FEDERAL REGISTER

Vol. 77 Friday,

No. 9 January 13, 2012

Pages 2011–2224

OFFICE OF THE FEDERAL REGISTER

The **FEDERAL REGISTER** (ISSN 0097–6326) is published daily, Monday through Friday, except official holidays, by the Office of the Federal Register, National Archives and Records Administration, Washington, DC 20408, under the Federal Register Act (44 U.S.C. Ch. 15) and the regulations of the Administrative Committee of the Federal Register (1 CFR Ch. I). The Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402 is the exclusive distributor of the official edition. Periodicals postage is paid at Washington, DC.

The **FEDERAL REGISTER** provides a uniform system for making available to the public regulations and legal notices issued by Federal agencies. These include Presidential proclamations and Executive Orders, Federal agency documents having general applicability and legal effect, documents required to be published by act of Congress, and other Federal agency documents of public interest.

Documents are on file for public inspection in the Office of the Federal Register the day before they are published, unless the issuing agency requests earlier filing. For a list of documents currently on file for public inspection, see *www.ofr.gov.*

The seal of the National Archives and Records Administration authenticates the Federal Register as the official serial publication established under the Federal Register Act. Under 44 U.S.C. 1507, the contents of the **Federal Register** shall be judicially noticed.

The **Federal Register** is published in paper and on 24x microfiche. It is also available online at no charge at *www.fdsys.gov*, a service of the U.S. Government Printing Office.

The online edition of the **Federal Register** is issued under the authority of the Administrative Committee of the Federal Register as the official legal equivalent of the paper and microfiche editions (44 U.S.C. 4101 and 1 CFR 5.10). It is updated by 6:00 a.m. each day the **Federal Register** is published and includes both text and graphics from Volume 59, 1 (January 2, 1994) forward. For more information, contact the GPO Customer Contact Center, U.S. Government Printing Office. Phone 202-512-1800 or 866-512-1800 (toll free). E-mail, *gpo@custhelp.com.*

The annual subscription price for the **Federal Register** paper edition is $749 plus postage, or $808, plus postage, for a combined **Federal Register, Federal Register** Index and List of CFR Sections Affected (LSA) subscription; the microfiche edition of the **Federal Register** including the **Federal Register** Index and LSA is $165, plus postage. Six month subscriptions are available for one-half the annual rate. The prevailing postal rates will be applied to orders according to the delivery method requested. The price of a single copy of the daily **Federal Register,** including postage, is based on the number of pages: $11 for an issue containing less than 200 pages; $22 for an issue containing 200 to 400 pages; and $33 for an issue containing more than 400 pages. Single issues of the microfiche edition may be purchased for $3 per copy, including postage. Remit check or money order, made payable to the Superintendent of Documents, or charge to your GPO Deposit Account, VISA, MasterCard, American Express, or Discover. Mail to: U.S. Government Printing Office—New Orders, P.O. Box 979050, St. Louis, MO 63197-9000; or call toll free 1-866-512-1800, DC area 202-512-1800; or go to the U.S. Government Online Bookstore site, see *bookstore.gpo.gov.*

There are no restrictions on the republication of material appearing in the **Federal Register.**

How To Cite This Publication: Use the volume number and the page number. Example: 77 FR 12345.

Postmaster: Send address changes to the Superintendent of Documents, Federal Register, U.S. Government Printing Office, Washington, DC 20402, along with the entire mailing label from the last issue received.

SUBSCRIPTIONS AND COPIES

PUBLIC

Subscriptions:

Paper or fiche	**202–512–1800**
Assistance with public subscriptions	**202–512–1806**
General online information	**202–512–1530; 1–888–293–6498**

Single copies/back copies:

Paper or fiche	**202–512–1800**
Assistance with public single copies	**1–866–512–1800 (Toll-Free)**

FEDERAL AGENCIES

Subscriptions:

Paper or fiche	**202–741–6005**
Assistance with Federal agency subscriptions	**202–741–6005**

FEDERAL REGISTER WORKSHOP

THE FEDERAL REGISTER: WHAT IT IS AND HOW TO USE IT

FOR: Any person who uses the Federal Register and Code of Federal Regulations.

WHO: Sponsored by the Office of the Federal Register.

WHAT: Free public briefings (approximately 3 hours) to present:

1. The regulatory process, with a focus on the Federal Register system and the public's role in the development of regulations.
2. The relationship between the Federal Register and Code of Federal Regulations.
3. The important elements of typical Federal Register documents.
4. An introduction to the finding aids of the FR/CFR system.

WHY: To provide the public with access to information necessary to research Federal agency regulations which directly affect them. There will be no discussion of specific agency regulations.

WHEN: Tuesday, February 7, 2012
9 a.m.–12:30 p.m.

WHERE: Office of the Federal Register
Conference Room, Suite 700
800 North Capitol Street, NW.
Washington, DC 20002

RESERVATIONS: (202) 741–6008

Contents

Federal Register

Vol. 77, No. 9

Friday, January 13, 2012

Separate Parts In This Issue

Reader Aids

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

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

CFR PARTS AFFECTED IN THIS ISSUE

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

8 CFR
1003.....2011
1292.....2011

14 CFR
33.....2015

17 CFR
45.....2136

24 CFR
Proposed Rules:
203.....2024

27 CFR
Proposed Rules:
9.....2027

29 CFR
4022.....2015

33 CFR
165 (2 documents) 2019

40 CFR
Proposed Rules:
85.....2028
86.....2028
600.....2028

49 CFR
Proposed Rules:
523.....2028
531.....2028
533.....2028
536.....2028
537.....2028

50 CFR
648.....2022

Rules and Regulations

Federal Register
Vol. 77, No. 9
Friday, January 13, 2012

DEPARTMENT OF JUSTICE

Executive Office for Immigration Review

8 CFR Parts 1003 and 1292

[EOIR Docket No. 174; A.G. Order No 3317–2012]

RIN 1125–AA66

Reorganization of Regulations on the Adjudication of Department of Homeland Security Practitioner Disciplinary Cases

AGENCY: Executive Office for Immigration Review, Department of Justice.

ACTION: Interim rule with request for comments.

SUMMARY: The Department of Justice is amending its regulations governing the discipline of immigration practitioners as follows. First, the Department is removing unnecessary regulations and adding appropriate references to applicable regulations of the Department of Homeland Security (DHS). Second, the Department is making technical amendments to the Executive Office for Immigration Review's (EOIR) practitioner disciplinary regulations and clarifying the Department of Justice's final rule on Professional Conduct for Practitioners—Rules and Procedures, and Representation and Appearances, which became effective on January 20, 2009.

DATES: *Effective date:* This rule is effective January 13, 2012.

Comment date: Comments on this rule must be received by February 13, 2012.

ADDRESSES: Comments may be mailed to Robin M. Stutman, General Counsel, Executive Office for Immigration Review, 5107 Leesburg Pike, Suite 2600, Falls Church, Virginia 22041. To ensure proper handling, please reference EOIR Docket No. 174 on your correspondence. You may submit comments electronically or view an electronic version of this interim rule at *www.regulations.gov*.

FOR FURTHER INFORMATION CONTACT: Robin M. Stutman, General Counsel, Executive Office for Immigration Review, 5107 Leesburg Pike, Suite 2600, Falls Church, Virginia 22041, telephone (703) 305–0470 (not a toll-free call).

SUPPLEMENTARY INFORMATION:

I. Posting of Public Comments

Please note that all comments received are considered part of the public record and made available for public inspection online at *www.regulations.gov*. Such information includes personal identifying information (such as your name, address, etc.) voluntarily submitted by the commenter.

If you want to submit personal identifying information (such as your name, address, etc.) as part of your comment, but do not want it to be posted online, you must include the phrase ''PERSONAL IDENTIFYING INFORMATION'' in the first paragraph of your comment. You must also locate all the personal identifying information you do not want posted online in the first paragraph of your comment and identify what information you want redacted.

If you want to submit confidential business information as part of your comment but do not want it to be posted online, you must include the phrase ''CONFIDENTIAL BUSINESS INFORMATION'' in the first paragraph of your comment. You must also prominently identify confidential business information to be redacted within the comment. If a comment has so much confidential business information that it cannot be effectively redacted, all or part of that comment may not be posted on *www.regulations.gov*.

Personal identifying information identified and located as set forth above will be placed in the agency's public docket file, but not posted online. Confidential business information identified and located as set forth above will not be placed in the public docket file. If you wish to inspect the agency's public docket file in person, you must make an appointment with agency counsel. Please see the **FOR FURTHER INFORMATION CONTACT** paragraph above for agency counsel's contact information.

II. Regulatory Background

The Attorney General created the Executive Office for Immigration Review in 1983 to combine the functions performed by special inquiry officers (now immigration judges) and the Board of Immigration Appeals (Board) into a single administrative agency within the Department of Justice (Department), separate from the former Immigration and Naturalization Service (INS). 48 FR 8038 (Feb. 25, 1983). This administrative structure separated the adjudication functions from the enforcement and service functions of INS, both for efficiency and to foster independent judgment in adjudication. Because both INS and EOIR were agencies within the Department at that time, the regulations affecting these agencies were included in the same chapter (chapter I) of title 8 of the Code of Federal Regulations. Most of the immigration regulations were organized by subject, which often resulted in provisions relating to INS and EOIR being intermingled in the same parts and sections, including the authority of INS and EOIR to discipline private immigration practitioners who appeared before either or both of those agencies.

Prior to the creation of EOIR in 1983, the Department promulgated regulations at 8 CFR 292.3 that created a unified disciplinary system for attorneys and representatives who practiced before the Board and INS. 23 FR 2670, 2672–73 (April 23, 1958). Under the original system, INS officers investigated and prosecuted practitioners who allegedly committed misconduct before the Board or INS, and INS appointed special inquiry officers to hold disciplinary hearings. The Board reviewed special inquiry officer disciplinary decisions before they could become effective. After EOIR's creation, INS continued to be responsible for all investigative and prosecutorial functions related to allegations of practitioner misconduct occurring before EOIR and INS; however, EOIR's immigration judges, rather than INS officers, were tasked with holding disciplinary hearings. 52 FR 24980 (July 2, 1987).

In 2000, the Department promulgated regulations that retained INS's authority to investigate and prosecute practitioner

misconduct occurring before INS; however, EOIR became responsible for investigating and prosecuting practitioners who committed misconduct while practicing before EOIR. 65 FR 39513 (June 27, 2000). The newly revised and expanded practitioner disciplinary regulations for EOIR were established at 8 CFR 3.101 to 3.109. At the same time, the Department amended 8 CFR 292.3 to make many of the new provisions in EOIR's regulations applicable to INS's disciplinary proceedings. *Id.* The two sets of rules established nearly identical grounds for discipline and a unified process for disciplinary proceedings. Finally, the two sets of rules provided for cross-discipline, allowing EOIR to request that any discipline imposed against a practitioner for misconduct before INS also be imposed with respect to that practitioner's ability to represent clients before EOIR, and vice versa. *See* 8 CFR 3.105(b) (EOIR) and 292.3(e)(2) (INS) (2001).

The Homeland Security Act of 2002, as amended (HSA), transferred the functions of the former INS to the Department of Homeland Security. Public Law 107–296, tit., IV, subtits., D, E, F, 116 Stat. 2135, 2192 (Nov. 25, 2002), as amended. The HSA, however, retained the functions of EOIR within the Department, under the direction of the Attorney General. 6 U.S.C. 521; 8 U.S.C. 1103(g); see generally Matter of D–J–, 23 I&N Dec. 572 (A.G. 2003).

The enactment of the HSA and its transfer of functions of the former INS to DHS required the creation of a new chapter for the regulations pertaining to EOIR, separate from the DHS regulations. Accordingly, the Attorney General published a rule transferring certain provisions that related to the jurisdiction and procedures of EOIR to a new chapter V of 8 CFR. 68 FR 9824 (Feb. 28, 2003). When the transfer of authority from the former INS to DHS took place on March 1, 2003, the time available before the transfer did not permit a thorough review of each of the provisions of the regulations where EOIR's and the former INS's responsibilities appeared in the same sections. As a result, the Department's rule duplicated in chapter V certain parts and sections of the regulations that related to the responsibilities of both the former INS and EOIR, respectively. The rule also made a number of technical amendments to chapters I and V to ensure that the authorities existing in the former INS and EOIR regulations prior to the transfer of functions to DHS remained in effect.

As discussed above, before this transfer of authority, the Department had created a unified immigration practitioner disciplinary system in which EOIR adjudicated all disciplinary cases involving immigration practitioners, regardless of whether EOIR or INS initiated proceedings. It was for this reason and out of an abundance of caution that, in 2003, the Attorney General duplicated § 292.3, found in chapter I of title 8, into a new § 1292.3, located in chapter V. 68 FR at 9845. At the same time, the EOIR disciplinary rules in 8 CFR part 3, subpart G, beginning with § 3.101, were transferred to part 1003, subpart G. *Id.* at 9830–31. The Department intended to address over time the regulatory overlaps resulting from the 2003 rule by eliminating or substantially reducing any duplicative parts and sections that intermingled EOIR's and the former INS's authority. *Id.* at 9825.

III. Rationale for This Rule

In 2008, the Department published proposed amendments to the regulations at 8 CFR parts 1001, 1003, and 1292. 73 FR 44178 (July 30, 2008). The proposed changes included adding or amending several grounds for discipline and creating a new procedure by which the Board could issue final orders in cases brought under the summary disciplinary procedures. *Id.* at 44186–44188. However, this ''rule [did] not make any changes to the DHS regulations governing representation and appearances or professional conduct.'' *Id.* at 44179. Following receipt and review of public comments, the Department published an amended final rule that became effective on January 20, 2009. 73 FR 76914 (Dec. 18, 2008).[1]

DHS has published an interim rule, 75 FR 5225 (Feb. 2, 2010), that modifies § 292.3, in part to conform with the Department's revised disciplinary regulations at §§ 1003.101 to 1003.108.

