters to demonstrate that they have sufficient legal grounds for the OCC to release non-public OCC information. The OCC needs to identify the requester's legal grounds to determine if it should release the requested non-public OCC information.

The information requirements in 12 CFR part 4, subpart C, are located as follows:

- 12 CFR 4.33: Request for non-public OCC records or testimony.
- 12 CFR 4.35(b)(3): Third parties requesting testimony.
- 12 CFR 4.37(a)(2): OCC former employee notifying OCC of subpoena.
- 12 CFR 4.37(a) and (b): Limitation on dissemination of released information.
- 12 CFR 4.39(d): Request for authenticated records or certificate of nonexistence of records.

The OCC uses the information to process requests for non-public OCC information and to determine if sufficient grounds exist for the OCC to release the requested information or provide testimony that would include a discussion of non-public information. This information collection facilitates the processing of requests and expedites the OCC's release of non-public information and testimony to the requester, as appropriate.

Type of Review: Extension, without change, of a currently approved collection.

Affected Public: Businesses or other for-profit; individuals.

Number of Respondents: 195.

Total Annual Responses: 195.

Frequency of Response: On occasion.

Total Annual Burden: 592 hours.

Comments submitted in response to this notice will be summarized and included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on:

(a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information has practical utility;

(b) The accuracy of the agency's estimate 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 of the collection on respondents, including through the use of automated collection techniques or other forms of information technology; and

(e) Estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Dated: November 17, 2011.

Michele Meyer,

Assistant Director, Legislative & Regulatory Activities Division.

[FR Doc. 2011–30310 Filed 11–23–11; 8:45 am]

BILLING CODE 4810–33–P

DEPARTMENT OF THE TREASURY

Financial Crimes Enforcement Network

Bank Secrecy Act Advisory Group; Solicitation of Application for Membership

AGENCY: Financial Crimes Enforcement Network, Treasury.

ACTION: Notice and request for nominations.

SUMMARY: FinCEN is inviting the public to nominate financial institutions and trade groups for membership on the Bank Secrecy Act Advisory Group. New members will be selected for three-year membership terms.

DATES: Nominations must be received by December 27, 2011.

ADDRESSES: Applications may be mailed (not sent by facsimile) to Regulatory Policy and Programs Division, Financial Crimes Enforcement Network, P.O. BOX 39, Vienna, VA 22183 or emailed to: *BSAAG@fincen.gov.*

FOR FURTHER INFORMATION CONTACT: Clare Murphy, Regulatory Outreach Specialist at (202) 354–6400.

SUPPLEMENTARY INFORMATION: The Annunzio-Wylie Anti-Money Laundering Act of 1992 required the Secretary of the Treasury to establish a Bank Secrecy Act Advisory Group (BSAAG) consisting of representatives from federal regulatory and law enforcement agencies, financial institutions, and trade groups with members subject to the requirements of the Bank Secrecy Act, 31 CFR 1000–1099 *et seq.* or Section 6050I of the Internal Revenue Code of 1986. The BSAAG is the means by which the Secretary receives advice on the operations of the Bank Secrecy Act. As chair of the BSAAG, the Director of FinCEN is responsible for ensuring that relevant issues are placed before the BSAAG for review, analysis, and discussion. Ultimately, the BSAAG will make policy recommendations to the Secretary on issues considered. BSAAG membership is open to financial institutions and trade groups. New members will be selected to serve a three-year term and must designate one individual to represent that member at plenary meetings. In compliance with Executive Order 13490 of January 21, 2009, and White House policy, member

organizations may not designate a representative to participate in BSAAG plenary or subcommittee meetings who is currently registered as a lobbyist pursuant to 2 U.S.C. 1603(a).

It is important to provide complete answers to the following items, as applications will be evaluated on the information provided through this application process. Applications should consist of:

- Name of the organization requesting membership.
- Point of contact, title, address, email address and phone number.
- The BSAAG vacancy for which the organization is applying.
- Description of the financial institution or trade group and its involvement with the Bank Secrecy Act, 31 CFR 1000–1099 *et seq.*
- Reasons why the organization's participation on the BSAAG will bring value to the group.

Based on current BSAAG position openings we encourage applications from the following sectors or types of organizations with experience working on the Bank Secrecy Act:

- State Governments (1 vacancy).
- Self-Regulatory Organizations (1 vacancy).
- Industry Trade Groups—Banking (2 vacancies).
- Industry Trade Groups—Credit Unions (1 vacancy).
- Industry Trade Groups—Insurance (1 vacancy).
- Industry Trade Groups—International (1 vacancy).
- Industry Trade Groups—Futures (1 vacancy).
- Industry Trade Groups—Gatekeepers (1 vacancy).
- Industry Trade Groups—Loan or Finance Companies (1 vacancy).
- Industry Representatives—Insurance (1 vacancy).
- Industry Representatives—Operator of Credit Card Systems (1 vacancy).
- Industry Representatives—Money Services Businesses (1 vacancy).

Organizations may nominate themselves, but applications for individuals who are not representing an organization for a vacancy noted above will not be considered. Members must be able and willing to make the necessary time commitment to participate on subcommittees throughout the year by phone and attend biannual plenary meetings held in Washington, DC the second Wednesday of May and October. Members will not be remunerated for their time, services, or travel. In making the selections, FinCEN will seek to complement current BSAAG members in terms of affiliation, industry, and geographic representation. The Director of FinCEN retains full discretion on all membership decisions. The Director may consider prior years' applications when making selections and does not limit consideration to institutions nominated by the public when making selections.

Dated: November 16, 2011.

James H. Freis, Jr.,

Director, Financial Crimes Enforcement Network.

[FR Doc. 2011–30312 Filed 11–23–11; 8:45 am]

BILLING CODE 4810–02–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Revenue Procedure

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, 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)). The IRS is soliciting comments concerning information collection requirements related to election involving the repeal of the bonding requirement.

DATES: Written comments should be received on or before January 24, 2012 to be assured of consideration.

ADDRESSES: Direct all written comments to Yvette B. Lawrence, Internal Revenue Service, Room 6129, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form and instructions should be directed to Joel Goldberger, (202) 927–9368, at Internal Revenue Service, Room 6129, 1111 Constitution Avenue NW., Washington, DC 20224, or through the Internet at Joel.P.Goldberger@irs.gov.

SUPPLEMENTARY INFORMATION:

Title: Election Involving the Repeal of the Bonding Requirement under § 42(j)(6).

OMB Number: 1545–2120.

Revenue Procedure Number: 2008–60.

Abstract: This revenue procedure affects taxpayers who are maintaining a surety bond or a Treasury Direct Account (TDA) to satisfy the low-income housing tax credit recapture exception in § 42(j)(6) of the Internal Revenue Code (the Code), as in effect on or before July 30, 2008. This revenue procedure provides the procedures for taxpayers to follow when making the election under section 3004(i)(2)(B)(ii) of the Housing Assistance Tax Act of 2008 (Pub. L. 110–289) (the Act) to no longer maintain a surety bond or a TDA to avoid recapture.

Current Actions: There is no change in the paperwork burden previously approved by OMB. This form is being submitted for renewal purposes only.

Type of Review: Extension of a currently approved collection.

Affected Public: Individuals and Households, Businesses and other for-profit organizations.

Estimated Number of Respondents: 7810.

Estimated Time Per Respondent: 1 hour

Estimated Total Annual Burden Hours: 7810.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (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 estimate 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 of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: November 4, 2011.

Yvette B. Lawrence,

IRS Reports Clearance Officer.

[FR Doc. 2011–30410 Filed 11–23–11; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Form 8952

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, 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)). Currently, the IRS is soliciting comments concerning Form 8952, Application for Voluntary Classification Settlement Program.

DATES: Written comments should be received on or before January 24, 2012 to be assured of consideration.

ADDRESSES: Direct all written comments to Yvette B. Lawrence, Internal Revenue Service, Room 6129, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form and instructions should be directed to Joel Goldberger, (202) 927–9368, or at Internal Revenue Service, room 6129, 1111 Constitution Avenue NW., Washington, DC 20224, or through the Internet at *Joel.P.Goldberger@irs.gov.*

SUPPLEMENTARY INFORMATION:

Title: Application for Voluntary Classification Settlement Program.

OMB Number: 1545–2215.

Form Number: 8952.

Abstract: Form 8952 was created by the IRS in conjunction with the development of a new program to permit taxpayers to voluntarily reclassify workers as employees for federal employment tax purposes and obtain similar relief to that obtained in the current Classification Settlement Program. To participate in the program, taxpayers must meet certain eligibility requirements, apply to participate in VCSP, and enter into closing agreements with the IRS.

Current Actions: There is no change in the paperwork burden previously approved by OMB. This form is being submitted for renewal purposes only.

Type of Review: Extension of a currently approved collection.

Affected Public: Businesses and other for-profit organizations.

Estimated Number of Respondents: 1000.

Estimated Time per Respondent: 7 Hours, 39 minutes.

Estimated Total Annual Burden Hours: 7660.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request For Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (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 estimate 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 of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: November 1, 2011.

Yvette B. Lawrence,

IRS Reports Clearance Officer.

[FR Doc. 2011–30413 Filed 11–23–11; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Revenue Procedure

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, 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)). The IRS is soliciting comments concerning information collection requirements related to and disclosure with the SEC.

DATES: Written comments should be received on or before January 24, 2012 to be assured of consideration.

ADDRESSES: Direct all written comments to Yvette B. Lawrence, Internal Revenue Service, room 6129, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information should be directed to Joel Goldberger, (202) 927–9368, at Internal Revenue Service, Room 6129, 1111 Constitution Avenue NW., Washington, DC 20224, or through the Internet at *Joel.P. Goldberger@irs.gov.*

SUPPLEMENTARY INFORMATION:

Title: Revenue Procedures regarding I.R.C. 6707A(e) and Disclosure with the SEC.

OMB Number: 1545–1956.

Form Number: Rev. Proc. 2005–51.

Abstract: This revenue procedure provides guidance to persons who may be required to pay certain penalties under sections 6662(h), 6662A, or 6707A of the Internal Revenue Code, and who may be required under section 6707A(e) to disclose those penalties on reports filed with the Securities and Exchange Commission. This revenue procedure describes the report on which the disclosures must be made, the information that must be disclosed, and the deadlines by which persons must make the disclosures on reports filed with the SEC in order to avoid additional penalties under section 6707A(e).

Current Actions: There is no change in the paperwork burden previously approved by OMB. This form is being submitted for renewal purposes only.

Type of Review: Extension of a currently approved collection.

Affected Public: Businesses and other for-profit organizations.

Estimated Number of Respondents: 859.

Estimated Time per Respondent: 50 minutes.

Estimated Total Annual Burden Hours: 430.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number.Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request For Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (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 estimate 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 of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: November 4, 2011.

Yvette B. Lawrence,

IRS Reports Clearance Officer.

[FR Doc. 2011–30414 Filed 11–23–11; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Regulation Project

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, 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)). The IRS is soliciting comments concerning information collection requirements related to real estate mortgage conduits; reporting requirements and other administrative matters; and allocation of allocable investment expense; original issue discount reporting requirements.

DATES: Written comments should be received on or before January 24, 2012 to be assured of consideration.

ADDRESSES: Direct all written comments to Yvette B. Lawrence, Internal Revenue Service, room 6129, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of this regulation should be directed to Joel Goldberger, at (202) 927–9368, or at Internal Revenue Service, room 6129, 1111 Constitution Avenue NW., Washington, DC 20224, or through the Internet, at *Joel.P.Goldberger@irs.gov.*

SUPPLEMENTARY INFORMATION:

Title: T.D. 8366, Real Estate Mortgage Investment Conduits; Reporting Requirements and Other Administrative Matters. T.D. 8431, Allocation of Allocable Investment Expense; Original Issue Discount Reporting Requirements.

OMB Number: 1545–1018.

Regulation Project Number: T.D. 8366 and T.D. 8431

Abstract: T.D. 8366 contains temporary and final regulations relating to real estate mortgage investment conduits (REMICS). T.D. 8431 contains final regulations relating to reporting requirements with respect to single-class real estate mortgage investment conduits (REMICs) and the market discount fraction reported with other REMIC information. This document also contains final regulations that require an issuer of publicly offered debt instruments with original issue discount (OID) to file an information return with the Internal Revenue Service. The relevant provisions in the Internal Revenue Code were added or amended by the Tax Reform Act of 1984, the Tax Reform Act of 1986, and by the Technical and Miscellaneous Revenue Act of 1988.

Current Actions: There is no change to these existing regulations.

Type of Review: Extension of a currently approved collection.

Affected Public: Business or other for-profit organizations.

Estimated Number of Responses: 9,725.

Estimated Total Annual Burden Hours: 978.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (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 estimate 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 of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: November 10, 2011.

Yvette B. Lawrence,

IRS Reports Clearance Officer.

[FR Doc. 2011–30419 Filed 11–23–11; 8:45 am]

BILLING CODE 4830–01–P

FEDERAL REGISTER

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Part II

Environmental Protection Agency

40 CFR Part 63
National Emissions Standards for Hazardous Air Pollutants: Mineral Wool Production and Wool Fiberglass Manufacturing; Proposed Rule

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 63

[EPA–HQ–OAR–2010–1041, EPA–HQ–OAR–2010–1042; FRL–9491–9]

RIN 2060–AQ90

National Emissions Standards for Hazardous Air Pollutants: Mineral Wool Production and Wool Fiberglass Manufacturing

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The EPA is proposing amendments to the national emissions standards for hazardous air pollutants for Mineral Wool Production and Wool Fiberglass Manufacturing to address the results of the residual risk and technology review that the EPA is required to conduct by the Clean Air Act. The proposed Mineral Wool Production amendments include emissions limits for carbonyl sulfide, hydrogen fluoride and hydrochloric acid for cupolas; add combined collection and curing processes as new regulated sources; and include emissions limits for formaldehyde, phenol and methanol for combined collection and curing operations. Modifications to the testing and monitoring and related notification, recordkeeping and reporting requirements are also proposed.

The proposed amendments for the Wool Fiberglass Manufacturing source category include emissions limits for chromium compounds, hydrogen fluoride, hydrochloric acid and particulate matter for glass-melting furnaces at major sources; revised emissions limits for formaldehyde, and the addition of emissions limits for phenol and methanol for bonded product lines at major sources; and modifications to testing and monitoring and related notification, recordkeeping and reporting requirements.

These proposed rules only apply to major sources, but we plan to regulate wool fiberglass area sources in a future action.

We are also proposing to revise provisions addressing periods of startup, shutdown and malfunction to ensure that the rules are consistent with a recent court decision.

DATES: Comments must be received on or before January 24, 2012. Under the Paperwork Reduction Act, comments on the information collection provisions are best assured of having full effect if the Office of Management and Budget receives a copy of your comments on or before December 27, 2011.

Public Hearing. If anyone contacts the EPA requesting to speak at a public hearing by December 5, 2011, a public hearing will be held on December 12, 2011.

ADDRESSES: Submit your comments, identified by Docket ID Numbers EPA–HQ–OAR–2010–1041 and EPA–HQ–OAR–2010–1042, by one of the following methods:

- *http://www.regulations.gov:* Follow the on-line instructions for submitting comments.
- *Email: a-and-r-docket@epa.gov,* Attention Docket ID Number EPA–HQ–OAR–2010–1041 and EPA–HQ–OAR–2010–1042.
- *Fax:* (202) 566–9744, Attention Docket ID Number EPA–HQ–OAR–2010–1041 or EPA–HQ–OAR–2010–1042.
- *Mail:* U.S. Postal Service, send comments to: EPA Docket Center, EPA West (Air Docket), Attention Docket ID Number EPA–HQ–OAR–2010–1041 or EPA–HQ–OAR–2010–1042, U.S. Environmental Protection Agency, Mailcode: 2822T, 1200 Pennsylvania Ave. NW., Washington, DC 20460. Please include a total of two copies. In addition, please mail a copy of your comments on the information collection provisions to the Office of Information and Regulatory Affairs, Office of Management and Budget, Attn: Desk Officer for EPA, 725 17th Street NW., Washington, DC 20503.
- *Hand Delivery:* U.S. Environmental Protection Agency, EPA West (Air Docket), Room 3334, 1301 Constitution Ave. NW., Washington, DC 20004, Attention Docket ID Number EPA–HQ–OAR–2010–1041 or EPA–HQ–OAR–2010–1042. 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 on the Mineral Wool RTR to Docket ID Number EPA–HQ–OAR–2010–1041 and direct your comments on the Wool Fiberglass RTR to Docket ID Number EPA–HQ–OAR–2010–1042. The 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 CBI or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through *http://www.regulations.gov* or email. The *http://www.regulations.gov* Web site is an ''anonymous access'' system, which means the EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an email comment directly to the EPA without going through *http://www.regulations.gov,* your email address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, the EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD–ROM you submit. If the EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, the EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses. For additional information about the EPA's public docket, visit the EPA Docket Center homepage at *http://www.epa.gov/epahome/dockets.htm.*

Docket. The EPA has established dockets for this rulemaking under Docket ID Number EPA–HQ–OAR–2010–1041 (Mineral Wool Production) and EPA–HQ–OAR–2010–1042 (Wool Fiberglass Manufacturing). 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, is not placed on the Internet and 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 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 EPA Docket Center is (202) 566–1742.

FOR FURTHER INFORMATION CONTACT: For questions about this proposed action, contact Ms. Susan Fairchild, Sector Policies and Programs Division (D243–04), Office of Air Quality Planning and Standards, U.S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711, telephone (919) 541–5167; fax number: (919) 541–

3207; and email address: *fairchild.susan@epa.gov.* For specific information regarding the risk modeling methodology, contact Mr. Chris Sarsony, Health and Environmental Impacts Division (C539–02), Office of Air Quality Planning and Standards, U.S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711; telephone number: (919) 541–4843; fax number: (919) 541–0840; and email address: *sarsony.chris@epa.gov.* For information about the applicability of the NESHAP to a particular entity, contact Scott Throwe, Office of Enforcement and Compliance Assurance; U.S. EPA Headquarters Ariel Rios Building; 1200 Pennsylvania Avenue NW. Mail Code: 2227A; Washington, DC 20460; telephone number: (202) 564–7013; fax number: (202) 564–0050; email address: *throwe.scott@epa.gov.*

SUPPLEMENTARY INFORMATION:

Organization of this Document. The information in this preamble is organized as follows:

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  A. Overview of the Mineral Wool Production Source Category and MACT Standards
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  D. What are the results from the risk assessments and analyses and the proposed decisions for the Wool Fiberglass Manufacturing Source Category?
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  F. What are the results from the technology review and proposed decisions?
IX. Summary of Cost, Environmental, and Economic Impacts for the Mineral Wool Source Category
  A. What are the affected sources in the Mineral Wool Production source category?
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  G. What are the cost impacts for the Mineral Wool Production source category?
  H. What are the economic impacts for the Mineral Wool Production source category?
  I. What are the benefits for the Mineral Wool Production source category?
  J. What demographic groups might benefit the most from this regulation?
X. Summary of Cost, Environmental, and Economic Impacts for the Wool Fiberglass Manufacturing Source Category
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  B. How are the impacts for this proposal evaluated?
  C. What are the air quality impacts?
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  F. Executive Order 13175: Consultation and Coordination With Indian Tribal Governments
  G. Executive Order 13045: Protection of Children From Environmental Health Risks and Safety Risks
  H. Executive Order 13211: Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use
  I. National Technology Transfer and Advancement Act
  J. Executive Order 12898: Federal Actions To Address Environmental Justice in Minority Populations and Low-Income Populations

I. Preamble Acronyms and Abbreviations

Several acronyms and terms used to describe industrial processes, data inventories, and risk modeling are included in this preamble. While this may not be an exhaustive list, to ease the reading of this preamble and for reference purposes, the following terms and acronyms are defined here:

ACGIH American Conference of Governmental Industrial Hygienists
AEGL acute exposure guideline levels
AERMOD air dispersion model used by the HEM–3 model
ATSDR Agency for Toxic Substances and Disease Registry
BACT best available control technology
BLDS bag leak detection systems
BTF beyond the floor
CAA Clean Air Act
CalEPA California EPA
CA–REL California reference exposure level
CBI Confidential Business Information
CFR Code of Federal Regulations
CIIT Chemical Industry Institute of Toxicology
CO carbon monoxide
COS Carbonyl sulfide
EJ environmental justice
EPA Environmental Protection Agency
ERPG Emergency Response Planning Guidelines
ERT Electronic Reporting Tool
ESP electrostatic precipitators

FA flame attenuation
GP General Provisions
GHG Greenhouse Gases
HAP hazardous air pollutants
HCl Hydrogen chloride
HEM Human Exposure Model
HEM–3 Human Exposure Model, Version 3
HF Hydrogen fluoride
HI Hazard Index
HQ Hazard Quotient
IRFA Initial Regulatory Flexibility Analysis
IRIS Integrated Risk Information System
kg/MG kilogram/megawatt
km kilometer
LAER lowest achievable emissions rate
lb/ton pounds per ton
lb/yr pounds per year
MACT maximum achievable control technology
mg/L milligrams per liter
mg/m3 milligrams per cubic meter
MIR maximum individual risk
NAAQS National Ambient Air Quality Standard
NAICS North American Industry Classification System
NaOH sodium hydroxide
NAS National Academy of Sciences
NATA National Air Toxics Assessment
NESHAP National Emissions Standards for Hazardous Air Pollutants
NIOSH National Institutes for Occupational Safety and Health
NRC National Research Council
NTTAA National Technology Transfer and Advancement Act
OAQPS Office of Air Quality Planning and Standards
OMB Office of Management and Budget
PB–HAP hazardous air pollutants known to be persistent and bio-accumulative in the environment
PM particulate matter
RACT reasonably available control technology
RBLC RACT/BACT/LAER Clearinghouse
RCRA Resource Conservation and Recovery Conservation
REL reference exposure level
RFA Regulatory Flexibility Act
RfC reference concentrations
RfD reference dose
RS rotary spin
RTO regenerative thermal oxidizers
RTR residual risk and technology review
SAB Science Advisory Board
SBA Small Business Administration
SBAR Small Business Advocacy Review
SCC Source Classification Codes
SER Small Entity Representatives
SO_2 sulfur dioxide
SSM startup, shutdown, and malfunction
TC Toxicity Characteristics
TCLP Toxicity Characteristic Leaching Procedure
TLV threshold limit value
TOSHI target organ-specific hazard index
tpy tons per year
TRIM Total Risk Integrated Modeling System
TTN Technology Transfer Network
UF uncertainty factors
$\mu g/m^3$ microgram per cubic meter
UMRA Unfunded Mandates Reform Act
UPL upper predictive limit
URE unit risk estimate
WHO World Health Organization
WWW worldwide web

II. General Information

A. Does this action apply to me?

The regulated industrial source categories that are the subject of this proposed rule are listed in Table 1 of this preamble. Table 1 of this preamble is not intended to be exhaustive, but rather provides a guide for readers regarding the entities likely to be affected by this proposed action. These standards, once finalized, will be directly applicable to affected sources. Federal, state, local, and Tribal government entities are not affected by this proposed action.

In 1992 the EPA defined the Mineral Wool Production source category as any facility engaged in producing mineral wool fiber from slag or rock. Mineral wool is a material used mainly for thermal and acoustical insulation. This category includes, but is not limited to, the following process units: a cupola furnace for melting the mineral charge; a blow chamber in which air and, in some cases, a binder is drawn over the fibers, forming them to a screen; a curing oven to bond the fibers; and a cooling compartment.

In 1992 the EPA defined the Wool Fiberglass Manufacturing source category as any facility engaged in producing wool fiberglass from sand, feldspar, sodium sulfate, anhydrous borax, boric acid or any other materials. In the wool fiberglass manufacturing process, molten glass is formed into fibers that are bonded with an organic resin to create a wool-like material that is used as thermal or acoustical insulation. The category includes, but is not limited to the following processes: glass-melting furnace, marble forming, refining, fiber forming, binder application, curing and cooling.

TABLE 1—NESHAP AND INDUSTRIAL SOURCE CATEGORIES AFFECTED BY THIS PROPOSED ACTION

Source category	NESHAP	NAICS code [1]
Mineral Wool Production	Mineral Wool Production	327993
Wool Fiberglass Manufacturing	Wool Fiberglass Manufacturing	327993

[1] North American Industry Classification System.

B. Where can I get a copy of this document and other related information?

In addition to being available in the docket, an electronic copy of this proposal will also be available on the WWW through the EPA's TTN. Following signature by the EPA Administrator, a copy of this proposed action will be posted on the TTN's policy and guidance page for newly proposed or promulgated rules at the following address: *http://www.epa.gov/ttn/atw/rrisk/rtrpg.html.* In addition, a copy of each rule showing specific changes proposed under this action is available in their respective dockets. The TTN provides information and technology exchange in various areas of air pollution control.

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

Submitting CBI. Do not submit information containing CBI to the EPA through *http://www.regulations.gov* or email. Clearly mark the part or all of the information that you claim to be CBI. For CBI information on a disk or CD–ROM that you mail to the EPA, mark the outside of the disk or CD–ROM as CBI and then identify electronically within the disk or CD–ROM the specific information that is claimed as CBI. In addition to one complete version of the 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. If you submit a CD–ROM or disk that does not contain CBI, mark the outside of the disk or CD–ROM clearly indicating that it does not contain CBI. Information not marked as CBI will be included in the public docket and the EPA's electronic public docket without prior notice. Information marked as CBI will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. Send or deliver information identified as CBI only to the following address: Roberto Morales, OAQPS Document Control Officer (C404–02), Office of Air Quality Planning and Standards, U.S. Environmental Protection Agency,

Research Triangle Park, North Carolina 27711, Attention Docket ID Number EPA–HQ–OAR–2010–1041 (Mineral Wool RTR) or Attention Docket ID Number EPA–HQ–OAR–2010–1042 (Wool Fiberglass RTR).

D. When will a public hearing occur?

If a public hearing is held, it will begin at 10 a.m. on December 12, 2011 and will be held at a location to be determined. Persons interested in presenting oral testimony or inquiring as to whether a public hearing is to be held should contact Ms. Pamela Garrett, Office of Air Quality Planning and Standards, Sector Policies and Programs Division, (D243–01), U.S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711; *telephone number:* (919) 541–7996; *email address: garrett.pamela@epa.gov.*

III. Background Information

A. What are NESHAP?

1. What is the statutory authority for NESHAP?

Section 112 of the CAA establishes a two-stage regulatory process to address emissions of HAP from stationary sources. In the first stage, after the EPA has identified categories of sources emitting one or more of the HAP listed in CAA section 112(b), CAA section 112(d) calls for us to promulgate NESHAP for those sources. ''Major sources'' are those that emit or have the potential to emit 10 tpy or more of a single HAP or 25 tpy or more of any combination of HAP. For major sources, these technology-based standards must reflect the maximum degree of emissions reductions of HAP achievable (after considering cost, energy requirements, and non-air quality health and environmental impacts) and are commonly referred to as MACT standards. Area sources are those that emit less than major amounts of HAP.

MACT standards must require the maximum degree of emissions reduction through the application of measures, processes, methods, systems, or techniques, including, but not limited to, measures that (A) reduce the volume of or eliminate pollutants through process changes, substitution of materials or other modifications; (B) enclose systems or processes to eliminate emissions; (C) capture or treat pollutants when released from a process, stack, storage or fugitive emissions point; (D) are design, equipment, work practice or operational standards (including requirements for operator training or certification); or (E) are a combination of the above (CAA section 112(d)(2)(A)–(E)). The MACT standards may take the form of design, equipment, work practice or operational standards where the EPA first determines either that, (A) a pollutant cannot be emitted through a conveyance designed and constructed to emit or capture the pollutants, or that any requirement for, or use of, such a conveyance would be inconsistent with law; or (B) the application of measurement methodology to a particular class of sources is not practicable due to technological and economic limitations (CAA sections 112(h)(1)–(2)).

The MACT ''floor'' is the minimum control level allowed for MACT standards promulgated under CAA section 112(d)(3) and may not be based on cost considerations. For new sources, the MACT floor cannot be less stringent than the emissions control that is achieved in practice by the best-controlled similar source. The MACT floors for existing sources can be less stringent than floors for new sources, but they cannot be less stringent than the average emissions limitation achieved by the best-performing 12 percent of existing sources in the category or subcategory (or the best-performing 5 sources for categories or subcategories with fewer than 30 sources). In developing MACT standards, we must also consider control options that are more stringent than the floor. We may establish standards more stringent than the floor based on considerations of the cost of achieving the emissions reductions, any non-air quality health and environmental impacts, and energy requirements.

The EPA is then required to review these technology-based standards and revise them ''as necessary (taking into account developments in practices, processes, and control technologies)'' no less frequently than every 8 years, under CAA section 112(d)(6). In conducting this review, the EPA is not obliged to completely recalculate the prior MACT determination, and, in particular, is not obligated to recalculate the MACT floors. *NRDC* v. *EPA,* 529 F.3d 1077, 1084 (DC Cir., 2008).

The second stage in standard-setting focuses on reducing any remaining ''residual'' risk according to CAA section 112(f). This provision requires, first, that the EPA prepare a *Report to Congress* discussing (among other things) methods of calculating the risks posed (or potentially posed) by sources after implementation of the MACT standards, the public health significance of those risks, and the EPA's recommendations as to legislation regarding such remaining risk. The EPA prepared and submitted this report (*Residual Risk Report to Congress,* EPA–453/R–99–001) in March 1999. Congress did not act in response to the report, thereby triggering the EPA's obligation under CAA section 112(f)(2) to analyze and address residual risk.

Section 112(f)(2) of the CAA requires us to determine, for source categories subject to certain MACT standards, whether those emissions standards provide an ample margin of safety to protect public health. If the MACT standards that apply to a source category emitting a HAP that is ''classified as a known, probable, or possible human carcinogen do not reduce lifetime excess cancer risks to the individual most exposed to emissions from a source in the category or subcategory to less than one-in-one million,'' the EPA must promulgate residual risk standards for the source category (or subcategory) as necessary to provide an ample margin of safety to protect public health (CAA section 112(f)(2)(A)). This requirement is procedural. It mandates that the EPA establish CAA section 112(f) residual risk standards if certain risk thresholds are not satisfied, but does not determine the level of those standards (*NRDC* v. *EPA,* 529 F. 3d at 1083). The second sentence of CAA section 112(f)(2) sets out the substantive requirements for residual risk standards: Protection of public health with an ample margin of safety based on the EPA's interpretation of this standard in effect at the time of the CAA amendments. *Id.* This refers to the National Emissions Standards for Hazardous Air Pollutants: Benzene Emissions from Maleic Anhydride Plants, Ethylbenzene/Styrene Plants, Benzene Storage Vessels, Benzene Equipment Leaks, and Coke By-Product Recovery Plants (Benzene NESHAP), (54 FR 38044, September 14, 1989), described in the next paragraph.

The EPA may adopt residual risk standards equal to existing MACT standards if the EPA determines that the existing standards are sufficiently protective, even if (for example) excess cancer risks to a most exposed individual are not reduced to less than one-in-one million. *Id.* at 1083 (''If the EPA determines that the existing technology-based standards provide an 'ample margin of safety,' then the agency is free to readopt those standards during the residual risk rulemaking''). Section 112(f)(2) of the CAA further authorizes the EPA to adopt more stringent standards, if necessary ''to prevent, taking into consideration costs, energy, safety, and other relevant

factors, an adverse environmental effect.'' [1]

CAA section 112(f)(2) expressly preserves our use of the two-step process for developing standards to address any residual risk and our interpretation of ''ample margin of safety'' developed in the Benzene NESHAP. The first step in this process is the determination of acceptable risk. This determination ''considers all health information, including risk estimation uncertainty, and includes a presumptive limit on MRI [cancer] [2] of approximately 1-in-10 thousand [*i.e.,* 100-in-1 million]'' (54 FR 38045). In the second step of the process, the EPA sets the standard at a level that provides an ample margin of safety ''in consideration of all health information, including the number of persons at risk levels higher than approximately 1-in-1 million, as well as other relevant factors, including costs and economic impacts, technological feasibility, and other factors relevant to each particular decision'' (*Id.*)

The terms ''individual most exposed'', ''acceptable level'', and ''ample margin of safety'' are not specifically defined in the CAA. However, CAA section 112(f)(2)(B) preserves the EPA's interpretation set out in the Benzene NESHAP, and the Court in *NRDC* v. *EPA* concluded that the EPA's interpretation of CAA section 112(f)(2) is a reasonable one. See *NRDC* v. *EPA,* 529 F.3d at 1083 (DC Cir. 2008), which says ''[S]ubsection 112(f)(2)(B) expressly incorporates the EPA's interpretation of the CAA from the Benzene standard, complete with a citation to the **Federal Register**.'' See also, *A Legislative History of the Clean Air Act Amendments of 1990,* volume 1, p. 877 (Senate debate on Conference Report). We also notified Congress in the *Residual Risk Report to Congress* that we intended to use the Benzene NESHAP approach in making CAA section 112(f) residual risk determinations (EPA–453/R–99–001, p. ES–11).

In the Benzene NESHAP, we stated as an overall objective: * * * in protecting public health with an ample margin of safety, we strive to provide maximum feasible protection against risks to health from hazardous air pollutants by (1) Protecting the greatest number of persons possible to an individual lifetime risk level no higher than approximately 1-in-1 million; and (2) limiting to no higher than approximately 1-in-10 thousand [*i.e.,* 100-in-1 million] the estimated risk that a person living near a facility would have if he or she were exposed to the maximum pollutant concentrations for 70 years.

The agency also stated that, ''The EPA also considers incidence (the number of persons estimated to suffer cancer or other serious health effects as a result of exposure to a pollutant) to be an important measure of the health risk to the exposed population. Incidence measures the extent of health risks to the exposed population as a whole, by providing an estimate of the occurrence of cancer or other serious health effects in the exposed population.'' The agency went on to conclude that ''estimated incidence would be weighed along with other health risk information in judging acceptability.'' As explained more fully in our *Residual Risk Report to Congress,* the EPA does not define ''rigid line[s] of acceptability,'' but rather considers broad objectives to be weighed with a series of other health measures and factors (EPA–453/R–99–001, p. ES–11). The determination of what represents an ''acceptable'' risk is based on a judgment of ''what risks are acceptable in the world in which we live'' (*Residual Risk Report to Congress,* p. 178, quoting the DC Circuit's en banc *Vinyl Chloride* decision at 824 F.2d 1165) recognizing that our world is not risk-free.