Therefore, § 1292.3 of the Department's regulations, which is no longer identical to § 292.3 of the DHS regulations, should not remain in its current form because the Department's regulations concerning DHS's disciplinary cases should not be worded differently than DHS's regulations on that subject. Based on a review of § 1292.3 and EOIR's experience acquired since the transfer of the former INS's authority to DHS, it is apparent that most of the duplicative provisions in § 1292.3 pertain to matters that are the responsibility of DHS, and, to some extent, they overlap with the provisions relating to disciplinary proceedings already codified in 8 CFR 1003.103, 1003.105 and 1003.106. Further, duplication of the majority of § 292.3 is not only unnecessary but potentially confusing. Accordingly, there is no reason for the Department to retain the current § 1292.3 or reproduce the modified version of § 292.3 in the Department's regulations.

For these reasons, the Department is removing § 1292.3, and is replacing it with cross references to the applicable disciplinary provisions in 8 CFR part 1003, subpart G, and the corresponding DHS provision, 8 CFR 292.3.

Although the Department is removing the existing text of § 1292.3, it is transferring certain aspects of § 1292.3 by adding new text at 8 CFR 1003.103 and 1003.105, as described below. One critical aspect of § 1292.3 that the Department will retain in part 1003 is the regulatory authority to adjudicate DHS disciplinary cases. 8 CFR 1292.3(a). Indeed, DHS's revised version of § 292.3 provides that DHS disciplinary cases will be adjudicated by EOIR under EOIR's disciplinary regulations in 8 CFR part 1003. 75 FR at 5228–30. Further, the Department's regulations must reflect that EOIR may issue suspension and expulsion orders in DHS cases that also similarly restrict those practitioners from practice before EOIR. 8 CFR 1292.3(a)(1)(i)–(ii); see also *id.* at 1292.3(c). Rather than retain these two aspects of § 1292.3 for two brief provisions concerning practitioner disciplinary cases, the Department is transferring the relevant text to EOIR's disciplinary regulations in part 1003.

The new language being added in part 1003 is not an exact duplicate of any provision now existing in § 1292.3, but is based in part on language currently found in § 1292.3(c) and (e). The new language states that DHS may file with the Board petitions for immediate suspension before DHS, and Notices of Intent to Discipline. The new language also provides for the EOIR disciplinary counsel, who investigates alleged misconduct and initiates formal discipinary proceedings, to request that EOIR make any disciplinary order issued in a DHS-initiated disciplinary case applicable to the practitioner's right to practice before EOIR. Finally, it also provides for DHS to request that EOIR make any disciplinary order in an EOIR-initiated disciplinary case applicable to the practitioner's right to practice before DHS.

In addition, this rule revises some of the existing language of § 1003.105(d)(2) to refer to ''counsel for the government'' rather than ''EOIR disciplinary counsel''

[1] The final rule also included technical changes to 8 CFR 1003.101–108, as well as an additional substantive change to 8 CFR 1003.102, that were not included in the proposed rule. 73 FR 76918, 76921–22, 76923–27.

so as to make clear that this language applies whether the disciplinary proceedings are initiated by EOIR or by DHS. In the recent amendments to EOIR's practitioner disciplinary regulations, found at 73 FR 76914, the Department used the term ''counsel for the government'' to indicate either the EOIR or DHS attorney who is prosecuting a disciplinary case. This rule expands the use of the term ''counsel for the government'' rather than ''EOIR disciplinary counsel'' in § 1003.105(d)(2), in light of the removal of the text of section 1292.3.

IV. Effect

This rule does not result in a substantive change and does not alter the interpretation of any of the Department's regulations or affect the legal rights of any person. The changes reflected here are to bring the Department's regulations into conformity with DHS's regulations and to remove most of an unnecessary, duplicative regulation. The removal of entirely duplicative provisions in § 1292.3 does not alter the legal status quo.

This rule does not affect 8 CFR 292.3, the corresponding rule for practice before DHS. The substantive and procedural regulations in § 292.3 are within DHS's authority to promulgate and revise, whereas the regulatory provisions that go to the powers, procedures, and authority of EOIR's adjudicators and the EOIR disciplinary counsel are within the Attorney General's exclusive authority.

V. Technical Amendments and Clarifications to the Regulations

This rule also includes two technical amendments and a clarification of EOIR's practitioner disciplinary regulations.

In 8 CFR 1003.101(a)(1) and 1003.107(b), the terms ''expulsion'' and ''expelled'' are being changed to ''disbarment'' and ''disbarred,'' respectively. The reason for this change is to conform the terminology in the regulations to section 240(b)(6)(C) of the INA, 8 U.S.C. 1229a(b)(6)(C), which indicates that the Attorney General may impose appropriate sanctions on attorneys, including disbarment. The terms ''disbarment'' and ''disbarred'' will have the same meaning and effect that the terms ''expulsion'' and ''expelled'' presently have, and any practitioner who is presently under an order of expulsion will have the same rights and obligations as he or she had before the terminology was changed in the regulations.

The Department is also revising 8 CFR 1003.106(a)(1). Section 1003.106(a)(1) currently provides the Board with narrow authority to retain jurisdiction and issue a final order for cases in summary disciplinary proceedings if a practitioner's answer to a Notice of Intent to Discipline, see 8 CFR 1003.105, fails to make a prima facie showing that there is a material issue of fact in dispute. A practitioner is subject to summary disciplinary proceedings if, among other grounds, he or she is found guilty of or pleaded guilty or nolo contendre to a serious crime; is disbarred or suspended by the highest court of a state or a Federal court; or resigns from practicing before these tribunals pending a disciplinary investigation or proceeding. 8 CFR 1003.103. Therefore, these practitioners have already received or had the opportunity to receive a trial or hearing in another forum, and a summary adjudication by the Board is appropriate. However, in a case involving an original charge of misconduct, i.e., misconduct arising from practice before the Department or DHS, the practitioner is not subject to summary disciplinary proceedings. A case involving an original charge of misconduct must be adjudicated by a finder of fact once the practitioner has filed a timely answer to the Notice of Intent to Discipline, regardless of whether the practitioner has made a prima facie showing that there is a material issue of fact in dispute. *See* 8 CFR 1003.105(c) and 1003.106(a).

This rule revises § 1003.106(a)(1) to clarify the procedures in summary disciplinary cases in two respects. First, this rule clarifies that a case in summary disciplinary proceedings is referred to an adjudicator if the practitioner, in a timely answer to the Notice of Intent to Discipline, makes a prima facie showing that there is a material issue of fact in dispute, regardless of whether the practitioner also requests a hearing. Second, this rule inserts additional sentences at the end of § 1003.106(a)(1) clarifying that the Board will refer to the Chief Immigration Judge cases not subject to the summary disciplinary proceeding provisions, whenever the practitioner files a timely answer. These revisions do not substantively change the legal rights of practitioners and are only intended to ensure that practitioners who have original charges of misconduct filed against them, and file an answer in response to those charges, receive the process provided under the procedures in § 1003.106 before EOIR issues a final order.

This rule also adds a new § 1003.106(a)(2) making clear that the adjudication provisions of § 1003.106 do not apply if the Board chooses not to refer disciplinary proceedings to the Chief Immigration Judge pursuant to § 1003.106(a)(1), or if a hearing is precluded as provided in § 1003.105(d). This rule also amends the first sentence of § 1003.106(a)(2)(ii) to delete an unnecessary reference to 8 CFR 1003.105(c)(3).

In 8 CFR 1003.107(a), the words ''the Service'' are being changed to ''DHS.'' In the recent amendments to EOIR's disciplinary regulations, the Department sought to change all references to the former INS to DHS. 73 FR at 76921–22. The previous final rule failed to make this change to § 1003.107(a).

Regulatory Requirements

Administrative Procedure Act

The Department of Justice finds that good cause exists for adopting this rule as an interim rule with provision for post-promulgation public comment under the Administrative Procedure Act (5 U.S.C. 553) because this rule only makes technical amendments to the organization, procedures, and practices of the Department of Justice to improve the organization of the Department's regulations and to reflect the transfer of functions made by the Homeland Security Act of 2002. Similarly, because this interim rule merely makes changes in internal delegations and procedures, and is a recodification of existing regulations, this interim rule is not subject to the effective date limitation of 5 U.S.C. 553(d).

Regulatory Flexibility Act

Because no notice of proposed rulemaking is required for this rule under the Administrative Procedure Act (5 U.S.C. 553), the provisions of the Regulatory Flexibility Act (5 U.S.C. 601 et seq.) do not apply.

Paperwork Reduction Act

The provisions of the Paperwork Reduction Act of 1995, Public Law 104–13, 44 U.S.C. chapter 35, and its implementing regulations, 5 CFR part 1320, do not apply to this interim rule because there are no new or revised recordkeeping or reporting requirements.

Unfunded Mandates Reform Act of 1995

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

of the Unfunded Mandates Reform Act of 1995.

Small Business Regulatory Enforcement Fairness Act of 1996

This rule is not a major rule as defined by section 251 of the Small Business Regulatory Enforcement Fairness Act of 1996, 5 U.S.C. 804. This rule will not result in an annual effect on the economy of $100 million 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.

Congressional Review Act

This action pertains to agency organization, procedures, and practices and does not substantially affect the rights or obligations of non-agency parties and, accordingly, is not a ''rule'' as that term is used by the Congressional Review Act (Subtitle E of the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA)). Therefore, the reporting requirement of 5 U.S.C. 801 does not apply.

Executive Order 12866

This rule has been drafted and reviewed in accordance with Executive Order 12866, section 1(b), Principles of Regulation. The Department has determined that this rule is not a ''significant regulatory action'' under section 3(f) of Executive Order 12866, Regulatory Planning and Review, and accordingly this rule has not been reviewed by the Office of Management and Budget (OMB).

Executive Order 13132

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

Executive Order 12988

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

List of Subjects

8 CFR Part 1003

Administrative practice and procedures, Immigration, Legal services, Organization and functions (Government agencies), Reporting and recordkeeping requirements.

8 CFR Part 1292

Administrative practice and procedures, Immigration, Lawyers, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, parts 1003 and 1292 of title 8 of the Code of Federal Regulations are amended as follows:

PART 1003—EXECUTIVE OFFICE FOR IMMIGRATION REVIEW

■ 1. The authority citation for part 1003 continues to read as follows:

Authority: 5 U.S.C. 301; 6 U.S.C. 521; 8 U.S.C. 1101, 1103, 1154, 1155, 1158, 1182, 1226, 1229, 1229a, 1229b, 1229c, 1231, 1254a, 1255, 1324d, 1330, 1361, 1362; 28 U.S.C. 509, 510, 1746; sec. 2, Reorg. Plan No. 2 of 1950, 3 CFR, 1949–1953 Comp., p. 1002; section 203 of Pub. L. 105–100, 111 Stat. 1527–29, 1531–32; section 1505 of Pub. L. 106–554, 114 Stat. 2763A–326 to –328.

Subpart G—Professional Conduct for Practitioners—Rules And Procedures

§ 1003.101 [Amended]

■ 2. Amend § 1003.101 by removing from paragraph (a)(1) the word ''Expulsion'' and adding in its place the word ''Disbarment''.

■ 3. Amend § 1003.103 by:

■ a. Removing the second and third sentences in paragraph (a)(1);

■ b. Redesignating paragraph (a)(2) as paragraph (a)(4);

■ c. Adding new paragraphs (a)(2) and (3);

■ d. Removing from the first sentence of newly redesignated paragraph (a)(4) the words ''by the EOIR disciplinary counsel,'' and adding in their place the words ''pursuant to §§ 1003.103(a)(1) or 1003.103(a)(2)''; and by

■ e. Revising the first sentence of paragraph (b).

The additions and revision read as follows:

§ 1003.103 Immediate suspension and summary disciplinary proceedings; duty of practitioner to notify EOIR of conviction or discipline.

(a) * * *

(2) DHS petition. DHS may file a petition with the Board to suspend immediately from practice before DHS any practitioner described in paragraph (a)(1) of this section. See 8 CFR 292.3(c).

(3) Copy of petition. A copy of a petition filed by the EOIR disciplinary counsel shall be forwarded to DHS, which may submit a written request to the Board that entry of any order immediately suspending a practitioner before the Board or the Immigration Courts also apply to the practitioner's authority to practice before DHS. A copy of a petition filed by DHS shall be forwarded to the EOIR disciplinary counsel, who may submit a written request to the Board that entry of any order immediately suspending a practitioner before DHS also apply to the practitioner's authority to practice before the Board and Immigration Courts. Proof of service on the practitioner of any request to broaden the scope of an immediate suspension or proposed discipline must be filed with the Board or the adjudicating official.

* * * * *

(b) *Summary disciplinary proceedings.* The EOIR disciplinary counsel (or DHS pursuant to 8 CFR 292.3(c)(3)) shall promptly initiate summary disciplinary proceedings against any practitioner described in paragraph (a) of this section by the issuance of a Notice of Intent to Discipline, upon receipt of a certified copy of the order, judgment, or record evidencing the underlying criminal conviction, discipline, or resignation, and accompanied by a certified copy of such document. * * *

* * * * *

■ 4. Amend § 1003.105 by:

■ a. Adding paragraph (a)(3);

■ b. Revising paragraph (b); and by

■ c. Removing from paragraph (d)(2) the words ''EOIR disciplinary counsel'' from the last sentence and adding in their place ''counsel for the government''.

The addition and revision read as follows:

§ 1003.105 Notice of Intent to Discipline.

(a) * * *

(3) *DHS Issuance of Notice to practitioner.* DHS may file a Notice of Intent to Discipline with the Board in accordance with 8 CFR 292.3(e).