In the Benzene NESHAP, we stated that ''the EPA will generally presume that if the risk to [the maximum exposed] individual is no higher than approximately 1-in-10 thousand, that risk level is considered acceptable.'' 54 FR 38045. We discussed the maximum individual lifetime cancer risk as being ''the estimated risk that a person living near a plant would have if he or she were exposed to the maximum pollutant concentrations for 70 years.'' *Id.* We explained that this measure of risk ''is an estimate of the upper bound of risk based on conservative assumptions, such as continuous exposure for 24 hours per day for 70 years.'' *Id.* We acknowledge that maximum individual lifetime cancer risk ''does not necessarily reflect the true risk, but displays a conservative risk level which is an upper-bound that is unlikely to be exceeded.'' *Id.*

Understanding that there are both benefits and limitations to using maximum individual lifetime cancer risk as a metric for determining acceptability, we acknowledged in the 1989 Benzene NESHAP that ''consideration of maximum individual risk * * * must take into account the strengths and weaknesses of this measure of risk.'' *Id.* Consequently, the presumptive risk level of 100-in-1 million (1-in-10 thousand) provides a benchmark for judging the acceptability of maximum individual lifetime cancer risk, but does not constitute a rigid line for making that determination.

The agency also explained in the 1989 Benzene NESHAP the following: ''In establishing a presumption for MIR [maximum individual cancer risk], rather than a rigid line for acceptability, the agency intends to weigh it with a series of other health measures and factors. These include the overall incidence of cancer or other serious health effects within the exposed population, the numbers of persons exposed within each individual lifetime risk range and associated incidence within, typically, a 50- km exposure radius around facilities, the science policy assumptions and estimation uncertainties associated with the risk measures, weight of the scientific evidence for human health effects, other quantified or unquantified health effects, effects due to co-location of facilities, and co-emissions of pollutants.'' *Id.*

In some cases, these health measures and factors taken together may provide a more realistic description of the magnitude of risk in the exposed population than that provided by maximum individual lifetime cancer risk alone. As explained in the Benzene NESHAP, ''[e]ven though the risks judged 'acceptable' by the EPA in the first step of the *Vinyl Chloride* inquiry are already low, the second step of the inquiry, determining an 'ample margin of safety,' again includes consideration of all of the health factors, and whether to reduce the risks even further.'' In the ample margin of safety decision process, the agency again considers all of the health risks and other health information considered in the first step. Beyond that information, additional factors relating to the appropriate level of control will also be considered, including costs and economic impacts of controls, technological feasibility, uncertainties and any other relevant factors. Considering all of these factors, the agency will establish the standard at a level that provides an ample margin of safety to protect the public health and prevent adverse environmental effects, taking into consideration costs, energy, safety, and other relevant factors, as

[1] ''Adverse environmental effect'' is defined in CAA section 112(a)(7) as any significant and widespread adverse effect, which may be reasonably anticipated to wildlife, aquatic life, or natural resources, including adverse impacts on populations of endangered or threatened species or significant degradation of environmental qualities over broad areas.

[2] Although defined as ''maximum individual risk,'' MIR refers only to cancer risk. MIR, one metric for assessing cancer risk, is the estimated risk were an individual exposed to the maximum level of a pollutant for a lifetime.

required by CAA section 112(f) (54 FR 38046).

2. How do we consider the risk results in making decisions?

In past residual risk determinations, the EPA presented a number of human health risk metrics associated with emissions from the category under review, including: the MIR; the numbers of persons in various risk ranges; cancer incidence; the maximum noncancer HI; and the maximum acute noncancer hazard. In estimating risks, the EPA considered source categories under review that are located near each other and that affect the same population. The EPA provided estimates of the expected difference in actual emissions from the source category under review and emissions allowed pursuant to the source category MACT standard. The EPA also discussed and considered risk estimation uncertainties. The EPA is providing this same type of information in support of these actions.

The agency acknowledges that the Benzene NESHAP provides flexibility regarding what factors the EPA might consider in making our determinations and how they might be weighed for each source category. In responding to comment on our policy under the Benzene NESHAP, the EPA explained that: ''The policy chosen by the Administrator permits consideration of multiple measures of health risk. Not only can the MIR figure be considered, but also incidence, the presence of noncancer health effects, and the uncertainties of the risk estimates. In this way, the effect on the most exposed individuals can be reviewed as well as the impact on the general public. These factors can then be weighed in each individual case. This approach complies with the Vinyl Chloride mandate that the Administrator ascertain an acceptable level of risk to the public by employing [her] expertise to assess available data. It also complies with the Congressional intent behind the CAA, which did not exclude the use of any particular measure of public health risk from the EPA's consideration with respect to CAA section 112 regulations, and, thereby, implicitly permits consideration of all measures of health risk which the Administrator, in [her] judgment, believes are appropriate to determining what will 'protect the public health.' ''

For example, the level of the MIR is only one factor to be weighed in determining acceptability of risks. The Benzene NESHAP explains ''an MIR of approximately 1-in-10 thousand should ordinarily be the upper end of the range of acceptability. As risks increase above this benchmark, they become presumptively less acceptable under CAA section 112, and would be weighed with the other health risk measures and information in making an overall judgment on acceptability. Or, the agency may find, in a particular case, that a risk that includes an MIR less than the presumptively acceptable level is unacceptable in the light of other health risk factors.'' Similarly, with regard to the ample margin of safety analysis, the Benzene NESHAP states that: ''the EPA believes the relative weight of the many factors that can be considered in selecting an ample margin of safety can only be determined for each specific source category. This occurs mainly because technological and economic factors (along with the health-related factors) vary from source category to source category.''

B. What litigation is related to this proposed action?

In 2007, the DC Circuit (Court) found that the EPA had erred in establishing emissions standards for sources of HAP in the NESHAP for Brick and Structural Clay Products Manufacturing and Clay Ceramics Manufacturing, 67 FR 26,690 (May 16, 2003), and consequently vacated the rule.[3] These errors included incorrectly calculated MACT emission limits, instances where EPA failed to set emission limits, and instances where EPA failed to regulate processes that emitted HAP. We are taking action to correct errors in both the Mineral Wool and Wool Fiberglass NESHAP for HAP that are not regulated. Some pollutants were represented in the 1999 MACT rules by surrogates; other pollutants were not regulated at all in the rule. In both these cases, we are establishing pollutant-specific emission limits. With the exception of PM as a surrogate for all HAP metals, where surrogacy relationships exist, we are proposing to remove that surrogacy. We are also correcting one unregulated HAP-emitting process in the Mineral Wool NESHAP.

In two earlier court decisions[4] [5] the court found EPA had erred in not setting MACT standards for every HAP emitted from a source. Therefore, with the exception of PM as a surrogate for HAP metals, in this action we are proposing emission limits for all HAP emitted from Mineral Wool and Wool Fiberglass. We note that we have established through previous analyses upheld by the court[6] that PM is an appropriate surrogate for HAP metals, therefore, we retain that surrogacy relationship in these proposed rules.

In separate litigation, the Court vacated portions of two provisions in EPA's CAA section 112 regulations that govern emissions of HAP during periods of SSM.[7] Specifically, the Court vacated the SSM exemption contained in 40 CFR 63.6(f)(1) and 63.6(h)(1) that are part of regulations commonly referred to as the GP rule. When incorporated into section 112(d) regulations for specific source categories, these two provisions exempt sources from the requirement to comply with otherwise applicable MACT standards during periods of SSM. Because both of the Mineral Wool and Wool Fiberglass NESHAP relied on the GP rule for startup and shutdown provisions (40 CFR 63.1194 and 63.1386(c)), we are also proposing to revise these provisions for both of the Mineral Wool and Wool Fiberglass source categories.

Recent litigation[8] led to a consent decree under which we must propose these amendments no later than October 31, 2011; and promulgate no later than June 29, 2012.

IV. Mineral Wool and Wool Fiberglass Source Categories

A. Overview of the Mineral Wool Production Source Category and MACT Standards

The NESHAP (or MACT rule) for the Mineral Wool Production source category was promulgated on June 1, 1999 (64 FR 29490), and codified at 40 CFR part 63, subpart DDD. As promulgated in 1999, the NESHAP applies to affected sources of HAP emissions at mineral wool production facilities. As defined in the 1992 EPA report, ''Documentation for Developing the Initial Source Category List'' (EPA–450/3/91/030, July 1992), a ''mineral wool facility'' is ''any facility engaged in producing mineral wool fiber from slag, rock or other materials, excluding sand or glass.''

The MACT rule for the Mineral Wool Production source category does not apply to facilities that manufacture wool fiberglass from sand, feldspar, sodium sulfate, anhydrous borax, boric acid or other similar materials.[9] Although there

[3] *Sierra Club* v. *EPA,* 479 F. 3d 875 (DC Cir. March 13, 2007).

[4] *Cement Kiln Recycling Coalition* v. *EPA,* 255 F.3d 855 (DC Cir. 2001) (per curiam).

[5] *National Lime Ass'n* v. *EPA,* 233 F.3d 625 (DC Cir. 2000).

[6] *Sierra Club* v. *EPA,* 353 F. 3d 976 (DC Cir. 2004).

[7] *Sierra Club* v. *EPA,* 551 F. 3d 1019 (DC Cir. 2008), cert. denied, 130 S. Ct 1735 (2010).

[8] Consent Decree, *Sierra Club* v. *Jackson* (No. 09–cv–00152SBA, N.D. Cal., Sept. 27, 2010).

[9] Wool fiberglass produced from sand, feldspar, sodium sulfate, anhydrous borax, boric acid, *etc.* are a part of the wool fiberglass source category, which is also addressed in this action.

are some similarities among rock that may be used for both mineral wool and wool fiberglass production, the two industries are distinct. Mineral wool is used in cases in which fireproofing, structural strength and sound attenuation are needed, such as in high occupancy commercial and industrial buildings. Wool fiberglass is used primarily for insulation, in residential and small commercial buildings. Some wool fiberglass facilities also operate a ceiling tile or pipe product manufacturing line. The manufacturing of ceiling tile is not regulated under the Wool Fiberglass Manufacturing MACT Standard.

Today, there are seven mineral wool facilities that are subject to the MACT rule. No new mineral wool facilities have been built in the last 21 years and the agency does not anticipate new mineral wool facilities will be built in the foreseeable future. According to the size definition applied to this industry by the U.S. SBA (750 company employees or less), 5 of the 7 firms, employing 540 employees altogether, are classified as a small business.

Mineral wool is a fibrous, glassy substance consisting of silicate fibers typically 4 to 7 micrometers in diameter, made from natural rock (such as basalt, granite and other rock), blast furnace slag, glass cullet, coke and other similar materials. Products made from mineral wool are widely used in thermal and acoustical insulation and other products where mineral wool fiber is added to impart structural strength or fire resistance. In the mineral wool manufacturing process, raw materials (*e.g.,* rock and slag) are melted in a cupola using coke as fuel; the molten material is then formed into fiber. In the production of mineral wool products that do not require high rigidity, oil is typically applied to suppress dust and add some strength to the fiber; the fiber is then sized and bagged or baled. This is known as a ''nonbonded'' product which is manufactured on a ''nonbonded'' production line.

For mineral wool products requiring a higher structural rigidity, typically a phenol/formaldehyde binder may be applied to the fiber. The binder-laden fiber mat is then thermoset in a curing oven and cooled. This is known as a ''bonded'' product which is made on a ''bonded product'' line. The major differences between the ''nonbonded'' and ''bonded'' production lines are the application of binder during fiber collection and the use of a curing oven. Four facilities only manufacture nonbonded products, while the other three facilities operate both bonded and nonbonded production lines. A total of 11 cupolas and 3 curing ovens are operated by the facilities in this source category.

HAP emission sources at mineral wool production facilities include the cupola where the mineral charge is melted; a collection chamber, in which air and a binder are drawn over the fibers, forming them into a mat against a screen; and a curing oven that bonds the fibers (for bonded products). HAP are emitted from the cupolas, curing ovens and collection operations when collection occurs with curing. Collection at nonbonded product lines does not emit HAP. COS accounts for the majority of the HAP emissions from these facilities (approximately 224 tpy and 51 percent of the total HAP emissions by mass). The majority of HAP emissions (approximately 58 percent of the total HAP by mass, including HF and HCl are from the cupolas. The remainder of the HAP are from bonded lines, including phenol, formaldehyde, and methanol. Although the majority of HAP are emitted from the cupola, the emissions (primarily formaldehyde and phenol) that were significant in evaluating risk are from the collection chambers on the bonded lines. Formaldehyde and phenol are emitted only from bonded mineral wool production lines; these lines include emissions from the application of the binder during collection and curing.

The current NESHAP requires control of PM emissions, as a surrogate for HAP metals, from the cupolas and formaldehyde emissions from the curing ovens. Fabric filters are the control devices used by this industry to reduce both PM and HAP metal emissions from cupolas. Emissions from collection operations are not regulated under the current NESHAP, but collection and curing ovens are generally controlled using RTOs and fabric filters.

The existing MACT rule applies to each existing, new and reconstructed cupola or curing oven in a mineral wool production facility. All mineral wool production facilities that are major sources are subject to the standards. For all cupolas, the 1999 MACT rule specifies a numerical emission limit for PM, as a surrogate for metal HAP. For new and reconstructed cupolas, emissions limits are specified for CO, as a surrogate for COS. Emissions limits for formaldehyde are also specified (as a surrogate for phenol emissions) for each existing, new, and reconstructed curing oven. Under the 1999 MACT rule, a mineral wool production facility may elect to comply with a numerical formaldehyde or CO emission limit expressed in mass of emissions per unit of production (kg/MG of melt or lb/ton of melt) or a percent reduction standard. PM emissions from existing, new, and reconstructed cupolas are limited to an outlet concentration of 0.05 kg/Mg (0.10 lb/ton) of melt, 40 CFR 63.1178(a). CO emissions limits from new and reconstructed cupolas are limited to an outlet concentration of 0.05 kg/Mg (0.10 lb/ton) of melt or 99 percent CO removal, 40 CFR 63.1178(a). Formaldehyde emissions limits from existing, new, and reconstructed curing ovens are limited to an outlet concentration of 0.03 kg/Mg (0.06 lb/ton) of melt or 80 percent formaldehyde removal, 40 CFR 63.1179(a).

B. Overview of the Wool Fiberglass Manufacturing Source Category and 1999 MACT Rule

The NESHAP (or MACT rule) for the Wool Fiberglass Manufacturing source category was promulgated on June 14, 1999 (62 FR 31695), and codified at 40 CFR part 63, subpart NNN. As promulgated in 1999, the MACT rule applies to affected sources of HAP emissions at wool fiberglass manufacturing facilities. Although the source category definition includes all manufacturers of wool fiberglass, the 1999 MACT rule (40 CFR 63.1381) defines a ''wool fiberglass manufacturing facility'' as ''any facility manufacturing wool fiberglass on a RS manufacturing line producing bonded building insulation or on a FA manufacturing line producing bonded pipe insulation and bonded heavy-density products.'' The MACT rule for the Wool Fiberglass Manufacturing source category does not apply to facilities that manufacture mineral wool from rock, slag, and other similar materials. In addition, RS and FA manufacturing lines that produce nonbonded products (in which no phenol-formaldehyde binder is applied) are not subject to the current standards.

Wool fiberglass products are primarily used as thermal and acoustical insulation for buildings, automobiles, aircraft, appliances, ductwork and pipes. Other uses include liquid and air filtration. Approximately 90 percent of the wool fiberglass currently produced is used for residential and commercial building insulation products. Today, wool fiberglass is currently manufactured in the United States by 5 companies operating 29 facilities across 16 states. According to the size definition applied to this industry by the U.S. SBA (750 company employees or less), none of these companies are classified as a small business. One new wool fiberglass facility was recently built in 2007 and one wool fiberglass facility closed in 2010. Because several

furnaces have been idled across the industry, current production of wool fiberglass is below production levels from previous years, and several months of stockpiled products exist at wool fiberglass companies, we do not expect new wool fiberglass facilities to be built in the near future.

Wool fiberglass is manufactured in a process that forms thin fibers from molten glass. Over 90 percent of the wool fiberglass industry produces insulation; two plants also operate a pipe product line and one plant operates a ceiling tile line (although the production of ceiling tile is not part of this MACT standard). A typical wool fiberglass manufacturing line consists of the following processes: (1) Heating of raw materials and/or cullet in a furnace to a molten state, (2) preparation of molten glass for fiberization, (3) formation of fibers into a wool fiberglass mat or pipe insulation product, (4) curing the binder-coated fiberglass mat, (5) cooling the mat (this process is not always present), and (6) backing, cutting, and packaging.

The primary component of most types of wool fiberglass is silica sand, but wool fiberglass also includes varying quantities of feldspar, sodium sulfate, anhydrous borax, boric acid, and may be made entirely of glass cullet, crushed recycled glass. Wool fiberglass manufacturing plants typically operate one or more manufacturing lines. Refined raw materials for the glass batch are weighed, mixed, and conveyed to the glass-melting furnace, which may be gas-fired, electric, oxygen-enriched or a combination of gas and electric.

Two methods of forming fibers are used by the industry, RS and FA. In the RS process, centrifugal force causes molten glass to flow through small holes in the wall of a rapidly rotating cylinder. In the FA process, molten glass flows by gravity from a small furnace, or pot, to form threads that are then attenuated (stretched to the point of breaking) with air and/or flame.

After the fibers are formed, they are sprayed with a binder to hold the fibers together. These bonded fibers are then collected as a mat on a conveyor. Binder compositions vary with product type. At the time of development of the MACT standard, wool fiberglass mat was typically made using a phenol-formaldehyde resin based binder. According to the trade organization, only a few insulation products are currently made using a formaldehyde-based binder because new formaldehyde- and HAP-free binder formulations have been developed in recent years.[10] Most new binder formulations are now HAP-free. According to the information collected through a survey by the industry, a few pipe insulation products made from wool fiberglass are still made at two facilities using a phenol-formaldehyde based binder.

After application of the binder and formation of the mat, the conveyor carries the newly formed mat through an oven to cure the thermosetting resin and then through a cooling section. Some products, such as those made on FA manufacturing lines, do not require curing and/or cooling.

Process emissions sources include the furnace where the charge is melted; the collection process, in which air carrying a binder is drawn over the fibers, forming them into a mat; and the curing oven that bonds the fibers (for bonded products only).

HAP, including chromium compounds, are emitted from glass-melting furnaces. Glass-melting furnaces are constructed using refractory bricks or blocks (commonly called refractories), that provide thermal insulation and corrosion protection. The refractory bricks re-direct the heat of the furnace back into the melt. Refractories are produced to withstand the extreme corrosive thermal conditions of a furnace and may contain a variety of mineral materials, including chromium, and more specifically chromic oxide.[11]

In a wool fiberglass glass-melting furnace, sufficient temperatures are reached to drive the transformation of chromium from the trivalent to the hexavalent valence state. Because of the corrosive properties of the molten glass and the fining agents (salts added to the top of the molten glass layer which act to draw the gas bubbles out of the molten glass), the refractory of the inner furnace walls are eroded and fresh refractory is continually exposed along the metal/glass line within the furnace. As a result, when the glass-melting furnace is constructed using refractories containing high percentages of chromium, the emission levels of chromium compounds continuously increase over the life of the furnace according to the increasingly exposed refractory surface area.[12] [13] [14]

In addition, organic HAP (formaldehyde, phenol, and methanol) may be released from RS forming and curing processes and FA forming and curing processes.

The 1999 MACT rule applies to process emissions from each of the following existing, newly constructed, and reconstructed sources: Glass-melting furnaces located at a wool fiberglass manufacturing plant, RS manufacturing lines that produce building insulation, and FA manufacturing lines producing pipe insulation. The MACT rule also applies to FA manufacturing lines producing heavy-density products.

The 1999 MACT rule requires control of PM emissions from the glass-melting furnaces and formaldehyde emissions from the RS and FA lines. Typical control devices to reduce PM and HAP emissions from furnaces include both wet and dry ESP and fabric filters. Low and high-temperature thermal oxidizers are used to control phenol, formaldehyde, and methanol from curing operations on bonded lines.

The 1999 MACT rule limits PM emissions to an outlet concentration of 0.50 lb of PM per ton of glass pulled for both existing and new furnaces, 40 CFR 63.1382. Emissions of formaldehyde from RS manufacturing lines are limited to an outlet concentration of 1.2 lb/ton of glass pulled for existing sources and 0.80 lb/ton of glass pulled for new sources. Emissions of formaldehyde from FA manufacturing lines producing pipe insulation are limited to an outlet concentration of 6.8 lb/ton of glass pulled from both existing and new sources, 40 CFR 63.1382. Emissions of formaldehyde from FA manufacturing lines producing heavy-density products are limited to an outlet concentration of 7.8 lb/ton of glass pulled for new sources; no emission limit is specified for existing FA manufacturing lines producing heavy-density products, 40 CFR 63.1382. A surrogate approach, where PM serves as a surrogate for HAP metals and formaldehyde serves as a surrogate for organic HAP, was used in the 1999 MACT rule to allow for easier and less expensive testing and monitoring requirements.

The industry trade association has advised us that because the wool

[10] Letter from the North American Insulation Manufacturers Association (NAIMA). June 8, 2011 Letter.

[11] Chromium in Refractories. Sept. 2000. Dr. Mariano Velez, Ceramic Engineering Dept., Univ. Missouri-Rolla.

[12] Notes of April 14, 2011 telephone discussion between Carlos Davis, Environmental Manager, Certainteed, Kansas City, KS; and Susan Fairchild, project lead, USEPA/OAQPS/SPPD.

[13] Region 7 Certainteed, Kansas City, KS; meeting and site visit notes.

[14] Emissions Test Results from Certainteed, Kansas City, KS. 2005 and 2008.

fiberglass industry has voluntarily phased out most uses of phenol-formaldehyde based binders, there may now be only two wool fiberglass facilities that are subject to the current MACT rule. If this is accurate, 27 of the 29 facilities manufacturing wool fiberglass may not be considered major sources due to the phaseout of phenol-formaldehyde based binders. We are soliciting comment on our understanding that there will be no major sources in the wool fiberglass insulation source category (other than pipe insulation products) by the end of the 2012 calendar year.

C. What data collection activities were conducted to support this action?

In June 2010, the industry conducted a voluntary survey among all companies that own and operate mineral wool production and wool fiberglass manufacturing facilities. The survey sought test data for PM, CO and HAP emissions and information on the process equipment, control devices, point and fugitive emissions, practices used to control point and fugitive emissions, and other aspects of facility operations. Facilities were asked to seek and obtain prior EPA approval where new test data for a subset of processes, control devices and operations would be submitted as representative of an untested subset of processes, control devices and operations. In addition, facilities were allowed, in lieu of conducting new testing and with prior EPA approval, to submit existing and well-documented test data that were representative of current operations using the recommended test methods in the industry survey. Furthermore, the EPA requested, and industry agreed, that a subset of the facilities that were thought to be representative of emission sources from both the mineral wool and wool fiberglass industries would conduct additional emissions testing for certain HAP from specific processes. The bases for representativeness included design type and size of process units or equipment; fuel type; operating temperatures; control devices; and raw material content. Facilities completed and submitted responses to the industry survey in the spring of 2011.

In summary, the EPA received existing emissions test data from all 7 mineral wool facilities and 26 of the 29 wool fiberglass facilities, with some facilities submitting data for multiple years. Mineral wool facilities provided existing test data on cupolas, curing ovens, and collection operations. Wool fiberglass facilities provided existing test data on one or more of the following emission sources: Glass-melting furnaces, curing ovens, forming, and collection operations. Emissions test data provided by facilities in both source categories, including the emission unit and pollutant tested, varied widely by facility.

The mineral wool industry included testing for most HAP metals, CO, PM and certain organic HAP (formaldehyde, phenol, methanol and COS). Pollutants tested for by the wool fiberglass manufacturing source category included most HAP metals, including chromium and hexavalent chromium, PM, formaldehyde, phenol and methanol. The EPA completed the dataset by assigning emission estimates from tested processes and their known production rates to the similar represented processes based on production rates at the untested processes. A copy of the dataset can be found in the docket to this proposed rule.

The results of these emission tests were compiled into a database for each source category, which is available in the docket for this action.

V. Analyses Performed

A. How did we estimate risks posed by the source categories?

The EPA conducted a risk assessment that provided estimates of (1) The MIR posed by the HAP emissions from the 7 mineral wool facilities and 29 wool fiberglass manufacturing facilities in the source categories, (2) the distribution of cancer risks within the exposed populations, (3) the total cancer incidence, (4) estimates of the maximum TOSHI for chronic exposures to HAP with the potential to cause chronic non-cancer health effects, (5) worst-case screening estimates of HQ for acute exposures to HAP with the potential to cause non-cancer health effects, and (6) an evaluation of the potential for adverse environmental effects. In June of 2009, the EPA's SAB conducted a formal peer review of the risk assessment methodologies used in its review of the document entitled, ''Risk and Technology Review Assessment Methodologies.'' [15] We received the final SAB report on this review in May of 2010.[16] Where appropriate, we have responded to the key messages from this review in developing the current risk assessment; we will be continuing our efforts to improve our assessments by incorporating updates based on the SAB recommendations as they are developed and become available. The risk assessment consisted of seven primary steps, as discussed below. The docket for this rulemaking contains the following document, which provides more information on the risk assessment inputs and models: *Draft Residual Risk Assessment for the Mineral Wool Production and Wool Fiberglass Manufacturing Source Categories.*

1. Establishing the Nature and Magnitude of Actual Emissions and Identifying the Emissions Release Characteristics

For each facility in the Mineral Wool Production and Wool Fiberglass Manufacturing source categories, we developed and compiled an emissions profile (including emissions estimates, stack parameters, and location data) based on the information provided by the industry survey, the emissions test data, and various calculations. We used the production rates of tested processes to assign emissions to untested but similar processes based on known production rates at the untested processes. The site-specific emissions profiles include annual estimates of process emissions for the 2010 timeframe, as well as emissions release characteristics such as emissions release height, temperature, velocity, and location coordinates. We are requesting comment on the assumptions used to complete the dataset, including assumptions we made to assign emission rates.

The primary risk assessment is based on estimates of the actual emissions (though we also analyzed allowable emissions and the potential risks due to allowable emissions). We received a substantial amount of emissions test data and other information from the industry survey that enabled us to derive estimates of stack emissions of certain HAP for all of the facilities in both source categories. The wool fiberglass industry provided emission testing on all known pollutants, including total chromium and hexavalent chromium, PM, and other metals at furnaces they considered to be representative of other furnaces operated by the company. Where different furnace types were used to melt fiberglass, industry usually tested representative furnaces for each furnace type. The representative furnaces were chosen by industry according to production rates and furnace type. For untested furnaces, industry provided

[15] U.S. EPA, 2009. Risk and Technology Review (RTR) Risk Assessment Methodologies: For Review by the EPA's Science Advisory Board with Case Studies—MACT I Petroleum Refining Sources and Portland Cement Manufacturing. EPA–452/R–09–006. Available at *http://www.epa.gov/ttn/atw/rrisk/rtrpg.html.*

[16] U.S. EPA, 2010. SAB's Response to EPA's RTR Risk Assessment Methodologies. Available at: *http://yosemite.epa.gov/sab/sabproduct.nsf/4AB3966E263D943A8525771F00668381/$File/EPA-SAB-10-007-unsigned.pdf.*

the normal operating rate in terms of tons of glass produced per hour. We estimated emissions at untested furnaces by using data from the representative tested furnaces. To do this, we used test data from representative furnaces that provided emissions rates of all tested pollutants on a pound per hour basis. We applied this pound per hour basis to the untested furnaces with the known production rates of those furnaces to estimate pounds per hour of pollutants. We considered furnace type and company when making these assignments.

We consider these estimates to be very good because they are based upon known emission test methods, have test reports that verify the results, were signed as being true and accurate by authorized company representatives, and also signed as being accurate by the testing company. In addition, one testing company was used by the industry to conduct all the emissions testing using approved EPA methods. We are requesting comment on our use of the available test data to assign emission estimates to untested emission points.

2. Establishing the Relationship Between Actual Emissions and MACT-Allowable Emissions Levels

The emissions data in our data set consists of actual stack emissions and, where we did not have actual emissions data, estimates of emissions based on a subset of operations that were representative of such emission points. In the EPA's experience, with most source categories, we generally have found that ''actual'' emissions levels are lower than the emissions levels that a facility is allowed to emit under the MACT standards. The emissions levels allowed to be emitted by the MACT standards are referred to as the ''MACT-allowable'' emissions levels. This represents the highest emissions level that could be emitted by facilities without violating the MACT standards.

As we discussed in prior residual risk and technology review rules, assessing the risks at the MACT-allowable level is reasonable since these risks reflect the maximum level at which sources could emit while still complying with the MACT standards. However, we also explained that it is reasonable to consider actual emissions, where such data are available, in both steps of the risk analysis, in accordance with the Benzene NESHAP (54 FR 38044, September 14, 1989). Considering actual emissions is reasonable because source categories typically seek to perform better than required by emissions standards to provide an operational cushion and to accommodate the variability in manufacturing processes and control device performance. Facilities' actual emissions may also be significantly lower than MACT-allowable emissions for other reasons such as State requirements, improvements in performance of control devices since by the MACT standards, or reduced production. In this case, we are reducing the allowable emissions limits to the levels of actual emissions. For this reason, for the pollutants emitted, we are using only actual emissions in our risk analysis.

For both the Mineral Wool Production and Wool Fiberglass Manufacturing source categories, we evaluated actual and allowable stack emissions. Appendices 1a and 1b of the *Draft Residual Risk Assessment for the Mineral Wool Production and Wool Fiberglass Manufacturing Source Categories*, available in the docket, further describe the estimates of MACT-allowable emissions and the estimates of risks due to allowable emissions.

a. *Actual and allowable emissions for the Mineral Wool Production source category.*

The analysis of allowable emissions for the Mineral Wool Production source category was largely focused on formaldehyde emissions, which we considered the most important HAP emitted from this source category based on our screening level risk assessment and the HAP for which we had the most data. However, we also considered allowable emissions for other HAP, including HAP metals and COS. To estimate the difference between the actual and allowable emissions, we averaged the actual formaldehyde emission rates of manufacturing lines provided by facilities and compared those values to the maximum level allowed by the existing MACT standard (*i.e.,* 0.06 pounds of formaldehyde per ton of melt) from all curing ovens.

We realize that these estimates of allowable emissions are theoretical high-end estimates as facilities must maintain average emissions levels at some level below the MACT limit to ensure compliance with the standard at all times because of the day-to-day variability in emissions. Nevertheless, these high-end estimates of allowable emissions were adequate for us to estimate the magnitude of allowable emissions and the differences between the estimates of actual emissions and the MACT allowable emissions.

Based on this analysis, we conclude that all facilities in the mineral wool source category are emitting formaldehyde at levels lower than allowable and that the differences between actual and allowable emissions are significant. For the facilities producing bonded product, the estimated actual emissions were up to three times lower than allowable emissions. That is, MACT-allowable emissions were determined to be three times the actual emissions for all pollutants in the Mineral Wool Production category. Therefore, we multiplied the actual stack emissions from each facility by a factor of 3 to derive estimates of allowable emissions for modeling (whether these emissions were measured by testing or calculated based on representative emission tests).

b. *Analysis of allowable and actual emissions for the Wool Fiberglass Manufacturing source category.*

The analysis of allowable emissions for the Wool Fiberglass Manufacturing source category was largely focused on emissions of chromium compounds and formaldehyde because these are the only pollutants emitted with significant health risks. To estimate the difference between the actual and allowable emissions, we averaged the actual formaldehyde emission rates of manufacturing lines provided by facilities and compared those values to the maximum level allowed by the existing MACT standard (*i.e.,* 1.2 or 0.8 lb/ton of glass pulled for formaldehyde).

We realize that these estimates of allowable emissions are theoretical high-end estimates as facilities must maintain average emissions levels at some level below the MACT limit to ensure compliance with the standard at all times because of the day-to-day variability in emissions. Nevertheless, these high-end estimates of allowable emissions were adequate for us to estimate the magnitude of allowable emissions and the differences between the estimates of actual emissions and the MACT allowable emissions. Based on this analysis, we conclude that allowable emissions are estimated to be three times higher than actual emissions. Therefore, to develop the MACT-allowable emissions, the actual stack emissions for formaldehyde, phenol and methanol were multiplied by a factor of 3. The range of differences between actual and allowable formaldehyde emission levels is significant, that is, for some sources there was little difference between actual and allowable emission levels, other times, allowable emissions were up to 5 times greater than actual emissions. MACT-allowable emissions for chromium compounds were determined to be equal to actual emissions since there is currently no

emissions limit for chromium compounds.

3. Conducting Dispersion Modeling, Determining Inhalation Exposures, and Estimating Individual and Population Inhalation Risks

Both long-term and short-term inhalation exposure concentrations and health risks from each source in both the source categories addressed in this proposal were estimated using the HEM (Community and Sector HEM–3 version 2.1 Beta). The HEM–3 performs three primary risk assessment activities: (1) Conducting dispersion modeling to estimate the concentrations of HAP in ambient air, (2) estimating long-term and short-term inhalation exposures to individuals residing within 50 km of the modeled sources, and (3) estimating individual and population-level inhalation risks using the exposure estimates and quantitative dose-response information.