(b) *Copy of notice; reciprocity of discipline.* A copy of the Notice of Intent to Discipline filed by the EOIR disciplinary counsel shall be forwarded to DHS, which may submit a written request to the Board or the adjudicating official requesting that any discipline imposed upon a practitioner which restricts his or her authority to practice before the Board and the Immigration Courts also apply to the practitioner's authority to practice before DHS. A copy

of the Notice of Intent to Discipline filed by DHS shall be forwarded to the EOIR disciplinary counsel, who may submit a written request to the Board or the adjudicating official requesting that any discipline imposed upon a practitioner that restricts his or her authority to practice before DHS also apply to the practitioner's authority to practice before the Board and the Immigration Courts. Proof of service on the practitioner of any request to broaden the scope of the proposed discipline must be filed with the adjudicating official.

* * * * *

■ 5. Amend § 1003.106 by:
■ a. Revising paragraph (a)(1);
■ b. Adding paragraph (a)(2) introductory text; and by
■ c. Removing from the first sentence in paragraph (a)(2)(ii) the words ''Except as provided in §§ 1003.105(c)(3), upon'' and adding in their place ''Upon''.

The addition and revision read as follows:

§ 1003.106 Right to be heard and disposition.

(a) * * *

(1) *Summary disciplinary proceedings.* A practitioner who is subject to summary disciplinary proceedings pursuant to § 1003.103(b) must make a prima facie showing to the Board in his or her answer that there is a material issue of fact in dispute with regard to the basis for summary disciplinary proceedings, or with one or more of the exceptions set forth in § 1003.103(b)(2)(i) through (iii). If the practitioner files a timely answer and the Board determines that there is a material issue of fact in dispute with regard to the basis for summary disciplinary proceedings, or with one or more of the exceptions set forth in § 1003.103(b)(2)(i) through (iii), then the Board shall refer the case to the Chief Immigration Judge for the appointment of an adjudicating official. If the practitioner fails to make such a prima facie showing, the Board shall retain jurisdiction over the case and issue a final order. Notwithstanding the foregoing, the Board shall refer any case to the Chief Immigration Judge for the appointment of an adjudicating official in which the practitioner has filed a timely answer and the case involves a charge or charges that cannot be adjudicated under the summary disciplinary proceedings provisions in § 1003.103(b). The Board shall refer such a case regardless of whether the practitioner has requested a hearing.

(2) *Procedure.* The procedures of paragraphs (b) through (d) of this section apply to cases in which the practitioner files a timely answer to the Notice of Intent to Discipline, with the exception of cases in which the Board issues a final order pursuant to § 1003.105(d)(2) or § 1003.106(a)(1).

* * * * *

§ 1003.107 [Amended]

■ 6. Amend § 1003.107 by:

■ a. Removing from the section heading the word ''expulsion'' and adding in its place the word ''disbarment''.

■ b. Removing from paragraph (a) the words ''the Service'' and adding in their place the term ''DHS'';

■ c. Removing from the first sentence of paragraph (b) introductory text the word ''expelled'' and adding in its place the word ''disbarred'';

■ d. Removing from the third sentence of paragraph (b) introductory text the word ''expelled'' and adding in its place the word ''disbarred'';

■ e. Removing from the second sentence of paragraph (b)(1) the word ''expelled'' and adding in its place the word ''disbarred''; and by

■ f. Removing from the second sentence of paragraph (b)(1) the word ''expulsion'' and adding in its place the word ''disbarment''.

PART 1292—REPRESENTATION AND APPEARANCES

■ 7. The authority citation for part 1292 continues to read as follows:

Authority: 8 U.S.C. 1103, 1252b, 1362.

■ 8. Section 1292.3 is revised to read as follows:

§ 1292.3 Professional conduct for practitioners—Rules and procedures.

Attorneys and representatives practicing before the Board, the Immigration Courts, or DHS are subject to the imposition of disciplinary sanctions as provided in 8 CFR part 1003, subpart G, § 1003.101 *et seq.* See also 8 CFR 292.3 (pertaining to practice before DHS).

Dated: January 3, 2012.

Eric H. Holder, Jr.,

Attorney General.

[FR Doc. 2012–602 Filed 1–12–12; 8:45 am]

BILLING CODE 4410–30–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 33

[Docket No. NE130; Special Conditions No. 33–008–SC]

Special Conditions: Pratt and Whitney Canada Model PW210S Turboshaft Engine

Correction

In rule document 2011–14113 appearing on pages 33981–33982 in the issue of Friday, June 10, 2011, make the following correction:

On page 33981, in the first column, in the heading, Special Conditions No. ''33–008–SCI'' should read ''33–008–SC''.

[FR Doc. C1–2011–14113 Filed 1–12–12; 8:45 am]

BILLING CODE 1505–01–D

PENSION BENEFIT GUARANTY CORPORATION

29 CFR Part 4022

Benefits Payable in Terminated Single-Employer Plans; Interest Assumptions for Paying Benefits

AGENCY: Pension Benefit Guaranty Corporation.

ACTION: Final rule.

SUMMARY: This final rule amends the Pension Benefit Guaranty Corporation's regulation on Benefits Payable in Terminated Single-Employer Plans to prescribe interest assumptions under the regulation for valuation dates in February 2012. The interest assumptions are used for paying benefits under terminating single-employer plans covered by the pension insurance system administered by PBGC.

DATES: Effective February 1, 2012.

FOR FURTHER INFORMATION CONTACT: Catherine B. Klion (*Klion.Catherine@pbgc.gov*), Manager, Regulatory and Policy Division, Legislative and Regulatory Department, Pension Benefit Guaranty Corporation, 1200 K Street NW., Washington, DC 20005, (202) 326–4024. (TTY/TDD users may call the Federal relay service toll-free at 1–(800) 877–8339 and ask to be connected to (202) 326–4024.)

SUPPLEMENTARY INFORMATION: PBGC's regulation on Benefits Payable in Terminated Single-Employer Plans (29 CFR Part 4022) prescribes actuarial assumptions—including interest assumptions—for paying plan benefits

under terminating single-employer plans covered by title IV of the Employee Retirement Income Security Act of 1974. The interest assumptions in the regulation are also published on PBGC's Web site (*http://www.pbgc.gov*).

PBGC uses the interest assumptions in Appendix B to Part 4022 to determine whether a benefit is payable as a lump sum and to determine the amount to pay. Appendix C to Part 4022 contains interest assumptions for private-sector pension practitioners to refer to if they wish to use lump-sum interest rates determined using PBGC's historical methodology. Currently, the rates in Appendices B and C of the benefit payment regulation are the same.

The interest assumptions are intended to reflect current conditions in the financial and annuity markets. Assumptions under the benefit payments regulation are updated monthly. This final rule updates the benefit payments interest assumptions for February 2012.[1]

The February 2012 interest assumptions under the benefit payments regulation will be 1.25 percent for the period during which a benefit is in pay status and 4.00 percent during any years preceding the benefit's placement in pay status. In comparison with the interest assumptions in effect for January 2012, these interest assumptions are unchanged.

PBGC has determined that notice and public comment on this amendment are impracticable and contrary to the public interest. This finding is based on the need to determine and issue new interest assumptions promptly so that the assumptions can reflect current market conditions as accurately as possible.

Because of the need to provide immediate guidance for the payment of benefits under plans with valuation dates during February 2012, PBGC finds that good cause exists for making the assumptions set forth in this amendment effective less than 30 days after publication.

PBGC has determined that this action is not a ''significant regulatory action'' under the criteria set forth in Executive Order 12866.

Because no general notice of proposed rulemaking is required for this amendment, the Regulatory Flexibility Act of 1980 does not apply. See 5 U.S.C. 601(2).

List of Subjects in 29 CFR Part 4022

Employee benefit plans, Pension insurance, Pensions, Reporting and recordkeeping requirements.

In consideration of the foregoing, 29 CFR part 4022 is amended as follows:

PART 4022—BENEFITS PAYABLE IN TERMINATED SINGLE-EMPLOYER PLANS

■ 1. The authority citation for part 4022 continues to read as follows:

Authority: 29 U.S.C. 1302, 1322, 1322b, 1341(c)(3)(D), and 1344.

■ 2. In appendix B to part 4022, Rate Set 220, as set forth below, is added to the table.

Appendix B to Part 4022—Lump Sum Interest Rates for PBGC Payments

* * * * *

Rate set	For plans with a valuation date		Immediate annuity rate (percent)	Deferred annuities (percent)				
	On or after	Before		i_1	i_2	i_3	n_1	n_2
*	*		*	*	*	*	*	
220	2–1–12	3–1–12	1.25	4.00	4.00	4.00	7	8

■ 3. In appendix C to part 4022, Rate Set 220, as set forth below, is added to the table.

Appendix C to Part 4022—Lump Sum Interest Rates for Private-Sector Payments

* * * * *

Rate set	For plans with a valuation date		Immediate annuity rate (percent)	Deferred annuities (percent)				
	On or after	Before		i_1	i_2	i_3	n_1	n_2
*	*		*	*	*		*	*
220	2–1–12	3–1–12	1.25	4.00	4.00	4.00	7	8

[1] Appendix B to PBGC's regulation on Allocation of Assets in Single-Employer Plans (29 CFR Part 4044) prescribes interest assumptions for valuing benefits under terminating covered single-employer plans for purposes of allocation of assets under ERISA section 4044. Those assumptions are updated quarterly.

Issued in Washington, DC, on this 10th day of January 2012.

Laricke Blanchard,

Deputy Director for Policy, Pension Benefit Guaranty Corporation.

[FR Doc. 2012–586 Filed 1–12–12; 8:45 am]

BILLING CODE 7709–01–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR PART 165

[Docket No. USCG–2011–1161]

RIN 1625–AA00

Safety Zone; Ice Rescue Exercise; Green Bay, Dyckesville, WI

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a temporary safety zone on the waters of Green Bay near Dyckesville, Wisconsin. This zone is intended to restrict vessels and persons from a portion of Green Bay due to a large scale ice rescue exercise that will involve multiple State and Federal agencies. This temporary safety zone is necessary to protect the surrounding public and vessels from the hazards associated with the ice rescue exercise.

DATES: This rule is effective between 7 a.m. on January 17, 2012, and 7 a.m. on January 20, 2012.

ADDRESSES: Documents indicated in this preamble as being available in the docket are part of docket USCG–2011–1161 and are available online by going to *www.regulations.gov*, inserting USCG–2011–1161 in the ''Keyword'' box, and then clicking ''search.'' They are also available for inspection or copying at the Docket Management Facility (M–30), U.S. Department of Transportation, West Building Ground floor, Room W12–140, 1200 New Jersey Avenue SE., Washington DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: If you have questions on this temporary rule, contact or email BM1 Adam Kraft, U.S. Coast Guard Sector Lake Michigan, at (414) 747–7148 or *Adam.D.Kraft@uscg.mil.* If you have questions on viewing the docket, call Renee V. Wright, Program Manager, Docket Operations, telephone (202) 366–9826.

SUPPLEMENTARY INFORMATION:

Regulatory Information

The Coast Guard is issuing this temporary final rule without prior notice and opportunity to comment pursuant to authority under section 4(a) of the Administrative Procedure Act (APA) (5 U.S.C. 553(b)). This provision authorizes an agency to issue a rule without prior notice and opportunity to comment when an agency for good cause finds that those procedures are ''impracticable, unnecessary, or contrary to the public interest.'' Under U.S.C. 553 (b)(B), the Coast Guard finds that good cause exists for not publishing a notice of proposed rulemaking (NPRM) with respect to this. The final details for the ice rescue exercise were not received by the Coast Guard in sufficient time for a comment period to run before the start of the event. Thus, waiting for a comment period to run would inhibit the Coast Guard from performing its statutory function of protecting life on navigable waters during the ice rescue exercise and thus would be impractical and contrary to the public interest.

Under 5 U.S.C. 553(d)(3), the Coast Guard finds that good cause exists for making this rule effective less than 30 days after publication in the **Federal Register**. For the same reasons discussed in the preceding paragraph, a 30 day notice period would be impractical and contrary to the public interest.

Background and Purpose

Local, state, and federal officials have set up an ice rescue exercise on the waters of Green Bay. This exercise will provide a realistic simulation of a large scale ice rescue response that would include the efforts of multiple local, State, and Federal agencies. These exercises are meant to establish and maintain continuity in the response efforts of multiple agencies. The Captain of the Port Sector Lake has determined that this ice rescue exercise will pose hazards to the public.

Discussion of Rule

With the aforementioned hazards in mind, the Captain of the Port Sector Lake Michigan has determined that it is necessary to establish a temporary safety zone to protect people and vessels. The safety zone will encompass all U.S. navigable waters of Green Bay within the arc of a circle with a 2000-yard radius of the Red River county park with its center point located with its center in the approximate position 44°40′00″ N, 087°45′00″ W. [DATUM: NAD 83]. This safety zone will be effective and enforce between 7 a.m. on January 17, 2012 and 7 a.m. on January 20, 2012.

All persons and vessels shall comply with the instructions of the Coast Guard Captain of the Port, Sector Lake Michigan, or his or her designated representative. Entry into, transiting, or anchoring within the safety zone is prohibited unless authorized by the Captain of the Port, Sector Lake Michigan, or his or her designated representative. The Captain of the Port, Sector Lake Michigan, or his or her designated representative may be contacted via VHF Channel 16.

Regulatory Analyses

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

Regulatory Planning and Review

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

We conclude that this rule is not a significant regulatory action because we anticipate that it will have minimal impact on the economy, will not interfere with other agencies, will not adversely alter the budget of any grant or loan recipients, and will not raise any novel legal or policy issues. The safety zone created by this rule will be relatively small and exist for relatively short time. Thus, restrictions on vessel movement within that particular area are expected to be minimal. Under certain conditions, moreover, vessels may still transit through the safety zone when permitted by the Captain of the Port.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601–612), we have considered whether this rule will have a significant economic impact on a substantial number of small entities. The term ''small entities'' comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000.