The dispersion model used by HEM–3 is AERMOD, which is one of the EPA's preferred models for assessing pollutant concentrations from industrial facilities.[17] HEM–3 draws on three data libraries to perform the dispersion modeling and to develop the preliminary risk estimates. The first is a library of meteorological data, which is used for dispersion calculations. This library includes 1 year of hourly surface and upper air observations for more than 200 meteorological stations, selected to provide coverage of the United States and Puerto Rico. A second library of United States Census Bureau census block [18] internal point locations and populations provides the basis of human exposure calculations (Census, 2000). In addition, for each census block, the Census library includes the elevation and controlling hill height, which are used in dispersion calculations. A third library of pollutant unit risk factors and other health benchmarks is used to estimate health risks. These risk factors and health benchmarks are the latest values recommended by the EPA for HAP and other toxic air pollutants. These values are available at *http://www.epa.gov/ttn/atw/toxsource/summary.html* and are discussed in more detail later in this section.

In developing the risk assessment for chronic exposures, we used the estimated annual average ambient air concentration of each of the HAP emitted by each source for which we have emissions data in the source category. The air concentrations at each nearby census block centroid were used as a surrogate for the chronic inhalation exposure concentration for all the people who reside in that census block. We calculated the MIR for each facility as the cancer risk associated with a continuous lifetime exposure (24 hours per day, 7 days per week, and 52 weeks per year for a 70-year period) to the maximum concentration at the centroid of an inhabited census block. Individual cancer risks were calculated by multiplying the estimated lifetime exposure to the ambient concentration of each of the HAP (in micrograms per cubic meter) by its URE, which is an upper bound estimate of an individual's probability of contracting cancer over a lifetime of exposure to a concentration of 1 microgram of the pollutant per cubic meter of air. For residual risk assessments, we generally use URE values from the EPA's Integrated Risk Information System (IRIS). For carcinogenic pollutants without an EPA IRIS value, we look to other reputable sources of cancer dose-response values, often using CalEPA URE values, where available. We may use dose-response values in place of or in addition to other values, if appropriate, in cases where new, scientifically credible dose-response values have been developed in a manner consistent with the EPA guidelines and have undergone a peer review process similar to that used by the EPA.

With regard to formaldehyde, the EPA determined in 2004 that the CIIT cancer dose-response value for formaldehyde (5.5×10^{-9} per μg/m^3) was based on better science than the IRIS cancer dose-response value (1.3×10^{-5} per μg/m^3) and we switched from using the IRIS value to the CIIT value in risk assessments supporting regulatory actions. Based on subsequent published research, however, EPA changed its determination regarding the CIIT model and in 2010 the EPA returned to using the 1991 IRIS value. The EPA has been working on revising the formaldehyde IRIS assessment and the NAS completed its review of the EPA's draft in May of 2011. The EPA is reviewing the public comments and the NAS independent scientific peer review. The EPA will follow the NAS Report recommendations and will present results obtained by implementing the biologically based dose-response (BBDR) model for formaldehyde. The EPA will compare these estimates with those currently presented in the External Review draft of the assessment and will discuss their strengths and weaknesses. As recommended by the NAS committee, appropriate sensitivity and uncertainty analyses will be an integral component of implementing the BBDR model. The draft IRIS assessment will be revised in response to the NAS peer review and public comments and the final assessment will be posted on the IRIS database. In the interim, we will present findings using the 1991 IRIS value as a primary estimate, and may also consider other information as the science evolves. As described in the risk assessment, the IRIS URE for formaldehyde is 1.3×10^{-5} μg/m^3, whereas, the CIIT URE for formaldehyde is 5.5×10^{-9} μg/m^3.

Incremental individual lifetime cancer risks associated with emissions from the source category were estimated as the sum of the risks for each of the carcinogenic HAP (including those classified as carcinogenic to humans, likely to be carcinogenic to humans and suggestive evidence of carcinogenic potential [19]) emitted by the modeled source. Cancer incidence and the distribution of individual cancer risks for the population within 50 km of any source were also estimated for the source category as part of these assessments by summing individual risks. A distance of 50 km is consistent with both the analysis supporting the 1989 Benzene NESHAP (54 FR 38044) and the limitations of Gaussian dispersion models, including AERMOD.

To assess risk of noncancer health effects from chronic exposures, we summed the HQ for each of the HAP that affects a common target organ system to obtain the HI for that target organ system (or TOSHI). The HQ for chronic exposures is the estimated chronic exposure divided by the chronic reference level, which is either the EPA RfC, defined as ''an estimate (with uncertainty spanning perhaps an order of magnitude) of a continuous inhalation exposure to the human population (including sensitive subgroups) that is likely to be without an appreciable risk of deleterious effects

[17] U.S. EPA. Revision to the *Guideline on Air Quality Models: Adoption of a Preferred General Purpose (Flat and Complex Terrain) Dispersion Model and Other Revisions* (70 FR 68218, November 9, 2005).

[18] A census block is generally the smallest geographic area for which census statistics are tabulated.

[19] These classifications also coincide with the terms ''known carcinogen, probable carcinogen and possible carcinogen,'' respectively, which are the terms advocated in the EPA's previous *Guidelines for Carcinogen Risk Assessment*, published in 1986 (51 FR 33992, September 24, 1986). Summing the risks of these individual compounds to obtain the cumulative cancer risks is an approach that was recommended by the EPA's SAB in their 2002 peer review of EPA's NATA entitled, *NATA—Evaluating the National-scale Air Toxics Assessment 1996 Data—an SAB Advisory*, available at: *http://yosemite.epa.gov/sab/sabproduct.nsf/214C6E915BB04E14852570CA007A682C/$File/ecadv02001.pdf.*

during a lifetime,'' or, in cases where an RfC from the EPA's IRIS database is not available, the EPA will utilize the following prioritized sources for our chronic dose-response values: (1) The Agency for Toxic Substances and Disease Registry Minimum Risk Level, which is defined as ''an estimate of daily human exposure to a substance that is likely to be without an appreciable risk of adverse effects (other than cancer) over a specified duration of exposure''; (2) the CalEPA Chronic REL, which is defined as ''the concentration level at or below which no adverse health effects are anticipated for a specified exposure duration''; and (3), as noted above, in cases where scientifically credible dose-response values have been developed in a manner consistent with the EPA guidelines and have undergone a peer review process similar to that used by the EPA, we may use those dose-response values in place of or in concert with other values.

Screening estimates of acute exposures and risks were also evaluated for each of the HAP at the point of highest off-site exposure for each facility (*i.e.,* not just the census block centroids), assuming that a person is located at this spot at a time when both the peak (hourly) emission rate and worst-case dispersion conditions (1991 calendar year data) occur. The acute HQ is the estimated acute exposure divided by the acute dose-response value. In each case, acute HQ values were calculated using best available, short-term dose-response values. These acute dose-response values, which are described below, include the acute REL, AEGL and ERPG for 1-hour exposure durations. As discussed below, we used conservative assumptions for emission rates, meteorology and exposure location for our acute analysis.

As described in the CalEPA's *Air Toxics Hot Spots Program Risk Assessment Guidelines, Part I, The Determination of Acute Reference Exposure Levels for Airborne Toxicants,* an acute REL value (*http://www.oehha.ca.gov/air/pdf/acuterel.pdf*) is defined as ''the concentration level at or below which no adverse health effects are anticipated for a specified exposure duration.'' Acute REL values are based on the most sensitive, relevant, adverse health effect reported in the medical and toxicological literature. Acute REL values are designed to protect the most sensitive individuals in the population by the inclusion of margins of safety. Since margins of safety are incorporated to address data gaps and uncertainties, exceeding the acute REL does not automatically indicate an adverse health impact.

AEGL values were derived in response to recommendations from the NRC. As described in *Standing Operating Procedures of the National Advisory Committee on Acute Exposure Guideline Levels for Hazardous Substances (http://www.epa.gov/opptintr/aegl/pubs/sop.pdf),*[20] ''the NRC's previous name for acute exposure levels—community emergency exposure levels—was replaced by the term AEGL to reflect the broad application of these values to planning, response, and prevention in the community, the workplace, transportation, the military, and the remediation of Superfund sites.'' This document also states that AEGL values ''represent threshold exposure limits for the general public and are applicable to emergency exposures ranging from 10 minutes to 8 hours.'' The document lays out the purpose and objectives of AEGL by stating (page 21) that ''the primary purpose of the AEGL program and the National Advisory Committee for Acute Exposure Guideline Levels for Hazardous Substances is to develop guideline levels for once-in-a-lifetime, short-term exposures to airborne concentrations of acutely toxic, high-priority chemicals.'' In detailing the intended application of AEGL values, the document states (page 31) that ''[i]t is anticipated that the AEGL values will be used for regulatory and nonregulatory purposes by U.S. Federal and state agencies and possibly the international community in conjunction with chemical emergency response, planning and prevention programs. More specifically, the AEGL values will be used for conducting various risk assessments to aid in the development of emergency preparedness and prevention plans, as well as real-time emergency response actions, for accidental chemical releases at fixed facilities and from transport carriers.''

The AEGL–1 value is then specifically defined as ''the airborne concentration of a substance above which it is predicted that the general population, including susceptible individuals, could experience notable discomfort, irritation or certain asymptomatic nonsensory effects. However, the effects are not disabling and are transient and reversible upon cessation of exposure.'' The document also notes (page 3) that, ''Airborne concentrations below AEGL–1 represent exposure levels that can produce mild and progressively increasing but transient and nondisabling odor, taste, and sensory irritation or certain asymptomatic, nonsensory effects.'' Similarly, the document defines AEGL–2 values as ''the airborne concentration (expressed as ppm or mg/m^3) of a substance above which it is predicted that the general population, including susceptible individuals, could experience irreversible or other serious, long-lasting adverse health effects or an impaired ability to escape.''

ERPG values are derived for use in emergency response, as described in the American Industrial Hygiene Association's document entitled, *Emergency Response Planning Guidelines (ERPG) Procedures and Responsibilities (http://www.aiha.org/1documents/committees/ERPSOPs2006.pdf)* which states that, ''Emergency Response Planning Guidelines were developed for emergency planning and are intended as health based guideline concentrations for single exposures to chemicals.'' [21] The ERPG–1 value is defined as ''the maximum airborne concentration below which it is believed that nearly all individuals could be exposed for up to 1 hour without experiencing other than mild transient adverse health effects or without perceiving a clearly defined, objectionable odor.'' Similarly, the ERPG–2 value is defined as ''the maximum airborne concentration below which it is believed that nearly all individuals could be exposed for up to 1 hour without experiencing or developing irreversible or other serious health effects or symptoms which could impair an individual's ability to take protective action.''

As can be seen from the definitions above, the AEGL and ERPG values include the similarly-defined severity levels 1 and 2. For many chemicals, a severity level 1 value AEGL or ERPG has not been developed; in these instances, higher severity level AEGL–2 or ERPG–2 values are compared to our modeled exposure levels to screen for potential acute concerns.

Acute REL values for 1-hour exposure durations are typically lower than their corresponding AEGL–1 and ERPG–1 values. Even though their definitions are slightly different, AEGL–1 values are often the same as the corresponding ERPG–1 values, and AEGL–2 values are often equal to ERPG–2 values. Maximum HQ values from our acute screening risk assessments typically result when basing them on the acute

[20] NAS, 2001. *Standing Operating Procedures for Developing Acute Exposure Levels for Hazardous Chemicals,* page 2.

[21] *ERP Committee Procedures and Responsibilities.* November 1, 2006. American Industrial Hygiene Association.

REL value for a particular pollutant. In cases where our maximum acute HQ value exceeds 1, we also report the HQ value based on the next highest acute dose-response value (usually the AEGL–1 and/or the ERPG–1 value).

To develop screening estimates of acute exposures, we developed estimates of maximum hourly emission rates by multiplying the average actual annual hourly emission rates by a factor to cover routinely variable emissions. We chose the factor based on process knowledge and engineering judgment and with awareness of a Texas study of short-term emissions variability, which showed that most peak emission events, in a heavily-industrialized four county area (Harris, Galveston, Chambers and Brazoria Counties, Texas) were less than twice the annual average hourly emission rate. The highest peak emission event was 74 times the annual average hourly emission rate, and the 99th percentile ratio of peak hourly emission rate to the annual average hourly emission rate was 9.[22] This analysis is provided in Appendix 4 of the *Draft Residual Risk Assessment for the Mineral Wool Production and Wool Fiberglass Manufacturing Source Categories,* which is available in the docket for this action. Considering this analysis, unless specific process knowledge or data are available to provide an alternate value, to account for more than 99 percent of the peak hourly emissions, we apply a conservative screening multiplication factor of 10 to the average annual hourly emission rate in these acute exposure screening assessments. The factor of 10 was used for the Wool Fiberglass Manufacturing source category, but we determined that a factor of 3 is more appropriate for the Mineral Wool Production source category (for more details see the *Acute Effects Factor for Mineral Wool Manufacturing Operations* document in the docket for this rulemaking).

For the mineral wool source category, we used data from the highest formaldehyde emitting source among the mineral wool producers. That company also presented the highest risk due to formaldehyde emissions. This company provided the agency with 10 years of measurements of binder formulation, formaldehyde content in binders, binder application rates, and binder retention rates. Because the industry must manufacture their product for use in fireproofing, they must keep meticulous records of production specifics. These data are used to show compliance with Underwriters Laboratories and other building construction safety standards. From this specific 10-year data set, the EPA determined that, on a worst-case possible basis, formaldehyde could be emitted at levels no more than three times the actual rate. The worst-case scenario is possible if the binder contained the maximum amount of resin possible, the resin contained the maximum amount of formaldehyde possible, was sprayed at the maximum rate possible, and retained in the product at the minimum level possible. These data were used to in the risk assessment to determine the acute health effects hazard index. For Mineral Wool Production, the plant-specific acute factors were calculated and ranged from 1.0 to 1.6. Based on these results, and to allow for additional uncertainty in emissions, we used an acute factor of 3.0. The calculation we used to determine this acute factor is available in the docket to this rule.[23]

In cases where acute HQ values from the screening step were less than or equal to 1, acute impacts were deemed negligible and no further analysis was performed. In cases where an acute HQ from the screening step was greater than 1, additional site-specific data were considered to develop a more refined estimate of the potential for acute impacts of concern. The data refinements employed for these source categories consisted of using the site-specific facility layout to distinguish facility property from an area where the public could be exposed. These refinements are discussed in the draft risk assessment document, which is available in the docket for each of these source categories. Ideally, we would prefer to have continuous measurements over time to see how the emissions vary each hour over an entire year. Having a frequency distribution of hourly emission rates over a year would allow us to perform a probabilistic analysis to estimate potential threshold exceedances and their frequency of occurrence. Such an evaluation could include a more complete statistical treatment of the key parameters and elements adopted in this screening analysis. However, we recognize that having this level of data is rare, hence our use of the multiplier approach.

To better characterize the potential health risks associated with estimated worst-case acute exposures to HAP, and in response to a key recommendation from the SAB's peer review of EPA's RTR risk assessment methodologies,[24] we examine a wider range of available acute health metrics than we do for our chronic risk assessments. This is in response to the acknowledgement that there are generally more data gaps and inconsistencies in acute reference values than there are in chronic reference values. By definition, the acute CA–REL represents a health-protective level of exposure, with no risk anticipated below those levels, even for repeated exposures; however, the health risk from higher-level exposures is unknown. Therefore, when a CA–REL is exceeded and an AEGL–1 or ERPG–1 level is available (i.e., levels at which mild effects are anticipated in the general public for a single exposure), we have used them as a second comparative measure. Historically, comparisons of the estimated maximum off-site one-hour exposure levels have not been typically made to occupational levels for the purpose of characterizing public health risks in RTR assessments. This is because occupational ceiling values are not generally considered protective for the general public since they are designed to protect the worker population (presumed healthy adults) for short duration (< 15 minute) increases in exposure.[25] As a result, for most chemicals, the 15-minute occupational ceiling values are set at levels higher than a one-hour AEGL–1, making comparisons to them irrelevant unless the AEGL–1 or ERPG–1 levels are exceeded (U.S. EPA 2009). Such is not the case when comparing the available acute inhalation health effect reference values for formaldehyde (U.S. EPA 2009).

The worst-case maximum estimated 1-hour exposure to formaldehyde outside the facility fence line for the mineral wool source category is 0.47 mg/m^3. This estimated worst-case exposure exceeds the 1-hour REL by a factor of 8 ($HQ_{REL} = 8$) and is below the 1-hour AEGL–1 ($HQ_{AEGL-1} = 0.4$). This exposure estimate does not exceed the AEGL–1, or exceed the workplace ceiling level guideline for the formaldehyde value developed by the

[22] See *http://www.tceq.state.tx.us/compliance/field_ops/eer/index.html* or docket to access the source of these data.

[23] Acute Factor Memo. Cindy Hancy and David Reeves, RTI; to Susan Fairchild, USEPA/OAQPS/SPPD; EPA Project Lead. August 30, 2011.

[24] The SAB Peer review of RTR Risk Assessment Methodoligies is available at: *http://yosemite.epa.gov/sab/sabproduct.nsf/4AB3966E263D943A8525771F00668381/$File/EPA-SAB-10-007-unsigned.pdf.*

[25] U.S. EPA. (2009) Chapter 2.9 Chemical Specific Reference Values for Formaldehyde in Graphical Arrays of Chemical-Specific Health Effect Reference Values for Inhalation Exposures (Final Report). U.S. Environmental Protection Agency, Washington, DC, EPA/600/R–09/061, and available on-line at *http://cfpub.epa.gov/ncea/cfm/recordisplay.cfm?deid=211003.*

NIOSH [26] ''for any 15 minute period in a work day'' (NIOSH REL-ceiling value of 0.12 mg/m^3; HQ_{NIOSH} = 4). The estimate is at the value developed by the ACGIH as ''not to be exceeded at any time'' (ACGIH TLV-ceiling value of 0.37 mg/m^3; HQ_{ACGIH} = 1). Additionally, the estimated maximum acute exposure exceeds the Air Quality Guideline value that was developed by the World Health Organization [27] for 30-minute exposures (0.1 mg/m^3; HQ_{WHO} = 5).

For the wool fiberglass manufacturing source category, the worst-case maximum estimated 1-hour exposure to formaldehyde outside the facility fence line is 1.92 mg/m^3. This estimated worst-case exposure exceeds the 1-hour REL by a factor of 30 (HQ_{REL} = 30) and the 1-hour AEGL–1 (HQ_{AEGL-1} = 2). This exposure estimate also exceeds multiple workplace ceiling level guidelines for formaldehyde, including the value developed by the American Conference of Governmental Industrial Hygienists (ACGIH) as ''not to be exceeded at any time'' (ACGIH TLV-ceiling value of 0.37 mg/m^3; HQ_{ACGIH} = 5), and the value developed by the National Institutes for Occupational Safety and Health (NIOSH) ''for any 15 minute period in a work day'' (NIOSH REL-ceiling value of 0.12 mg/m^3; HQ_{NIOSH} = 16). Additionally, the estimated maximum acute exposure exceeds the Air Quality Guideline value that was developed by the World Health Organization [28] for 30-minute exposures (0.1 mg/m^3; HQ_{WHO} = 19). *Id.*

We solicit comment on the use of the occupational values described above in the interpretation of these worst-case acute screening exposure estimates for both the Mineral Wool Production and Wool Fiberglass Manufacturing source categories.

4. Conducting Multipathway Exposure and Risk Modeling

The potential for significant human health risks due to exposures via routes other than inhalation (*i.e.,* multi-pathway exposures) and the potential for adverse environmental impacts were evaluated in a three-step process. In the first step, we determined whether any facilities emitted any PB–HAP in the environment. There are 14 PB–HAP compounds or compound classes identified for this screening in the EPA's *Air Toxics Risk Assessment Library* (available at *http://www.epa.gov/ttn/fera/risk_atra_vol1.html*). They are cadmium compounds, chlordane, chlorinated dibenzodioxins and furans, dichlorodiphenyldichloroethylene, heptachlor, hexachlorobenzene, hexachlorocyclohexane, lead compounds, mercury compounds, methoxychlor, polychlorinated biphenyls, polycyclic organic matter, toxaphene and trifluralin.

Since three of these PB–HAP (lead, cadmium, and mercury compounds) are emitted by at least one facility in both source categories, we proceeded to the second step of the evaluation. In this step, we determined whether the facility-specific emission rates of each of the emitted PB–HAP were large enough to create the potential for significant non-inhalation human or environmental risks under reasonable worst-case conditions. To facilitate this step, we developed emission rate thresholds for each PB–HAP using a hypothetical worst-case screening exposure scenario developed for use in conjunction with the EPA's TRIM.FaTE model. The hypothetical screening scenario was subjected to a sensitivity analysis to ensure that its key design parameters were established such that environmental media concentrations were not underestimated (*i.e.*, to minimize the occurrence of false negatives or results that suggest that risks might be acceptable when, in fact, actual risks are high) and to also minimize the occurrence of false positives for human health endpoints. We call this application of the TRIM.FaTE model TRIM-Screen. The facility-specific emission rates of each of the PB–HAP in each source category were compared to the TRIM-Screen emission threshold values for each of the PB–HAP identified in the source category datasets to assess the potential for significant human health risks or environmental risks via non-inhalation pathways.

None of the facilities in the Mineral Wool Production and Wool Fiberglass Manufacturing source categories reported emissions of PB–HAP that were greater than the *de minimis* threshold levels, indicating no potential for significant multi-pathway risks from these facilities. Therefore, multi-pathway exposures and environmental risks were deemed negligible and no further analysis was performed. This analysis is provided in the *Draft Residual Risk Assessment for the Mineral Wool Production and Wool Fiberglass Manufacturing Source Categories*, which is available in the docket for this action.

5. Assessing Risks After Control Options

In addition to assessing baseline inhalation risks and screening for potential multi-pathway risks, where appropriate, we also estimated risks considering the potential emission reductions that would be achieved by the particular control options under consideration. In these cases, the expected emissions reductions were applied to the specific HAP and emissions sources in the source category dataset to develop corresponding estimates of risk reductions. More information on the risks remaining after controls are in place to meet the emissions limits is available in the *Draft Residual Risk Assessment for the Mineral Wool Production and Wool fiberglass Manufacturing Source Categories*, which is available in the docket for this action.

6. Conducting Facility Wide Risk Assessments

To put the source category risks in context, we also examine the risks from the entire ''facility,'' where the facility includes all HAP-emitting operations within a contiguous area and under common control. In other words, for each facility that includes one or more sources from one of the source categories under review, we examine the HAP emissions not only from the source category of interest, but also from all other emission sources at the facility. For both source categories, all significant HAP sources have been included in the source category risk analysis and there are no other significant HAP emissions sources present. Therefore, we conclude that the facility wide risk is essentially the same as the source category risk for both the mineral wool and wool fiberglass source categories and that no separate facility wide analysis is necessary.

7. Considering Uncertainties in Risk Assessment

Uncertainty and the potential for bias are inherent in all risk assessments, including those performed for the source categories addressed in this proposal. Although uncertainty exists, we believe that our approach, which uses conservative tools and assumptions, ensures that our decisions are health-protective. A brief discussion of the uncertainties in the emissions datasets, dispersion modeling, inhalation exposure estimates and dose-

[26] National Institutes for Occupational Saffety and Health (NIOSH). Occupational Safety and Health Guideline for Formaldehyde; *http://www.cdc.gov/niosh/docs/81-123/pdfs/0293.pdf.*

[27] WHO (2000). Chapter 5.8 Formaldehyde, in Air Quality Guidelines for Europe, second edition. World Health Organization Regional Publications, European Series, No. 91. Copenhagen, Denmark. Available on-line at *http://www.euro.who.int/_data/assets/pdf_file/0005/74732/E71922.pdf.*

[28] WHO (2000). Chapter 5.8 Formaldehyde, In Air Quality Guidelinies for Europe, second edition. World Health Organization Regional Publications, European Series, No. 91. Copenhagen, Denmark. Available on-line at *http://www.euro.who.int_data/assets/pdf_file/0005/74732/E71922.pdf.*

response relationships follows below. A more thorough discussion of these uncertainties is included in the draft risk assessment documentation (referenced earlier) available in the docket for this action.

a. Uncertainties in the Emissions Datasets

Although the development of the MACT datasets involved quality assurance/quality control processes, the accuracy of emissions values will vary depending on the source of the data, the degree to which data are incomplete or missing, the degree to which assumptions made to complete the datasets are inaccurate, errors in estimating emissions values and other factors. The emission estimates considered in this analysis generally are annual totals for certain years that do not reflect short-term fluctuations during the course of a year or variations from year to year.

The estimates of peak hourly emission rates for the acute effects screening assessment were based on a multiplication factor of 10 applied to the average annual hourly emission rate, which is intended to account for emission fluctuations due to normal facility operations.

b. Uncertainties in Dispersion Modeling

While the analysis employed the EPA's recommended regulatory dispersion model, AERMOD, we recognize that there is uncertainty in ambient concentration estimates associated with any model, including AERMOD. In circumstances where we had to choose between various model options, where possible, model options (*e.g.*, rural/urban, plume depletion, chemistry) were selected to provide an overestimate of ambient air concentrations of the HAP rather than underestimates. However, because of practicality and data limitation reasons, some factors (*e.g.*, meteorology, building downwash) have the potential in some situations to overestimate or underestimate ambient impacts. For example, meteorological data were taken from a single year (1991) and facility locations can be a significant distance from the site where these data were taken. Despite these uncertainties, we believe that the approach considered in the dispersion modeling analysis for off-site locations and census block centroids should generally yield overestimates of ambient HAP concentrations.

c. Uncertainties in Inhalation Exposure

The effects of human mobility on exposures were not included in the assessment. Specifically, short-term mobility and long-term mobility between census blocks in the modeling domain were not considered.[29] The assumption of not considering short- or long-term population mobility does not bias the estimate of the theoretical MIR, nor does it affect the estimate of cancer incidence since the total population number remains the same. It does, however, affect the shape of the distribution of individual risks across the affected population, shifting it toward higher estimated individual risks at the upper end and reducing the number of people estimated to be at lower risks, thereby increasing the estimated number of people at specific risk levels.

In addition, the assessment predicted the chronic exposures at the centroid of each populated census block as surrogates for the exposure concentrations for all people living in that block. Using the census block centroid to predict chronic exposures tends to over-predict exposures for people in the census block who live further from the facility, and under-predict exposures for people in the census block who live closer to the facility. Thus, using the census block centroid to predict chronic exposures may lead to a potential understatement or overstatement of the true maximum impact, but is an unbiased estimate of average risk and incidence.

The assessments evaluate the cancer inhalation risks associated with continuous pollutant exposures over a 70-year period, which is the assumed lifetime of an individual. In reality, both the length of time that modeled emissions sources at facilities actually operate (*i.e.*, more or less than 70 years), and the domestic growth or decline of the modeled industry (*i.e.*, the increase or decrease in the number or size of United States facilities), will influence the risks posed by a given source category. Depending on the characteristics of the industry, these factors will, in most cases, result in an overestimate both in individual risk levels and in the total estimated number of cancer cases. However, in rare cases, where a facility maintains or increases its emission levels beyond 70 years, residents live beyond 70 years at the same location, and the residents spend most of their days at that location, then the risks could potentially be underestimated. Annual cancer incidence estimates from exposures to emissions from these sources would not be affected by uncertainty in the length of time emissions sources operate.

The exposure estimates used in these analyses assume chronic exposures to ambient levels of pollutants. Because most people spend the majority of their time indoors, actual exposures may not be as high, depending on the characteristics of the pollutants modeled. For many of the HAP, indoor levels are roughly equivalent to ambient levels, but for very reactive pollutants or larger particles, these levels are typically lower. This factor has the potential to result in an overstatement of 25 to 30 percent of exposures.[30]

In addition to the uncertainties highlighted above, there are several factors specific to the acute exposure assessment that should be highlighted. The accuracy of an acute inhalation exposure assessment depends on the simultaneous occurrence of independent factors that may vary greatly, such as hourly emissions rates, meteorology, and human activity patterns. In this assessment, we assume that individuals remain for 1 hour at the point of maximum ambient concentration as determined by the co-occurrence of peak emissions and worst-case meteorological conditions. These assumptions would tend to overestimate actual exposures since it is unlikely that a person would be located at the point of maximum exposure during the time of worst-case impact.

d. Uncertainties in Dose-Response Relationships

There are uncertainties inherent in the development of the dose-response values used in our risk assessments for cancer effects from chronic exposures and noncancer effects from both chronic and acute exposures. Some uncertainties may be considered quantitatively, and others generally are expressed in qualitative terms. We note as a preface to this discussion a point on dose-response uncertainty that is brought out in the *EPA 2005 Cancer Guidelines*; namely, that ''the primary goal of the EPA actions is protection of human health; accordingly, as an agency policy, risk assessment procedures, including default options that are used in the absence of scientific data to the contrary, should be health protective.'' (*EPA 2005 Cancer Guidelines, pages 1–7*). This is the approach followed here as summarized in the next several paragraphs. A complete detailed discussion of uncertainties and

[29] Short-term mobility is movement from one micro-environment to another over the course of hours or days. Long-term mobility is movement from one residence to another over the course of a lifetime.

[30] U.S. EPA. *National-Scale Air Toxics Assessment for 1996.* (EPA 453/R–01–003; January 2001; page 85.)

variability in dose-response relationships is given in the residual risk documentation, which is available in the docket for this action.

Cancer URE values used in our risk assessments are those that have been developed to generally provide an upper bound estimate of risk. That is, they represent a ''plausible upper limit to the true value of a quantity'' (although this is usually not a true statistical confidence limit).[31] In some circumstances, the true risk could be as low as zero; however, in other circumstances, the risk could also be greater.[32] When developing an upper bound estimate of risk and to provide risk values that do not underestimate risk, health-protective default approaches are generally used. To err on the side of ensuring adequate health-protection, the EPA typically uses the upper bound estimates rather than lower bound or central tendency estimates in our risk assessments, an approach that may have limitations for other uses (*e.g.*, priority-setting or expected benefits analysis).

Chronic noncancer reference (RfC and RfD) values represent chronic exposure levels that are intended to be health-protective levels. Specifically, these values provide an estimate (with uncertainty spanning perhaps an order of magnitude) of daily oral exposure (RfD) or of a continuous inhalation exposure (RfC) to the human population (including sensitive subgroups) that is likely to be without an appreciable risk of deleterious effects during a lifetime. To derive values that are intended to be ''without appreciable risk,'' the methodology relies upon an UF approach (U.S. EPA, 1993, 1994) which includes consideration of both uncertainty and variability. When there are gaps in the available information, UF are applied to derive reference values that are intended to protect against appreciable risk of deleterious effects. The UF are commonly default values,[33] *e.g.*, factors of 10 or 3, used in the absence of compound-specific data; where data are available, UF may also be developed using compound-specific information. When data are limited, more assumptions are needed and more UF are used. Thus, there may be a greater tendency to overestimate risk in the sense that further study might support development of reference values that are higher (i.e., less potent) because fewer default assumptions are needed. However, for some pollutants, it is possible that risks may be underestimated. While collectively termed ''uncertainty factor,'' these factors account for a number of different quantitative considerations when using observed animal (usually rodent) or human toxicity data in the development of the RfC. The UF are intended to account for: (1) Variation in susceptibility among the members of the human population (*i.e.*, inter-individual variability); (2) uncertainty in extrapolating from experimental animal data to humans (*i.e.*, interspecies differences); (3) uncertainty in extrapolating from data obtained in a study with less-than-lifetime exposure (*i.e.*, extrapolating from sub-chronic to chronic exposure); (4) uncertainty in extrapolating the observed data to obtain an estimate of the exposure associated with no adverse effects; and (5) uncertainty when the database is incomplete or there are problems with the applicability of available studies. Many of the UF used to account for variability and uncertainty in the development of acute reference values are quite similar to those developed for chronic durations, but they more often use individual UF values that may be less than 10. UF are applied based on chemical-specific or health effect-specific information (*e.g.*, simple irritation effects do not vary appreciably between human individuals, hence a value of 3 is typically used), or based on the purpose for the reference value (see the following paragraph). The UF applied in acute reference value derivation include: (1) Heterogeneity among humans; (2) uncertainty in extrapolating from animals to humans; (3) uncertainty in lowest observed adverse effect (exposure) level to no observed adverse effect (exposure) level adjustments; and (4) uncertainty in accounting for an incomplete database on toxic effects of potential concern. Additional adjustments are often applied to account for uncertainty in extrapolation from observations at one exposure duration (*e.g.*, 4 hours) to derive an acute reference value at another exposure duration (*e.g.*, 1 hour).

Not all acute reference values are developed for the same purpose and care must be taken when interpreting the results of an acute assessment of human health effects relative to the reference value or values being exceeded. Where relevant to the estimated exposures, the lack of short-term dose-response values at different levels of severity should be factored into the risk characterization as potential uncertainties.

Although every effort is made to identify peer-reviewed reference values for cancer and noncancer effects for all pollutants emitted by the sources included in this assessment, some HAP continue to have no reference values for cancer or chronic noncancer or acute effects. Since exposures to these pollutants cannot be included in a quantitative risk estimate, an understatement of risk for these pollutants at environmental exposure levels is possible. For a group of compounds that are either unspeciated, or do not have reference values for every individual compound (*e.g.*, glycol ethers), we conservatively use the most protective reference value to estimate risk from individual compounds in the group of compounds.

Additionally, chronic reference values for several of the compounds included in this assessment are currently under the EPA IRIS review and revised assessments may determine that these pollutants are more or less potent than the current value. We may re-evaluate residual risks for the final rulemaking if these reviews are completed prior to our taking final action for these source categories and if dose-response metric changes enough to indicate that the risk assessment supporting this notice may significantly understate human health risk.

When we identify acute impacts which exceed their relevant benchmarks, we pursue refining our acute screening estimates. For the Mineral Wool Production source category, we used a refined emissions multiplier of 3 to estimate the peak hourly emission rates from the average rates. For a detailed description of how the refined emissions multiplier was developed for the Mineral Wool Production source category see the memo on the Acute Effects Factor for Mineral Wool Manufacturing

[31] IRIS glossary (*http://www.epa.gov/NCEA/iris/help_gloss.htm*).

[32] An exception to this is the URE for benzene, which is considered to cover a range of values, each end of which is considered to be equally plausible and which is based on maximum likelihood estimates.

[33] According to the NRC report, *Science and Judgment in Risk Assessment* (NRC, 1994) ''[Default] options are generic approaches, based on general scientific knowledge and policy judgment, that are applied to various elements of the risk assessment process when the correct scientific model is unknown or uncertain.'' The 1983 NRC report, *Risk Assessment in the Federal Government: Managing the Process,* defined default option as ''the option chosen on the basis of risk assessment policy that appears to be the best choice in the absence of data to the contrary'' (NRC, 1983a, p. 63). Therefore, default options are not rules that bind the agency; rather, the agency may depart from them in evaluating the risks posed by a specific substance when it believes this to be appropriate. In keeping with EPA's goal of protecting public health and the environment, default assumptions are used to ensure that risk to chemicals is not underestimate risk). See EPA, 2004, *An Examination of EPA Rick Assessment Principles and Practices,* EPA/100/B–001 available at: *http://www.epa.gov/osa/pdfs/ratf-final.pdf.*

Operations, which is in the docket for this action. For the Wool Fiberglass Manufacturing source category, data were not available to develop a refined emissions multiplier; therefore, the default emissions multiplier of 10 was used.

e. Uncertainties in the Multi-Pathway and Environmental Effects Assessment

We generally assume that when exposure levels are not anticipated to adversely affect human health, they also are not anticipated to adversely affect the environment. For each source category, we generally rely on the site-specific levels of PB–HAP emissions to determine whether a full assessment of the multi-pathway and environmental effects is necessary. As discussed above, we conclude that the potential for these types of impacts is low for these source categories.

f. Uncertainties in the Facility Wide Risk Assessment

Given that the same general analytical approach and the same models were used to generate facility wide risk results as were used to generate the source category risk results, the same types of uncertainties discussed above for our source category risk assessments apply to the facility wide risk assessments. Because the source category processes are the only processes at each facility, there is no greater uncertainty for facility wide emissions.

B. How did we consider the risk results in making decisions for this proposal?

Based on our risk assessment we are proposing that risks due to hexavalent chromium and formaldehyde are acceptable, with a maximum individual cancer risk for the source category at 40-in-one million. Emissions testing at the facility presenting this risk indicated that 92 percent of the total chromium compounds were hexavalent chromium. In the second step of the process, the EPA sets the standard at a level that provides an ample margin of safety.

We found from our risk assessment that risks due to hexavalent chromium were acceptable at 40-in-one million. In the second step of our risk assessment, we considered whether any cost-effective measures, technologies or practices are available to reduce risks further to an ''ample margin of safety''. We found two methods whereby hexavalent chromium emissions can be reduced at wool fiberglass facilities and we are proposing in this action emission limits for hexavalent chromium from wool fiberglass facilities that will provide an ample margin of safety to protect the public health and prevent adverse environmental effects. We discuss these methods further in Sections V.A., VIII. D and VIII. E of this preamble.

In past residual risk actions, the EPA has presented and considered a number of human health risk metrics associated with emissions from the category under review, including: the MIR; the numbers of persons in various risk ranges; cancer incidence; the maximum non-cancer HI; and the maximum acute non-cancer hazard (72 FR 25138, May 3, 2007; 71 FR 42724, July 27, 2006). In our most recent proposals (75 FR 65068, October 21, 2010 and 75 FR 80220, December 21, 2010), the EPA also presented and considered additional measures of health information, such as estimates of the risks associated with the maximum level of emissions which might be allowed by the current MACT standards (see, e.g., 75 FR 65068, October 21, 2010 and 75 FR 80220, December 21, 2010). The EPA also discussed and considered risk estimation uncertainties. The EPA is providing this same type of information in support of the proposed actions described in this **Federal Register** notice.

The agency is considering all available health information to inform our determinations of risk acceptability and ample margin of safety under CAA section 112(f). The agency acknowledges that the Benzene NESHAP provides flexibility regarding what factors the EPA might consider in making determinations and how these factors might be weighed for each source category. Thus, the level of the MIR is only one factor to be weighed in determining acceptability of risks.

The EPA wishes to point out that certain health information has not been considered to date in making residual risk determinations. In assessing risks to populations in the vicinity of the facilities in each category, we present risk estimates associated with HAP emissions from the source category alone (source category risk estimates) and the risks due to HAP emissions from the entire facility at which the covered source category is located (facility wide risk estimates). We have not attempted to characterize the risks associated with all HAP emissions impacting the populations living near the sources in these categories. That is, at this time, we do not attempt to quantify those HAP risks that may be associated with emissions from other facilities that are not included in the source categories in question, including mobile source emissions, natural source emissions, persistent environmental pollution, and atmospheric transformation in the vicinity of the sources in these categories.

The agency understands the potential importance of considering an individual's total exposure to HAP in addition to considering exposure to HAP emissions from the source category and facility. This is particularly important when assessing non-cancer risks, where pollutant-specific exposure health reference levels (*e.g.,* RfC) are based on the assumption that thresholds exist for adverse health effects. For example, the agency recognizes that, although exposures attributable to emissions from a source category or facility alone may not indicate the potential for increased risk of adverse non-cancer health effects in a population, the exposures resulting from emissions from the facility in combination with emissions from all of the other sources (*e.g.,* other facilities) to which an individual is exposed may be sufficient to result in increased risk of adverse non-cancer health effects. In May 2010, the EPA SAB advised us ''* * * that RTR assessments will be most useful to decision makers and communities if results are presented in the broader context of aggregate and cumulative risks, including background concentrations and contributions from other sources in the area.'' [34]

Although we are interested in placing source category and facility wide HAP risks in the context of total HAP risks from all sources combined in the vicinity of each source, we are concerned about the uncertainties of doing so. At this point, we believe that such estimates of total HAP risks will have significantly greater associated uncertainties than for the source category or facility wide estimates, and hence would compound the uncertainty in any such comparison. This is because we have not conducted a detailed technical review of HAP emissions data for source categories and facilities that have not previously undergone an RTR review or are not currently undergoing such review.

C. How did we perform the technology review?

For our technology review, we identified and evaluated the developments in practices, processes and control technologies that have

[34] The EPA's response to this and all other key recommendations of the SAR's advisory on RTR risk assessment methodologies (which is available at: *http://yosemite.epa.gov/sab/sabproduct.nsf/4AB3966E263D943A8525771F00668381/$File/EPA-SB-10-007-unsigned.pdf*) are outlined in a memo to this rulemaking docket from David Guinnup entitled, EPA's Actions in Response to the Key Recommendations of the SAB Review of RTR Risk Assessment Methodologies.

occurred since the 1999 MACT rules were promulgated. In cases where we identified such developments, we analyzed the technical feasibility of and the estimated impacts (costs, emissions reductions, risk reductions, *etc.*) of applying these developments. We then decided, based on impacts and feasibility, whether it was necessary to propose amendments to the regulation to require any of the identified developments.

Based on our analyses of the data, information collected under the voluntary industry survey, our general understanding of both of the industries and other available information on potential controls for these industries, we identified potential developments in practices, processes, and control technologies.

For the purpose of this exercise, we considered any of the following to be a ''development'':

- Any add-on control technology or other equipment that was not identified and considered during development of the 1999 MACT rules.
- Any improvements in add-on control technology or other equipment (that were identified and considered during development of the 1999 MACT rules) that could result in significant additional emissions reduction.
- Any work practice or operational procedure that was not identified or considered during development of the 1999 MACT rules.
- Any process change or pollution prevention alternative that could be broadly applied to the industry and that was not identified or considered during development of the 1999 MACT rules.
- Any development in equipment or technology that could result in increased HAP emissions.

In addition to reviewing the practices, processes, and technologies that were not considered at the time we developed the 1999 MACT rules, we reviewed a variety of data sources for the mineral wool and wool fiberglass industries. Among the data sources we reviewed were the NESHAP for various industries that were promulgated after the 1999 MACT rules. We reviewed the regulatory requirements and/or technical analyses associated with these regulatory actions to identify any practices, processes and control technologies considered in these efforts that could possibly be applied to emissions sources in the Mineral Wool Production and Wool Fiberglass source categories, as well as the costs, non-air impacts, and energy implications associated with the use of these technologies. We reviewed scientific and technical literature regarding refractory products including high chrome refractories and consulted experts in the refractory manufacturing field.

Control technologies, classified as RACT, BACT, or LAER apply to stationary sources depending on whether the sources are existing or new, and on the size, age and location of the facility. We consulted the EPA's RBLC to identify potential technology advances. BACT and LAER (and sometimes RACT) are determined on a case-by-case basis, usually by State or local permitting agencies. The EPA established the RBLC to provide a central database of air pollution technology information (including technologies required in source-specific permits) to promote the sharing of information among permitting agencies and to aid in identifying future possible control technology options that might apply broadly to numerous sources within a category or apply only on a source-by-source basis. The RBLC contains over 5,000 air pollution control permit determinations that can help identify appropriate technologies to mitigate many air pollutant emissions streams. We searched this database to determine whether it contained any practices, processes, or control technologies for the types of processes covered by the Mineral Wool Production and Wool Fiberglass Manufacturing MACT rules.

Additionally, we requested information from facilities regarding developments in practices, processes, or control technology. Finally, we reviewed other information sources, such as State and local permitting agency databases and industry-supported databases.

D. What other issues are we addressing in this proposal?

In addition to the analyses described above, we also reviewed other aspects of the MACT standards for possible revision. Based on this review we have identified several aspects of the MACT standards that we believe need revision. This includes proposing revisions to the startup, shutdown, and malfunction provisions of the MACT rule in order to ensure that they are consistent with a recent court decision in *Sierra Club* v. *EPA*, 551 F. 3d 1019 (DC Cir. 2008).

We are proposing HAP-specific emission limits for COS, phenol, and methanol in place of surrogacy in the MACT standards. The proposed rule also would regulate the collection process as a source of HAP emissions of phenol, methanol and formaldehyde that were not included in the 1999 Mineral Wool MACT standard.

In addition, we are proposing other various minor changes with regards to editorial errors and other revisions to promote the use of plain language. The analyses and proposed decisions for these actions are presented in Section VI of this preamble.

E. What analyses were performed for the Mineral Wool Production source category under the Regulatory Flexibility Act?

Section 609(b) of the RFA requires a Panel to be convened prior to publication of the IRFA that an agency may be required to prepare under the RFA. The RFA directs the Panel to report on the comments of small entity representatives and make findings on the following elements:

- A description and estimate of the number of small entities to which the proposed rule will apply;
- A description of projected reporting, recordkeeping and other compliance requirements of the proposed rule, including an estimate of the classes of small entities that will be subject to the requirements and the type of professional skills necessary for preparation of the report or record;
- An identification, to the extent practicable, of all relevant federal rules which may duplicate, overlap, or conflict with the proposed rule; and
- Descriptions of any significant alternatives to the proposed rule which accomplish the stated objectives of applicable statutes and which minimize any significant economic impact of the proposed rule on small entities. This analysis must discuss any significant alternatives such as:
- The establishment of differing compliance or reporting requirements or timetables that take into account the resources available to small entities;
- The clarification, consolidation, or simplification of compliance and reporting requirements under the rule for such small entities;
- The use of performance rather than design standards; and
- An exemption from coverage of the rule, or any part thereof, for such small entities.

Once completed, the Panel Report presents the results of the analyses identified in the above list, and is provided to the agency issuing the proposed rule and is included in the rulemaking record. The agency is to consider the Panel's findings when completing the draft of the proposed rule. In light of the Panel Report, and where appropriate, the agency is also to consider whether changes are needed to the IRFA for the proposed rule or the

decision on whether an IRFA is required.

The Panel's findings and discussion are based on the information available at the time the final Panel Report is published. The EPA will continue to conduct analyses relevant to the proposed rule, and additional information may be developed or obtained during the remainder of the rule development process.

Any options identified by the Panel for reducing the rule's regulatory impact on small entities may require further analysis and/or data collection to ensure that the options are practicable, enforceable, environmentally sound and consistent with the CAA and its amendments. The Mineral Wool SBAR Panel convened on June 2, 2011, to address regulatory flexibility alternatives and opportunities for the mineral wool industry.

VI. Summary of Proposed Decisions and Actions

Pursuant to CAA sections 112(d)(2), 112(d)(6) and 112(f), we are proposing to revise the 1999 MACT rules relative to mineral wool production and wool fiberglass manufacturing to include the standards and requirements summarized in this section. More details of the rationale for these proposed standards and requirements are provided in Sections VII and VIII of this preamble. In addition, as part of these rationale discussions, we solicit public comment and data relevant to several issues. The comments we receive during the public comment period will help inform the rule development process as we work toward promulgating a final action.

A. What are the proposed decisions and actions related to the Mineral Wool Production NESHAP?

The following sections discuss the proposed decisions and actions regarding unregulated pollutants and emissions sources (*i.e.*, the MACT floors), recordkeeping and notification, compliance and other proposed decisions and actions related to subcategorization of emissions sources and the findings of the SBAR Panel.

1. Addressing Unregulated Pollutants and Emissions Sources From Mineral Wool Production

In the course of evaluating the 1999 MACT rule, we identified certain HAP for which we failed to establish emission standards in the original MACT (*i.e.*, COS, HF, HCl, phenol, and methanol) and certain unregulated processes (*i.e.*, collection). Some of these HAP (COS, phenol, and methanol) were not regulated under the 1999 MACT rule because they were represented by surrogates (*i.e.*, CO and formaldehyde). The EPA did not regulate HF and HCl in the 1999 rule although these HAP are emitted from cupolas. The 1999 MACT rule also did not regulate any HAP emitted from collection processes that occur on a bonded line even though these processes emit the HAP phenol, formaldehyde, and methanol. According to *National Lime* v. *EPA*, 233 F.3d 625, 634 (DC Cir. 2000), the EPA has a ''clear statutory obligation to set emissions standards for each listed HAP.'' As a part of the information collected in 2010 to support this proposal, we specifically evaluated COS, HF, and HCl from cupolas and formaldehyde, phenol and methanol from collection and curing operations.

For the Mineral Wool Production source category, we are proposing MACT limits for: (1) COS, HF and HCl for existing, new and reconstructed cupolas; and (2) formaldehyde, phenol and methanol for existing, new and reconstructed combined collection and curing operations. The collection process emits HAP when a phenol-formaldehyde based binder is sprayed during collection. Such collection processes immediately precede curing ovens. Both processes emit HAP when they occur on bonded production lines, but of the two processes, only the curing oven was regulated under the 1999 MACT standard. This proposed rule regulates collection and curing as a combined process on bonded production lines under three subcategories (one subcategory for each combined process design). The proposed emissions limits were calculated using the 99 percent UPL method.

We considered beyond-the-floor options for COS, HF, and HCl standards for all cupolas, and for formaldehyde, phenol and methanol for all combined collection and curing operation designs, as required by section 112(d)(2) of the Act. However, we decided not to propose any limits based on the beyond-the-floor analyses for COS, HF, HCl, formaldehyde, phenol, and methanol for these sources because of the costs, potential disadvantages of additional controls (including the cost of RTO and unintended SO_2 emissions), non-air environmental impacts, and adverse energy implications associated with use of these additional controls. The beyond-the-floor analyses are presented in the technical documentation for this action (see *MACT Floor Analysis for the Mineral Wool Production Manufacturing Source Category* and the *MACT Floor Analysis for the Wool Fiberglass Manufacturing Source Category*), and are available in the docket for this action.

In summary, we are proposing the following emissions limits for existing, new, and reconstructed cupolas in the Mineral Wool Production Source Category as presented in Table 2. We are not proposing changes to the PM emissions limits in the 1999 MACT rule for Mineral Wool Production, and for this reason they are not included in the proposed limits in Table 2 below.

TABLE 2—MINERAL WOOL PRODUCTION PROPOSED EMISSIONS LIMITS FOR EXISTING, NEW, AND RECONSTRUCTED CUPOLAS, POUND OF POLLUTANT PER TON OF MELT

Pollutant	Emission limit (lb/ton of melt)	
	Existing cupolas	New and reconstructed cupolas
COS	3.3	0.017
HF	0.014	0.014
HCl	0.0096	0.0096

2. Subcategorization

Under CAA section 112(d)(1), the EPA has the discretion to ''* * * distinguish among classes, types, and sizes of sources within a category or subcategory in establishing * * *'' standards. When separate subcategories are established, a MACT floor is determined separately for each subcategory. To determine whether

the mineral wool production facilities warrant subcategorization for the MACT floor analysis, the EPA reviewed unit and process designs, operating information, and air emissions data compiled in the industry survey data set and other information collected by the agency for development of the NESHAP for this source category. Based on this review, the EPA concluded that there are significant design and operational differences in the collection operations at each of the three facilities that operate a bonded line in this source category.

For the unregulated process that emits HAP (*i.e.*, collection and curing for facilities that operate a bonded line), we are proposing to subcategorize combined collection operations and curing ovens designs into three subcategories based on what the industry is currently using: Vertical, horizontal and drum. When separate subcategories are established, a MACT standard is determined separately for each subcategory. To determine whether the mineral wool production facilities warrant subcategorization for the MACT floor analysis, the EPA reviewed unit and process designs, operating information and air emissions data compiled in the industry survey data set and other information collected by the agency for development of the NESHAP for this source category. Based on this review, the EPA concluded that there are significant design and operational differences in the collection operations at each of the three facilities that operate a bonded line in this source category. The combined collection and curing designs consist of three design types: Vertical, horizontal and drum. For each existing, new, and reconstructed combined collection and curing operation, we are proposing the following emissions limits as presented in Table 3.

TABLE 3—MINERAL WOOL PRODUCTION PROPOSED EMISSIONS LIMITS FOR EXISTING, NEW, AND RECONSTRUCTED COMBINED COLLECTION AND CURING OPERATIONS, POUND OF POLLUTANT PER TON OF MELT

Design	Pollutant	Emission limit (lb/ton of melt)
Vertical	Formaldehyde	0.46
	Phenol	0.52
	Methanol	0.63
Horizontal	Formaldehyde	0.054
	Phenol	0.15
	Methanol	0.022
Drum	Formaldehyde	0.067
	Phenol	0.0023
	Methanol	0.00077

3. Reporting and Recordkeeping Notifications

We are proposing to revise certain reporting and recordkeeping requirements of 40 CFR part 63, subpart DDD. Specifically, we are proposing that facilities maintain records and prepare and submit performance test reports on the frequency described below in *Compliance Dates and Approaches* to comply with the proposed emissions limits for COS, HF, HCl, formaldehyde, phenol, methanol and the existing PM limit. Although the PM limits in the existing MACT do not change as a result of this proposed rule we are proposing the same reporting, recordkeeping requirements for PM as for the other pollutants addressed under this proposed rule. We are also proposing language that would require the use of electronic reporting for all test methods that are supported by the ERT. Methods supported by ERT may be found at *http://www.epa.gov/ttn/chief/ert/index.html.*

4. Compliance Dates and Approaches

We are proposing that facilities that commenced construction or reconstruction on or before November 25, 2011 must demonstrate compliance with the requirements of this subpart no later than 3 years after the effective date of this rule. Affected sources that commenced construction or reconstruction after the effective date of this rule must demonstrate compliance with the requirements of this subpart no later than the effective date of the rule or upon start-up, whichever is later.

We are proposing that compliance testing for PM, COS, formaldehyde, phenol and methanol be conducted using the same test methods as required by the 1999 MACT rule (*i.e.*, Method 5 for PM and Method 318 for the organic HAP). We are proposing that sources can use either Test Method 26A or Test Method 320 to determine compliance for HF and HCl.

We are proposing both an initial performance test and repeat testing every 5 years or more often if the raw materials charged to the cupola change by more than 10 percent of that used for the initial performance test. Finally, we propose that continuous monitoring of appropriate operating parameters for control devices (*e.g.*, RTO), cupolas, curing ovens and/or collection operations will be required as parametric monitoring. This is to ensure continuous compliance with the PM, COS, HF, HCl, formaldehyde, phenol and methanol emissions limits.

5. Other Decisions and Actions

In addition to the proposed decisions and actions discussed above, we are also proposing changes to the use of surrogates in the existing rule and to subcategorize the combined collection operations and curing oven designs from those facilities operating bonded lines. We also discuss here the findings of the SBAR panel.

a. Surrogacy

As described in Sections III.B and VII.B of this preamble, the court, in the Brick MACT decision (*Sierra Club* v. *EPA*, 479 F.3d 875 (DC Cir. March 13, 2007))[3], found that the EPA has a ''clear statutory obligation to set emission standards for each listed HAP,'' which does not allow it to ''avoid setting standards for HAP not controlled with technology.'' Because we did not conduct analyses that would support the use of CO as a surrogate for COS, or formaldehyde for methanol and phenol, we cannot demonstrate that we established emission limits for COS, methanol and phenol in the 1999 MACT standard. Therefore, the agency is proposing to add emission limits for both phenol and methanol. Similarly, the agency is proposing to discontinue the use of CO as a surrogate for COS, and to set emission limits for COS. The proposed emissions limits for formaldehyde, phenol, methanol and COS are presented in Tables 2 and 3, above. We are soliciting comment on our decisions to discontinue use of

formaldehyde and CO as surrogates; any person wishing to establish or reestablish surrogacy relationships of one pollutant for others should provide emissions testing to support their conclusions.

b. Small Business Advocacy Review Panel

For purposes of assessing the impacts of the proposed rule on small entities, the RFA defines small entities as including ''small businesses,'' ''small governments,'' and ''small organizations'' (5 U.S.C. 601). The regulatory revisions being considered by the EPA for this rulemaking are expected to affect a variety of small businesses, but would not affect any small governments or small organizations. The RFA references the definition of ''small business'' found in the Small Business Act, which authorizes the SBA to further define ''small business'' by regulation. The SBA definitions of small business by size standards using the NAICS can be found at 13 CFR 121.201. For the Mineral Wool Production source category (NAICS code 327993), the SBA size standard for a small business is 500 employees. Based on this size designation, there are currently 5 small businesses operating with a total number of 540 employees.

Under section 609(b) of the RFA, the Panel is to report its findings related to these four items:

- A description of and, where feasible, an estimate of the number of small entities to which the proposed rule will apply;
- A description of the projected reporting, recordkeeping and other compliance requirements of the proposed rule, including an estimate of the classes of small entities which will be subject to the requirement and the type of professional skills necessary for preparation of the report or record;
- Identification, to the extent practicable, of all relevant federal rules which may duplicate, overlap or conflict with the proposed rule; and
- A description of any significant alternatives to the planned proposed rule which would minimize any significant economic impact of the proposed rule on small entities consistent with the stated objectives of the authorizing statute.

The Panel's most significant findings and discussion with respect to each of these items are summarized below. To read the full discussion of the Panel findings and recommendations, see Section 9 of the Panel Report.

1. Number and Types of Entities Affected

Six companies exist in this industry; five of the six companies are small businesses. All small businesses in the mineral wool production industry operate under NAICS code 327993.

2. Recordkeeping, Reporting and Other Compliance Requirements

The proposed rule under consideration potentially impacts small businesses by requiring new emission limits on processes that were not regulated under the MACT standard promulgated in 1999, by requiring emission limits for pollutants that were not regulated under the MACT, or both processes and pollutants not regulated under the MACT. All companies are subject to Title V operating permits requirements, and as such will be required to add the newly regulated processes to their operating permits along with compliance demonstrations that the processes meet each pollutant emission limit in the rule. Compliance testing will be required to be conducted using EPA methods for each pollutant. Reporting and recordkeeping requirements are not expected to change from the MACT, with the exception of additional pollutants and processes included in such reports.

3. Related Federal Rules

NAAQS: the most prevalent technology for reducing COS emissions will increase emissions of SO_2. Under the current NAAQS, none of the small entities are in nonattainment areas, so installation of emissions control equipment should not subject them to additional permitting requirements under the SO_2 NAAQS. However, the EPA cannot make such assurances about future NAAQS or future nonattainment zones, so there is a risk that future compliance with this rule could trigger additional emissions control requirements through the Title V/ prevention of significant deterioration permit program.

GHG: Most emissions control strategies identified by the EPA during the Panel would increase the energy intensity of mineral wool production. Although the Panel does not have specific information about the GHG emissions of individual facilities in this industry, these facilities could be subject to GHG permitting as that program is phased in under the Tailoring Rule.

4. Regulatory Flexibility Alternatives

The Panel agrees that the EPA does not have discretion in a number of areas that SER commented upon. Specifically, the EPA does not have the discretion to set the MACT floor emission limits at levels suggested by the SER. The Panel recognizes that EPA has the authority to review the MACT standard for completeness, risk, and technology improvements, and that the agency is currently under court order to conduct the risk and technology review for the mineral wool source category and propose amendments to the standard by October 31, 2011, and promulgate the amendments by October 31, 2012. However, whenever opportunities for regulatory flexibility arise, and when that regulatory flexibility can work to lessen impacts to small businesses, the Panel recommends that the EPA propose amendments to the mineral wool MACT that offer such regulatory flexibility to the maximum extent possible. Specifically, these opportunities arise in the following situations:

- Selection of the averaging method in calculating the MACT floor for COS from cupolas and phenol, formaldehyde and methanol emissions from collection and curing processes; and
- Subcategorization of regulated processes, when appropriate.

The Panel recommends that the EPA not require BTF emission limits for the mineral wool industry. Such limits are likely to have additional cost impacts to industry. In addition, the EPA did not identify BTF measures for consideration and has found that the results of the risk assessment show acceptable risks from this source category.

The Panel recommends subcategorization of collection along the lines described in Section 3 of the Panel Report, specifically, subcategorization for vertical collection and curing, horizontal collection and curing, and drum collection and curing. Based on available information, the Panel believes that emission standards based on the average emission limits across both collection and curing processes at each of the three subcategories would minimize the burden on small entities while fully complying with the EPA's obligations under section 112. The Panel also recommends setting MACT limits for new sources equal to MACT limits for existing sources.

The Panel recommends that the EPA allow the maximum amount of time within its discretion (3 years) and work with state permitting authorities to provide for the additional year permitted by the statute.

The Panel recommends that the EPA provide a detailed discussion in the preamble to the proposed rule that outlines the manner in which small entities may demonstrate compliance

with the rule, when finalized, during start-up and shutdown. The Panel also recommends that the EPA propose allowing an affirmative defense against compliance actions for malfunction events, consistent with other section 112 rules recently promulgated. For more information on the SBAR Panel review process and findings, see Section IV.E of this preamble and the *Final Report of the Small Business Advocacy Review Panel on the EPA's Planned Proposed Rule Risk and Technology Review (RTR) Amendments to the National Emission Standard for Hazardous Air Pollutants (NESHAP) for Mineral Wool Production October 2011* in the docket.

c. Technical Corrections to the Rule

We are also proposing revisions to certain terms in the existing NESHAP. Specifically, we are proposing to replace the term ''incinerator'' with ''regenerative thermal oxidizer'' to avoid confusion with rules promulgated under CAA section 129 and any new requirement that may be imposed on something called an ''incinerator''. We are also proposing to specify performance testing frequency for RTOs.

B. What are the proposed decisions and actions related to the Wool Fiberglass Manufacturing NESHAP?

The following sections discuss the decisions proposed by this action with regard to the following topics: unregulated pollutants and emissions sources; the risk review; the technology review; our plans regarding area sources; recordkeeping, reporting and notification requirements; compliance requirements; and other proposed decisions and actions (*i.e.,* changes in surrogacy and terminology cleanup).

1. Addressing Unregulated Pollutants and Emissions Sources

In the course of evaluating the 1999 MACT rule, we identified certain HAP for which we failed to establish emission standards in the original MACT (*i.e.,* HF, HCl, phenol and methanol). As stated earlier, the EPA has ''clear statutory obligation to set emissions standards for each listed HAP''. *National Lime* v. *EPA*, 233 F. 3d 625, 634 (DC Cir. 2000). The EPA specifically evaluated HF and HCl, from glass-melting furnaces and formaldehyde, phenol and methanol from RS manufacturing lines and FA manufacturing lines.

a. Surrogacy

As described in Sections III. B and VII.B of this preamble, the Court, in the Brick MACT decision, also found that the EPA erred when we did not establish emission limits for each HAP emitted from industrial processes regulated by the MACT standard. We are proposing to replace CO as a surrogate for COS with COS emissions limits. We are also proposing to discontinue use of formaldehyde as a surrogate for phenol and methanol. We are, therefore, proposing to add emission limits for COS, phenol and methanol. The proposed emissions limits can be found in Tables 4–6, below.

TABLE 4—PROPOSED EMISSIONS LIMITS FOR ROTARY SPIN (RS) MANUFACTURING LINES

[Pound of pollutant/ton of melt]

Pollutant	Existing RS lines	New and reconstructed RS lines
Formaldehyde	0.17	0.020
Phenol	0.19	0.0011
Methanol	0.48	0.00067

TABLE 5—PROPOSED EMISSIONS LIMITS FOR FLAME ATTENUATION (FA) MANUFACTURING LINES

[Pound of pollutant/ton of melt]

Pollutant	Existing FA lines	New and reconstructed FA lines
Formaldehyde	5.6	3.3
Phenol	1.4	0.46
Methanol	0.50	0.50

TABLE 6—PROPOSED EMISSIONS LIMITS FOR GLASS-MELTING FURNACES

[Pound of pollutant/ton of melt]

Pollutant	Existing furnaces	New and reconstructed furnaces
HF	0.002	0.00078
HCl	0.0015	0.00078

b. Emission Limits for Unregulated HAPs

For the Wool Fiberglass Manufacturing source category, we are proposing MACT limits for HF and HCl for glass-melting furnaces; formaldehyde, phenol and methanol from existing, new, and reconstructed RS manufacturing lines; and formaldehyde, phenol and methanol from existing, new, and reconstructed FA manufacturing lines. The proposed emissions limits can be found in Tables 4–6 above.

Section 112(d)(3)(B) of the CAA requires that the MACT standards for existing sources be at least as stringent as the average emissions limitation achieved by the best performing 12 percent of sources (for which the Administrator has or could reasonably

obtain emissions information) in a category with more than 30 sources. The Wool Fiberglass Manufacturing source category consists of 29 facilities with approximately 80 glass-melting furnaces. Since there are more than 30 furnaces, we based the MACT floor limit on the average emissions limitation achieved by the best performing 12 percent of furnaces.

The EPA must exercise its judgment, based on an evaluation of the relevant factors and available data, to determine the level of emissions control that has been achieved by the best performing sources under variable conditions. It is recognized in the case law that the EPA may consider variability in estimating the degree of emissions reduction achieved by best-performing sources and in setting MACT floors. See *Mossville Envt'l Action Now* v. *EPA*, 370 F.3d 1232, 1241–42 (DC Cir 2004) (holding that the EPA may consider emissions variability in estimating performance achieved by best-performing sources and may set the floor at a level that a best-performing source can expect to meet ''every day and under all operating conditions''). More details on how we calculate MACT floors and how we account for variability are described in the *MACT Floor Analysis for the Wool Fiberglass Manufacturing Source Category* which is available in the docket for this proposed action.

We considered beyond-the-floor options for the HF and HCl standards for all of the glass-melting furnaces and the formaldehyde, phenol and methanol standards for all RS manufacturing lines and FA manufacturing lines, as required by section 112(d)(2) of the Act. We decided not to propose any limits based on the beyond-the-floor analyses for any of these pollutants because of the costs, non-air environmental impacts, and adverse energy implications associated with use of these additional controls. The beyond-the-floor analysis is presented in the technical documentation for this action (*MACT Floor Analysis for the Mineral Wool Production Source Category* and *the MACT Floor Analysis for the Wool Fiberglass Manufacturing Source Category*).

2. Proposed Decisions Based on the Risk Review

Based on the results of our risk assessment and risk review (which are described in more detail in Section VIII of this preamble), we are proposing emission limits for chromium compounds under the authority of section 112(f)(2) of the CAA of 0.006 pounds of total chromium per thousand tons of glass pulled. As explained in Section VIII of this preamble, we are proposing these limits as an outcome of our ample margin of safety analysis.

3. Proposed Decisions Based on the Technology Review for the Wool Fiberglass Industry

As explained in Sections VI.B and VIII.E of this preamble, we are proposing emissions limits for PM, under section 112(d)(6) (see Table 12 of Section VIII in this preamble). Furthermore, as explained in Section VIII.F of this preamble, we are proposing emissions limits for chromium compounds under section 112(d)(6) of the CAA as part of our technology review (see those sections for details) of 0.006 pounds of total chromium per thousand tons of glass pulled, which is the same limit we are proposing under Section 112(f)(2) of the CAA.

In our technology review for this industry, we discovered and evaluated two new technology developments that affect emissions from wool fiberglass manufacturing furnaces: furnace control technologies and high chrome refractories. These are discussed below.

Wool fiberglass furnaces are now equipped with air pollution control devices that achieve emissions of about 0.014 pounds PM per ton of glass produced. This is about 50 times lower than required under the MACT rule (0.5 lb PM per ton glass produced). In light of the record and additional data we received on PM emissions, we are proposing revised PM limits under the technology review of the wool fiberglass source category (as described in Section VIII of this preamble).

Glass-melting furnaces are constructed using refractories, which direct the heat of the furnace back into the melt. We are aware of a new technology that is used to significantly extend the life of the wool fiberglass furnace: refractories that are made of almost 100 percent chromium compounds and that are used to construct entire furnaces or very large parts of furnaces. Based on emission testing of one furnace, it appears that the levels of chromium compounds that can be emitted when glass-melting furnaces are constructed from high chrome refractories can be significant. This facility operates two furnaces. The total chromium compound emissions at this facility are estimated as 913 lb/yr assuming that both furnaces emit at a similar rate. This includes 840 pounds of hexavalent chromium. Industry information indicates that the furnaces emitting the highest levels of chromium compounds are constructed in whole or in part from these types of refractories. (Notes of April 14, 2011; Region 7 Certainteed Notes).[12] [13]

It is our understandng that because of the corrosive properties of the molten glass, fresh refractory is continuously exposed to the molten glass along the metal/glass contact line in the glass-melting furnace process. This increases the surface area of the refractory that is exposed to the molten glass. As a result, when the glass furnace is constructed using high chrome refractories, the emission levels of chromium compounds continuously increase over the life of the furnace (Please refer to notes of April 14, 2011, telephone discussion between Susan Fairchild and Certainteed). One industry spokesperson estimated that 20,000 lb/yr of refractory are worn away from the inside walls of one wool fiberglass furnace and ducted to the control device before venting to the atmosphere.[35]

On August 31, 2011, industry representatives met with the agency to provide data, in an attempt to improve our understanding of the levels of chromium content in refractory products used at wool fiberglass furnaces and their impacts on chromium compound emissions. In the meeting industry representatives stated the following:

- The use of chromium in refractories is important to wool fiberglass operations because it extends the useful life of the furnace;
- Chromium content of furnaces vary from 0 to 95 percent; there is no distinction between the types of refractories used at the highest chrome emitting furnace and the refractories used to construct other glass furnaces that emit low levels of hexavalent chromium.
- The type of furnace used at the high chromium emitting facility may may be responsible for increased hexavalent chromium emissions.