The Coast Guard certifies under 5 U.S.C. 605(b) that this rule will not have

a significant economic impact on a substantial number of small entities.

This rule will affect the following entities, some of which might be small entities: The people or vessels intending to use this portion of Green Bay between 7 a.m. on January 17, 2012 and 7 a.m. on January 20, 2012.

This safety zone will not have a significant economic impact on a substantial number of small entities for the following reasons: This rule will only be enforced for a relatively short time. Plus, the Coast Guard expects that there will be little to no vessel traffic due to the fact that this portion of the waterway will be iced over. It is expected that ice fishermen may be affected but public notice flyers to be distributed throughout the town of Dyckesville, along with this publication in the **Federal Register**, will mitigate any economic impact and keep a substantial number of ice fishermen from being affected.

In the event that this temporary safety zone affects shipping, commercial vessels may request permission from the Captain of The Port, Sector Lake Michigan, or his or her on scene representative to transit through the safety zone. The Coast Guard will give notice to the public via a Broadcast to Mariners that the regulation is in effect.

Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Public Law 104–121), we offer to assist small entities in understanding the rule so that they could better evaluate its effects on them and participate in the rulemaking process. Small businesses may send comments on the actions of Federal employees who enforce, or otherwise determine compliance with, Federal regulations to the Small Business and Agriculture Regulatory Enforcement Ombudsman and the Regional Small Business Regulatory Fairness Boards. The Ombudsman evaluates these actions annually and rates each agency's responsiveness to small business. If you wish to comment on actions by employees of the Coast Guard, call 1–888–REG–FAIR (1–(888) 734–3247). The Coast Guard will not retaliate against small entities that question or complain about this rule or any policy or action of the Coast Guard.

Collection of Information

This rule calls for no new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520).

Federalism

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

Unfunded Mandates Reform Act

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

Taking of Private Property

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

Civil Justice Reform

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

Protection of Children

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

Indian Tribal Governments

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

Energy Effects

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

Technical Standards

The National Technology Transfer and Advancement Act (NTTAA) (15 U.S.C. 272 note) directs agencies to use voluntary consensus standards in their regulatory activities unless the agency provides Congress, through the Office of Management and Budget, with an explanation of why using these standards would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (e.g., specifications of materials, performance, design, or operation; test methods; sampling procedures; and related management systems practices) that are developed or adopted by voluntary consensus standards bodies.

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

Environment

We have analyzed this rule under Department of Homeland Security Management Directive 023–01 and Commandant Instruction M16475.lD, which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321–4370f), and have concluded this action is one of a category of actions which do not individually or cumulatively have a significant effect on the human environment. This rule is categorically excluded, under figure 2–1, paragraph (34)(g), of the Instruction. This rule involves the establishment of a safety zone and is therefore categorically excluded under paragraph 34(g) of the Instruction.

A final environmental analysis check list and categorical exclusion determination are available in the docket where indicated under **ADDRESSES**.

List of Subjects in 33 CFR Part 165

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

requirements, Security measures, Waterways.

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

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

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

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

■ 2. Add § 165.T09–1161 to read as follows

§ 165.T09–1161 Safety Zone; Ice Rescue Exercise, Green Bay, Dyckesville, Wisconsin

(a) *Location.* The safety zone will encompass all U.S. navigable waters of Green Bay within the arc of a circle with a 2000-yard radius of the Red River county park with its center point located with its center in the approximate position 44°40′00″ N, 087°45′00″ W. [DATUM: NAD 83].

(b) *Effective and enforcement period.* This rule is effective and will be enforced from 7 a.m. on January 17, 2012, until 7 a.m. on January 20, 2012.

(c) *Regulations.* (1) In accordance with the general regulations in section 165.23 of this part, entry into, transiting, or anchoring within this safety zone is prohibited unless authorized by the Captain of the Port, Sector Lake Michigan, or his or her designated representative.

(2) This safety zone is closed to all vessel traffic, except as may be permitted by the Captain of the Port, Sector Lake Michigan, or his or her designated representative.

(3) The ''designated representative'' of the Captain of the Port, Sector Lake Michigan, is any Coast Guard commissioned, warrant or petty officer who has been designated by the Captain of the Port, Sector Lake Michigan, to act on his or her behalf. The designated representative of the Captain of the Port, Sector Lake Michigan, will be in the area of the ice rescue exercise at all times.

(4) People or vessels desiring to enter or operate within the safety zone shall contact the Captain of the Port, Sector Lake Michigan, or his or her designated representative to obtain permission to do so. The Captain of the Port, Sector Lake Michigan, or his or her designated representative may be contacted via VHF Channel 16. Vessel operators given permission to enter or operate in the safety zone must comply with all directions given to them by the Captain of the Port, Sector Lake Michigan, or his or her designated representative.

Dated: January 5, 2012.

M.W. Sibley,

Captain, U.S. Coast Guard, Captain of the Port, Sector Lake Michigan.

[FR Doc. 2012–616 Filed 1–12–12; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket No. USCG–2011–1159]

RIN 1625–AA87

Security Zone; Passenger Vessel SAFARI EXPLORER Arrival/Departure, Kaunakakai Harbor, Molokai, HI

AGENCY: Coast Guard, DHS.

ACTION: Temporary interim rule with request for comments.

SUMMARY: The Coast Guard is establishing a temporary security zone for Kaunakakai Harbor, Molokai including the entrance channel and offshore area adjacent to the channel's entrance. The establishment of this security zone is necessary to enable the Coast Guard and its law enforcement partners to protect people, vessels, and facilities in and around Kaunakakai Harbor during potential non-compliant protests involving the passenger vessel SAFARI EXPLORER to its intended berth in the harbor. Entry into the temporary security zone is prohibited unless authorized by the Coast Guard Captain of the Port, Honolulu, or her designated representatives.

DATES: This rule is effective from 11 p.m. HST on January 19, 2012, through 9 a.m. HST on May 15, 2012. Comments and related material must be received by the Coast Guard on or before February 3, 2012.

ADDRESSES: You may submit comments identified by docket number USCG–2011–1159 using any one of the following methods:

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

(2) *Fax:* (202) 493–2251.

(3) *Mail:* Docket Management Facility (M–30), U.S. Department of Transportation, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590–0001.

(4) *Hand delivery:* Same as mail address above, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The telephone number is (202) 366–9329.

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

FOR FURTHER INFORMATION CONTACT: If you have questions on this temporary rule call or email Lieutenant Commander Scott O. Whaley, U.S. Coast Guard; telephone (808) 522–8264 (ext. 352), email *Scott.O.Whaley@uscg.mil.* If you have questions on viewing or submitting material to the docket, call Renee V. Wright, Program Manager, Docket Operations, telephone (202) 366–9826.

SUPPLEMENTARY INFORMATION:

Public Participation and Request for Comments

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

Submitting Comments

If you submit a comment, please include the docket number for this rulemaking (USCG–2011–1159), indicate the specific section of this document to which each comment applies, and provide a reason for each suggestion or recommendation. You may submit your comments and material online (via *http://www.regulations.gov*) or by fax, mail, or hand delivery, but please use only one of these means. If you submit a comment online via *www.regulations.gov,* it will be considered received by the Coast Guard when you successfully transmit the comment. If you fax, hand deliver, or mail your comment, it will considered as having been received by the Coast Guard when it is received at the Docket Management Facility. We recommend that you include your name and a mailing address, an email address, or a telephone number in the body of your document so that we can contact you if we have questions regarding your submission.

To submit your comment online, go to *http://regulations.gov,* click on the ''Submit a Comment'' box, which will then become highlighted in blue. In the ''Document Type'' drop down menu select ''Search All'' and insert ''USCG–2011–1159'' in the ''Keyword'' box.

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

Viewing Comments and Documents

To view comments, as well as documents mentioned in this preamble as being available in the docket, go to *http://www.regulations.gov,* click on the ''Read Comments'' box, which will then become highlighted in blue. In the ''Keyword'' box insert ''USCG–2011–1159'' and click ''Search.'' Click the ''Open Docket Folder'' in the ''Actions'' column. You may also visit the Docket Management Facility in Room W12–140 on the ground floor of the Department of Transportation West Building, 1200 New Jersey Avenue SE., Washington, DC 20590, between 9 a.m. and 5 p.m. (EST), Monday through Friday, except Federal holidays.

Privacy Act

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

Public Meeting

We do not plan to hold a public meeting. Insufficient time exists prior to this event to facilitate requests for a public meeting. If you object to this decision, you may submit a request for a public meeting using one of the four methods specified under **ADDRESSES**. Please explain in detail why you believe a public meeting would be beneficial. If we ultimately determine that a public meeting would aid in this rulemaking, we will hold one at a time and place announced by a later notice in the **Federal Register**.

Regulatory Information

The Coast Guard is issuing this temporary interim rule without prior notice and opportunity to comment pursuant to authority under section 4(a) of the Administrative Procedure Act (APA) (5 U.S.C. 553(b)). This provision authorizes an agency to issue a rule without prior notice and opportunity to comment when the agency for good cause finds that those procedures are ''impracticable, unnecessary, or contrary to the public interest.'' Under 5 U.S.C. 553(b)(B), the Coast Guard finds that good cause exists for not publishing a notice of proposed rulemaking (NPRM) with respect to this rule. Though the operation of the SAFARI EXPLORER into Molokai has been voluntarily suspended by the operating company, operations could resume at any time. It would be contrary to public interest to delay implementing this rule because it could expose waterborne protestors and persons on the vessel to significant hazards associated with the protestor's tactics of intentionally impeding the channel to Kaunakakai Harbor and using themselves as human barriers to the SAFARI EXPLORER's movement into the harbor. For the same reason, under 5 U.S.C. 533(d)(3), the Coast Guard finds that good cause exists for making this rule effective less than 30 days after publication in the **Federal Register**.

Although the Coast Guard has good cause to issue this temporary interim rule without first publishing a proposed rule, comments are invited regarding this rule on or before February 3, 2012. We may issue a temporary final rule that reflects changes from this temporary interim rule based upon your comments.

Basis and Purpose

The entrance channel into Kaunakakai Harbor is narrow making transit for larger vessels difficult in all but calm weather. There is no turning basin within the harbor and larger vessels are restricted in their ability to maneuver once they enter the channel. Turning around and holding position in the narrow channel can create a hazardous condition and places the vessel at risk of grounding in the shallow waters adjacent to the channel.

On November 26, 2011, protestors impeded the scheduled passage of the SAFARI EXPLORER into Kaunakakai Harbor by blocking the entrance of the channel with small vessels and persons on surfboards. To avoid risk of collision or grounding, the master of the SAFARI EXPLORER held station outside of the channel's entrance and ultimately decided not to attempt entry into Kaunakakai Harbor after the protestors in the channel failed to allow access for two hours.

Given this past protest activity and the communicated desire of certain persons to carry out protest activities in the future, certain individuals may attempt to implement the same or similar techniques in order to impede future transits by the SAFARI EXPLORER. By designating the waters and land within Kaunakakai Harbor as a security zone, to be enforced prior to scheduled SAFARI EXPLORER transits, the regulation provides the Coast Guard and its law enforcement partners the authority to prevent persons and vessels from intentionally blocking the channel and ensures the safe passage of the vessel.

Discussion of Temporary Interim Rule

This rule creates a security zone encompassing the navigable channel in Kaunakakai Harbor and adjacent waters, and areas onshore including the Young Brothers facility and a public boat ramp. The security zone includes all waters and land encompassed within a rectangle-like shape bounded by the following coordinates: North of the Young Brothers Facility at 21°05′08″ N, 157°01′41″ W; then Southeast at a bearing of 125° for 770 yards to 21°04′55″ N, 157°01′21″ W; then southwest at a bearing of 226° for 1,360 yards to 21°04′27″ N, 157°01′52″ W; then northwest at a bearing of 306° for 580 yards to 21°04′27″ N, 157°01′52″ W; then northeast at a bearing of 038° for 1,375 yards to the starting point.

A graphic labeled ''Illustration of Kaunakakai Harbor, Molokai Security Zone'' is available via *http://www.regulations.gov* in docket USCG–2011–1159. It provides a graphical representation of the security zone discussed above that is being established by this temporary interim rule.

The security zone will be activated for enforcement 60 minutes before the SAFARI EXPLORER's intended transit into the Kaunakakai Harbor Channel and will remain subject to enforcement until 10 minutes after the SAFARI EXPLORER is safely moored in the harbor. The security zone may also be activated for enforcement 60 minutes before the SAFARI EXPLORER's intended transit until after the SAFARI EXPLORER has safely departed from the security zone. Notice of the zone's activation will be provided by broadcast notice to mariners and the display of a red flag at the Kaunakakai Harbor Master's building.

In preparing this temporary rule, the Coast Guard made sure to consider the rights of lawful protestors. To that end, the Coast Guard will allow demonstrations within the land portion of the security zone on the public section of the pier immediately adjacent to the Young Brothers facility where the SAFARI EXPLORER intends to

disembark passengers. The sizeable area will allow protestors to assemble and convey their message is a safe manner to their intended audience.

In accordance with the general regulations in 33 CFR part 165, subpart D, no person or vessel will be permitted to transit into or remain in the zone except for those authorized support vessels and personnel, or other personnel or vessels authorized by the Coast Guard Captain of the Port Honolulu or the Fourteenth District Commander. Any Coast Guard commissioned, warrant or petty officer, or other Captain of the Port representative permitted by law, may enforce the zone.