However, the information from the meeting appears to contradict other information on the reason for certain furnaces to have elevated chromium emissions. As previously discussed, emission test results from the 2010 testing and previous statements made to the EPA from owners/operators (Notes of April 14, 2011, Certainteed; Region 7 Certainteed notes) seem to inply that the high chromium emissions are due to the chromium content of the refractory. Because of this contradictory information we are requesting

[35] Meeting between U.S. EPA, would fiberglass industry representatives and NAIMA (trade association). August 31, 2011. At USEPA offices in Research Triangle Park, NC.

additional emissions testing of wool fiberglass furnaces (discussed below). We are also soliciting comment on whether and how to subcategorize industry according to furnace type, or type of refractory. Commenters should also provide emissions test data to support their assertions regarding the correct manner in which to subcategorize the industry.

As shown in Table 12 of Section VIII of this preamble, we are proposing chromium compound emissions limits of 0.00006 lb/ton of glass produced. These limits would apply to wool fiberglass furnaces at major sources. However, there are no differences in furnaces at major sources and those at area sources. We are concerned about the levels of hexavalent chromium that can be emitted by area sources where furnaces may be constructed or reconstructed using high chrome refractories. We are announcing today our plans to regulate wool fiberglass area sources in a future action. We have issued a section 114 information collection request to the wool fiberglass industry to collect comprehensive information specific to the chrome content of the refractories used to construct their glass-melting furnaces and obtain complete chromium emissions test data. This information will enable us determine the scope of the source category (in terms of the universe of wool fiberglass producers that are area sources and that emit hexavalent chromium) to be regulated in the future action.

We are requesting information specific to wool fiberglass furnaces, including information on the chromium content of the refractories used in furnace construction, process rates and emissions testing. Nevertheless, we are soliciting comment from the public on our approach to limit emissions of chromium compounds as well as other alternatives to reducing emissions of chromium compounds, especially hexavalent chromium.

4. Reporting, Recordkeeping and Notification Requirements

We are proposing to revise certain recordkeeping requirements of 40 CFR part 63, subpart NNN. Specifically, we are proposing that facilities maintain records and prepare and submit performance test reports to comply with the proposed emissions limits for PM, chromium compounds, HF, HCl, formaldehyde, phenol and methanol. Because refractory products can contain chromium compounds that can then be emitted to the ambient air during wool fiberglass manufacturing, we are proposing that owners/operators of glass manufacturing furnaces maintain records of the refractory brick composition from which the furnaces are constructed, including any rebricking or additional layers of refractory that are added to the outside furnace walls. In addition, owners and operators are required to keep records of the occurrence and duration of each malfunction or operation of the air pollution control equipment and monitoring equipment. We are also proposing requirements for the use of electronic reporting for all test methods that are supported by the ERT. Methods supported by ERT may be found at *http://www.epa.gov/ttn/chief/ert/index.html.*

5. Compliance Dates and Approaches

With regard to formaldehyde, HCl, HF, phenol and methanol, we are proposing that facilities that commenced construction or reconstruction on or before November 25, 2011 must demonstrate compliance with the requirements of this subpart no later than 3 years after the effective date of this rule. Affected sources that commenced construction or reconstruction after the proposal date of this rule must demonstrate compliance with the requirements of this subpart no later than the effective date of the rule or upon start-up, whichever is later. We are proposing an initial performance test within 90 days of promulgation of the final rule.

With regard to total chromium compounds, we are proposing that the requirements under CAA section 112(f)(2), if finalized, must be implemented no later than 90 days after the effective date of this rule, but the EPA may extend that timeframe for circumstances under which we believe the additional time is necessary for installation of air pollution control equipment or other measures to reduce HAP emissions. We are, therefore, allowing affected sources up to one year from the effective date of this rule to demonstrate compliance with the chromium emission limits. Consistent with CAA section 112(f)(4)(B), we are proposing that a one-year compliance period is necessary so that affected facilities have adequate time to install additional controls and demonstrate compliance, including the time necessary to purchase, install and test control equipment. Because these limits reflect the reductions from glass making furnaces required under both sections 112(d)(6) and 112(f)(2), we believe a one-year compliance timeframe is needed for the same reasons provided above. In addition, we are proposing that the PM emissions limit that would reflect reductions required for the glass making furnaces pursuant to CAA section 112(d)(6) must be met no later than one year after the effective date of this rule. We believe this time is needed to either enable installation of replacement bags, or if a facility decides to add a new baghouse in series with an existing baghouse, seek bids, select a vendor, install and test the new equipment; prepare and submit the reports in this proposed rule, if finalized.

Therefore, we are proposing that wool fiberglass facilities would be required to show compliance with both PM and the chromium limits within 1 year of promulgation of this standard. We are soliciting comments on this aspect of this proposed action.

Additionally, we propose that compliance with the proposed chromium compounds emissions limits be demonstrated by annual performance tests for all glass-melting furnaces subject to this rule as described in Section VI.B.2 of this preamble. We are proposing additional annual performance testing no later than 12 calendar months following the initial or previous performance or compliance test to demonstrate compliance with the chromium compounds emissions limit for furnaces.

We are proposing both an initial performance test and repeat testing every 5 years on the RS and FA lines and each time the binder formulation changes by more than 10 percent as compared to the binder formulation used in the initial performance test. We are seeking comment on whether the binder formulation variability of 10 percent as used here is appropriate.

We are proposing that compliance testing for PM, formaldehyde, phenol and methanol be conducted using the same test methods as required by the 1999 MACT rule (*i.e.*, Method 5 for PM and Method 318 for formaldehyde, phenol and methanol). We are proposing Test Method 26A be used to determine compliance for HF and HCl and Test Method 0061 be used to ensure compliance with the chromium compounds emission limit.

We propose that continuous monitoring of temperatures of control devices (*e.g.*, fabric filters, wet and dry ESP, scrubbers) for glass-melting furnaces, RS manufacturing lines, and FA manufacturing lines will be required as parametric monitoring to ensure continuous compliance with the PM, chromium compounds, HF, HCl, formaldehyde, phenol and methanol emissions limits.

Because the recent test data for glass-melting furnaces show a significant

portion of the chromium compounds are hexavalent chromium, we are requiring Test Method 0061 be used to ensure compliance with the chromium compounds emission limit and as the most cost effective method to determine both total chromium and hexavalent chromium from wool fiberglass furnace stacks. Sources must report both total chromium and hexavalent chromium using this method or all chromium emissions are assumed to be hexavalent chromium.

6. Other Decisions and Actions

In addition to the proposed decisions and actions discussed above, we are also proposing surrogacy changes and some general cleanup in terminology to the existing rule.

a. Surrogacy

As described in Sections III.B and VIII.B in this preamble, the Court found that the EPA has a ''clear statutory obligation to set emission standards for each listed HAP.'' Because we did not conduct analyses that would support the use of formaldehyde as a surrogate for methanol and phenol, we cannot currently demonstrate that we established emission limits for the HAP methanol and phenol in the 1999 MACT standard. Therefore, we are proposing the emissions limits for phenol and methanol, which are presented in Tables 4–6, above.

b. Technical corrections to the rule.

We are also proposing revisions to certain terms in the existing NESHAP. Specifically, we are proposing to replace the term ''incinerator'' with ''RTO'' and specify performance test frequency.

C. What are the proposed decisions and actions related to startup, shutdown and malfunction?

The United States Court of Appeals for the District of Columbia Circuit vacated portions of two provisions in the EPA's CAA section 112 regulations governing the emissions of HAP during periods of SSM. *Sierra Club* v. *EPA*, 551 F.3d 1019 (DC Cir. 2008), *cert. denied*, 130 S. Ct. 1735 (U.S. 2010). Specifically, the Court vacated the SSM exemption contained in 40 CFR 63.6(f)(1) and 40 CFR 63.6(h)(1), that are part of a regulation, commonly referred to as the ''General Provisions Rule,'' that the EPA promulgated under CAA section 112. When incorporated into CAA section 112(d) regulations for specific source categories, these two provisions exempt sources from the requirement to comply with the otherwise applicable CAA section 112(d) emissions standard during periods of SSM.

We are proposing the elimination of the SSM exemption in this rule. Consistent with *Sierra Club* v. *EPA*, the EPA is proposing standards in this rule that apply at all times. We are also proposing several revisions to Table 1 to subparts DDD and NNN of part 63 (the General Provisions Applicability table). For example, we are proposing to eliminate the incorporation of the General Provisions' requirement that the source develop an SSM plan. We also are proposing to eliminate or revise certain recordkeeping and reporting that related to the SSM exemption. The EPA has attempted to ensure that we have not included in the proposed regulatory language any provisions that are inappropriate, unnecessary, or redundant in the absence of the SSM exemption. We are specifically seeking comment on whether there are any such provisions that we have inadvertently incorporated or overlooked.

In proposing the standards in this rule, the EPA has taken into account startup and shutdown periods and, for the reasons explained below, is proposing emissions limits for those periods. Information on periods of startup and shutdown received from the industry survey indicate that emissions during these periods are less than emissions during production. Control devices such as baghouses for PM and metal HAP particulate control and RTO for COS control are started up before the process units, and are operational during the shutdown phase of a process. Therefore, no increase in emissions is expected during these periods. Because the processes are ducted to the control device before startup and after shutdown, and because emissions during startup and shutdown are not more than emissions during production, startup and shutdown emissions limits should be equivalent to the emissions limits for production. Production based emissions limits are expressed in this rule on a pound of pollutant per ton melt basis. However, during startup and shutdown, there is no melt being produced. Therefore, separate standards for periods of startup and shutdown were developed by translating the production-based emissions limits from a pound per ton basis to a pound of pollutant per hour basis and are being proposed in this rule. Periods of startup, normal operations and shutdown are all predictable and routine aspects of a source's operations. However, by contrast, malfunction is defined as a ''sudden, infrequent, and not reasonably preventable failure of air pollution control and monitoring equipment, process equipment or a process to operate in a normal or usual manner * * *'' (40 CFR 63.2). The EPA has determined that CAA section 112 does not require that emissions that occur during periods of malfunction be factored into development of CAA section 112 standards. Under CAA section 112, emissions standards for new sources must be no less stringent than the level ''achieved'' by the best controlled similar source and for existing sources generally must be no less stringent than the average emissions limitation ''achieved'' by the best performing 12 percent of sources in the category. There is nothing in CAA section 112 that directs the agency to consider malfunctions in determining the level ''achieved'' by the best performing or best controlled sources when setting emissions standards. Moreover, while the EPA accounts for variability in setting emissions standards consistent with the CAA section 112 case law, nothing in that case law requires the agency to consider malfunctions as part of that analysis. Section 112 of the CAA uses the concept of ''best controlled'' and ''best performing'' unit in defining the level of stringency that CAA section 112 performance standards must meet. Applying the concept of ''best controlled'' or ''best performing'' to a unit that is malfunctioning presents significant difficulties, as malfunctions are sudden and unexpected events.

Further, accounting for malfunctions would be difficult, if not impossible, given the myriad different types of malfunctions that can occur across all sources in the category and given the difficulties associated with predicting or accounting for the frequency, degree and duration of various malfunctions that might occur. As such, the performance of units that are malfunctioning is not ''reasonably'' foreseeable. See, *e.g., Sierra Club* v. *EPA*, 167 F. 3d 658, 662 (DC Cir. 1999) (the EPA typically has wide latitude in determining the extent of data-gathering necessary to solve a problem. The court generally defers to the agency's decision to proceed on the basis of imperfect scientific information, rather than to ''invest the resources to conduct the perfect study.''). See also, Weyerhaeuser v. Costle, 590 F.2d 1011, 1058 (DC Cir. 1978) (''In the nature of things, no general limit, individual permit or even any upset provision can anticipate all upset situations. After a certain point, the transgression of regulatory limits caused by 'uncontrollable acts of third parties,' such as strikes, sabotage, operator intoxication or insanity, and a variety of other eventualities, must be a matter for the administrative exercise of case-by-case enforcement discretion, not

for specification in advance by regulation''). In addition, the goal of a best controlled or best performing source is to operate in such a way as to avoid malfunctions of the source and accounting for malfunctions could lead to standards that are significantly less stringent than levels that are achieved by a well-performing non-malfunctioning source. The EPA's approach to malfunctions is consistent with CAA section 112 and is a reasonable interpretation of the statute.

In the event that a source fails to comply with the applicable CAA section 112(d) standards as a result of a malfunction event, the EPA would determine an appropriate response based on, among other things, the good faith efforts of the source to minimize emissions during malfunction periods, including preventative and corrective actions, as well as root cause analyses to ascertain and rectify excess emissions. The EPA would also consider whether the source's failure to comply with the CAA section 112(d) standard was, in fact, ''sudden, infrequent, not reasonably preventable'' and was not instead ''caused in part by poor maintenance or careless operation'' 40 CFR 63.2 (definition of malfunction).

Finally, the EPA recognizes that even equipment that is properly designed and maintained can sometimes fail and that such failure can sometimes cause an exceedance of the relevant emissions standard (see, *e.g.,* State Implementation Plans: Policy Regarding Excessive Emissions During Malfunctions, Startup, and Shutdown (Sept. 20, 1999); Policy on Excess Emissions During Startup, Shutdown, Maintenance and Malfunctions (Feb. 15, 1983)). The EPA is, therefore, proposing to add to the final rule an affirmative defense to civil penalties for exceedances of emissions limits that are caused by malfunctions. See 40 CFR 63.542 (defining ''affirmative defense'' to mean, in the context of an enforcement proceeding, a response or defense put forward by a defendant, regarding which the defendant has the burden of proof, and the merits of which are independently and objectively evaluated in a judicial or administrative proceeding). We also are proposing other regulatory provisions to specify the elements that are necessary to establish this affirmative defense; the source must prove by a preponderance of the evidence that it has met all of the elements set forth in 40 CFR 63.552 (40 CFR 22.24). The criteria ensure that the affirmative defense is available only where the event that causes an exceedance of the emissions limit meets the narrow definition of malfunction in 40 CFR 63.2 (sudden, infrequent, not reasonable preventable and not caused by poor maintenance and or careless operation). For example, to successfully assert the affirmative defense, the source must prove by a preponderance of the evidence that excess emissions ''[w]ere caused by a sudden, infrequent, and unavoidable failure of air pollution control and monitoring equipment, process equipment, or a process to operate in a normal or usual manner * * *.'' The criteria also are designed to ensure that steps are taken to correct the malfunction, to minimize emissions in accordance with 40 CFR 63.543(j) and to prevent future malfunctions. For example, the source must prove by a preponderance of the evidence that ''[r]epairs were made as expeditiously as possible when the applicable emissions limitations were being exceeded * * *'' and that ''[a]ll possible steps were taken to minimize the impact of the excess emissions on ambient air quality, the environment and human health * * *.'' In any judicial or administrative proceeding, the Administrator may challenge the assertion of the affirmative defense and, if the respondent has not met its burden of proving all of the requirements in the affirmative defense, appropriate penalties may be assessed in accordance with CAA section 113 (see also 40 CFR 22.27).

The EPA included an affirmative defense in the proposed rule in an attempt to balance a tension, inherent in many types of air regulation, to ensure adequate compliance while simultaneously recognizing that despite the most diligent of efforts, emission limits may be exceeded under circumstances beyond the control of the source. The EPA must establish emission standards that ''limit the quantity, rate, or concentration of emissions of air pollutants on a continuous basis.'' 42 U.S.C. 7602(k)(defining ''emission limitation and emission standard''). *See generally Sierra Club* v. *EPA,* 551 F.3d 1019, 1021 (DC Cir. 2008). Thus, the EPA is required to ensure that section 112 emissions limitations are continuous. The affirmative defense for malfunction events meets this requirement by ensuring that even where there is a malfunction, the emission limitation is still enforceable through injunctive relief. While ''continuous'' limitations on the one hand are required, there is also case law indicating that in many situations it is appropriate for the EPA to account for the practical realities of technology. For example, in *Essex Chemical* v. *Ruckelshaus*, 486 F.2d 427, 433 (DC Cir. 1973), the DC Circuit acknowledged that in setting standards under CAA section 111 ''variant provisions'' such as provisions allowing for upsets during startup, shutdown and equipment malfunction ''appear necessary to preserve the reasonableness of the standards as a whole and that the record does not support the 'never to be exceeded' standard currently in force.'' See also, *Portland Cement Association* v. *Ruckelshaus,* 486 F.2d 375 (DC Cir. 1973). Though intervening case law such as *Sierra Club* v. *EPA* and the CAA 1977 amendments undermine the relevance of these cases today, they support the EPA's view that a system that incorporates some level of flexibility is reasonable. The affirmative defense simply provides for a defense to civil penalties for excess emissions that are proven to be beyond the control of the source. By incorporating an affirmative defense, the EPA has formalized its approach to upset events. In a Clean Water Act setting, the Ninth Circuit required this type of formalized approach when regulating ''upsets beyond the control of the permit holder.'' *Marathon Oil Co.* v. *EPA,* 564 F.2d 1253, 1272–73 (9th Cir. 1977). But see, *Weyerhaeuser Co.* v. *Costle,* 590 F.2d 1011, 1057–58 (DC Cir. 1978) (holding that an informal approach is adequate). The affirmative defense provisions give the EPA the flexibility to both ensure that its emission limitations are ''continuous'' as required by 42 U.S.C. 7602(k), and account for unplanned upsets and thus support the reasonableness of the standard as a whole.

D. What are the proposed decisions and actions related to electronic reporting?

Records must be maintained in a form suitable and readily available for expeditious review, according to 63.10(b)(1). Electronic recordkeeping and reporting is available for many records, and is the form considered most suitable for expeditious review if available. Electronic recordkeeping and reporting is encouraged in this proposal and some records and reports are required to be kept in electronic format. Records required to be maintained electronically include the output of continuous monitors and the output of the BLDS. Additionally, standard operating procedures for the BLDS and fugitive emissions control are required to be submitted to the Administrator for approval in electronic format.

VII. Rationale for the Proposed Actions for the Mineral Wool Production Source Category

As discussed in Section VI.A of this preamble, we evaluated emissions limits

for PM, COS, HF, HCl, formaldehyde, phenol and methanol at mineral wool production facilities. This section of the preamble provides the results of the RTR, our rationale for the proposed actions and decisions concerning changes to the 1999 MACT rule for the Mineral Wool Production source category.

A. What data were used for the NESHAP analyses?

To perform the technology review and residual risk analysis for the Mineral Wool NESHAP, we created a comprehensive dataset based on existing and new test data provided by the 7 mineral wool facilities. As described in Section IV.C of this preamble, the voluntary industry survey requested available information regarding process equipment, control devices, point and fugitive emissions, practices used to control fugitive emissions, and other aspects of facility operations. In addition to the industry survey, each owner/operator was asked to submit reports for any recent emissions tests conducted at their facility and to conduct additional emissions tests in 2010 for certain HAP from specific processes. Pollutants tested for the mineral wool source category in 2010 included most HAP metals, CO, PM and certain organic HAP (formaldehyde, phenol, methanol and carbonyl sulfide).

B. What are the proposed decisions regarding surrogacy relationships?

In the 1999 MACT rule, PM serves as the surrogate for metal HAP36 at existing and new cupolas, CO serves as the surrogate for COS at new cupolas and formaldehyde serves as the surrogate for phenol and methanol from curing ovens. The 1999 MACT standard does not have emissions limits for COS, HCl or HF from existing cupolas; limits for phenol or methanol from curing; or emissions limits for any pollutants from collection operations. We are proposing HAP-specific emission limits for these pollutants under CAA section 112(d)(3)in this action. The agency is retaining use of PM as a surrogate for HAP metals. As discussed in Sections III.B and VII.B. of this preamble, the Court found that the EPA must set emission limits for each listed HAP (*Sierra Club* v. *EPA,* 479 F. 3d 875 (DC Cir. March 13, 2007)),[3] and agreed with the EPA that nothing in the CAA suggests that it is prohibited from resetting the MACT floors in order to correct our own errors. They also agreed that the approach our petitioners labeled ''MACT-on-MACT'' would be more accurately described as ''MACT-on-Unsupportable-Standards-Erroneously-Labeled-as-MACT'' [37]. With regard to the evaluation of potential MACT limits for HAP metals from this source category, consistent with the explanation presented in the proposal of the 1999 MACT rule (NESHAP for Mineral Wool Production, Proposed Rule, June 1, 1997, 64 FR 29490) for this source category describing the appropriateness of PM as a surrogate for HAP metals, we continue to consider PM as an appropriate surrogate for HAP metals in the proposed amendments to the NESHAP in this action.

The agency is proposing emissions limits for phenol and methanol because the concentration of formaldehyde in a specific binder formulation is independent of phenol and/or methanol. The mineral wool industry commented during the small business advocacy review that the binder ingredients and formulation can vary from one mineral wool company to the next, and that the test data from one company is not necessarily relevant for or representative of another company.

In summary, under 112(d)(3) we are proposing emission limits for COS, HF and HCl from cupolas; and for formaldehyde, methanol and phenol from bonded lines.

C. What are the proposed decisions regarding certain unregulated emissions sources?

In the course of evaluating the Mineral Wool Production source category, we identified certain HAP for which we failed to establish emission standards in the original MACT. See *National Lime* v. *EPA,* 233 F. 3d 625, 634 (DC Cir. 2000) (the EPA has ''clear statutory obligation to set emissions standards for each listed HAP''). Specifically, we evaluated emissions standards for COS, HF and HCl for cupolas and formaldehyde, phenol and methanol for curing ovens and collection operations at mineral wool production facilities, that are not specifically regulated in the existing 1999 MACT standard. We are proposing emissions limits for these pollutants and processes pursuant to 112(d)(2) and 112(d)(3) as discussed in Section V.A of this preamble.

D. What are the proposed decisions regarding subcategorization?

The EPA collected information from the mineral wool companies that operate bonded lines to better understand the different equipment designs and whether all collection processes are the same, or whether design and manufacturing process differences warranted consideration of subcategories for the collection process. This process led to the identification of three distinct process design subcategories: Vertical, horizontal and drum. Because collection processes only emit HAP if they occur on a bonded line, we are proposing to bundle collection operations and curing ovens together for each of three subcategories and propose new emissions limits for formaldehyde, phenol, and methanol at combined collection/curing on bonded lines. The following discussion involves the rationale for subcategorization of collection operations into three subcategories:

1. The Vertical Collection Design

During the production of wool fiberglass on a bonded production line using a vertical collection design, the molten rock/slag mixture is poured from the cupola spout onto a group of stainless steel drums spinning in opposite directions. The spinning drums form fine fibers of the mineral mixture. High air volume directs the fibers off the fiberization spinners toward a fast-moving porous vertical conveyor belt. A strong vacuum is drawn on the opposite side of the belt causing the fibers to lie against the vertical belt as it moves upward. At the top of the conveyance, the belt travels around a curve, the vacuum is released, and the fibers are moved onto a second belt that conveys the layer of binder-sprayed mineral wool fibers into the curing oven. Because the conveyor belt is vertical, the air volume drawn through the belt and fiber layer must be very high and the resulting fiber layer that is collected on the belt is thin. In this design, 'shot' (BB-sized black granules that are high in iron as a result of using slag from the iron and steel industry) falls out of the fiber layer. The vertical design is used to produce a specific type of mineral wool that is low in 'shot' and may be used in the hydroponic gardening market as well as in a specialized market of insulation products in which shot is undesirable.

Currently, only one facility operates this type of collection design. Formaldehyde, phenol and methanol MACT floors for existing, new and reconstructed sources in this

[36] The HAP metals emitted from mineral wool cupolas include antimony, arsenic, beryllium, cadmium, chromium, cobalt, mercury, manganese, nickel, lead and selenium.

[37] *Sierra Club* v. *EPA,* 167 F. 3d 658 (DC Cir. March 2, 1999).

subcategory were based on emissions test runs for combined curing and collection operations from this facility.

2. The Horizontal Collection Design

Horizontal collection is similar to vertical collection, but because the conveyor belt is horizontal it works with gravitational forces. The layer of mineral wool collected on a horizontal belt is thinner than that collected on a vertical belt, and the 'shot' is not selectively removed. The air volume that is drawn through the fiber layer is much lower than in the vertical design, and therefore the air stream is conducive to thermal oxidation at the hottest part of the cupola exhaust stack or the existing thermal oxidizer on the curing oven.

Currently, only one facility operates this type of collection design. Formaldehyde, phenol and methanol MACT floors for existing, new and reconstructed sources in this subcategory were based on emissions test runs for combined curing and collection operations from this facility.

3. The Drum Collection Design

In the drum collection design, fibers are drawn using a very high volume air flow into the center of a rotating drum. The sides of the rotating drum have small holes that allow the air flow to exit, but which trap the fibers. The angle of the drum and the use of a vacuum and centrifugal force pull the fibers against the inside wall of the drum and out the end. The entire drum is enclosed and the air flow may be vented to the hottest part of the cupola exhaust stack or to the existing thermal oxidizer on the curing oven.

Currently, only one facility operates this type of collection. Formaldehyde, phenol, and methanol MACT floors for existing, new, and reconstructed sources in this subcategory were based on emissions test runs for combined curing and collection operations from this facility.

E. What are the results from the risk assessments performed and the proposed decisions for the Mineral Wool Production source category?

As described in Section V.A of this preamble, we conducted an inhalation risk assessment for all HAP emitted from the Mineral Wool Production source category. We also conducted multipathway screenings for cadmium, mercury, and lead. Details of the risk assessments and additional analyses can be found in the draft residual risk documentation referenced in Section V.A of this preamble, which is available in the docket for this action. The agency considered the available health information—the MIR; the numbers of persons in various risk ranges; cancer incidence; the maximum non-cancer HI; the maximum acute non-cancer hazard; the extent of non-cancer risks; the potential for adverse environmental effects; and the distribution of risks in the exposed population (54 FR 38044, September 14, 1989)—in developing the proposed CAA section 112(f)(2) standards for the Mineral Wool Production source category.

1. Inhalation Risk Assessment Results for the Mineral Wool Production Source Category

Table 7 of this preamble provides an overall summary of the results of the inhalation risk assessment.

TABLE 7—MINERAL WOOL PRODUCTION INHALATION RISK ASSESSMENT RESULTS

Maximum individual cancer risk (in 1 million) [1]		Estimated population at increased risk of cancer ≥ 1-in-1 million	Estimated annual cancer incidence (cases per year)	Maximum chronic non-cancer TOSHI [2]		Maximum screening acute non-cancer HQ [3]
Based on actual emissions level	Based on allowable emissions level			Based on actual emissions level	Based on allowable emissions level	
4	10	1,650	0.0004	0.04	0.1	8 (REL) 0.4 (AEGL–1, ERGP–1).

[1] Estimated maximum individual excess lifetime cancer risk due to HAP emissions from the source category.
[2] Maximum TOSHI. The highest TOSHI for the Mineral Wool Production source category is for the respiratory system.
[3] The maximum HQ acute value of 8 is driven by emissions of formaldehyde. It is also based on a refined emissions multiplier of 3 which was used to estimate the peak hourly emission rates from the average rates. See section V.A. of this preamble for explanation of acute dose-response values.

The results of the chronic inhalation cancer risk assessment indicate that, based on estimates of current actual emissions, the MIR could be up to 4-in-1 million, with formaldehyde primarily driving these risks. The total estimated cancer incidence from this source category based on actual emission levels is 0.0004 excess cancer cases per year or one case in every 2,500 years, with emissions of formaldehyde and arsenic compounds contributing 64 percent and 33 percent, respectively, to this cancer incidence.[38] In addition, we note that no persons are estimated to have cancer risks greater than 10-in-1 million, and approximately 1,650 people are estimated to have risks greater than 1-in-1 million as a result of emissions from 1 facility. When considering the risks associated with MACT-allowable emissions, the MIR could be up to 10-in-1 million. The maximum modeled chronic non-cancer TOSHI value for the Mineral Wool Production source category could be up to 0.04 with emissions of formaldehyde dominating those impacts, indicating no significant potential for chronic non-cancer impacts.

Our screening analysis for worst-case acute impacts indicates the potential for only one pollutant, formaldehyde, to exceed an HQ value of 1 at only one facility in this source category, with a potential maximum HQ up to 8. A refined emissions multiplier of 3 was used to estimate the peak hourly emission rates from the average rates. Refer to Appendix 7 of the draft residual risk document in the docket for a detailed description of how the refined emissions multiplier was developed for the Mineral Wool Production source category. The worst-case acute impact estimate occurs at a facility that is located in a rural area with a small population. Since the acute modeling

[38] We note that the MIR for this source category would not change if the CIIT URE for formaldehyde had been used in the assessment, although the total cancer incidence would decrease by 52 percent. The MIR for the source category would remain at 40 due to Cr (VI). There is an ongoing IRIS reassessment for formaldehyde, and future RTR risk assessments will use the cancer potency for formaldehyde that results from that reassessment. As a result, the current results may not match those of future assessments.

scenario is worst-case because of its confluence of peak emission rates and worst-case dispersion conditions, and since the HQ estimates for formaldehyde based on the AEGL–1 and ERPG–1 values for this facility are well below 1, we are proposing to find that acute noncancer health impacts of concern are unlikely.

With respect to the potential for adverse environmental effects from non PB–HAP, we note that that there is a lack of information about specific adverse environmental effects occurring at given concentrations of the HAP emitted by this source category. However, given that all chronic non-cancer HQ values considering actual emissions are less than 1 using human health reference values, we believe that it is unlikely that adverse environmental effects would occur at the actual HAP concentrations estimated in our human health risk assessment.

2. Multipathway Risk Assessments and Results

There were no exceedances of screening emissions rates for the PB HAP emitted by the facilities in the Mineral Wool Production source category, thus we have no concerns about potential multi-pathway risks from this source category.

3. Facility Wide Risk Assessment Results

For all facilities in this source category, there are no other significant HAP emissions sources present beyond those included in the source category. All significant HAP sources have been included in the source category risk analysis. Therefore, we conclude that the facility wide risks are essentially the same as the source category risks.

F. What are our proposed decisions for the Mineral Wool Production source category based on risk acceptability and ample margin of safety?

1. Risk Acceptability

As noted in Section V.A of this preamble, we weigh all health risk factors in our risk acceptability determination, including the MIR; the numbers of persons in various risk ranges; cancer incidence; the maximum noncancer HI; the maximum acute noncancer hazard; the extent of noncancer risks; the potential for adverse environmental effects; and distribution of risks in the exposed population; and risk estimation uncertainty (54 FR 38044, September 14, 1989) in developing the proposed CAA section 112(f)(2) standards for this source category.

Based on the inhalation risk assessment, we estimate that the cancer risks to the individual most exposed could be up to 4-in-1 million due to actual emissions and up to 10-in-1 million due to MACT-allowable emissions, mainly due to formaldehyde stack emissions. We estimate that the incidence of cancer based on actual emissions is 0.0004 excess cancer cases per year or one case every 2,500 years, and that about 1,650 people face a cancer risk greater than 1-in-1 million due to HAP emissions from this source category. Our assessments also indicated a low potential for HAP emissions from these sources to pose any significant adverse environmental effects or human health multi-pathway risks or chronic noncancer human health risks due to inhalation. While our acute risk screening ruled out the possibility of acute impacts of concern for all pollutants except for formaldehyde at one facility, we ultimately concluded that the potential for acute impacts of concern at this facility is low. The risk assessment for this source category was largely based on facility-specific stack test data and emissions estimates, indicating a high degree of confidence in the results. Considering all of the above information, we are proposing that the current risks due to actual HAP emissions from this source category are acceptable.

While the estimated chronic risks associated with MACT-allowable emissions from this source category are slightly higher than risk estimates based on actual emission levels, they are still well below 100 in one million and there are no other significant risks. Therefore, we propose the risks due to allowable emissions are also acceptable.

2. Ample Margin of Safety

As explained earlier in Section V of this preamble, the agency again considers all of the health risks and other health information considered in the first step. Beyond that information, we evaluate the cost and feasibility of available control technologies and other measures (including the controls, measures and costs reviewed under the technology review) that could be applied in this source category to further reduce the risks due to emissions of HAP identified in our risk assessment.

Based on our research and analyses as discussed in Section V.C of this preamble, we have not identified any feasible control options beyond what we are requiring in our proposed standards for emissions sources described above, and are therefore not proposing additional controls, under section 112(f)(2). Therefore, we are proposing that the MACT standards for the mineral wool production source category, as revised per above, provide an ample margin of safety to protect public health and prevent adverse environmental effects.

Nevertheless, we are soliciting comments and information regarding additional control measures and work practices that may be available and their feasibility in further reducing stack emissions of COS, HF, HCl, formaldehyde, phenol, and methanol, or additional monitoring that may be warranted to ensure adequate control of these emissions.

G. What are the results from the technology review and proposed decisions?

Based on our technology review, we believe that the reductions in HAP emissions since promulgation of the 1999 Mineral Wool Production MACT rule are directly related to improvements in two areas: (1) Improvements in fabric filter control technology (*e.g.*, improved bag materials, replacement of older baghouses) and (2) addition of regenerative thermal oxidizers (RTOs) and oxygen injection to control emissions from cupolas. Additional reductions have been achieved due to the use of low-sulfur raw materials at one facility. The RTOs and lower sulfur raw materials are discussed above (in Section VII.C of this preamble) since these controls and measures are relevant to development of the MACT standards for COS and other organic HAPs under Section 112(d)(2) of the CAA, and in the beyond the floor analyses (described in Section VII.C of this preamble) that we also do as part of the MACT standard evaluations under Section 112(d)(2) and 112(d)(3).