Vessels or persons in violation of this rule may be subject to the penalties set forth in 33 U.S.C. 1232 and 50 U.S.C. 192 which include federal felony provisions.

Regulatory Analyses

We developed this temporary interim rule after considering numerous statutes and executive orders related to rulemaking. Below we summarize our analyses based on 14 of these statutes or executive orders.

Regulatory Planning and Review

This rule is not a significant regulatory action under section 3(f) of Executive Order 12866, Regulatory Planning and Review, and does not require an assessment of potential costs and benefits under section 6(a)(3) of that Order or under Executive Order 13563, Improving Regulation and Regulatory Review. The Office of Management and Budget has not reviewed it under that Order. The Coast Guard expects the economic impact of this rule to be so minimal that a full Regulatory Evaluation under the regulatory policies and procedures of DHS is unnecessary. This conclusion is based on the limited duration of the zone and the limited geographic area affected by it.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601–612), we have considered whether this rule will have a significant economic impact on a substantial number of small entities. The term ''small entities'' comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000.

The Coast Guard certifies under 5 U.S.C. 605(b) that this rule will not have a significant economic impact on a substantial number of small entities. This rule could affect the following entities, some of which might be small entities: The owners or operators of vessels for hire intending to transit or operate within Kaunakakai Harbor from January 19, 2012, to May 15, 2012.

This security zone will not have a significant economic impact on a substantial number of small entities because this rule will be activated and thus subject to enforcement for periods estimated to be no longer than two hours per transit. Activation of the security zone will only affect a small population of vessels operating within Kaunakakai Harbor.

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

Assistance for Small Entities

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

If the rule will affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please contact LCDR Scott O. Whaley at (808) 522–8264 extension 352. The Coast Guard will not retaliate against small entities that question or complain about this temporary interim rule or any policy or action of the Coast Guard.

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

Collection of Information

This proposed rule would call for no new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520).

Federalism

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

Unfunded Mandates Reform Act

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

Taking of Private Property

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

Civil Justice Reform

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

Protection of Children

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

Indian Tribal Governments

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

Energy Effects

We have analyzed this rule under Executive Order 13211, Actions

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

Technical Standards

The National Technology Transfer and Advancement Act (NTTAA) (15 U.S.C. 272 note) directs agencies to use voluntary consensus standards in their regulatory activities unless the agency provides Congress, through the Office of Management and Budget, with an explanation of why using these standards would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (e.g., specifications of materials, performance, design, or operation; test methods; sampling procedures; and related management systems practices) that are developed or adopted by voluntary consensus standards bodies.

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

Environment

We have analyzed this rule under Department of Homeland Security Management Directive 023–01 and Commandant Instruction M16475.lD, which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321–4370f), and have made a determination that this action is one of a category of actions which do not individually or cumulatively have a significant effect on the human environment. This rule is categorically excluded, under figure 2–1, paragraph (34)(g), of the Instruction. This regulation establishes a temporary security zone. A final ''Environmental Analysis Checklist'' and a final ''Categorical Exclusion Determination'' are available in the docket where indicated under **ADDRESSES**.

We seek any comments or information that may lead to the discovery of a significant environmental impact from this proposed rule.

List of Subjects in 33 CFR Part 165

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

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

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

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

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

■ 2. Add § 165.T14–1159 to read as follows:

§ 165.T14–1159 Security Zone; Passenger Vessel SAFARI EXPLORER Arrival/Departure, Kaunakakai Harbor, Molokai, Hawaii.

(a) *Location.* All waters, from the surface to the sea floor, and land encompassed within a rectangle-like shape bounded by the following coordinates: North of the Young Brothers Facility at 21°05′08″ N, 157°01′41″ W; then Southeast at a bearing of 125° for 770 yards to 21°04′55″ N, 157°01′21″ W; then southwest at a bearing of 226° for 1,360 yards to 21°04′27″ N, 157°01′52″ W; then northwest at a bearing of 306° for 580 yards to 21°04′27″ N, 157°01′52″ W; then northeast at a bearing of 038° for 1,375 yards back to the starting point.

(b) *Definitions.* As used in this section, *designated representative* means any Coast Guard commissioned, warrant, or petty officer who has been authorized by the Captain of the Port Honolulu to assist in enforcing the security zones described in paragraph (a) of this section.

(c) *Regulations.* The general security zone found in 33 CFR part 165, subpart D, apply to the security zones created by this temporary section.

(1) All persons are required to comply with the general regulations governing security zones found in 33 CFR 165.33.

(2) Entry into or remaining in the security zone described in paragraph (a) of this section is prohibited unless authorized by the Coast Guard Captain of the Port Honolulu zone or her designated representatives.

(3) Persons desiring to transit the area of the security zone may contact the on-scene patrol commander on VHF channel 16 (156.800 MHz) or VHF channel 13 (156.650 MHz), or the Captain of the Port Honolulu at telephone number 1–(808) 842–2600. If permission is granted to enter the security zone, all persons and vessels must comply with the instructions of the Captain of the Port or her designated representatives.

(d) *Enforcement.* The U.S. Coast Guard may be assisted in the patrol and enforcement of the zones by Federal, State, and local agencies.

(e) *Enforcement period.* The security zone described in paragraph (a) of this section will be activated for enforcement 60 minutes before the SAFARI EXPLORER's intended transit into the Kaunakakai Harbor Channel and will remain subject to enforcement until 10 minutes after the SAFARI EXPLORER is safely moored in the harbor. The security zone may also be activated for enforcement 60 minutes before the SAFARI EXPLORER's intended transit until after the SAFARI EXPLORER has safely departed from the security zone. Notice of the zone's activation will be provided by broadcast notice to mariners and the display of a red flag at the Kaunakakai Harbor Master's building.

Dated: December 21, 2011.

J. M. Nunan,

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

[FR Doc. 2012–549 Filed 1–12–12; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 648

[Docket No. 110303179–1290–02]

RIN 0648–XA926

Fisheries of the Northeastern United States; Spiny Dogfish Fishery; Commercial Period 2 Quota Harvested

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

ACTION: Temporary rule; closure of spiny dogfish fishery.

SUMMARY: NMFS announces that the spiny dogfish commercial quota available to the coastal states from Maine through Florida for the second semi-annual quota period, November 1, 2011–April 30, 2012, has been harvested. Therefore, effective 0001 hours, January 13, 2012, federally permitted spiny dogfish vessels may not fish for, possess, transfer, or land spiny dogfish until May 1, 2012, when the

2012 spiny dogfish fishing year begins. Regulations governing the spiny dogfish fishery require publication of this notification to advise the coastal states from Maine through Florida that the quota has been harvested and to advise vessel permit holders and dealer permit holders that no Federal commercial quota is available for landing spiny dogfish in these states. This action is necessary to prevent the fishery from exceeding its Period 2 quota and to allow for effective management of this stock.

DATES: Effective at 0001 hr local time, January 13, 2012, through 2400 hr local time April 30, 2012.

FOR FURTHER INFORMATION CONTACT: Carly Bari, (978) 281–9224, or *Carly.Bari@noaa.gov.*

SUPPLEMENTARY INFORMATION: Regulations governing the spiny dogfish fishery are found at 50 CFR part 648, subpart L. The regulations require annual specification of a commercial quota, which is allocated into two quota periods based upon percentages specified in the fishery management plan. The fishery is managed from Maine through Florida, as described in § 648.230.

The initial total commercial quota for spiny dogfish for the 2011 fishing year is 20 million lb (9,071.85 mt) (76 FR 32874, June 7, 2011). The commercial quota is allocated into two periods (May 1 through October 31, and November 1 through April 30). Vessel possession limits are set at 3,000 lb (1.36 mt) per trip for both Quota Period 1 and 2. Quota Period 1 is allocated 11,580,000 lb (5,252.6 mt), and Quota Period 2 is allocated 8,420,000 lb (3,819.25 mt) of the commercial quota. The total quota cannot be exceeded, so landings in excess of the amount allocated to Period 1 have the effect of reducing the quota available to the fishery during Period 2.

The Administrator, Northeast Region, NMFS (Regional Administrator), monitors the commercial spiny dogfish quota for each quota period and, based upon dealer reports, state data, and other available information, determines when the total commercial quota will be harvested. NMFS is required to publish notification in the **Federal Register** advising and notifying commercial vessels and dealer permit holders that, effective upon a specific date, the Federal spiny dogfish commercial quota has been harvested and no Federal commercial quota is available for landing spiny dogfish for the remainder of that quota period.

Section 648.4(b) provides that Federal spiny dogfish permit holders agree, as a condition of the permit, not to land spiny dogfish in any state after NMFS has published notification in the **Federal Register** that the commercial quota has been harvested and that no commercial quota for the spiny dogfish fishery is available. Therefore, effective 0001 hr local time, January 13, 2012, landings of spiny dogfish in coastal states from Maine through Florida by vessels holding commercial Federal fisheries permits will be prohibited through 2400 hr local time, April 30, 2012. The 2012 Period 1 quota will be available for commercial spiny dogfish harvest on May 1, 2012. Effective January 13, 2012, federally permitted dealers are also advised that they may not purchase spiny dogfish from vessels issued Federal spiny dogfish permits that land in coastal states from Maine through Florida.

Classification

This action is required by 50 CFR part 648 and is exempt from review under Executive Order 12866.

The Assistant Administrator for Fisheries, NOAA (AA), finds good cause pursuant to 5 U.S.C. 553(b)(B) to waive prior notice and the opportunity for public comment because it would be contrary to the public interest. This action closes the spiny dogfish fishery until May 1, 2012, under current regulations. The regulations at § 648.231 require such action to ensure that the spiny dogfish 2011 Period 2 quota is not exceeded. Data indicating the spiny dogfish fleet will have landed the 2011 Period 2 quota have only recently become available. If implementation of this closure is delayed to solicit prior public comment, the quota for Period 2 will be exceeded, thereby undermining the conservation objectives of the FMP. The AA further finds, pursuant to 5 U.S.C. 553(d)(3), good cause to waive the 30-day delayed effectiveness period for the reasons stated above.

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

Dated: January 9, 2012.

Steven Thur,

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

[FR Doc. 2012–496 Filed 1–9–12; 4:15 pm]

BILLING CODE 3510–22–P

Proposed Rules

Federal Register
Vol. 77, No. 9
Friday, January 13, 2012

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

24 CFR Part 203

[Docket No. FR–5462–P–01]

RIN 2502–AJ02

Federal Housing Administration (FHA) Single-Family Mortgage Insurance: Elimination of Requests for Alternative Mortgage Limits

AGENCY: Office of the Assistant Secretary for Housing—Federal Housing Commissioner, HUD.

ACTION: Proposed rule.

SUMMARY: This proposed rule would eliminate the process for requesting alternative FHA maximum mortgage amounts. HUD currently sets the area-based loan limits on a yearly basis and permits appeals of these loan limits. At the time the regulations permitting appeals were promulgated, there were no comprehensive, national databases of home sales transactions. As a result, HUD relied on sales data provided by interested parties in determining loan limits for certain areas. Today, however, HUD has available comprehensive direct sales transaction data and indirect home value data at the county level. In addition, since HUD began this new information collection on price trends at a county level, the number of parties utilizing the appeals process has gone from 105 for the 2008 loan limits to zero for the 2011 loan limits. For these reasons, HUD has determined that the regulations governing requests for alternative maximum mortgage amounts are outdated and unnecessarily disrupt HUD's loan limit determination process. The elimination of this appeals process would allow HUD to release its annual loan limits one month earlier than it has for the past three calendar years. This difference would provide more certainty in the mortgage lending market.

DATES: *Comment Due Date:* March 13, 2012.

ADDRESSES: Interested persons are invited to submit comments regarding this proposed rule to the Regulations Division, Office of General Counsel, Department of Housing and Urban Development, 451 7th Street SW., Room 10276, Washington, DC 20410–0500. Communications must refer to the above docket number and title. There are two methods for submitting public comments. All submissions must refer to the above docket number and title.

1. Submission of Comments by Mail. Comments may be submitted by mail to the Regulations Division, Office of General Counsel, Department of Housing and Urban Development, 451 7th Street SW., Room 10276, Washington, DC 20410–0500.

2. Electronic Submission of Comments. Interested persons may submit comments electronically through the Federal eRulemaking Portal at *http://www.regulations.gov.* HUD strongly encourages commenters to submit comments electronically. Electronic submission of comments allows the commenter maximum time to prepare and submit a comment, ensures timely receipt by HUD, and enables HUD to make them immediately available to the public. Comments submitted electronically through the *http://www.regulations.gov* Web site can be viewed by other commenters and interested members of the public. Commenters should follow the instructions provided on that site to submit comments electronically.

Note: To receive consideration as public comments, comments must be submitted through one of the two methods specified above. Again, all submissions must refer to the docket number and title of the rule.

No Facsimile Comments. Facsimile (FAX) comments are not acceptable.

Public Inspection of Public Comments. All properly submitted comments and communications submitted to HUD will be available for public inspection and copying between 8 a.m. and 5 p.m. weekdays at the above address. Due to security measures at the HUD Headquarters building, an appointment to review the public comments must be scheduled in advance by calling the Regulations Division at (202) 708–3055 (this is not a toll-free number). Individuals with speech or hearing impairments may access this number via TTY by calling the Federal Relay Service at (800) 877–8339. Copies of all comments submitted are available for inspection and downloading at *http://www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: Arlene N. Nunes, Director, Home Mortgage Insurance Division, Office of Housing, Department of Housing and Urban Development, 451 7th Street SW., Room 9266, Washington, DC 20410–8000; telephone number (202) 708–2121 (this is not a toll-free number). Persons with hearing or speech impairments may access this number through TTY by calling the toll-free Federal Relay Service at (800) 877–8339.

SUPPLEMENTARY INFORMATION:

I. Background

Section 203(b)(2) of the National Housing Act (12 U.S.C. 1709(b)(2)) (NHA) limits the principal obligation of FHA-insured single-family mortgages. As amended by the Housing and Economic Recovery Act of 2008 (Pub. L. 110–289, approved July 30, 2008) (HERA), section 203(b)(2) of NHA states that an FHA maximum mortgage amount is the greater of: (1) 115 percent of the median house price for a single-family home in the ''area,'' as determined by the Secretary of HUD, or (2) 65 percent of the national conforming limit, the dollar amount determined under section 305(a)(2) of the Federal Home Loan Mortgage Corporation Act (12 U.S.C 1454(a)(2)) (FHLMC Act) (this 65 percent multiple is referred to as the ''floor'').[1] Section 203(b)(2) of NHA, as amended by HERA, also states that in no case may area loans limits exceed 150 percent of the national conforming limit (this 150 percent multiple is referred to as the ''ceiling''), unless it is a special exception area—Alaska, Hawaii, Guam, and the Virgin Islands—in which case the limit is 150 percent of the ceiling.

However, in early 2008, Congress established temporary rules for FHA loan limits in the Economic Stimulus Act of 2008 (Pub. L. 110–185, approved February 13, 2008) (ESA). ESA permits FHA to calculate loan limits based on 125 percent of the area median price (instead of the 115 percent under NHA as amended by HERA), with an upper limit ceiling based on 175 percent (instead of 150 percent permitted under NHA as amended by HERA) of the national conforming loan limit for one-

[1] The national conforming limit under FHLMC Act for a 1-family home is $417,000.

family properties, equal to $729,750. ESA, like section 203(b)(2) of the NHA, as amended by HERA, sets the ''floor'' for such one-family properties at 65 percent of the national conforming loan limits, equal to $271,050. Since the enactment of ESA, both the national ceiling and the national floor have remained static, because the conforming limit has not changed from $417,000.[2] For each year starting with 2009, Congress passed temporary measures that required HUD to set the loan limits at the greater of what was established under ESA and what would otherwise be calculated under NHA. The last of those expired on September 30, 2011. FHA issues a Mortgagee Letter each year setting forth the calculated limits applicable to the upcoming fiscal year, depending on the expiration of the most recent temporary measure passed by the Congress.[3]

In no case, however, may the individual-insured-mortgage amount exceed the appraised value of the property used as security for the mortgage. Moreover, section 203(b)(2) of the NHA specifies that, for purposes of the statutory limitation, the term ''area'' means a metropolitan statistical area as established by the Office of Management and Budget (OMB). The loan limits for all counties within an OMB-designated metropolitan area are based upon that county with the highest median price within the area. OMB categorizes ''metropolitan areas'' into Core Based Statistical Areas, Metropolitan Statistical Divisions, and Micropolitan Areas. HUD recognizes all three types in the designation of ''areas.''

HUD's regulations implementing section 203(b)(2) of NHA are codified at 24 CFR 203.18. Recognizing that there may be additional data or other information not available to HUD, the regulations at § 203.18b provide a process by which a party may submit documentation in support of an alternative mortgage limit. Paragraph (a) of § 203.18b provides that ''[i]f any party believes that a mortgage limit established by the Secretary * * * does not accurately reflect the median house prices in an area, the party may submit documentation in support of an alternative mortgage limit.'' Paragraph (b) of § 203.18b specifies that this data must be in the form of ''a listing of actual sales prices in the area for all or nearly all'' single-family properties sold in the area for a period of time that varies from one to three months, depending on sales volume. For example, paragraph (b)(1)(i) states that if the number of monthly closed sales in an area is 500 or more, the request need provide only one month's worth of data. Paragraph (b)(1)(iii) states that if the number of monthly home sales in the area is below 250, the required data period is three months. Paragraph (c) of § 203.18b specifies the manner in which the FHA Commissioner may calculate home sales prices if the Commissioner determines that the median one-family house price does not reasonably reflect the sales prices of newly constructed homes because of an existing stock whose values is static or declining. HUD has never implemented paragraph (c) of § 203.18b.

HUD's current regulations for loan limit appeals and determination of home sale prices were promulgated in the early 1980s. At that time, there were no comprehensive national databases of home sales transactions. As a result, HUD relied upon appeals by interested parties, primarily local boards of realtors, as part of its loan limit determination process. The appeals process started when a party provided one month of sale transaction data (or multiple months if sales were low) to their respective HUD Home Ownership Center to show that the median price for that month or months was higher than the median in use by HUD. Appeals were typically based on Multiple Listing Service (MLS) listings. MLS listings are incomplete for sales in any county, and even the National Association of Realtors (NAR) is unable to obtain data from all independent MLSs when it compiles data for its existing-home median price estimates. In addition, reliance on short-term data is problematic, because, first, the data can have seasonal variations. Second, short-term data can have aberrations as a result of its smaller sample size. For example, there could be a large number of new home sales in a given month (or three-month period) that greatly skew the local median price upward. Third, permitting continuous appeals, as in the former regime, may exacerbate housing booms, as sharply increasing housing prices continuously generate higher mortgage limits that increase the number of FHA-insured loans.

Over time, HUD adopted a secondary, end-of-year sweep of loan limits. Relying upon the Mortgage Interest Rate Survey (MIRS) performed by the Federal Housing Finance Board (FHFB), HUD would create county-level estimates of area median prices. If the median price from this data (for a 12-month period ending in October) was higher than what was currently being used for limit determination, then the median price and limits in the HUD database would be updated. MIRS was a national survey that included around 25,000 loans but was never intended to be accurate at the county level. Data records have ZIP Code but not county identifiers. However, this was a national source of data available to HUD that could be used to limit the necessity of relying upon uncertain and irregular appeals to assure that increases in local area home prices were being reflected in updated FHA loan limits.

Starting in 2008, HUD developed a new centralized procedure for managing and updating FHA loan limits. HUD contracts with a data aggregator, CoreLogic, to compile comprehensive sales transaction information from county deed recorders for the defined look-back period (January through August) on nondistress sales of single-family residential properties (no condominiums). HUD uses those data to compute median home sale prices. Through CoreLogic, HUD has available comprehensive sale transaction data for more than 2,000 counties, representing population centers. For the remaining approximately 1,200 counties with smaller populations, which tend to have few transactions, HUD relies upon indirect data sources in determining home values. The first indirect method is to use NAR existing home sale median prices at the metropolitan area level augmented with American Community Survey (ACS) data, in order to create county-specific price estimates. The next indirect method is to use median home values from the most recent ACS indexed by Federal Housing Finance Agency (FHFA) home price indices to create median price estimates for the subject look-back period. For additional areas with very small populations and housing stock, HUD uses Decennial Census median value estimates, updated to the subject look-back period with price indices published by the FHFA.

HUD has direct price data for the counties with a high number of sale transactions. Appeals from any counties for which HUD has direct price data would be rejected, because there is no new information that could be provided in an appeal. An appeal for a county where HUD uses indirect data sources would have to meet four conditions to be considered: (1) The county is either designated as ''non-metro'' by OMB or, if the county is within a designated

[2] Pursuant to HERA, the limits will go down to the lesser of 115 percent of area median home prices or 150 percent of the national conforming limit, which would be $625,500.

[3] Most recently, HUD Mortgage Letter 2010–40, issued on December 1, 2010, announced the maximum mortgage limits in effect from January 1, 2011, until September 30, 2011. Mortgagee Letter 2010–40 may be downloaded from *http://www.hud.gov/offices/adm/hudclips/letters/mortgagee/files/10-40ml.pdf.*

metropolitan area, it is the county with the highest median price high-cost in that area; (2) there must be a sufficient number of transactions (in practice, HUD considers ten or more transactions to be a sufficient number) in the county in question and during the defined look-back period; (3) the loan limit must be already above the national floor or would be if the appeal were valid; and (4) the loan limit must not be already at the national ceiling. Few counties could meet this four-part test. The 2010 median price across the counties for which HUD currently uses indirect sources of data is under $85,000, and the 95th percentile is under $175,000.

There are currently only ten counties out of 3,234 that could possibly make an appeal based upon HUD-estimated home prices being near or above the national floor and their being in non-metro areas. Four of those are in the Northern Marianas Island, and one is in Guam. The remaining counties are: a rural county in Colorado (population 800), a resort area in the Virgin Islands (St. John), two fishing village jurisdictions in Alaska, and a Northern Neck county in Virginia (Lancaster County) where the median home price fluctuates widely each quarter because of the small number of sale transactions. Over the past seven years, FHA has insured no loans in any of the four municipalities of the Northern Marianas Islands. In only one of the other six jurisdictions has FHA insured loans each year since 2005 and has insured ten or more in any year—Lancaster County, Virginia. Thus, at this time only one county could qualify for the appeals process. HUD seeks comment on whether any other counties could qualify or will soon qualify for the appeals process.

In addition, since these new procedures for establishing median prices took effect in 2008, the number of appeals received and accepted by HUD has dropped to zero. The number of requests for an alternative mortgage amount reached an all-time high for the 2005 loan limits, 203 appeals, of which 180 were accepted. For the 2008 loan limits in effect before the passage of ESA, there were 105 appeals (in 2007), of which 83 were accepted. This number dropped to nine appeals under the 2009 loan limits, of which seven were accepted. For the 2010 loan limits, only one appeal was received. That appeal was rejected, because HUD already had comprehensive sales price data for the subject county. For the 2011 loan limits, for which the open appeals period was November through December 2010, and during which HUD's data coverage had significantly increased, no appeals were received.

II. This Proposed Rule

This proposed rule would remove § 203.18b, ''Increased mortgage amount,'' in its entirety. As noted, the current regulation requires an individual who is appealing the maximum mortgage amount for an area to provide documentation to support the request for the increase. Although HUD recognizes that home values have declined in many areas, the loan floor and ceiling have remained static since 2008; in some areas where the limit is between the floor and the ceiling, the limit has increased. The current appeals process is unnecessary and outdated for two reasons: (1) HUD either has complete sales transaction data (in the case of counties covered by direct price data, for which appeals would be rejected immediately); (2) the county's median home price falls below the national floor or has too few transactions to make a valid appeal based on these transactions. Related to these two reasons, the number of appeals in 2011 dropped to zero. HUD seeks comment on whether any other reasons contributed to the drop in the number of appeals.

HUD anticipates that if this rule were not changed, there would be very few, if any, successful appeals in the future. This projection would be true even if local economies improve and home prices rise. A valid appeal must provide better data than HUD already has compiled on home sale transactions or home values in a given county, and a successful appeal must actually impact the area loan limits. As discussed above, since HUD's access to county-level home sale data began in 2008, the coverage rate has improved each year and has limited the number of potentially valid appeals. Further, most areas with small populations are not eligible to file an appeal as a result of low home sale prices or low numbers of transactions. Nevertheless, in future years, if a county currently covered by HUD's indirect median price estimates has a basis for filing an appeal under the current procedures, HUD will work with sources in that county to obtain more data on home sale transactions and will move to the use of direct data for that jurisdiction. Thus, HUD concludes that the removal of this regulation would not have any impact on the calculation of area loan limits now or in the future.

III. Findings and Certifications

Executive Order 12866, Regulatory Planning and Review

The Office of Management and Budget (OMB) reviewed this proposed rule under Executive Order 12866 (entitled ''Regulatory Planning and Review''). A determination was made that this proposed rule is a ''significant regulatory action,'' as defined in section 3(f) of the Order (although not economically significant, as provided in section 3(f)(1) of the Order). The docket file is available for public inspection in the Regulations Division, Office of General Counsel, Department of Housing and Urban Development, 451 7th Street SW., Room 10276 Washington, DC 20410–0500. Due to security measures at the HUD Headquarters building, please schedule an appointment to review the docket file by calling the Regulation Division at (202) 402–3055 (this is not a toll-free number). Individuals with speech or hearing impairments may access this number via TTY by calling the Federal Relay Service at (800) 877–8339.

The benefits of this rule come from providing the mortgage industry with firm loan limits as early as possible each year. The data HUD uses for loan limit determination is not available until mid-October, and the preliminary loan limits are completed in early-to-mid November. Requiring a 30-day appeals period for the sake of a possible appeal from one of the very small number counties that could possibly make a valid appeal creates a cost in terms of delays in final limit determination for the national housing market. Mortgage lenders require certainty in order to take loan applications in the November and December time frame, and loans that may not close until the next calendar year would be subject to new loan limits. HUD strives for direct sale transaction price data from any or all of the counties for which HUD currently uses indirect sources and which meet the four-part test outlined above. HUD would welcome a relationship with entities that could provide direct data, if any deviations between HUD's indirect median price estimate and actual home prices become material for FHA insurance in such areas. Having a national appeals period that delays implementation of final loan limits across the entire nation each year is not an effective means of addressing a very small number of localized needs in the future.

The President's Executive Order (EO) 13563, entitled ''Improving Regulation and Regulatory Review,'' was signed by the President on January 18, 2011, and

published on January 21, 2011, at 76 FR 3821. This EO requires executive agencies to analyze regulations that are ''outmoded, ineffective, insufficient, or excessively burdensome, and to modify, streamline, expand, or repeal them in accordance with what has been learned.'' For the reasons discussed in this preamble, HUD has determined that the regulations regarding the appeals process for FHA maximum mortgage amounts are now outmoded. The appeals were once an important source of data collection for HUD, but the new comprehensive nationwide data sources have negated the need for the appeals process and the corresponding regulations. HUD therefore proposes to remove the regulations. HUD seeks comment on any of the benefits or costs of the proposed removal of the regulations.

Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*) generally requires an agency to conduct a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements, unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. The proposed rule will not impose any economic burdens. As indicated in the Background section of this preamble, entities (typically local boards of realtors that gather data from local MLSs) no longer utilize this appeals process and therefore do not, and will not in the future, incur expenses as a result of this proposed rule.