In this section, as part of our technology review, we describe developments in development in fabric filter technologies and the relationship to PM emissions.

Slight improvements in fabric filter control technology are reflected in the emissions test data collected under the industry survey. The emissions limit for PM under the 1999 MACT rule is a production-based limit of 0.1 pounds of PM per ton of melt for new and existing cupolas. Based on our analysis of survey responses and test data collected under the industry survey, this industry primarily uses fabric filters to control emissions of metal HAP, and sources affected by the current PM limit are achieving PM concentrations at control device outlets that are only slightly

below the current limit (see *Technology Review for the Mineral Wool Production Manufacturing Source Category*). Given fluctuations in control device performance and mineral wool production fluctuations, we do not believe that developments in practices, processes, and control technologies warrant revisions to the PM limit in the 1999 MACT rule to reflect HAP metal emissions levels achieved in practice.

Moreover, the RBLC did not identify any practices, processes, or control technologies applicable to the emission sources in this source category that were not identified and evaluated during the original MACT development.

In summary, we have not identified any additional relevant cost-effective developments in technologies, practices or processes since promulgation of the MACT rule to further reduce HAP emissions. Therefore, we are not proposing any changes to the MACT standards in this action as a result of our technology review under Section 112(d)(6) for Mineral Wool Production.

Additional details regarding these analyses can be found in the following technical document for this action which is available in the docket: *Technology Review for the Mineral Wool Production Manufacturing Source Category.*

VIII. Rationale for the Proposed Actions for the Wool Fiberglass Manufacturing Source Category

As discussed in Section VI.B of this preamble, we evaluated emissions limits for PM, chromium compounds, HF, HCl, formaldehyde, phenol, and methanol at wool fiberglass manufacturing facilities. This section of the preamble provides the results of the RTR, our rationale for the proposed actions for the Wool Fiberglass Manufacturing source category, and our proposed decisions concerning changes to the 1999 MACT rule.

A. What data were used for the NESHAP analyses?

To perform the technology review and residual risk analysis for the Wool Fiberglass Manufacturing NESHAP, we created a comprehensive dataset based on existing and new test data provided by 26 of the 29 wool fiberglass facilities. As described in Section IV.C of this preamble, the voluntary industry survey requested available information regarding process equipment, control devices, point and fugitive emissions, practices used to control fugitive emissions, and other aspects of facility operations. In addition to the ICR survey, each facility was asked to submit reports for any recent emissions tests conducted and to conduct additional emissions tests in 2010 for certain HAP from specific processes. Pollutants tested for the wool fiberglass source category in 2010 included most HAP metals, PM, and certain organic HAP (HF, HCl, formaldehyde, phenol, and methanol).

As discussed in Section IV.C above, in the emissions testing for the survey, industry requested to conduct emission testing on furnaces they believed were representative of the other furnaces in operation. The EPA and industry agreed that the bases for representativeness would include a variety of factors such as processing the same materials, producing the same products and being the same type of furnace. Furnace construction and refractory composition were not factors that were presented by industry as having an effect on HAP emissions, and those factors were not used as a basis of representativeness for the resulting data set. During analysis of the test data, the EPA discovered high emissions of chromium compounds, including hexavalent chromium, and that these emissions were mostly from certain furnaces constructed of high chrome refractories.

The Wool Fiberglass Manufacturing source category consists of 29 facilities with 80 furnaces, 54 RS manufacturing lines and less than 30 FA manufacturing lines. Since there are more than 30 furnaces and RS lines, we based the MACT floor limits on the average emissions limitation achieved by the best performing 12 percent of sources. Therefore, the MACT floor for HF and HCl from glass-melting furnaces was based on the 10 best performing furnaces; the 7 best performing RS lines; and the 5 best performing FA lines.

The stack test data were used to calculate the MACT floors using the 99 percent UPL for glass-melting furnaces, RS manufacturing lines, and FA manufacturing lines from wool fiberglass manufacturing plants. The UPL analysis is explained in more detail in *MACT Floor Analysis for the Wool Fiberglass Manufacturing Source Category,* which is available in the docket for this proposed action. The results from the MACT floor analysis are presented in Section VI.B of this preamble.

B. What are the proposed decisions regarding surrogacy relationships?

A surrogate approach is used to allow for easier and less expensive measurement and monitoring requirements. In the 1999 MACT rule for this source category, PM serves as the surrogate for metal HAPs [39] at existing and new glass-melting furnaces and formaldehyde serves as the surrogate for phenol and methanol from forming and curing at RS manufacturing lines and forming and curing at FA manufacturing lines. As described in Sections III.B and VIII.B in this preamble, the court found that the EPA erred when we did not set emission limits for each HAP emitted by industry processes in the MACT standards.[40] Therefore, the agency is proposing HAP-specific emissions limits for phenol and methanol.

C. What are the proposed decisions regarding certain unregulated emissions sources?

As discussed earlier in Section VI.B of this preamble, we identified certain HAP for which we failed to establish emission standards in the original 1999 MACT. In the 1999 MACT rule, we used formaldehyde as a surrogate for phenol and methanol, and we did not establish HAP-specific emission limits for phenol, methanol, HF and HCl. For this action we evaluated emissions standards for HF, HCl, phenol, and methanol at wool fiberglass manufacturing facilities, described below, that are not specifically regulated in the existing 1999 MACT standard. The EPA is therefore proposing to set emissions limits for these HAP emissions, under CAA section 112(d)(3) in this action.

D. What are the results from the risk assessments and analyses and the proposed decisions for the Wool Fiberglass Manufacturing source category?

An inhalation risk assessment was completed for all HAP emitted for the Wool Fiberglass Manufacturing source category. Details of the risk assessments and additional analyses can be found in the residual risk documentation referenced in Section V.A of this preamble. The agency considered the available health information—the MIR; the numbers of persons in various risk ranges; cancer incidence; the maximum non-cancer HI; the maximum acute non-cancer hazard; the extent of non-cancer risks; the potential for adverse environmental effects; and distribution of risks in the exposed population (54 FR 38044, September 14, 1989)—in developing the proposed CAA section 112(f)(2) standards for the Wool

[39] The HAP metals emitted from wool fiberglass glass-melting furnaces include antimony, arsenic, beryllium, cadmium, chromium, cobalt, mercury, manganese, nickel, lead, and selenium.

[40] *Sierra Club* v. *EPA,* 479 F. 3d 875 (DC Cir. March 13, 2007).

Fiberglass Manufacturing source category.

1. Inhalation Risk Assessment Results for the Wool Fiberglass Manufacturing Source Category

Table 8 of this preamble provides an overall summary of the results of the inhalation risk assessment.

TABLE 8—WOOL FIBERGLASS MANUFACTURING INHALATION RISK ASSESSMENT RESULTS

Maximum individual cancer risk (in 1 million) [1]		Estimated population at increased risk of cancer ≥ 1-in-1 million	Estimated annual cancer incidence (cases per year)	Maximum chronic non-cancer TOSHI [2]		Maximum screening acute non-cancer HQ [3]
Based on actual emissions level	Based on allowable emissions level			Based on actual emissions level	Based on allowable emissions level	
40	60	849,000	0.05	0.2	0.5	30 (REL) 2 (AEGL–1, ERPG–1).

[1] Estimated maximum individual excess lifetime cancer risk due to HAP emissions from the source category. Hexavalent chromium is the primary driver for cancer risk.
[2] Maximum TOSHI. The highest TOSHI for the Wool Fiberglass Manufacturing source category is for the respiratory system.
[3] The maximum HQ acute value of 30 is driven by emissions of formaldehyde. See section V.A. of this preamble for explanation of acute dose-response values.

The results of the chronic inhalation cancer risk assessment indicate that, based on estimates of current actual emissions, the maximum individual lifetime cancer risk (MIR) could be up to 40-in-1 million. The major contributor to this cancer risk is hexavalent chromium that is emitted from the furnace refractory brick. The greatest amount of hexavalent chromium emitted from a single source is from a facility that currently uses a type of refractory brick that is made almost entirely of chromium compounds. In addition, we note that approximately 12,000 people are estimated to have cancer risks greater than 10-in-1 million as a result of formaldehyde and hexavalent chromium emissions at 2 facilities, and approximately 849,000 people are estimated to have risks greater than 1-in-1 million as a result of formaldehyde and hexavalent chromium emissions from 15 facilities. The maximum estimated chronic non-cancer TOSHI value for the Wool Fiberglass Manufacturing source category is 0.2 with emissions of formaldehyde dominating those impacts, indicating no significant potential for chronic non-cancer impacts.

Based on the acute REL to assess possible acute non-cancer effects due to emissions of formaldehyde, our analysis indicates that the maximum acute HQ value could exceed a value of 1 at a total of 7 facilities due to formaldehyde emissions,[41] with one facility in this source category indicating the potential to create a maximum worst-case HQ value up to 30. This maximum worst-case acute impact corresponds to a maximum HQ of 2 based on the AEGL–1 and ERPG–1 levels for formaldehyde. Altogether, these results indicate that we cannot rule out the potential for formaldehyde emissions from this source category to cause acute impacts of mild concern, such as eye and nose irritation. Repeated exposures to these levels (i.e., at or above the AEGL–1 and ERPG–1) could cause further health concerns.

With respect to the potential for adverse environmental effects from non PB–HAP, we note that that there is a lack of information about specific adverse environmental effects occurring at given concentrations for the HAP emitted by this source category. However, given that all chronic non-cancer HQ values considering actual emissions are less than 1 using human health reference values, we believe that it is unlikely that adverse environmental effects would occur at the actual HAP concentrations estimated in our human health risk assessment.

2. Auxiliary Risk Characterization

As indicated in Section VIII.D.1 above, the MIR for the Wool Fiberglass Manufacturing source category could be up to 40-in-1-million based on actual emissions. The major contributor to this cancer risk is hexavalent chromium. The greatest amount of risk is from one facility that uses a type of refractory brick that is described by the company as ''high chrome.''[12] [13] ((Notes of April 14, 2011, Certainteed); (Region 7 Certainteed Notes).

Because the use of high chrome refractories extends the life of the furnace from a maximum of 10 years to at least 15 years, and the cost of furnace construction is increased by about 15 percent when it is reconstructed using high chrome refractories [12] (Notes of April 14, 2011, Certainteed) we believe that there is a financial incentive for other facilities to switch to this high chromium refractory at the time they rebuild their furnaces. For this reason, we performed an auxiliary risk characterization analysis to assess the potential maximum individual lifetime cancer risks in the event that the other 28 Wool Fiberglass facilities switch to the high chromium brick. For the auxiliary risk characterization analysis it was assumed that the hexavalent chromium emissions for each facility would be the same as that for the facility with annual emissions of 420 lbs of hexavalent chromium per furnace. Table 9 of this preamble provides a summary of the results of this auxiliary inhalation risk assessment.

[41] Individual facility acute HQ values for all facilities can be found in Appendix 6 of the risk assessment document that is included in the docket for this proposed rulemaking.

TABLE 9—WOOL FIBERGLASS MANUFACTURING AUXILIARY INHALATION RISK ASSESSMENT RESULTS

Potential maximum individual cancer risk (in 1 million) [1] Based on actual emissions level	Estimated population at increased risk of cancer ≥ 1-in-1 million	Estimated population at increased risk of cancer ≥ 10-in-1 million	Estimated population at increased risk of cancer ≥ 100-in-1 million	Estimated annual cancer incidence (cases per year)
900	7,300,000	460,000	8,100	0.46

[1] Estimated maximum individual excess lifetime cancer risk due to HAP emissions from the source category.

The results of the auxiliary analysis indicate that, under this scenario, the estimated emissions from 14 facilities could lead to maximum individual lifetime cancer risks greater than 100-in-1-million, with the highest emitting facility posing a potential maximum individual risk of 900-in-1-million. Under this scenario, 8,100 people would be exposed to risks greater than 100-in-1-million, 460,000 people would be exposed to risks of greater than 10-in-1-million, and over 7 million people would be exposed to cancer risks of greater than 1-in-1-million.

In summary, the auxiliary risk analysis indicates that if other facilities switch to high chromium refractory, emissions of hexavalent chromium could potentially pose unacceptable risks to public health due to inhalation exposures resulting from stack emissions of hexavalent chromium.

3. Multipathway Risk Assessments and Results

None of the facilities in the Wool Fiberglass Manufacturing source category reported emissions of PB HAP that were greater than the screening emission rates. Therefore, multi-pathway exposures and environmental risks were deemed negligible.

4. Facility Wide Risk Assessment Results

For this source category, there are no other significant HAP emissions sources present beyond those included in the source category. All significant HAP sources have been included in the source category risk analysis. Therefore, we conclude that the facility wide risk is essentially the same as the source category risk and that no separate facility wide analysis is necessary.

E. What are our proposed decisions for the Wool Fiberglass Manufacturing source category based on risk acceptability and ample margin of safety?

1. Risk Acceptability

As noted in Section VIII.D of this preamble, we weigh all health risk factors in our risk acceptability determination, including the MIR; the numbers of persons in various risk ranges; cancer incidence; the maximum noncancer HI; the maximum acute noncancer hazard; the extent of noncancer risks; the potential for adverse environmental effects; and distribution of risks in the exposed population; and risk estimation uncertainty (54 FR 38044, September 14, 1989) in developing the proposed CAA section 112(f)(2) standards for this source category.

Based on the inhalation risk assessment, we estimate that the cancer risks to the individual most exposed could be up to as 40-in-1 million due to actual emissions and up to as 60-in-1 million due to MACT-allowable emissions, mainly due to formaldehyde and chromium stack emissions. We estimate that the incidence of cancer based on actual emissions is 0.05 excess cancer cases per year or one case every 20 years, and that about 850,000 people face a cancer risk greater than 1-in-1 million due to the HAP emissions from this source category.

Our assessments also indicate a low potential for HAP emissions from these sources to pose any significant adverse environmental effects, human health multi-pathway effects, or chronic noncancer human health risks. Our acute risk screening ruled out the possibility of acute impacts of concern for all pollutants but one, formaldehyde, at seven facilities, with a maximum worst-case HQ estimated to be 30 based on the REL and 2 based on the AEGL–1 (or ERPG–1, which is equivalent). While this means we cannot rule out the potential for acute concerns due to formaldehyde emissions from these facilities, we note that the use of formaldehyde is being phased out in this industry, and will be eliminated from all but 2 facilities in the source category. Since the cancer risks due to actual and allowable emissions (based on the current composition of refractory bricks used by this source category) are well within the acceptable range (i.e., less than 100-in-1 million) and since we have no additional significant concerns regarding other potential human health or environmental impacts, we are proposing that the current risk levels due to actual and MACT-allowable emissions are acceptable.

2. Ample Margin of Safety Analysis and Proposed Decisions

As described above, we are proposing that the risks associated with the actual and MACT-allowable stack emissions from this source category are acceptable based on the current composition of refractory bricks used by this source category. However, as discussed in Section VIII.D(2) of this preamble, if other wool fiberglass facilities reconstructed their furnaces with high chromium refractory bricks, the maximum individual cancer risks would be higher and likely result in a finding of unacceptable risks.

According to our 2-step process for assessing risks, after we evaluate whether risks are ''acceptable'' we evaluate whether cost effective measures are available to reduce risks further, to provide an ''ample margin of safety.'' As stated in Section VIII.F of this preamble, both NaOH scrubbers and a furnace rebuild are considered cost effective when hexavalent chromium levels are high. NaOH scrubbers achieve at least 95 percent reduction in hexavalent chromium emissions at other industries. Transferring this technology to the wool fiberglass industry is reasonable and would reduce hexavalent chromium to levels that would achieve an ample margin of safety. Therefore, we are proposing emission limits of 0.06 lb of total chromium compounds per thousand tons (or 60 lb of total chromium compounds per million tons) of glass pulled in this action (as presented in Table 10) under Section 112(f)(2) of the CAA in this action. We believe this limit would achieve an ample margin of safety to protect public health and prevent adverse environmental effects.

TABLE 10—PROPOSED EMISSIONS LIMITS FOR GLASS-MELTING FURNACES BASED ON RISK REVIEW

Pollutant	Pounds of pollutant per thousand tons of melt:
Chromium compounds ...	0.06

These emission limits apply to furnaces at major sources in the wool fiberglass manufacturing source category. However, there are no differences in furnaces at major sources and area sources. We are concerned about the levels of hexavalent chromium that can be emitted by area sources where furnaces may be constructed using high chrome refractories. Therefore we plan to collect additional information from industry to inform regulation of area sources in a future action.

The emission limits we are proposing for chromium compounds under 112(f)(2) are identical to the chromium compounds limits we are proposing under 112(d)(6), as described in Section VIII.F of this preamble.

Our assessments also indicate a low potential for HAP emissions from these sources to pose any significant adverse environmental effects, human health multi-pathway effects, or chronic noncancer human health risks. Our acute risk screening ruled out the possibility of acute impacts of concern for all pollutants but one, formaldehyde, at seven facilities, with a maximum worst-case HQ estimated to be 30 based on the REL and 2 based on the AEGL–1 or ERPG–1, which is equivalent (formaldehyde). While this means we cannot rule out the potential for acute concerns due to formaldehyde emissions from these facilities, we note that the worst-case acute HQs are based on conservative assumptions (*e.g.*, worst-case meteorology coinciding with peak short-term one-hour emissions from each emission point, with a person located at the point of maximum concentration during that hour). Moreover, the use of formaldehyde is being phased out in this industry, and will be eliminated from all but 2 facilities in the source category. Since the cancer risks due to actual emissions are well within the acceptable range (i.e., less than 100 in 1 million) and since we have no additional significant concerns regarding other potential human health or environmental impacts, and since we have not identified any additional cost-effective controls to further reduce formaldehyde emissions, we are proposing that the MACT rule along with all the proposed amendments described above (including the emissions limits for chromium and formaldehyde) will provide an ample margin of safety to protect public health and prevent adverse environmental effects.

We are soliciting comments and information regarding additional control measures, work practices that may be available, and their feasibility in further reducing emissions of formaldehyde, chromium compounds, HCl, and HF, or additional monitoring that may be warranted to ensure adequate control of stack emissions. We specifically request information on other criteria on which a chromium compounds emission limit should be based that would reduce risks from hexavalent chromium.

3. Analysis of the Resulting Risk After the Proposed Requirements Are in Place

We conducted an assessment to estimate the risks based on a post-control scenario reflecting all the proposed requirements for the emissions described above (including the proposed emissions limit for chromium compounds). Details are provided in the *Draft Residual Risk Assessment for the Mineral Wool Production and Wool Fiberglass Manufacturing Source Categories, EPA's Office of Air Quality Planning and Standards Office of Air and Radiation*, September 2011, which is available in the docket to this rule.

Table 11 of this preamble provides an overall summary of the results of the post-control inhalation risk assessment. As compared to Table 8, the MIR decreased from 40 in 1 million to 20 in 1 million, primarily as a result of one facility replacing the high chrome refractory bricks at the facilities that currently exceed the proposed chromium standard. These estimates are based on the dataset compiled using the industry's emissions test data from their 2010 industry survey responses, which show three furnaces would have to reduce chromium emissions to meet the limit in the proposed rule.

TABLE 11—POST CONTROL INHALATION RISK ESTIMATES FOR WOOL FIBERGLASS

[Result of chromium control]

Maximum individual cancer risk (in 1 million) based on actual emissions level [1]	Estimated population at increased risk of cancer ≥ 1 in 1 million	Estimated annual cancer incidence (cases per year)	Maximum chronic non-cancer TOSHI based on actual emissions level [2]	Maximum screening acute non-cancer HQ [3]
20	282,000	0.02	0.2	30

In addition, we estimated that the formaldehyde emissions would be at or below the MACT standard for all facilities once this rule is fully implemented and we are not proposing that additional control options be implemented.

In a letter dated June 8, 2011, the industry trade association (NAIMA) stated that ''NAIMA can provide documentation that all major sources have already converted or have announced plans to convert to non-phenol formaldehyde binders. Essentially non-formaldehyde binders are or will be used industry-wide.'' A copy of this letter has been placed in the docket for this action (see *NAIMA's Response for the Fiberglass Industry to EPA's Formaldehyde and Collection Questions*). Based on this information and the information provided by the industry in their 2010 survey, we estimate that 27 of the 29 wool fiberglass manufacturing facilities will have HAP emissions below the 10 and 25 tpy thresholds and will not be subject to the major source MACT requirements. We further estimate that there may be two facilities manufacturing pipe insulation or heavy density insulation products that will be major sources of HAP emissions on the compliance date of these proposed amendments to subpart NNN. If NAIMA is correct in that formaldehyde will be phased out by the compliance date of these proposed amendments, we anticipate that the estimated inhalation risks due to formaldehyde would further decrease.

In summary, we are proposing that the MACT standard, with the changes we are proposing in this action, will provide an ample margin of safety and prevent adverse environmental effects.

F. What are the results from the technology review and proposed decisions?

Based on our technology review, we determined that there have been advances in emissions control measures since the Wool Fiberglass Manufacturing NESHAP was originally promulgated in 1999. Since promulgation, we estimate that industry-wide metal HAP emissions from process sources have been reduced by approximately 76 percent. Due to industry's efforts to replace phenol-formaldehyde binders, more than 95 percent of formaldehyde, phenol, and methanol emissions have been reduced (or will be by 2012). As a result actual PM (metal HAP), formaldehyde, phenol, and methanol emissions from process sources at all wool fiberglass manufacturing facilities are significantly lower than are allowed under the 1999 MACT rule.

We believe that the reductions in metal HAP emissions since promulgation of the 1999 MACT rule are mainly directly related to improvements in two areas: (1) Improvements in fabric filter control technology (e.g., improved bag materials, replacement of older baghouses) and (2) the use of electrostatic precipitators (ESPs). Our review also indicates that high chrome refractories are a new technology used in wool fiberglass furnaces that the available data indicate result in an increase in emissions of chromium compounds. The results of our analyses and our proposed decisions for these areas under CAA section 112(d)(6) are presented in the following sections. Based on these data, we believe that developments in practices, processes, and control technologies warrant revisions to the 1999 NESHAP. Additional details regarding these analyses can be found in *Technology Review for the Wool Fiberglass Manufacturing Source Category*.

The improvements in fabric filter control technology are reflected in the emissions test data collected under the industry survey. Two types of PM control are used in the wool fiberglass manufacturing industry: fabric filters (baghouses) and electrostatic precipitators. Electrostatic precipitators (ESP) may be configured as either wet ESPs or dry ESPs. The emissions limit for PM under the 1999 MACT rule is a production-based limit of 0.5 pounds of PM per ton of glass pulled applicable to all glass melting furnaces. Based on our analysis of survey responses and test data collected under the industry survey, this industry primarily uses fabric filters to control emissions of metal HAP, and the vast majority of sources affected by the current PM limit are achieving PM emissions at control device outlets that are far below the current limit. *Id.*

Most, if not all, sources reported PM emissions (coming out of the stacks after the control devices) that are less than 10 percent of the current limit, with several sources achieving PM emissions that are two to three orders of magnitude lower than the current limit. Based on these data, we believe that developments in practices, processes, and control technologies warrant revisions to the 1999 MACT rule, under section 112(d)(6). Our analysis of emissions data provided in the survey conducted by industry indicates that stacks equipped with a well-performing fabric filter or ESP can achieve exhaust PM concentrations of less than 0.014 lb/ton of glass pulled. We estimate that all of the wool fiberglass facilities would be able to comply with this revised limit without additional controls. We estimate that this would result in small reductions of metal HAP emissions since there will only be a couple of facilities subject to the PM limits and the available data on some of the furnaces at those facilities indicates they are currently meeting the proposed PM emission limit. We do not anticipate additional energy use associated with this revised limit. Furthermore, we do not anticipate any adverse non-air environmental impacts associated with the implementation of this revised limit. Therefore, we are proposing that reducing the PM limit in the NESHAP from 0.50 lb of PM per ton of glass pulled to 0.014 lb of PM per ton of glass pulled (see Table 12) is both feasible and cost effective. Therefore, we are proposing a revised PM limit in the NESHAP of 0.014 lb of PM per ton of glass pulled in this action. We have based these statements on information we received from the industry in their survey responses; nevertheless, we are seeking comment on our estimation that all wool fiberglass manufacturers can meet the PM emission limits without additional controls.

We conducted a review of the available test data for chromium compounds including hexavalent chromium emissions from glass furnaces. We found that for most furnaces, measured emissions were near or below detection limits of the methods used for testing (EPA Method 29 followed by EPA Method 0061). In contrast, the chromium emissions for a few furnaces were several orders of magnitude higher than the rest of the industry. The facility emitting the highest level of hexavalent chromium, at 840 lb/yr, advised us that the reason chromium tested very high was due to the refractory products, high chrome refractories, from which the furnaces are constructed (Notes of April 14, 2011, Certainteed) [12]. Based on the emissions testing and information on high chrome refractories, we believe changes to the 1999 MACT rule are warranted under CAA section 112(d)(6).

The data indicate that well performing wool fiberglass furnaces emit small amounts of chromium compounds, that is, they emit less than 0.06 pounds of chromium compounds (Cr) per thousand tons of glass pulled. However, three facilities currently operate furnaces that emit chromium in excess of this rate. Chromium emissions from these high emitters range from 9 to 840 lb/yr. Furnaces operating below this rate generally emit less than 1 pound per year; many of these tested below the detection level of the test method. The data indicate that there is a 'break' between the furnaces emitting less than the proposed limit and those emitting greater amounts of chromium. Data further indicate there are no wool fiberglass manufacturers with low glass production rates but high levels of chrome emissions. We are therefore proposing to set a chromium compounds emission limit of 0.06 lb of chromium per thousand tons of glass pulled as shown in Table 12.

Under section 112(d)(6), we are proposing this emission limit for chromium compounds taking into account the developments in practices, processes and technology by the wool fiberglass industry since promulgation of the 1999 MACT standard. The emission limits we are proposing for chromium compounds under 112(d)(6) are identical to the chromium compounds limits we are proposing under 112(f)(2), as described in Section VIII.E of this preamble.

We estimate that the 2 remaining major source wool fiberglass facilities would be able to comply with this chromium compounds emission limit. We estimate that if the high chromium emitting facilities remain major sources, these new emission limits would result in annual reductions of 1,155 pounds of chromium compounds, specifically hexavalent chromium and there will be no reductions at the remaining facilities because data indicate they are currently meeting the proposed chromium emission limit.

Wet scrubbers are not generally in use in this industry. However, we evaluated their use to achieve reductions in hexavalent chromium for furnaces emitting chrome above the levels being proposed. Sodium hydroxide (NaOH) scrubbers are in use for furnace operations at other industries for chromium compounds reduction. We have evaluated the use of NaOH scrubbers for the wool fiberglass manufacturing industry and find that the control technology can be adapted for use in the wool fiberglass industry from the chromium electroplating industry and from certain high temperature metallurgical industries.[42]

We do anticipate an additional energy use associated with this revised limit if sources choose to install NaOH scrubbers to remove hexavalent chromium from the furnace gases. We anticipate the affected sources may incur disposal costs of hexavalent chromium contaminated materials associated with the implementation of this emission limit. We anticipate that two sources which currently emit chromium at levels slightly higher than the proposed limit will be able to meet it by installing NaOH scrubbers (which selectively remove the hexavalent form of chromium from the exhaust air). This cost is about $300 per pound hexavalent chromium removed if these companies install a NaOH scrubber in series with the existing furnace control. A wool fiberglass facility could also choose to rebuild the glass furnace using refractories with low chromium contents. The cost of that option would be prorated to consider the remaining useful life of the existing high chromium furnace and would cost about $12,000 per pound chromium compounds removed. We expect that for the highest chromium emitting wool fiberglass furnace emitting 500 lb chromium per year, this option would be used to meet the proposed limit. We base this estimate on two factors: (1) The furnace is at the end of its useful life and is expected to be reconstructed in 2013 (Notes of April 14, 2011; Region 7 Certainteed Notes) [12] [13] and (2) the NaOH scrubber achieves about 95 percent reduction (NaOH Scrubber Information),[42] which is not quite enough to meet the proposed chromium emission limit. The cost of the control equipment to wool fiberglass plants is about $225,000 for installation and annual operation and maintenance costs of about $5000 per year. We compared the cost of the controls to the sales or revenues of the companies that would incur costs to comply with the chromium emission limits. The economic impact on these firms, measured in annual compliance costs as a percent of sales or revenues, is less than 0.001 percent for each of the affected firms.[43]

We therefore, we propose that requiring the 0.06 lb chromium per thousand tons of melt limit in the NESHAP is both feasible and cost effective. We solicit comment on this comparison and the use of this value as a reasonable cost to reduce chromium.

TABLE 12—PROPOSED EMISSIONS LIMITS FOR GLASS-MELTING FURNACES BASED ON TECHNOLOGY REVIEW

Pollutant	Pounds pollutant per ton of melt
PM	0.14
Chromium compounds	0.00006

This proposed limit for chromium compounds (of 0.06 lb per thousand tons chromium limit) under CAA Section 112(d)(6) is the same limit being proposed under Section 112(f)(2) that was described earlier in this notice. We believe that these proposed revisions for chromium and PM are cost effective revisions and reflect the current developments in processes and technology by this industry. (*i.e.*, well performing air pollution control).

IX. Summary of Cost, Environmental, and Economic Impacts for the Mineral Wool Source Category

Here we discuss the anticipated air, water, solid waste and energy impacts in addition to the cost and economic impacts to the industry as a result of the proposed amendments to the 1999 MACT rule.

A. What are the affected sources in the Mineral Wool Production source category?

We anticipate that the 7 mineral wool production facilities currently operating in the United States will be affected by these proposed amendments.

B. How are the impacts for this proposal evaluated?

For the proposed amendments to the Mineral Wool Production source category, the air quality, water quality, solid waste, and energy impacts were determined based on the need for additional control technologies and actions required to meet the proposed emissions limits. The Economic Impact Analysis considered annual sales and revenue data from the facilities within this source category and their ability to meet the proposed amendments. The following sections discuss the cost, environmental, and economic impacts to the Mineral Wool Production source category. (Economic Impact Analysis for the Mineral Wool and Wool Fiberglass RTRs. U.S. EPA. October 2011.)

C. What are the air quality impacts for the Mineral Wool Production source category?

The EPA estimated the emissions reductions that are expected to result from the proposed amendments to the 1999 MACT rule compared to the 2010 baseline emissions estimates. A detailed documentation of the analysis can be found in: *Cost Impacts of the Revised NESHAP for the Mineral Wool Production Manufacturing Source Category.*

Emissions of formaldehyde from mineral wool production facilities have declined over the last 12 years as a result of federal rules, state rules and on the industry's own initiative. The current proposal would not reduce formaldehyde, phenol, or methanol emissions from their current levels. Under the proposed emissions limits for cupolas, COS, HF, and HCl emissions would be reduced by a combined 23 percent compared to 2010 levels reported in the industry survey responses. We estimated that the COS emissions reductions would be 41 tpy from cupolas.

Based on the emissions data available to the EPA, we believe that all facilities will be able to comply with the proposed emissions limits for COS, HF, HCl, formaldehyde, phenol, and methanol without additional controls because they can reduce emissions using raw material substitution or oxygen injection as discussed previously in Section VII.F of this preamble.

D. What are the water quality and solid waste impacts?

We do not anticipate any adverse water quality or solid waste impacts from the proposed amendments to the 1999 MACT rule because the requirements proposed would not change the existing requirements that impact water quality or solid waste.

E. What are the secondary impacts?

Indirect or secondary air quality impacts include impacts that will result from the increased electricity usage associated with the operation of control

[42] NaOH Scrubber Information. Telephone discussion and emails between vendors, companies, and EPA. Steffan Johnson, Measurement Policy Group, USEPA/OAQPS/SPPD.

[43] Economic Impact and Initial Regulatory Flexibility Analysis. September 2011.

devices, as well as water quality and solid waste impacts (which were just discussed) that might occur as a result of these proposed actions. We anticipate that the mineral wool production facilities will be able to comply with the proposed amendments without having to install additional control technologies such as RTOs. In addition, those facilities that switch to low-sulfur raw materials will most likely reduce air emissions of SO_2.

F. What are the energy impacts?

Energy impacts in this section are those energy requirements associated with the operation of emission control devices. Potential impacts on the national energy economy from the rule are discussed in the economic impacts section. There would be little national energy demand increase from the operation of any of the control options analyzed under the proposed NESHAP amendments.

G. What are the cost impacts for the Mineral Wool Production source category?

Each facility was evaluated for its ability to meet the proposed emissions limits for PM, COS, HF, and HCl emissions from cupolas and formaldehyde, phenol, and methanol emissions from combined collection operations and curing designs. The memorandum, *Cost Impacts of the Revised NESHAP for the Mineral Wool Production Manufacturing Source Category*, includes a complete description of the cost estimate methods used for this analysis and is available in the docket.

We identified several ways in which mineral wool producers reduce the COS emissions from cupolas, enabling them to comply with the proposed emission limit of 3.3 lb COS per ton of melt. These methods include raw material substitution, oxygen injection, and installation of an RTO. We found two approaches to raw material substitution: slag and rock. One mineral wool manufacturer purchases low-sulfur slag, a waste product from a local steel plant. Another plant owns and operates a local quarry from which they obtain rock that does not contain sulfur. The low-sulfur slag or rock is used in the cupola in place of high-sulfur slag. Because sulfur is not added into the cupola with the raw materials, it is not emitted as sulfur compounds from the stack in the form of COS or SO_2 during production. As shown in their title V permit, another plant uses oxygen injection to accelerate the reaction of COS to CO_2 and SO_2, thereby reducing that company's COS emissions.

However, most mineral wool plants have installed regenerative thermal oxidizers to convert the high concentrations of COS in the cupola exhaust gas to energy that is returned to the cupola. This technology reduces the consumption of coke up to 30 percent and, because of the cost of coke, this technology pays for itself over a period of several years. Emissions of COS are below 0.04 lb COS per ton melt when an RTO is installed for energy reclamation and new source MACT is based upon the use of this technology.

One facility is expected to incur an incremental annualized cost of $360,000 for low-sulfur raw materials (rock) if they use that option to comply with the COS requirement for cupolas. That cost would be lessened to no more than $20,000 for installation of oxygen injection, which is another alternative. We do not anticipate this plant would install an RTO to comply with the rule. The total industry-wide costs for monitoring for COS, HF, and HCl from the cupolas is $146,000, while the total costs for monitoring for formaldehyde, phenol, and methanol from the combined collection and curing operations is $42,000.

The total annualized costs for the proposed rule are estimated at $548,000 (2010 dollars). Table 13 provides a summary of the estimated costs and emissions reductions associated with the proposed amendments to the Mineral Wool Production NESHAP presented in this action.

TABLE 13—ESTIMATED COSTS AND REDUCTIONS FOR THE MINERAL WOOL PRODUCTION PROPOSED STANDARDS IN THIS ACTION

Proposed amendment	Estimated capital cost ($MM)	Estimated annual cost ($MM)	Total HAP emissions reductions (tons per year)	Cost effectiveness in $ per ton total HAP reduction
COS limit; Low-Sulfur Materials	0	0.360	41	8,780
Additional testing and monitoring	0	0.243	N/A	N/A

H. What are the economic impacts for the Mineral Wool Production source category?

We performed an economic impact analysis for mineral wool producers nationally using the annual compliance costs estimated for this proposed rule.(Economic Impact and Initial Regulatory Flexibility Analysis. October 2011).[43] The impacts to most producers affected by this proposed rule are annualized costs of less than one percent of their revenues using the most current year available for revenue data. One producer will experience an annualized cost of 6.7 percent of its revenue, however. Both demand and supply in this sector are inelastic to price changes. Thus, if producers could pass through the entire cost of the rule to consumers, we would expect prices to increase by less than one percent, with no change in output. Conversely, if producers could not pass through any of the cost by increasing the price, we would expect output to decline by less than one percent.

Hence, the overall economic impact of this proposed rule should be low on most of the affected industry and its consumers. For more information, please refer to the Economic Impact Analysis for this proposed rulemaking that is available in the public docket. *Id.*

I. What are the benefits for the Mineral Wool Production source category?

The proposed Mineral Wool Production NESHAP amendments are expected to result in approximately 23 percent reduction in COS; HF, and HCl are not reduced. We have not quantified the monetary benefits associated with these reductions.

J. What demographic groups might benefit the most from this regulation?

The worst-case nature of our acute screening assessment suggests that the potential for adverse effects carries a relatively low probability of occurrence. The EPA concludes that, based on our analyses, the risks associated with MACT-allowable and actual emissions (primarily due to formaldehyde emissions from stacks) from this source category are acceptable. Thus, a demographic analysis was not conducted.

X. Summary of Cost, Environmental, and Economic Impacts for the Wool Fiberglass Manufacturing Source Category

A. What are the affected sources in the Wool Fiberglass Manufacturing source category?

We evaluated the impacts to the affected sources based on all available information, including two significant sources: the 2010 emissions testing and subsequent conversations with NAIMA and individuals operating industry facilities. According to the 2010 emissions test data, there are 3 furnaces at 3 facilities that do not meet this proposed chromium emission limit. In their responses to the survey conducted by the industry, facilities stated the tested furnaces were representative of the untested furnaces. However, furnace construction materials (refractory composition) were not one of the factors considered in determining representativeness.

After the completion of the survey conducted by industry, we received information that emissions testing for chromium may not necessarily be representative of other furnaces that were not tested. Therefore, we based our assessment of the impacts upon the tested furnaces only, and did not include in that assessment untested furnaces.

Based on this approach, we anticipate that all 29 wool fiberglass manufacturing facilities currently operating in the United States will be affected by these proposed amendments, 2 of the 29 wool fiberglass manufacturing facilities currently operating in the United States will install air pollution controls, and that one facility will reconstruct a furnace to comply with these proposed amendments. Additionally, industry has stated that no major wool fiberglass residential insulation sources will still exist in this source category by the time the proposed rules are promulgated. If their predictions come to pass, we estimate that two facilities will be affected by these proposed amendments; these are pipe insulation facilities. However, any major sources still in operation at the time the amendments are promulgated will be affected by this rule. One new facility was recently built, but no facilities are expected to be constructed in the foreseeable future.

B. How are the impacts for this proposal evaluated?

For the proposed Wool Fiberglass Manufacturing NESHAP amendments, the air quality, water quality, solid waste, and energy impacts were determined based on the need for additional control technologies and actions required to meet the proposed emissions limits. The Economic Impact Analysis considered annual sales and revenue data from the facilities within this source category and their ability to meet the proposed amendments. The following sections discuss the cost, environmental, and economic impacts to the Wool Fiberglass Manufacturing source category. (Economic Impact Analysis for the Mineral Wool and Wool Fiberglass RTRs. U.S. EPA. October 2011.)

C. What are the air quality impacts?

The EPA estimated the emissions reductions that are expected to result from the proposed amendments to the 1999 MACT rule compared to the 2010 baseline emissions estimates. A detailed documentation of the analysis can be found in: *Cost Impacts of the Revised NESHAP for the Wool Fiberglass Manufacturing Source Category.* We expect reductions of formaldehyde, phenol and methanol, and chromium compounds.

Emissions of formaldehyde, PM, and HAP metals from wool fiberglass manufacturing have declined over the last 12 years as a result of federal rules, state rules and on the industry's own initiative. The current proposal is expected to yield emission reductions for formaldehyde, phenol, and methanol from their current levels. However, the proposed amendments are expected to discourage facilities in the wool fiberglass industry from reintroducing formaldehyde to their production lines. In addition, the proposed chromium compound emission limit would prevent emissions of chromium compounds in the future and discourage the replacement of currently operating furnaces with those constructed of high chromium refractory bricks.

Based on the emissions data available to the EPA, we believe that all affected facilities will be able to comply with the proposed emissions limits for formaldehyde, phenol, methanol, HF, and HCl without additional controls. Additional controls are required for major sources with high-chrome refractories. Additionally, as discussed in Section X.J of this preamble, the EPA has determined that the proposed rule will not have disproportionately high and adverse human health or environmental effects on minority or low-income populations.

D. What are the water quality and solid waste impacts?

We anticipate water quality and solid waste impacts may result from the disposal of high chrome refractories in landfills or in other areas that are not designed or permitted to receive hexavalent chromium waste. Water quality and solid waste impacts are also possible from potential reuse of spent high chrome refractory products. Because of their durability, we believe that use of refractory bricks made with high chrome content are becoming widespread,[44] (Chromium in Refractories),[11] as their use can nearly double the life of glass furnaces (Notes of April 14, 2011, Certainteed; Region 7 Certainteed Notes; August 31, 2011 Meeting).[12] [13] [35] When glass furnaces reach the end of their useful life and must be rebuilt, the high chrome refractory brick from demolition of the old furnace is typically discarded, as it typically cannot be used in new furnace construction. As for any industrial waste, the bricks from an old glass furnace would, when discarded, potentially be subject to the Resource Conservation and Recovery Act (RCRA) and its regulations.

Additionally, NaOH scrubber solids are expected to contain high levels of hexavalent chromium removed from furnace emissions. The proper disposal procedures for hexavalent chromium-contaminated waste are provided under RCRA regulations (40 CFR 262.11).

E. What are the secondary impacts?

Indirect or secondary air quality impacts include impacts that will result from the increased electricity usage associated with the operation of control devices, as well as water quality and solid waste impacts that might occur as a result of these proposed actions. We estimate the proposed amendments will not result in any significant secondary impacts from the requirements of the Mineral Wool MACT amendments because facilities can meet the COS limits without installing RTOs. We do not anticipate significant secondary impacts from the proposed amendments to the Wool Fiberglass MACT.

F. What are the energy impacts?

Energy impacts in this section are those energy requirements associated with the operation of emission control devices. Potential impacts on the national energy economy from the proposed amendments to the Wool Fiberglass MACT are expected to be minimal and will not result in a significant increase in national energy demand.

[44] Excel spreadsheet provided by North American Insulation Manufacturers Association (NAIMA). Non-CBI NAIMA Response to Cr Emissions 8.11.11.

G. What are the cost impacts?

The capital costs for each facility were estimated based on the ability for each facility to meet the proposed emissions limits for PM, chromium compounds, HF, HCl, formaldehyde, phenol, and methanol. The memorandum, *Cost Impacts of the Revised NESHAP for the Wool Fiberglass Manufacturing Source Category*, includes a complete description of the cost estimate methods used for this analysis and is available in the docket. Under the proposed amendments, the majority of wool fiberglass facilities are not expected to incur any capital costs to comply with the proposed emissions limits. The total costs estimated for compliance with the amendments proposed in this action are $60,000 for compliance testing on glass-melting furnaces and $52,000 for compliance testing on the FA manufacturing line for pipe insulation products. The total annualized costs for the proposed rule are estimated at $112,000 (2010 dollars). Table 14 provides a summary of the costs and emission reductions associated with the proposed amendments if the three facilities with high levels of hexavalent chromium install controls or reconstruct furnaces to meet the emission limits of the proposed rule. Because the industry is undergoing the phaseout of HAP binders, no major sources are expected to exist by the compliance deadline for this proposed rule, and no costs to industry beyond testing would be incurred. However, in the event that the three facilities that do not now meet the chromium compounds limit were to remain major sources, we estimated the annualized control costs as between $100,000 to $300,000 per furnace, depending on which of two options is used. Nine hundred seventy (970) pounds of chromium compounds per year would be reduced at three major sources in the industry, 913 pounds of this from a single facility. Hexavalent chromium is 92% of the total chromium compounds emitted from wool fiberglass furnaces. Actual facility costs would be determined by the number of furnaces, the associated level of Cr emissions, and the major source status of the facility.

TABLE 14—ESTIMATED COSTS AND REDUCTIONS FOR THE PROPOSED WOOL FIBERGLASS MANUFACTURING STANDARDS IN THIS ACTION

Proposed amendment	Est. capital cost ($MM)	Est. annual cost ($MM)	Total HAP emissions reductions (pounds per year)	Cost effectiveness in $ per pound	Number of facilities
Change out of refractory brick lining	6.0	0.3	900	333	1
Installation of NaOH scrubber	0.25	0.1	70	1400	2
Additional testing and monitoring for glass-melting furnaces	0	0.06	N/A	N/A	
Additional testing and monitoring for FA lines for pipe insulation products	0	0.052	N/A	N/A	

H. What are the economic impacts?

We performed an economic impact analysis for the wool fiberglass industry using the annual compliance costs estimated for this proposed rule (Economic Impact and Initial Regulatory Flexibility Analysis for the Proposed Mineral Wool and Wool Fiberglass Risk and Technology Review).[43] The impacts to producers affected by this proposed rule are annualized costs of less than 0.1 percent of their revenues using the most current year available for revenue data. With the responsiveness of wool fiberglass demand and supply at less than 1:1 compared to a price change, and with the change in product price as approximated by the cost to revenue ratio at less than 0.1 percent, for this ratio is the maximum price change that producers may face, it is expected that wool fiberglass price and output changes will be less than 0.1 percent. Hence, the overall economic impact of this proposed rule should be low on the affected industry and its consumers. For more information, please refer to the Economic Impact Analysis for this proposed rulemaking that is available in the public docket. (Economic Impact Analysis for the Mineral Wool and Wool Fiberglass RTRs. U.S. EPA. October 2011.)

I. What are the benefits?

As stated in section X.C., we expect emissions reductions of PM, phenol, formaldehyde, methanol, and chromium compounds. We have not quantified the monetary benefits associated with these reductions.

J. What demographic groups might benefit the most from this regulation?

For the proposed wool fiberglass rule, the EPA has determined that the current health risks posed to anyone by emissions from this source category are acceptable. However, there are about 849,000 people nationwide that are currently subject to health risks which are non-negligible (i.e., cancer risks greater than 1-in-1 million) due to emissions from this source category. We performed an analysis of the demographic makeup of these 849,000 people. The demographic distribution of this ''at-risk'' population is similar to the national distribution of demographics for all groups except for the ''minority'' group (defined as total population minus the white population), which is 11 percent greater than its corresponding national percentage. See the *Risk and Technology Review—Analysis of Socio-Economic Factors for Populations Living Near Wool Fiberglass Facilities* in the docket for additional details on the demographic analysis.

The EPA has determined that the current health risks posed to anyone by emissions from this source category are acceptable. Therefore, the EPA has determined that the proposed rule will not have disproportionately high and adverse human health or environmental effects on minority or low-income populations.

XI. Request for Comments

We are soliciting comments on all aspects of this proposed action. All comments received during the comment period will be considered. In addition to general comments on this proposed action, we are also interested in any additional data that may help to address emissions of chromium compounds from wool fiberglass manufacturing furnaces, such as speciation of the different types of chromium compounds that may be used in the manufacture of refractory bricks, shapes, and castables; and the properties of different chromium compounds when exposed to temperatures exceeding 1500°C.

Specifically, we are interested in data we can use to support any of the proposed alternatives and new data that could support an alternative not proposed in these actions. We are also interested in additional data that may help to reduce the uncertainties inherent in the risk assessments and other analyses. We are specifically interested in receiving corrections to the site-specific emissions profiles used for risk modeling. Such data should include supporting documentation in sufficient detail to allow characterization of the quality and representativeness of the data or information. Section VII of this preamble provides more information on submitting data.

XII. Submitting Data Corrections

The site-specific emissions profiles used in the source category risk and demographic analyses are available for download on the RTR web page at: *http://www.epa.gov/ttn/atw/rrisk/rtrpg.html*. The data files include detailed information for each HAP emissions release point for the facility included in the source category.

If you believe that the data are not representative or are inaccurate, please identify the data in question, provide your reason for concern, and provide any ''improved'' data that you have, if available. When you submit data, we request that you provide documentation of the basis for the revised values to support your suggested changes. To submit comments on the data downloaded from the RTR Web page, complete the following steps:

1. Within this downloaded file, enter suggested revisions to the data fields appropriate for that information. The data fields that may be revised include the following:

Data element	Definition
Control Measure	Are control measures in place? (yes or no).
Control Measure Comment	Select control measure from list provided, and briefly describe the control measure.
Delete	Indicate here if the facility or record should be deleted.
Delete Comment	Describes the reason for deletion.
Emissions Calculation Method Code For Revised Emissions.	Code description of the method used to derive emissions. For example, CEM, material balance, stack test, etc.
Emissions Process Group	Enter the general type of emissions process associated with the specified emissions point.
Fugitive Angle	Enter release angle (clockwise from true North); orientation of the y-dimension relative to true North, measured positive for clockwise starting at 0 degrees (maximum 89 degrees).
Fugitive Length	Enter dimension of the source in the east-west (x-) direction, commonly referred to as length (ft).
Fugitive Width	Enter dimension of the source in the north-south (y-) direction, commonly referred to as width (ft).
Malfunction Emissions	Enter total annual emissions due to malfunctions (tpy).
Malfunction Emissions Max Hourly	Enter maximum hourly malfunction emissions here (lb/hr).
North American Datum	Enter datum for latitude/longitude coordinates (NAD27 or NAD83); if left blank, NAD83 is assumed.
Process Comment	Enter general comments about process sources of emissions.
REVISED Address	Enter revised physical street address for MACT facility here.
REVISED City	Enter revised city name here.
REVISED County Name	Enter revised county name here.
REVISED Emissions Release Point Type	Enter revised Emissions Release Point Type here.
REVISED End Date	Enter revised End Date here.
REVISED Exit Gas Flow Rate	Enter revised Exit Gas Flowrate here (ft^3/sec).
REVISED Exit Gas Temperature	Enter revised Exit Gas Temperature here (F).
REVISED Exit Gas Velocity	Enter revised Exit Gas Velocity here (ft/sec).
REVISED Facility Category Code	Enter revised Facility Category Code here, which indicates whether facility is a major or area source.
REVISED Facility Name	Enter revised Facility Name here.
REVISED Facility Registry Identifier	Enter revised Facility Registry Identifier here, which is an ID assigned by the EPA Facility Registry System.
REVISED HAP Emissions Performance Level Code.	Enter revised HAP Emissions Performance Level here.
REVISED Latitude	Enter revised Latitude here (decimal degrees).
REVISED Longitude	Enter revised Longitude here (decimal degrees).
REVISED MACT Code	Enter revised MACT Code here.
REVISED Pollutant Code	Enter revised Pollutant Code here.
REVISED Routine Emissions	Enter revised routine emissions value here (tpy).
REVISED SCC Code	Enter revised SCC Code here.
REVISED Stack Diameter	Enter revised Stack Diameter here (ft).
REVISED Stack Height	Enter revised Stack Height here (ft).
REVISED Start Date	Enter revised Start Date here.
REVISED State	Enter revised State here.
REVISED Tribal Code	Enter revised Tribal Code here.
REVISED Zip Code	Enter revised Zip Code here.
Shutdown Emissions	Enter total annual emissions due to shutdown events (tpy).
Shutdown Emissions Max Hourly	Enter maximum hourly shutdown emissions here (lb/hr).
Stack Comment	Enter general comments about emissions release points.
Startup Emissions	Enter total annual emissions due to startup events (tpy).
Startup Emissions Max Hourly	Enter maximum hourly startup emissions here (lb/hr).
Year Closed	Enter date facility stopped operations.

2. Fill in the commenter information fields for each suggested revision (*i.e.*, commenter name, commenter organization, commenter email address, commenter phone number, and revision comments).

3. Gather documentation for any suggested emissions revisions (*e.g.*, performance test reports, material balance calculations).

4. Send the entire downloaded file with suggested revisions in Microsoft® Access format and all accompanying documentation to Docket ID Number EPA–HQ–OAR–2010–1041 for the Mineral Wool Production source category and Docket ID number EPA–HQ–OAR–2010–1042 for the Wool Fiberglass Manufacturing source category (through one of the methods described in the **ADDRESSES** section of this preamble). To expedite review of the revisions, it would also be helpful if you submitted a copy of your revisions to the EPA directly at *RTR@epa.gov* in addition to submitting them to the docket.

5. If you are providing comments on a facility, you need only submit one file for that facility, which should contain all suggested changes for all sources at that facility. We request that all data revision comments be submitted in the form of updated Microsoft® Access files, which are provided on the RTR Web Page at: *http://www.epa.gov/ttn/atw/rrisk/rtrpg.html*.

XIII. Statutory and Executive Order Reviews

A. Executive Order 12866: Regulatory Planning and Review and Executive Order 13563: Improving Regulation and Regulatory Review

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this action is a significant regulatory action because it raises novel legal and policy issues. Accordingly, the EPA submitted this action to the Office of Management and Budget (OMB) for review under Executive Orders 12866 and 13563 (76 FR 3821, January 21, 2011) and any changes made in response to OMB recommendations have been documented in the docket for this action.

B. Paperwork Reduction Act

The information collection requirements in this rule have been submitted for approval to the OMB under the *Paperwork Reduction Act*, 44 U.S.C. 3501 *et seq.* The Information Collection Request (ICR) documents prepared by the EPA have been assigned EPA ICR numbers 1799.06 for Mineral Wool Production and 1160.10 for Wool Fiberglass Manufacturing. The information collection requirements are not enforceable until OMB approves them. The information requirements are based on notification, recordkeeping, and reporting requirements in the NESHAP General Provisions (40 CFR part 63, subpart A), which are mandatory for all operators subject to national emissions standards. These recordkeeping and reporting requirements are specifically authorized by CAA section 114 (42 U.S.C. 7414). All information submitted to the EPA pursuant to the recordkeeping and reporting requirements for which a claim of confidentiality is made is safeguarded according to agency policies set forth in 40 CFR part 2, subpart B.

For this proposed rule, the EPA is adding affirmative defense to the estimate of burden in the ICRs. To provide the public with an estimate of the relative magnitude of the burden associated with an assertion of the affirmative defense position adopted by a source, the EPA has provided administrative adjustments to these ICRs to show what the notification, recordkeeping and reporting requirements associated with the assertion of the affirmative defense might entail. The EPA's estimate for the required notification, reports and records for any individual incident totals $3,141 and is based on the time and effort required of a source to review relevant data, interview plant employees, and document the events surrounding a malfunction that has caused an exceedance of an emissions limit. The estimate also includes time to produce and retain the record and reports for submission to the EPA. The EPA provides this illustrative estimate of this burden because these costs are only incurred if there has been a violation and a source chooses to take advantage of the affirmative defense.

Given the variety of circumstances under which malfunctions could occur, as well as differences among sources' operation and maintenance practices, we cannot reliably predict the severity and frequency of malfunction-related excess emissions events for a particular source. It is important to note that the EPA has no basis currently for estimating the number of malfunctions that would qualify for an affirmative defense. Current historical records would be an inappropriate basis, as source owners or operators previously operated their facilities in recognition that they were exempt from the requirement to comply with emissions standards during malfunctions. Of the number of excess emissions events reported by source operators, only a small number would be expected to result from a malfunction (based on the definition above), and only a subset of excess emissions caused by malfunctions would result in the source choosing to assert the affirmative defense. Thus, we believe the number of instances in which source operators might be expected to avail themselves of the affirmative defense will be extremely small. For this reason, we did not estimate any such occurrences for all sources subject to subparts DDD and NNN over the 3-year period covered by these ICRs. We expect to gather information on such events in the future and will revise this estimate as better information becomes available.

We estimate 7 regulated entities are currently subject to subpart DDD and will be subject to all proposed standards. The annual monitoring, reporting, and recordkeeping burden for this collection (averaged over the first 3 years after the effective date of the standards) for these amendments to subpart DDD (Mineral Wool Production) is estimated to be $85,348 per year. This estimate includes performance tests, notifications, reporting, and recordkeeping associated with the new requirements for COS, HF, and HCl from cupolas and formaldehyde, phenol, and methanol from combined collection and curing oven designs. The total burden for the Federal government (averaged over the first 3 years after the effective date of the standard) is estimated to be 22 hours per year at a total labor cost of $970 per year. Burden is defined at 5 CFR 1320.3(b).

We estimate 29 regulated entities are currently subject to subpart NNN and only 2 will be subject to all proposed standards. The annual monitoring, reporting, and recordkeeping burden for this collection (averaged over the first 3 years after the effective date of the standards) for these amendments to subpart NNN (Wool Fiberglass Manufacturing) is estimated to be $14,000 per year. This estimate includes performance tests, notifications, reporting, and recordkeeping associated with the new requirements for PM, chromium compounds, HF, and HCl from glass-melting furnaces and formaldehyde, phenol, and methanol from both RS and FA manufacturing lines. The total burden for the Federal government (averaged over the first 3 years after the effective date of the standard) is estimated to be 6.3 hours per year at a total labor cost of $283 per year.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information

unless it displays a currently valid OMB control number. The OMB control numbers for the EPA's regulations in 40 CFR are listed in 40 CFR part 9. When these ICRs are approved by OMB, the agency will publish a technical amendment to 40 CFR part 9 in the **Federal Register** to display the OMB control numbers for the approved information collection requirements contained in the final rules.

To comment on the agency's need for this information, the accuracy of the provided burden estimates, and any suggested methods for minimizing respondent burden, the EPA has established a public docket for this rule, which includes this ICR, under Docket ID number EPA–HQ–OAR–2010–1041 for the Mineral Wool Production source category and Docket ID number EPA–HQ–OAR–2010–1042 for the Wool Fiberglass Manufacturing source category. Submit any comments related to the ICRs to the EPA and the OMB. See the **ADDRESSES** section at the beginning of this notice for where to submit comments to the EPA. Send comments to the OMB at the Office of Information and Regulatory Affairs, Office of Management and Budget, 725 17th Street NW., Washington, DC 20503, *Attention:* Desk Office for the EPA. Since the OMB is required to make a decision concerning the ICR between 30 and 60 days after November 25, 2011, a comment to OMB is best assured of having its full effect if the OMB receives it by December 27, 2011. The final rule will respond to any OMB or public comments on the information collection requirements contained in this proposal.

C. Regulatory Flexibility Act

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

For purposes of assessing the impacts of this proposed rule on small entities, small entity is defined as: (1) A small business as defined by the SBA's regulations at 13 CFR 121.201; (2) a small governmental jurisdiction that is a government of a city, county, town, school district or special district with a population of less than 50,000; and (3) a small organization that is any not-for-profit enterprise that is independently owned and operated and is not dominant in its field. For this source category, which has the NAICS code 327993 (*i.e.,* Mineral Wool Production and Wool Fiberglass Manufacturing), the SBA small business size standard is 500 employees according to the SBA small business standards definitions.

After considering the economic impacts of this proposed rule on small entities in the Mineral Wool Production and Wool Fiberglass Manufacturing source categories, I certify that this action will not have a significant economic impact on a substantial number of small entities. Five of the 6 Mineral Wool Production parent companies affected are considered to be small entities per the definition provided in this section. However, we estimate that this proposed action will not have a significant economic impact on those companies. The impact of this proposed action on these companies will be an annualized compliance cost of less than one percent of its revenues. Only one of the five small parent companies is expected to have an annualized compliance cost of greater than one percent of its revenues. All other affected parent companies are not small businesses according to the SBA small business size standard for the affected NAICS code (NAICS 327993). One Wool Fiberglass Manufacturing facility is considered to be owned by a small business, but this facility will not experience an impact from this proposed rule. We have determined that the impacts do not constitute a significant economic impact on a substantial number of small entities in the Wool Fiberglass Manufacturing source category (See: *Economic Impact and Small Business Analysis for the proposed Mineral Wool and Wood Fiberglass Production Source Categories NESHAP*).

Although this proposed rule will not have a significant economic impact on a substantial number of small entities, the EPA nonetheless has tried to reduce the impact of this rule on small entities. For more information, please refer to the economic impact and small business analysis that is in the docket. We continue to be interested in the potential impacts of the proposed rule on small entities and welcome comments on issues related to such impacts.

D. Unfunded Mandates Reform Act

This proposed rule does not contain a Federal mandate under the provisions of Title II of the UMRA of 1995, 2 U.S.C. 1531–1538 for State, local, or Tribal governments or the private sector. The proposed rule would not result in expenditures of $100 million or more for State, local, and Tribal governments, in aggregate, or the private sector in any 1 year. The proposed rule imposes no enforceable duties on any State, local or Tribal governments or the private sector. Thus, this proposed rule is not subject to the requirements of sections 202 or 205 of the UMRA.

This proposed rule is also not subject to the requirements of section 203 of UMRA because it contains no regulatory requirements that might significantly or uniquely affect small governments because it contains no requirements that apply to such governments nor does it impose obligations upon them.

E. Executive Order 13132: Federalism

This proposed rule does not have federalism implications. It will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132. None of the facilities subject to this action are owned or operated by State governments, and, because no new requirements are being promulgated, nothing in this proposed rule will supersede State regulations. Thus, Executive Order 13132 does not apply to this proposed rule.

In the spirit of Executive Order 13132, and consistent with the EPA policy to promote communications between the EPA and State and local governments, the EPA specifically solicits comment on this proposed rule from State and local officials.

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

This proposed rule 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.

The EPA specifically solicits additional comment on this proposed action from Tribal officials.

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

This proposed rule is not subject to Executive Order 13045 (62 FR 19885, April 23, 1997) because it is not economically significant as defined in Executive Order 12866.

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

This action is not a ''significant energy action'' as defined under Executive Order 13211, ''Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use'' (66 FR 28355, May 22, 2001), because it is not likely to have significant adverse effect on the supply, distribution, or use of energy. This action will not create any new requirements and therefore no additional costs for sources in the energy supply, distribution, or use sectors.

I. National Technology Transfer and Advancement Act

Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (NTTAA), Public Law No. 104–113 (15 U.S.C. 272 note), directs the EPA to use VCS in its regulatory activities unless to do so would be inconsistent with applicable law or otherwise impractical. VCS are technical standards (*e.g.*, materials specifications, test methods, sampling procedures, and business practices) that are developed or adopted by voluntary consensus standards bodies. NTTAA directs the EPA to provide Congress, through OMB, explanations when the agency decides not to use available and applicable VCS.

The proposed rule involves technical standards. Therefore, the requirements of the NTTAA apply to this action. We conducted searches for the RTR for the Mineral Wool Production and Wool Fiberglass Manufacturing NESHAP through the Enhanced NSSN Database managed by the American National Standards Institute (ANSI). We also contacted VCS organizations and accessed and searched their databases.

Under 40 CFR part 63 subpart DDD, searches were conducted for EPA Methods 5, 318, and 320 of 40 CFR Part 60, Appendix A. Under 40 CFR part 63 subpart NNN, searches were conducted for EPA Methods 5, 318, 320, 29, and 0061 of 40 CFR Part 60, Appendix A. No applicable voluntary consensus standards were identified for EPA Method 318 and SW–846 Method 0061.

One voluntary consensus standard ASTM D6348–03 (2010), *Determination of Gaseous Compounds by Extractive Direct Interface Fourier Transform (FTIR) Spectroscopy* is acceptable as an alternative to Method 320 for both subparts DDD and NNN, but with several conditions: (1) The test plan preparation and implementation in the Annexes to ASTM D6348–03, Sections A1 through A8 are mandatory; and (2) In ASTM D6348–03 Annex A5 (Analyte Spiking Technique), the percent R (percent R) must be determined for each target analyte (Equation A5.5). In order for the test data to be acceptable for a compound, percent R must be 70 percent $\geq R \leq 130$ percent. If the percent R value does not meet the criterion for a target compound, the test data is not acceptable for that compound and the test must be repeated for that analyte (*i.e.,* the sampling and/or analytical procedure should be adjusted before a retest). The percent R value for each compound must be reported in the test report, and all field measurements must be corrected with the calculated percent R value for that compound by using the following equation: *Reported Result = (Measured Concentration in the Stack* × *100)/percent R.*

In addition, ASTM D6784–02 (2008), *Standard Test Method for Elemental, Oxidized, Particle-Bound and Total Mercury Gas Generated from Coal-Fired Stationary Sources (Ontario Hydro Method)* is acceptable as an alternative to Method 29 in the subpart NNN rule.

The search identified four other VCS that were potentially applicable for the Mineral Wool Production rule in lieu of EPA reference methods. However, after reviewing the available standards, EPA determined that four candidate VCS (ASTM D3685/D3685M–98 [2005], ISO 9096:1992 [2003], CAN/CSA Z223.1–M1977, ANSI/ASME PTC 38 1980 [1985]) identified for measuring emissions of pollutants or their surrogates subject to emission standards in the rule would not be practical due to lack of equivalency, documentation, validation data and other important technical and policy considerations.

Under the Wool Fiberglass rule, the search identified six other VCS that were potentially applicable in lieu of EPA reference methods (EN 13211:2001, CAN/CSA Z223.26–M1986, ASTM D3685/D3685M–98 [2005], ISO 9096:1992 [2003], CAN/CSA Z223.1–M1977, and ANSI/ASME PTC 38 1980 [1985]). However, the EPA determined that these methods would not be practical due to lack of equivalency, documentation, validation data and other important technical and policy considerations.

The VCS searches are documented in the *Voluntary Consensus Standard Results for the Risk and Technology Review for the Mineral Wool NESHAP* and the *Voluntary Consensus Standard Results for the Risk and Technology Review for the Wool Fiberglass NESHAP* memorandums as provided in the docket.

The EPA welcomes comments on this aspect of the proposed rulemaking and, specifically, invites the public to identify potentially-applicable VCS and to explain why such standards should be used in this regulation.

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

Executive Order 12898 (59 FR 7629, February 16, 1994) establishes federal executive policy on EJ. Its main provision directs federal agencies, to the greatest extent practicable and permitted by law, to make EJ 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.

For the proposed mineral wool rule, the EPA has determined that the rule will not have disproportionately high and adverse human health or environmental effects on minority or low-income populations, because it increases the level of environmental protection for all affected populations without having any disproportionately high and adverse human health or environmental effects on any population, including any minority or low-income population.

For the proposed wool fiberglass rule, the EPA has determined that the current health risks posed to anyone by emissions from this source category are acceptable. Therefore, the EPA has determined that the proposed rule will not have disproportionately high and adverse human health or environmental effects on minority or low-income populations.

List of Subjects in 40 CFR Part 63

Environmental protection, Air pollution control, Incorporation by reference, Mineral wool, Wool fiberglass, Reporting and recordkeeping requirements.

Dated: November 4, 2011.

Lisa P. Jackson,

Administrator.

For the reasons stated in the preamble, part 63 of title 40, chapter I, of the Code of Federal Regulations is proposed to be amended as follows:

PART 63—[AMENDED]

1. The authority citation for part 63 continues to read as follows:

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

Subpart DDD—[Amended]

2. Section 63.1178 is amended by revising paragraph (a)(2) and adding paragraphs (a)(3) and (4) to read as follows:

§ 63.1178 For cupolas, what standards must I meet?

* * * * *

(a) * * *

(2) Limit emissions of carbonyl sulfide (COS) from each existing, new, or reconstructed cupola to the following:

(i) 3.3 lb of COS per ton of melt or less for existing cupolas.

(ii) 0.017 lb of COS per ton of melt or less for new or reconstructed cupolas.

(3) Limit emissions of hydrogen fluoride (HF) from each existing, new, or reconstructed cupola to 0.014 lb of HF per ton of melt or less.

(4) Limit emissions of hydrogen chloride (HCl) from each existing, new, or reconstructed cupola to 0.0096 lb of HCl per ton of melt or less.

* * * * *

3. Section 63.1179 is amended by revising the section heading and paragraphs (a) and (b) introductory text to read as follows:

§ 63.1179 For combined collection/curing operations, what standards must I meet?

(a) You must control emissions from each existing and new combined collection/curing operations by limiting emissions of formaldehyde, phenol, and methanol to the following:

(1) For combined drum collection/curing operations:

(i) 0.067 lb of formaldehyde per ton of melt or less,

(ii) 0.0023 lb of phenol per ton of melt or less, and

(iii) 0.00077 lb of methanol per ton of melt or less.

(2) For combined horizontal collection/curing operations:

(i) 0.054 lb of formaldehyde per ton of melt or less,

(ii) 0.15 lb of phenol per ton of melt or less, and

(iii) 0.022 lb of methanol per ton of melt or less.