Notwithstanding HUD's determination that this rule will not have a significant effect on a substantial number of small entities, HUD specifically invites comments regarding any less burdensome alternatives to this rule that will meet HUD's objectives as described in the preamble to this rule.

Environmental Impact

This rule does not direct, provide for assistance or loan and mortgage insurance for, or otherwise govern or regulate, real property acquisition, disposition, leasing, rehabilitation, alteration, demolition or new construction, or establish, revise, or provide for standards for construction or construction materials, manufactured housing, or occupancy. This rule is limited to the procedures governing the submission of requests for alternative maximum mortgage amounts under the FHA single-family programs. In addition, part of this rule changes a statutorily required and/or discretionary establishment and review of loan limits. Accordingly, under 24 CFR 50.19(c)(1) and (c)(6), this rule is categorically excluded from environmental review under the National Environmental Policy Act of 1969 (42 U.S.C. 4321).

Executive Order 13132, Federalism

Executive Order 13132 (entitled ''Federalism'') prohibits an agency from publishing any rule that has federalism implications if the rule either imposes substantial direct compliance costs on state and local governments and is not required by statute, or the rule preempts state law, unless the agency meets the consultation and funding requirements of section 6 of the Executive Order. This rule would not have federalism implications and would not impose substantial direct compliance costs on state and local governments or preempt state law within the meaning of the Executive Order.

Unfunded Mandates Reform Act

Title II of the Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) (UMRA) establishes requirements for federal agencies to assess the effects of their regulatory actions on state, local, and tribal governments, and on the private sector. This proposed rule would not impose any federal mandates on any state, local, or tribal governments, or on the private sector, within the meaning of the UMRA.

Catalogue of Federal Domestic Assistance

The Catalogue of Federal Domestic Assistance Number for the principal FHA single-family mortgage insurance program is 14.117.

List of Subjects in 24 CFR Part 203

Hawaiian Natives, Home improvement, Indians—lands, Loan programs—housing and community development, Mortgage insurance, Reporting and recordkeeping requirements, Solar energy.

Accordingly, for the reasons stated in the preamble, HUD proposes to amend 24 CFR part 203 to read as follows:

PART 203—SINGLE FAMILY MORTGAGE INSURANCE

1. The authority citation for part 203 continues to read as follows:

Authority: 12 U.S.C. 1709, 1710, 1715b, 1715z–1716, and 1715u; 42 U.S.C. 3535(d).

2. Remove section 203.18b.

Dated: December 28, 2011.

Carol J. Galante,

Acting Assistant Secretary for Housing—Federal Housing Commissioner.

[FR Doc. 2012–581 Filed 1–12–12; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF THE TREASURY

Alcohol and Tobacco Tax and Trade Bureau

27 CFR Part 9

[Docket No. TTB–2011–0009; Notice No. 123A; Re: Notice No. 123]

RIN 1513–AB67

Proposed Establishment of the Middleburg Virginia Viticultural Area; Comment Period Reopening

AGENCY: Alcohol and Tobacco Tax and Trade Bureau, Treasury.

ACTION: Notice of proposed rulemaking; reopening of comment period.

SUMMARY: The Alcohol and Tobacco Tax and Trade Bureau is reopening the comment period for Notice No. 123, Proposed Establishment of the Middleburg Virginia Viticultural Area, a notice of proposed rulemaking published in the **Federal Register** on November 8, 2011. TTB is taking this action in response to a request from a local wine industry organization.

DATES: Written comments on the proposed Middleburg Virginia viticultural area are now due on or before February 27, 2012.

ADDRESSES: You may send comments on Notice No. 123 to one of the following addresses:

- *http://www.regulations.gov:* To submit comments via the Internet, use the comment form for Notice No. 123 as posted within Docket No. TTB–2011–0009 on ''Regulations.gov,'' the Federal e-rulemaking portal;
- *U.S. Mail:* Director, Regulations and Rulings Division, Alcohol and Tobacco Tax and Trade Bureau, P.O. Box 14412, Washington, DC 20044–4412.
- *Hand Delivery/Courier in Lieu of Mail:* Alcohol and Tobacco Tax and Trade Bureau, 1310 G Street NW., Suite 200–E, Washington, DC 20005.

See the Public Participation section of this notice for specific instructions and requirements for submitting comments, and for information on how to request a public hearing.

You may view copies of the petitions, supporting materials, published notices, and all public comments associated with this proposal within Docket No. TTB–2011–0009 at *http://www.regulations.gov.* You also may view copies of the petitions, supporting materials, published notices, and all public comments associated with this proposal by appointment at the TTB Information Resource Center, 1310 G Street NW., Washington, DC 20005. Please call 202–453–2270 to make an appointment.

FOR FURTHER INFORMATION CONTACT: Elisabeth C. Kann, Regulations and Rulings Division, Alcohol and Tobacco Tax and Trade Bureau, 1310 G Street NW., Box 12, Washington, DC 20005; telephone 202–453–1039, ext. 002.

SUPPLEMENTARY INFORMATION: In Notice No. 123, a notice of proposed rulemaking published in the **Federal Register** on November 8, 2011 (76 FR 69198), the Alcohol and Tobacco Tax and Trade Bureau (TTB) requested public comment on the proposed establishment of an approximately 198-square mile (or 126,720 acre) ''Middleburg Virginia'' American viticultural area in portions of Loudoun and Fauquier Counties in northern Virginia. The 60-day comment period for Notice No. 123, originally closed on January 9, 2012.

On January 6, 2012, TTB received a request from the president of the Loudoun Wine Growers Association, for an extension of the comment period for Notice No. 123. (This request is posted as Comment 12 within Docket No. TTB–2011–0009 at *www.regulations.gov*). This comment states that the organization ''was not aware of this notice in time to meet and discuss the establishment of this [viticultural area] as it includes many of our members.''

In response to this request, TTB reopens the comment period for Notice No. 123 for an additional 45 days. We believe this additional time will allow industry members and the general public to fully consider the proposed establishment of the Middleburg Virginia viticultural area. Therefore, comments on Notice No. 123 are now due on or before February 27, 2012.

Drafting Information

Michael D. Hoover of the Regulations and Rulings Division drafted this notice.

Signed: January 9, 2012.

John J. Manfreda,

Administrator.

[FR Doc. 2012–525 Filed 1–12–12; 8:45 am]

BILLING CODE 4810–31–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 85, 86, and 600

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Parts 523, 531, 533, 536, and 537

[EPA–HQ–OAR–2010–0799; FRL–9618–5; NHTSA–2010–0131]

RIN 2060–AQ54; RIN 2127–AK79

2017 and Later Model Year Light-Duty Vehicle Greenhouse Gas Emissions and Corporate Average Fuel Economy Standards; Extension of Comment Period

AGENCY: Environmental Protection Agency (EPA) and National Highway Traffic Safety Administration (NHTSA), DOT.

ACTION: Notice of proposed rulemaking; extension of comment period.

SUMMARY: EPA and NHTSA are announcing a 14-day extension of the comment period for the joint proposed rules ''2017 and Later Model Year Light-Duty Vehicle Greenhouse Gas Emissions and Corporate Average Fuel Economy Standards,'' published in the **Federal Register** on December 1, 2011 (76 FR 74854). The comment period was to end on January 30, 2012 (60 days after publication of the proposals in the **Federal Register**). This document extends the comment period to February 13, 2012. This extension of the comment period is provided to allow the public additional time to comment on the proposed rule.

The extension of the comment period does not apply to NHTSA's Draft Environmental Impact Statement (Draft EIS), available on NHTSA's Web site at *www.nhtsa.gov/fuel-economy.* The comment period for NHTSA's Draft EIS closes on January 31, 2012.

DATES: Written comments must be received on or before February 13, 2012 in order to be considered timely.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–HQ–OAR–2010–0799 and/or NHTSA–2010–0131, by one of the following methods:

- *Online: www.regulations.gov:* Follow the on-line instructions for submitting comments.
- *Email: a-and-r-Docket@epa.gov.*
- *Fax:* EPA: (202) 566–9744; NHTSA: (202) 493–2251.
- *Mail:*
  - *EPA:* Environmental Protection Agency, EPA Docket Center (EPA/DC), Air and Radiation Docket, Mail Code 28221T, 1200 Pennsylvania Avenue NW., Washington, DC 20460, Attention Docket ID No. EPA–HQ–OAR–2010–0799.
  - *NHTSA:* 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:*
  - *EPA:* Docket Center, (EPA/DC) EPA West, Room B102, 1301 Constitution Ave. NW., Washington, DC, Attention Docket ID No. EPA–HQ–OAR–2010–0799. Such deliveries are only accepted during the Docket's normal hours of operation, and special arrangements should be made for deliveries of boxed information.
  - *NHTSA:* West Building, Ground Floor, Rm. W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590, between 9 a.m. and 4 p.m. Eastern Time, Monday through Friday, except Federal Holidays.

Instructions: Direct your comments to Docket ID No. EPA–HQ–OAR–2010–0799 and/or NHTSA–2010–0131. See the **SUPPLEMENTARY INFORMATION** of the proposed rule section on ''Public Participation'' for more information about submitting written comments.

Docket: All documents in the dockets are listed in the *www.regulations.gov* index. Although listed in the index, some information is not publicly available, e.g., confidential business information (CBI) or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, will be publicly available in hard copy in EPA's docket, and electronically in NHTSA's online docket. Publicly available docket materials are available either electronically in *www.regulations.gov* or in hard copy at the following locations: EPA: EPA Docket Center, EPA/DC, EPA West, Room 3334, 1301 Constitution Ave. NW., Washington, DC. The Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566–1744. NHTSA: 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. The Docket Management Facility is open between 9 a.m. and 5 p.m. Eastern Time, Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: EPA: Christopher Lieske, Office of Transportation and Air Quality, Assessment and Standards Division, Environmental Protection Agency, 2000 Traverwood Drive, Ann Arbor, MI 48105; telephone number: (734) 214–4584; fax number: (734) 214–4816; email address: *lieske.christopher@epa.gov,* or contact the Assessment and Standards Division; email address: *otaqpublicweb@epa.gov.* NHTSA: Rebecca Yoon, Office of the Chief Counsel, National Highway Traffic Safety Administration, 1200 New Jersey Avenue SE., Washington, DC 20590. Telephone: (202) 366–2992. You may learn more about the proposal by visiting NHTSA's or EPA's Web pages at *http://www.nhtsa.gov/fuel-economy* or *http://www.epa.gov/otaq/climate/regulations.htm* or by searching the public dockets (NHTSA–2010–0131 (for the proposed rule) or NHTSA–2011–0056 (for the Draft EIS); EPA–HQ–OAR–2010–0799) at *www.regulations.gov.*

SUPPLEMENTARY INFORMATION: In the NHTSA and EPA proposals for ''2017 and Later Model Year Light-Duty Vehicle Greenhouse Gas Emissions and Corporate Average Fuel Economy Standards,'' the agencies invited comment from interested parties on all aspects of the proposal. EPA and NHTSA received multiple requests for a 30-day extension of the comment period. Those requests can be found in the dockets for the rulemaking listed above under **ADDRESSES**. The agencies have considered these requests and believe that a 14-day extension beyond the original 60 days would be sufficient. The agencies note that the proposal was prominently posted and available for public review on each agency's Web site on November 16, 2011. Thus, with a 14-day extension, commenters will have had, as a practical matter, a total of 90 days to review the rulemaking documents. Accordingly, the public comment period for the proposed rules is extended until February 13, 2012. Please see the agencies' discussion regarding consideration of comments received in the Notice of Proposed Rulemaking published in the **Federal Register** on December 1, 2011 (76 FR 75855–74856) and which is available on NHTSA's Web site at *http://www.nhtsa.gov/staticfiles/rulemaking/pdf/cafe/2017-25_CAFE_NPRM.pdf* and EPA's Web site at *http://www.epa.gov/otaq/climate/regulations.htm.* NHTSA and EPA will consider all comments received before the close of business on the comment closing date, and will also consider comments received after that date to the extent practicable.

This extension of the comment period does not apply to NHTSA's Draft Environmental Impact Statement (Draft EIS), available on NHTSA's Web site at *www.nhtsa.gov/fuel-economy.* The comment period for NHTSA's Draft EIS closes on January 31, 2012.

The joint proposed rules issued by EPA and NHTSA would reduce greenhouse gas emissions and fuel consumption of light-duty vehicles for model years 2017–2025. On May 21, 2010, President Obama issued a Presidential Memorandum requesting that NHTSA and EPA develop through notice and comment rulemaking a coordinated National Program to reduce greenhouse gas emissions and fuel consumption of light-duty vehicles for model years 2017–2025, building upon the success of the agencies' joint rulemaking to establish fuel economy and greenhouse gas emissions standards for model years 2012–2016. The proposal, consistent with the President's request, responds to the country's critical needs to address global climate change and to reduce oil consumption. NHTSA is proposing Corporate Average Fuel Economy standards under the Energy Policy and Conservation Act, as amended by the Energy Independence and Security Act, and EPA is proposing greenhouse gas emissions standards under the Clean Air Act. These standards would apply to passenger cars, light-duty trucks, and medium-duty passenger vehicles, and, if ultimately adopted, would represent a continuation of the harmonized and consistent National Program. EPA is also proposing minor changes to the light-duty vehicle regulations applicable to model years 2012–2016, with respect to air conditioner performance, regulatory treatment of emergency vehicles, and measurement of nitrous oxides.

The proposal for which EPA and NHTSA are extending the comment period was published in the **Federal Register** on December 1, 2011 (76 FR 74854) and is also available at the Web pages listed above under **FOR FURTHER INFORMATION CONTACT** and in the rulemaking dockets.

Dated: January 6, 2012.