(3) For combined vertical collection/curing operations:

(i) 0.46 lb of formaldehyde per ton of melt or less,

(ii) 0.52 lb of phenol per ton of melt or less, and

(iii) 0.63 lb of methanol per ton of melt or less.

(b) You must meet the following operating limits for each combined collection/curing operations subcategory:

* * * * *

4. Section 63.1180 is amended by revising paragraphs (a), (b), and (d), and adding paragraph (e) to read as follows:

§ 63.1180 When must I meet these standards?

(a) *Existing cupolas and combined collection/curing operations.* (1) Except as noted in paragraph (a)(2) of this section, the compliance date for an owner or operator of an existing plant or source subject to the provisions of this subpart is June 2, 2002 or June 3, 2003 if you applied for and received a one-year extension under section 112(i)(b)(3)(B) of the Act.

(2) The compliance dates for existing plants and sources are:

(i) [DATE 3 YEARS AFTER PUBLICATION OF THE FINAL RULE IN THE **FEDERAL REGISTER**] for cupolas and combined collection/curing operations subject to emission limits in §§ 63.1178 and 63.1179 which became effective [DATE OF PUBLICATION OF THE FINAL RULE IN THE **FEDERAL REGISTER**].

(ii) [DATE OF PUBLICATION OF THE FINAL RULE IN THE **FEDERAL REGISTER**] for the provisions related to malfunctions and affirmative defense provisions of paragraph (e) of this section and the electronic reporting provisions of §§ 63.1192(d) and 63.1193(b)(1) and (g).

(b) *New and reconstructed cupolas and combined collection/curing operations.* For affected sources that commenced construction or reconstruction after November 25, 2011, you must demonstrate compliance with the requirements of this subpart no later than the effective date of the rule or upon start-up.

* * * * *

(d) *See* § 63.1197 for requirements during startups and shutdowns.

(e) *Affirmative defense for exceedance of emissions limits during malfunction.* In response to an action to enforce the standards set forth in this subpart, you may assert an affirmative defense to a claim for civil penalties for exceedances of such standards that are caused by malfunction, as defined at § 63.2. Appropriate penalties may be assessed, however, if you fail to meet your burden of proving all of the requirements in the affirmative defense. The affirmative defense must not be available for claims for injunctive relief.

(1) To establish the affirmative defense in any action to enforce such a limit, you must timely meet the notification requirements in § 63.1191 of this subpart, and must prove by a preponderance of evidence that:

(i) The excess emissions:

(A) Were caused by a sudden, infrequent, and unavoidable failure of air pollution control and monitoring equipment, process equipment, or a process to operate in a normal or usual manner; and

(B) Could not have been prevented through careful planning, proper design or better operation and maintenance practices; and

(C) Did not stem from any activity or event that could have been foreseen and avoided, or planned for; and

(D) Were not part of a recurring pattern indicative of inadequate design, operation, or maintenance.

(ii) Repairs were made as expeditiously as possible when the applicable emissions limitations were being exceeded. Off-shift and overtime labor were used, to the extent practicable to make these repairs; and

(iii) The frequency, amount and duration of the excess emissions (including any bypass) were minimized to the maximum extent practicable during periods of such emissions; and

(iv) If the excess emissions resulted from a bypass of control equipment or a process, then the bypass was unavoidable to prevent loss of life, personal injury, or severe property damage; and

(v) All possible steps were taken to minimize the impact of the excess emissions on ambient air quality, the environment and human health; and

(vi) All emissions monitoring and control systems were kept in operation if at all possible, consistent with safety and good air pollution control practices; and

(vii) All of the actions in response to the excess emissions were documented by properly signed, contemporaneous operating logs; and

(viii) At all times, the affected source was operated in a manner consistent with good practices for minimizing emissions; and

(ix) A written root cause analysis has been prepared, the purpose of which is to determine, correct, and eliminate the primary causes of the malfunction and the excess emissions resulting from the malfunction event at issue. The analysis must also specify, using best monitoring methods and engineering judgment, the amount of excess emissions that were the result of the malfunction.

(2) *Notification.* The owner or operator of the affected source experiencing an exceedance of its emissions limit(s) during a malfunction, must notify the Administrator by telephone or facsimile transmission as soon as possible, but no later than two business days after the initial occurrence of the malfunction, s/he

wishes to be able to use an affirmative defense to civil penalties for that malfunction. The owner or operator seeking to assert an affirmative defense, must also submit a written report to the Administrator within 45 days of the initial occurrence of the exceedance of the standards in this subpart. This report must demonstrate that the owner/operator met the requirements set forth in this paragraph (e) and must include all necessary supporting documentation. The owner or operator may seek an extension of this deadline for up to 30 additional days by submitting a written request to the Administrator before the expiration of the 45 day period. Until a request for an extension has been approved by the Administrator, the owner or operator is subject to the requirement to submit such report within 45 days of the initial occurrence of the exceedance.

5. Section 63.1182 is amended by revising the section heading, the introductory text, and paragraphs (a) and (b) to read as follows:

§ 63.1182 How do I comply with the carbonyl sulfide, hydrogen fluoride, and hydrogen chloride standards for existing, new, and reconstructed cupolas?

To comply with the COS, HF, and HCL standards, you must meet the following:

(a) Install, calibrate, maintain, and operate a device that continuously measures the operating temperature in the firebox of each thermal incinerator. For the purposes of this rule, the term 'incinerator' means 'regenerative thermal oxidizer' (RTO).

(b) Conduct a performance test as specified in § 63.1188 of this subpart that shows compliance with the COS, HF, and HCl emissions limits while the device for measuring incinerator (regenerative thermal oxidizer) operating temperature is installed, operational, and properly calibrated. Establish the average operating temperature based on the performance test as specified in § 63.1185(a) of this subpart.

* * * * *

6. Section 63.1183 is amended by revising the section heading, the introductory text, and paragraphs (b) and (d) to read as follows:

§ 63.1183 How do I comply with the formaldehyde, phenol, and methanol standards for existing, new, and reconstructed combined collection/curing operations?

To comply with the formaldehyde, phenol, and methanol standards, you must meet all of the following:

* * * * *

(b) Conduct a performance test as specified in § 63.1188 of this subpart while manufacturing the product that requires a binder formulation made with the resin containing the highest free-formaldehyde content specification range. Show compliance with the formaldehyde, phenol, and methanol emissions limits while the device for measuring the control device operating parameter is installed, operational, and properly calibrated. Establish the average operating parameter based on the performance test as specified in § 63.1185(a) of this subpart.

* * * * *

(d) Following the performance test, monitor and record the free-formaldehyde content of each resin lot and the formulation of each batch of binder used, including the formaldehyde, phenol, and methanol content.

* * * * *

7. Section 63.1188 is amended by revising paragraphs (b), (c), (d), (e), and (f) to read as follows:

§ 63.1188 What performance test requirements must I meet?

* * * * *

(b) Conduct a performance test, consisting of three test runs, for each cupola and/or combined collection/curing operation subject to this subpart at the maximum production rate to demonstrate compliance with each of the applicable emissions limits in §§ 63.1178 and 63.1179 of this subpart.

(c) Following the initial performance or compliance test to be conducted within 120 days of the effective date of this rule, you must conduct a performance test to demonstrate compliance with each of the applicable emissions limits in §§ 63.1178 and 63.1179 of this subpart at least once every 5 years and as often as the raw material ingredients change by more than 10 percent of those processed during the previous performance test.

(d) Measure emissions of PM, COS, HF, and HCl from each existing, new, or reconstructed cupola.

(e) Measure emissions of formaldehyde, phenol, and methanol from each existing, new, or reconstructed combined collection/curing operation.

(f) Measure emissions at the outlet of the control device for PM, COS, HF, HCl, formaldehyde, phenol, or methanol.

* * * * *

8. Section 63.1189 is amended by revising paragraph (g) and adding paragraph (i) to read as follows:

§ 63.1189 What test methods do I use?

* * * * *

(g) Method 318 in appendix A to this part for the concentration of formaldehyde, phenol, methanol, or COS.

* * * * *

(i) Method 26A or 320 in appendix A to this part for the concentration of HF and HCl.

9. Section 63.1190 is amended by revising paragraph (b) introductory text and the ''MW'' entry under ''where:'' and by removing paragraph (c).

The revision reads as follows:

§ 63.1190 How do I determine compliance?

* * * * *

(b) Using the results from the performance tests, you must use the following equation to determine compliance with the COS, HF, HCl, formaldehyde, phenol, and methanol numerical emissions limits:

* * * * *

MW = Molecular weight of measured pollutant, g/g-mole:

COS = 60.07, HF = 20.01, HCl = 36.46, Formaldehyde = 30.03, Phenol = 94.11, Methanol = 32.04.

* * * * *

10. Section 63.1191 is amended by revising the introductory text to read as follows:

§ 63.1191 What notifications must I submit?

You must submit written or electronic notifications to the Administrator as required by § 63.9(b) through (h) of the general provisions in subpart A of this part. Electronic notifications are encouraged when possible. These notifications include, but are not limited to, the following:

* * * * *

11. Section 63.1192 is amended by revising paragraph (d) to read as follows:

§ 63.1192 What recordkeeping requirements must I meet?

* * * * *

(d) Records must be maintained in a form suitable and readily available for expeditious review, according to § 63.10 of the General Provisions that are referenced in Table 3 to this subpart. Electronic recordkeeping is encouraged.

* * * * *

12. Section 63.1193 is amended by redesignating paragraphs (b) through (f) as paragraphs (c) through (g), and adding a new paragraph (b) and by revising the newly redesignated paragraph (g) to read as follows:

* * * * *

(b)(1) As of January 1, 2012, and within 60 days after the date of completing each performance test, as defined in § 63.2, and as required in this subpart, you must submit performance test data, except opacity data, electronically to the EPA's Central Data Exchange by using the ERT (see *http://www.epa.gov/ttn/chief/ert/erttool.html/*) or other compatible electronic spreadsheet. Only data collected using test methods compatible with the ERT are subject to this requirement to be submitted electronically into the EPA's WebFIRE database.

* * * * *

(g) All reports required by this subpart not subject to the requirements in paragraph (b) of this section must be sent to the Administrator at the appropriate address listed in § 63.13. If acceptable to both the Administrator and the owner or operator of a source, these reports may be submitted on electronic media. The Administrator retains the right to require submittal of reports subject to paragraph (b) of this section in paper format.

13. Section 63.1196 is amended by removing the definitions for ''CO'' and ''formaldehyde'', adding definitions for ''affirmative defense'' and ''combined collection/curing operations'', and revising the definition for ''incinerator'' to read as follows:

§ 63.1196 What definitions should I be aware of?

* * * * *

Affirmative defense means, in the context of an enforcement proceeding, a response or defense put forward by a defendant, regarding which the defendant has the burden of proof, and the merits of which are independently and objectively evaluated in a judicial or administrative proceeding.

Combined collection/curing operations means the combination of fiber collection operations and curing ovens used to make bonded products.

Incinerator means an enclosed air pollution control device that uses controlled flame combustion to convert combustible materials to noncombustible gases. For the purposes of this rule, the term 'incinerator' means 'regenerative thermal oxidizer' (RTO).

* * * * *

14. Add § 63.1197 to read as follows:

§ 63.1197 Startups and shutdowns.

(a) The provisions set forth in this subpart apply at all times.

(b) The owner or operator must not shut down items of equipment that are utilized for compliance with this subpart.

(c) Table 1 to subpart DDD summarizes the emissions limits during startups and shutdowns for existing, new, and reconstructed cupolas.

TABLE 1 TO SUBPART DDD—EMISSIONS LIMITS DURING STARTUPS AND SHUTDOWNS FOR EXISTING, NEW, AND RECONSTRUCTED CUPOLAS

[Pound of pollutant per hour]

Pollutant	Emission limit (lb/hr)	
	Existing cupolas	New and reconstructed cupolas
PM	1.0	1.0
COS	32	0.17
HF	0.13	0.13
HCl	0.092	0.092

(d) Table 2 to subpart DDD summarizes the emissions limits during startups and shutdowns for existing, new, and reconstructed combined collection/curing operations.

TABLE 2 TO SUBPART DDD—EMISSIONS LIMITS DURING STARTUPS AND SHUTDOWNS FOR EXISTING, NEW, AND RECONSTRUCTED COMBINED COLLECTION/CURING OPERATIONS

[Pound of pollutant per hour]

Design	Pollutant	Emission limit (lb/hr)
Vertical	Formaldehyde	4.5
	Phenol	5.0
	Methanol	6.0
Horizontal	Formaldehyde	0.52
	Phenol	1.4
	Methanol	0.21
Drum	Formaldehyde	0.64
	Phenol	0.022
	Methanol	0.0074

15. Table 1 to subpart DDD of part 63 is redesignated as Table 3 to subpart DDD of part 63 and revised to read as follows:

TABLE 3 TO SUBPART DDD OF PART 63—APPLICABILITY OF GENERAL PROVISIONS (40 CFR PART 63, SUBPART A) TO SUBPART DDD OF PART 63

Reference	Applies to subpart DDD	Comment
63.1	Yes.	
63.2	Yes.	
63.3	Yes.	
63.4	Yes.	
63.5	Yes.	
63.6(a), (b), (c)	Yes.	
63.6(d)	No	Section reserved.
63.6(e)(1)(i)	No	See 63.1180 for general duty requirement.
63.6(e)(1)(ii)	No.	
63.6(e)(1)(iii)	Yes.	
63.6(e)(2)	No	Section reserved.

TABLE 3 TO SUBPART DDD OF PART 63—APPLICABILITY OF GENERAL PROVISIONS (40 CFR PART 63, SUBPART A) TO SUBPART DDD OF PART 63—Continued

Reference	Applies to subpart DDD	Comment
63.6(e)(3)	No.	
63.6(f)(1)	No.	
63.6(g)	Yes.	
63.6(h)	No	No opacity limits in rule.
63.6(i)	Yes.	
63.6(j)	Yes.	
§ 63.7(a)–(d)	Yes.	
§ 63.7(e)(1)	No	See 63.1180.
§ 63.7(e)(2)–(e)(4)	Yes.	
63.7(f), (g), (h)	Yes.	
63.8(a)–(b)	Yes.	
63.8(c)(1)(i)	No	See 63.1180 for general duty requirement.
63.8(c)(1)(ii)	Yes.	
63.8(c)(1)(iii)	No.	
63.8(c)(2)–(d)(2)	Yes.	
63.8(d)(3)	Yes, except for last sentence.	
63.8(e)–(g)	Yes.	
63.9(a), (b), (c), (e), (g), (h)(1) through (3), (h)(5) and (6), (i) and (j).	Yes.	
63.9(f)	No.	
63.9(h)(4)	No	Reserved.
63.10(a)	Yes.	
63.10(b)(1)	Yes.	
63.10(b)(2)(i)	No.	
63.10(b)(2)(ii)	No	See 63.1193(c) for recordkeeping of occurrence and duration of malfunctions and recordkeeping of actions taken during malfunction.
63.10(b)(2)(iii)	Yes.	
63.10(b)(2)(iv)–(b)(2)(v)	No.	
63.10(b)(2)(vi)–(b)(2)(xiv)	Yes.	
63.(10)(b)(3)	Yes.	
63.10(c)(1)–(9)	Yes.	
63.10(c)(10)–(11)	No	See 63.1192 for recordkeeping of malfunctions.
63.10(c)(12)–(c)(14)	Yes.	
63.10(c)(15)	No.	
63.10(d)(1)–(4)	Yes.	
63.10(d)(5)	No	See 63.1193 for reporting of malfunctions.
63.10(e)–((f)	Yes.	
63.11	No	Flares will not be used to comply with the emissions limits.
63.12 to 63.15	Yes.	

Subpart NNN—[Amended]

16. Section 63.1381 is amended by adding a definition for ''affirmative defense'' and revising the definition for ''incinerator''.

§ 63.1381 Definitions.

* * * * *

Affirmative defense means, in the context of an enforcement proceeding, a response or defense put forward by a defendant, regarding which the defendant has the burden of proof, and the merits of which are independently and objectively evaluated in a judicial or administrative proceeding.

* * * * *

Incinerator means an enclosed air pollution control device that uses controlled flame combustion to convert combustible materials to noncombustible gases. For the purposes of this rule, the term 'incinerator' means 'regenerative thermal oxidizer' (RTO).

* * * * *

17. Section 63.1382 is amended by revising paragraphs (a) and (b)(6) to read as follows:

§ 63.1382 Emission standards.

(a) *Emissions limits.* (1) *Glass-melting furnaces.* On and after the date the initial performance test is completed or required to be completed under § 63.7 of this part, whichever date is earlier,

(i) The owner or operator of each existing glass-melting furnace must not discharge or cause to be discharged into the atmosphere in excess of:

(A) 0.014 pound (lb) of particulate matter (PM) per ton of glass pulled;

(B) 0.0020 lb of hydrogen fluoride (HF) per ton of glass pulled; and

(C) 0.0015 lb of hydrogen chloride (HCl) per ton of glass pulled.

(D) 0.00006 lb of chromium (Cr) compounds per ton of glass pulled (60 lb per million tons glass pulled).

(ii) The owner or operator of each new or reconstructed glass-melting furnace must not discharge or cause to be discharged into the atmosphere in excess of:

(A) 0.0018 lb of PM per ton of glass pulled;

(B) 0.00078 lb of HF per ton of glass pulled; and

(C) 0.00078 lb of HCl per ton of glass pulled.

(D) 0.00006 lb of Cr compounds per ton of glass pulled (60 lb per million tons glass pulled).

(2) *Rotary spin manufacturing lines.* On and after the date the initial performance test is completed or required to be completed under § 63.7 of this part, whichever date is earlier,

(i) The owner or operator of each existing rotary spin (RS) manufacturing

line must not discharge or cause to be discharged into the atmosphere in excess of:

(A) 0.17 lb of formaldehyde per ton of glass pulled;

(B) 0.19 lb of phenol per ton of glass pulled; and

(C) 0.48 lb of methanol per ton of glass pulled.

(ii) The owner or operator of each new or reconstructed RS manufacturing line must not discharge or cause to be discharged into the atmosphere in excess of:

(A) 0.020 lb of formaldehyde per ton of glass pulled;

(B) 0.0011 lb of phenol per ton of glass pulled; and

(C) 0.00067 lb of methanol per ton of glass pulled.

(3) *Flame attenuation manufacturing lines.* On and after the date the initial performance test is completed or required to be completed under § 63.7 of this part, whichever date is earlier,

(i) The owner or operator of each existing flame attenuation (FA) manufacturing line that produces heavy-density wool fiberglass and/or pipe insulation must not discharge or cause to be discharged into the atmosphere in excess of:

(A) 5.6 lb of formaldehyde per ton of glass pulled;

(B) 1.4 lb of phenol per ton of glass pulled; and

(C) 0.50 lb of methanol per ton of glass pulled.

(ii) The owner or operator of each new or reconstructed FA manufacturing line that produces heavy-density wool fiberglass and/or pipe insulation must not discharge or cause to be discharged into the atmosphere in excess of:

(A) 3.3 lb of formaldehyde per ton of glass pulled;

(B) 0.46 lb of phenol per ton of glass pulled; and

(C) 0.50 lb of methanol per ton of glass pulled.

(b) * * *

(6) The owner or operator must operate each control device used to control formaldehyde, phenol, and methanol emissions from forming or curing such that any three-hour block average temperature in the firebox does not fall below the average established during the performance test as specified in § 63.1384.

* * * * *

18. Section 63.1383 is amended by revising paragraph (f) to read as follows:

§ 63.1383 Monitoring requirements.

* * * * *

(f) The owner or operator who uses a control device to control HAP emissions from a glass-melting furnace, RS manufacturing line, or FA manufacturing line must install, calibrate, maintain, and operate a monitoring device that continuously measures an appropriate parameter that is correlated to the emission limit performance test.

* * * * *

19. Section 63.1384 is amended by revising paragraph (c) introductory text, variables E, C, and MW, and adding paragraphs (d) and (e) to read as follows:

§ 63.1384 Performance test requirements.

* * * * *

(c) To determine compliance with the emission limit for formaldehyde, phenol, or methanol for RS manufacturing lines and FA manufacturing lines, and for chromium compounds, HF, or HCl for glass-melting furnaces, use the following equation:

* * * * *

E = Emission rate of formaldehyde, phenol, methanol, chromium compounds, HF, or HCl, kg/Mg (lb/ton) of glass pulled;

C = Measured volume fraction of formaldehyde, phenol, methanol, chromium compounds, HF, or HCl, ppm;

MW = Molecular weight of formaldehyde, 30.03 g/g-mol; molecular weight of phenol, 94.11 g/g-mol; molecular weight of methanol, 32.04 g/g-mol; molecular weight of chromium compounds tested in g/g-mol; molecular weight of HF, 20.0064 g/g-mol; molecular weight of HCl, 36.4611 g/g-mol.

(d) Following the initial performance or compliance test to be conducted within 90 days of [EFFECTIVE DATE OF THE RULE] to demonstrate compliance with the chromium compounds emissions limit specified in § 63.1382(a)(1)(i)(D) or (a)(1)(ii)(D), you must conduct an annual performance test for chromium compounds emissions from each glass-melting furnace (no later than 12 calendar months following the previous compliance test).

(e) Following the initial performance or compliance test to demonstrate compliance with the PM, HF, HCl, formaldehyde, phenol, and methanol emissions limits specified in § 63.1382, you must conduct a performance test to demonstrate compliance with each of the applicable PM, HF, HCl, formaldehyde, phenol, and methanol emissions limits in § 63.1382 of this subpart at least once every 5 years and as often as raw material inputs change by more than 10 percent following the previous test.

20. Section 63.1385 is amended by revising paragraphs (a)(5) and (6), and adding paragraphs (a)(11), and (a)(12).

§ 63.1385 Test methods and procedures.

(a) * * *

(5) Method 5 and Method 202 (40 CFR part 60, appendix A) for the concentration of total PM including condensibles. Each run must consist of a minimum run time of 2 hours and a minimum sample volume of 60 dry standard cubic feet (dscf). The probe and filter holder heating system may be set to provide a gas temperature no greater than 177 ± 14°C (350 ± 25°F);

(6) Method 318 (appendix A of this subpart) for the concentration of formaldehyde, phenol, and methanol. Each run must consist of a minimum run time of 2 hours;

* * * * *

(11) Method 0061 (appendix A of this subpart) for the concentration of chromium compounds and hexavalent chromium. Each run must consist of a minimum run time of 1 hour.

(12) Method 26A or Method 320 (appendix A of this subpart) for the concentration of HF and HCl. Each run must consist of a minimum run time of 1 hour.

* * * * *

21. Section 63.1386 is amended by revising paragraphs (a)(2) through (4); revising paragraphs (d)(1)(ii) and (iii); adding paragraphs (d)(2)(x), (f) and (g).

The revisions and addition read as follows:

§ 63.1386 Notification, recordkeeping, and reporting requirements.

(a) * * *

(2) Notification that a source is subject to the standard, where the initial startup is before November 25, 2011.

(3) Notification that a source is subject to the standard, where the source is new or has been reconstructed the initial startup is after November 25, 2011, and for which an application for approval of construction or reconstruction is not required;

(4) Notification of intention to construct a new affected source or reconstruct an affected source; of the date construction or reconstruction commenced; of the anticipated date of startup; of the actual date of startup, where the initial startup of a new or reconstructed source occurs after November 25, 2011, and for which an application for approval or construction or reconstruction is required (See § 63.9(b)(4) and (5) of this part);

* * * * *

(d) * * *

(1) * * *

(ii) The owner or operator may retain records electronically, on a computer or labeled computer disks, or on paper; and

* * * * *

(iii) The owner or operator may report required information on paper or on a labeled computer disk using commonly available and EPA-compatible computer software. Electronic notifications are encouraged when possible.

* * * * *

(2) * * *

(x) You must report total chromium and hexavalent chromium emissions from glass-melting furnaces using Method 0061.

* * * * *

(f)(1) As of January 1, 2012 and within 60 days after the date of completing each performance test, as defined in § 63.2, and as required in this subpart, you must submit performance test data, except opacity data, electronically to the EPA's Central Data Exchange by using the ERT (see *http://www.epa.gov/ttn/chief/ert/erttool.html/*) or other compatible electronic spreadsheet. Only data collected using test methods compatible with ERT are subject to this requirement to be submitted electronically into the EPA's WebFIRE database.

(2) All reports required by this subpart not subject to the requirements in paragraph (f)(1) of this section must be sent to the Administrator at the appropriate address listed in § 63.13. If acceptable to both the Administrator and the owner or operator of a source, these reports may be submitted on electronic media. The Administrator retains the right to require submittal of reports subject to paragraph (f)(1) of this section in paper format.

(g) *Affirmative Defense for Exceedance of Emission Limit During Malfunction.* In response to an action to enforce the standards set forth in this subpart, you may assert an affirmative defense to a claim for civil penalties for exceedances of such standards that are caused by malfunction, as defined at § 63.2. Appropriate penalties may be assessed, however, if you fail to meet your burden of proving all of the requirements in the affirmative defense. The affirmative defense must not be available for claims for injunctive relief.

(1) To establish the affirmative defense in any action to enforce such a limit, you must timely meet the notification requirements in § 63.1386 of this subpart, and must prove by a preponderance of evidence that:

(i) The excess emissions:

(A) Were caused by a sudden, infrequent, and unavoidable failure of air pollution control and monitoring equipment, process equipment, or a process to operate in a normal or usual manner; and

(B) Could not have been prevented through careful planning, proper design or better operation and maintenance practices; and

(C) Did not stem from any activity or event that could have been foreseen and avoided, or planned for; and

(D) Were not part of a recurring pattern indicative of inadequate design, operation, or maintenance.

(ii) Repairs were made as expeditiously as possible when the applicable emissions limitations were being exceeded. Off-shift and overtime labor were used, to the extent practicable to make these repairs; and

(iii) The frequency, amount and duration of the excess emissions (including any bypass) were minimized to the maximum extent practicable during periods of such emissions; and

(iv) If the excess emissions resulted from a bypass of control equipment or a process, then the bypass was unavoidable to prevent loss of life, personal injury, or severe property damage; and

(v) All possible steps were taken to minimize the impact of the excess emissions on ambient air quality, the environment and human health; and

(vi) All emissions monitoring and control systems were kept in operation if at all possible, consistent with safety and good air pollution control practices; and

(vii) All of the actions in response to the excess emissions were documented by properly signed, contemporaneous operating logs; and

(viii) At all times, the affected source was operated in a manner consistent with good practices for minimizing emissions; and

(ix) A written root cause analysis has been prepared, the purpose of which is to determine, correct, and eliminate the primary causes of the malfunction and the excess emissions resulting from the malfunction event at issue. The analysis must also specify, using best monitoring methods and engineering judgment, the amount of excess emissions that were the result of the malfunction.

(2) Notification. The owner or operator of the affected source experiencing an exceedance of its emissions limit(s) during a malfunction, must notify the Administrator by telephone or facsimile transmission as soon as possible, but no later than two business days after the initial occurrence of the malfunction, if he/she wishes to be able to use an affirmative defense to civil penalties for that malfunction. The owner or operator seeking to assert an affirmative defense must also submit a written report to the Administrator within 45 days of the initial occurrence of the exceedance of the standards in this subpart. This report must demonstrate that the owner/operator has met the requirements set forth in paragraph (g) of this section and must include all necessary supporting documentation. The owner or operator may seek an extension of this deadline for up to 30 additional days by submitting a written request to the Administrator before the expiration of the 45 day period. Until a request for an extension has been approved by the Administrator, the owner or operator is subject to the requirement to submit such report within 45 days of the initial occurrence of the exceedance.

* * * * *

22. Section 63.1387 is amended by revising paragraphs (a)(1) and (2) to read as follows:

§ 63.1387 Compliance dates.

(a) * * *

(1) Except as noted in paragraph (a)(2) of this section, the compliance date for an owner or operator of an existing plant or source subject to the provisions of this subpart is [DATE OF PUBLICATION OF THE FINAL RULE IN THE **FEDERAL REGISTER**].

(2) The compliance dates for existing plants and sources are:

(i) [DATE 1 YEAR AFTER PUBLICATION OF THE FINAL RULE IN THE **FEDERAL REGISTER**] for glass-melting furnaces, rotary spin manufacturing lines, or flame attenuation manufacturing lines subject to emission limits in § 63.1382(a) which became effective [DATE OF PUBLICATION OF THE FINAL RULE IN THE **FEDERAL REGISTER**].

(ii) [DATE OF PUBLICATION OF THE FINAL RULE IN THE **FEDERAL REGISTER**] for the provisions related to malfunctions and affirmative defense provisions of § 63.1386(g) and the electronic reporting provisions of § 63.1386(d) and (f).

* * * * *

23. Section 63.1388 is revised to read as follows:

§ 63.1388 Startups and shutdowns.

(a) The provisions set forth in this subpart apply at all times.

(b) The owner or operator must not shut down items of equipment that are required or utilized for compliance with the provisions of this subpart during times when emissions are being routed to such items of equipment, if the shutdown would contravene requirements of this subpart applicable

to such items of equipment. This paragraph does not apply if the owner or operator must shut down the equipment to avoid damage due to a contemporaneous startup or shutdown, of the affected source or a portion thereof.

(c) Table 1 to subpart NNN summarizes the emissions limits during startups and shutdowns of glass-melting furnaces.

TABLE 1 TO SUBPART NNN—EMISSIONS LIMITS DURING STARTUPS AND SHUTDOWNS OF GLASS-MELTING FURNACES (LB/HR)

Pollutant	Existing furnaces	New and reconstructed furnaces
PM	0.25	0.033
Chromium Compounds	0.0019	0.0019
HF	0.036	0.014
HCl	0.026	0.014

(d) Table 1 to subpart NNN summarizes the emissions limits during startups and shutdowns of rotary spin [RS] manufacturing lines.

TABLE 2 TO SUBPART NNN—EMISSIONS LIMITS DURING STARTUPS AND SHUTDOWNS OF ROTARY SPIN (RS) MANUFACTURING LINES (LB/HR)

Pollutant	Existing RS lines	New and reconstructed RS lines
Formaldehyde	3.1	0.36
Phenol	3.4	0.019
Methanol	8.8	0.012

(e) Table 3 to subpart NNN summarizes the emissions limits during startups and shutdowns of flame attenuation (FA) manufacturing lines.

TABLE 3 TO SUBPART NNN—EMISSIONS LIMITS DURING STARTUPS AND SHUTDOWNS OF FLAME ATTENUATION (FA) MANUFACTURING LINES (LB/HR)

Pollutant	Existing FA lines	New and reconstructed FA lines
Formaldehyde	100	60
Phenol	25	8
Methanol	9	9

24. Table 1 to Subpart NNN of Part 63 is redesignated as Table 4 to Subpart NNN of Part 63 and revised to read as follows:

TABLE 4 TO SUBPART NNN OF PART 63—GENERAL PROVISIONS APPLICABILITY TO SUBPART NNN

Reference	Applies to subpart NNN	Comment
63.1	Yes.	
63.2	Yes.	
63.3	Yes.	
63.4	Yes.	
63.5	Yes.	
63.6(a), (b), (c)	Yes.	
63.6(d)	No	Section reserved.
63.6(e)(1)(i)	No	See 63.1382(b) for general duty requirement.
63.6(e)(1)(ii)	No.	
63.6(e)(1)(iii)	Yes.	
63.6(e)(2)	No	Section reserved.
63.6(e)(3)	No.	
63.6(f)(1)	No.	
63.6(g)	Yes.	
63.6(h)	No	No opacity limits in rule.
63.6(i)	Yes.	
63.6(j)	Yes.	

TABLE 4 TO SUBPART NNN OF PART 63—GENERAL PROVISIONS APPLICABILITY TO SUBPART NNN—Continued

Reference	Applies to subpart NNN	Comment
§ 63.7(a)–(d)	Yes.	
§ 63.7(e)(1)	No	See 63.1382(b).
§ 63.7(e)(2)–(e)(4)	Yes.	
63.7(f), (g), (h)	Yes.	
63.8(a)–(b)	Yes.	
63.8(c)(1)(i)	No	See 63.1382(b) for general duty requirement.
63.8(c)(1)(ii)	Yes.	
63.8(c)(1)(iii)	No.	
63.8(c)(2)–(d)(2)	Yes.	
63.8(d)(3)	Yes, except for last sentence.	
63.8(e)–(g)	Yes.	
63.9(a), (b), (c), (e), (g), (h)(1) through (3), (h)(5) and (6), (i) and (j).	Yes.	
63.9(f)	No.	
63.9(h)(4)	No	Reserved.
63.10 (a)	Yes.	
63.10 (b)(1)	Yes.	
63.10(b)(2)(i)	No.	
63.10(b)(2)(ii)	No	See 63.1386 for recordkeeping of occurrence and duration of malfunctions and recordkeeping of actions taken during malfunction.
63.10(b)(2)(iii)	Yes.	
63.10(b)(2)(iv)–(b)(2)(v)	No.	
63.10(b)(2)(vi)–(b)(2)(xiv)	Yes.	
63.(10)(b)(3)	Yes.	
63.10(c)(1)–(9)	Yes.	
63.10(c)(10)–(11)	No	See 63.1386 for recordkeeping of malfunctions.
63.10(c)(12)–(c)(14)	Yes.	
63.10(c)(15)	No.	
63.10(d)(1)–(4)	Yes.	
63.10(d)(5)	No	See 63.1386(c)(2) for reporting of malfunctions.
63.10(e)–((f)	Yes.	
63.11	No	Flares will not be used to comply with the emissions limits.
63.12 to 63.15	Yes.	

[FR Doc. 2011–29454 Filed 11–23–11; 8:45 am]

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H.R. 674/P.L. 112–56
To amend the Internal Revenue Code of 1986 to repeal the imposition of 3 percent withholding on certain payments made to vendors by government entities, to modify the calculation of modified adjusted gross income for purposes of determining eligibility for certain healthcare-related programs, and for other purposes. (Nov. 21, 2011; 125 Stat. 711)

S. 1280/P.L. 112–57
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