Ronald Medford,

Deputy Administrator, National Highway Traffic Safety Administration.

Dated: January 6, 2012.

Margo T. Oge,

Director, Office of Transportation and Air Quality, Environmental Protection Agency.

[FR Doc. 2012–617 Filed 1–12–12; 8:45 am]

BILLING CODE 6560–50–P

Notices

Federal Register
Vol. 77, No. 9
Friday, January 13, 2012

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 COMMERCE

Submission for OMB Review; Comment Request

The Department of Commerce will submit to the Office of Management and Budget (OMB) for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35).

Agency: U.S. Census Bureau.

Title: Public Employment & Payroll Forms.

OMB Control Number: 0607–0452.

Form Number(s): E–1, E–2, E–3, E–4, E–5, E–6, E–7, E–9.

Type of Request: Extension of a currently approved collection.

Burden Hours: 47,903.

Number of Respondents: 58,572.

Average Hours per Response: 49 minutes.

Needs and Uses: This information collection request covers the questionnaires needed to conduct the public employment program for the 2012 Census of Governments: Employment and the 2013 Annual Survey of Public Employment & Payroll.

The type of employment and payroll data collected by the public employment & payroll program in the 2012 Census of Governments: Employment and the 2013 Annual Survey of Public Employment & Payroll are identical to the data collected in recent annual surveys. The 2012 Census of Governments: Employment will collect data for all state and local governments in the 50 states and the District of Columbia by type of government and government function. The 2013 sample supports estimates of total local government employment and payrolls by state by government function.

No changes were made to the form content as currently approved. However; formatting changes were made to the forms to facilitate data capture using current technology, Integrated Computer Assisted Data Entry (iCADE), and to clarify wording and form flow with respondents such as integrating the instruction in bullet form into the questions. These changes were cognitively tested.

Statistics compiled from data gathered using these forms are used in several important Federal government programs. Economists at the Bureau of Economic Analysis (BEA) use the statistics for developing the National Income and Product Accounts. BEA also uses the Census of Governments and the Annual Survey of Public Employment & Payroll to derive state-level estimates of the employment and wages and salaries of students and their spouses who are employed by public institutions of higher education in which the students are enrolled. There is no other national or state source for information on student workers at state institutions of higher education.

The employment data are used for two other data collection efforts currently conducted by the Census Bureau. The Medical Expenditures Panel Survey (MEPS) collects data for the Department of Health and Human Services (HHS) on health plans offered to state and local government employees. The MEPS sample of public employees is drawn from the Census of Governments: Employment component universe and employment data from the survey are used in statistical methods for creating national estimates on health plans. The Criminal Justice Employment and Expenditure program (CJEE), sponsored by the Bureau of Justice Statistics (BJS), uses employment data to provide employee and payroll statistics on police protection and correctional activities.

State and local government officials use these employment data to analyze and assess individual government labor force and wage levels. Both management and labor consult these data during wage and salary negotiations.

Public interest groups of many types produce analyses of public sector activities using these data. User organizations representing state and local government include the Council of State Governments, National Conference of State Legislatures, Government Research Association, U.S. Conference of Mayors, National Association of Counties, National League of Cities, and the International City/County Management Association. A third category of users, having a more specific focus on government activities, includes organizations such as the Citizens Research Council of Michigan and the National Sheriffs Association.

A variety of other organizations and individuals make use of these data. Notable research organizations include the Manhattan Institute for Policy Research, the Brookings Institution, and the Rockefeller Institute of Government. The instructors, researchers, and students in schools of public administration, political science, management, and industrial relations as well as other members of the public also use employment data.

Affected Public: State, local or Tribal government.

Frequency: Annually.

Respondent's Obligation: Voluntary.

Legal Authority: Title 13, Section 161, of the United States Code requires the Secretary of Commerce to conduct a census of governments every fifth year. Title 13, Section 182 of the United States Code allows the Secretary to conduct annual surveys in other years.

OMB Desk Officer: Brian Harris-Kojetin, (202) 395–7314.

Copies of the above information collection proposal can be obtained by calling or writing Jennifer Jessup, Departmental Paperwork Clearance Officer, (202) 482–0336, Department of Commerce, Room 6616, 14th and Constitution Avenue NW, Washington, DC 20230 (or via the Internet at jjessup@doc.gov).

Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to Brian Harris-Kojetin, OMB Desk Officer either by fax (202) 395–7245) or email (bharrisk@omb.eop.gov).

Dated: January 9, 2012.

Glenna Mickelson,

Management Analyst, Office of the Chief Information Officer.

[FR Doc. 2012–514 Filed 1–12–12; 8:45 am]

BILLING CODE 3510–07–P

DEPARTMENT OF COMMERCE

International Trade Administration

Proposed Information Collection; Comment Request; Market Research To Broaden and Deepen U.S. Exporter Base

AGENCY: International Trade Administration, Commerce.

ACTION: Notice.

SUMMARY: The Department of Commerce, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995.

DATES: Written comments must be submitted on or before March 13, 2012.

ADDRESSES: Direct all written comments to Jennifer Jessup, Departmental Paperwork Clearance Officer, Department of Commerce, Room 6616, 14th and Constitution Avenue NW., Washington, DC 20230 (or via the Internet at *JJessup@doc.gov).*

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection instrument and instructions should be directed to Gary Rand; phone number: (202) 482–0691; email address: *Gary.Rand@trade.gov*; fax number: (202) 482–5361.

SUPPLEMENTARY INFORMATION:

I. Abstract

In an effort to remain relevant to the marketplace and optimize our respective operations, the Commercial Service (CS), Manufacturing Extension Partnership (MEP), Census Bureau (Census), and Export-Import Bank (Ex-Im) have formed a project team to conduct market segmentation research and analysis. The market segmentation is a systematic approach for identifying clusters of companies with similar needs and behavior, and developing service offerings and sales/marketing approaches targeted at segments with the greatest return of investment. The purpose of this initiative is to gain market knowledge and generate statistically valid characterizations about the needs and buying behavior of exporting companies, with a particular focus on moderate exporters (those U.S. firms that currently export, but on a limited or reactive basis and whose international sales comprise less than 10% of total sales or whose international sales growth is less than 10% per year). From this research, services, pricing, and messaging may be repositioned to address the exporting needs of small and medium-sized businesses.

A telephone survey was chosen over a web survey for the following reasons: (1) Since no databases of current or potential exporters is available from a governmental agency, the third party vendor will purchase a list from Dun and Bradstreet. The list contains contact information including phone numbers but not email addresses; (2) Firms do not offer email address databases, to obtain email addresses, the addresses must be manually extracted from a firm's Web site; (3) While web surveys are easier to administer and provide a convenient option for the respondent, they do not have as high a completion rate as phone surveys. This is especially true when there is no incentive for the respondent to complete the survey; and (4) The web survey has more potential to be completed by a respondent other than the targeted respondent, i.e. there is no way to verify who completed the survey.

II. Method of Collection

The CS will contract with a third party vendor (TBD) to conduct surveys to gain insight into the attitudes, needs, and behaviors of moderate exporters.

The third party vendor will recruit firms over the phone using lists obtained from other third party vendors. Data collection will be conducted during a telephone survey.

III. Data

OMB Control Number: 0625–0264.

Form Number(s): None.

Type of Review: Regular submission (extension of a currently approved information collection).

Affected Public: Business or other for-profit organizations.

Estimated Number of Respondents: 1,600.

Estimated Time Per Response: 30 minutes.

Estimated Total Annual Burden Hours: 800.

Estimated Total Annual Cost to Public: $0.

IV. Request for Comments

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden (including hours and cost) of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology.

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval of this information collection; they also will become a matter of public record.

Dated: January 10, 2012.

Gwellnar Banks,

Management Analyst, Office of the Chief Information Officer.

[FR Doc. 2012–598 Filed 1–12–12; 8:45 am]

BILLING CODE 3510–FP–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–601]

Tapered Roller Bearings and Parts Thereof, Finished and Unfinished From the People's Republic of China: Extension of the Time Limit for the Preliminary Results of Antidumping Duty New Shipper Review

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

DATES: *Effective Date:* January 13, 2012.

FOR FURTHER INFORMATION CONTACT: Jeffrey Pedersen or Lori Apodaca, AD/CVD Operations, Office 4, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230; telephone: (202) 482–2769 or (202) 482–4551, respectively.

SUPPLEMENTARY INFORMATION:

Background

On August 1, 2011, the Department of Commerce (''Department'') published a notice of initiation of the new shipper review of the antidumping duty order on tapered roller bearings and parts thereof, finished and unfinished from the People's Republic of China. *See Tapered Roller Bearings and Parts Thereof, Finished and Unfinished From the People's Republic of China: Initiation of Antidumping Duty New Shipper Review,* 76 FR 45777 (August 1, 2011). The period of the review is June 1, 2010, through May 31, 2011. The preliminary results of the new shipper review are currently due no later than January 23, 2012.

Extension of Time Limits for Preliminary Results

Section 751(a)(2)(B)(iv) of the Tariff Act of 1930, as amended (''Act''), and 19 CFR 351.214(i)(1) require the Department to issue the preliminary results in a new shipper review of an antidumping duty order 180 days after the date on which the review is initiated. The Department may, however, extend the deadline for completion of the preliminary results of a new shipper review to 300 days if it determines that the case is extraordinarily complicated. *See* section 751(a)(2)(B)(iv) of the Act and 19 CFR 351.214(i)(2).

The Department finds that this new shipper review is extraordinarily complicated and, therefore, it requires additional time to complete the preliminary results. Specifically, the Department requires additional time to examine factors of production data that were only fully provided this month and then issue supplemental questionnaires for any additional information that may be needed. Accordingly, we are extending the time for the completion of the preliminary results of this review by 120 days, until May 22, 2012.

This notice is published in accordance with sections 751(a)(2)(B)(iv) and 777(i)(1) of the Act.

Dated: January 5, 2012.

Christian Marsh,

Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations.

[FR Doc. 2012–585 Filed 1–12–12; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–580–836]

Certain Cut-to-Length Carbon-Quality Steel Plate Products From the Republic of Korea: Preliminary Results of Antidumping Duty Administrative Review

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

SUMMARY: In response to a request by an interested party, the Department of Commerce (the Department) is conducting an administrative review of the antidumping duty order on certain cut-to-length carbon-quality steel plate products (steel plate) from the Republic of Korea (Korea). This review covers one producer/exporter of the subject merchandise, Dongkuk Steel Mill Co., Ltd. (DSM). The period of review (POR) is February 1, 2010, through January 31, 2011.

The Department has preliminarily determined that DSM made U.S. sales at prices less than normal value. If these preliminary results are adopted in our final results of administrative review, we will instruct U.S. Customs and Border Protection (CBP) to assess antidumping duties on all appropriate entries. Interested parties are invited to comment on these preliminary results of review. We intend to issue the final results of review no later than 120 days from the publication date of this notice.

DATES: *Effective Date:* January 13, 2012.

FOR FURTHER INFORMATION CONTACT: Yang Jin Chun, AD/CVD Operations, Office 1, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230, telephone: (202) 482–5760.

SUPPLEMENTARY INFORMATION:

Background

On February 10, 2000, the Department published in the **Federal Register** an antidumping duty order on steel plate from Korea. *See Notice of Amendment of Final Determinations of Sales at Less Than Fair Value and Antidumping Duty Orders: Certain Cut-To-Length Carbon-Quality Steel Plate Products From France, India, Indonesia, Italy, Japan and the Republic of Korea,* 65 FR 6585 (February 10, 2000). On February 1, 2011, the Department published in the **Federal Register** a notice of opportunity to request administrative review of the order. *See Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation; Opportunity to Request Administrative Review,* 76 FR 5559 (February 1, 2011).

On February 25, 2011, in accordance with 19 CFR 351.213(b)(2), DSM requested that the Department conduct an administrative review of its sales and entries of subject merchandise into the United States during the POR. On March 31, 2011, the Department initiated an administrative review of DSM. *See Initiation of Antidumping Duty Administrative Reviews, Requests for Revocation in Part, and Deferral of Administrative Review,* 76 FR 17825 (March 31, 2011).

The Department is conducting this administrative review in accordance with section 751 of the Tariff Act of 1930, as amended (the Act).

Scope of the Order

The products covered by the antidumping duty order are certain hot-rolled carbon-quality steel: (1) Universal mill plates (*i.e.,* flat-rolled products rolled on four faces or in a closed box pass, of a width exceeding 150 mm but not exceeding 1250 mm, and of a nominal or actual thickness of not less than 4 mm, which are cut-to length (not in coils) and without patterns in relief), of iron or non-alloy quality steel; and (2) flat-rolled products, hot-rolled, of a nominal or actual thickness of 4.75 mm or more and of a width which exceeds 150 mm and measures at least twice the thickness, and which are cut-to-length (not in coils). Steel products included in the scope of the order are of rectangular, square, circular, or other shape and of rectangular or non-rectangular cross section where such non-rectangular cross-section is achieved subsequent to the rolling process (*i.e.,* products which have been ''worked after rolling'')—for example, products which have been beveled or rounded at the edges. Steel products that meet the noted physical characteristics that are painted, varnished, or coated with plastic or other non-metallic substances are included within the scope. Also, specifically included in the scope of the order are high strength, low alloy (HSLA) steels. HSLA steels are recognized as steels with micro-alloying levels of elements such as chromium, copper, niobium, titanium, vanadium, and molybdenum. Steel products included in the scope, 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 is equal to or 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 0.10 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 zirconium. All products that meet the written physical description, and in which the chemistry quantities do not equal or exceed any one of the levels listed above, are within the scope of the order unless otherwise specifically excluded. The following products are specifically excluded from the order: (1) Products clad, plated, or coated with metal, whether or not painted, varnished or coated with plastic or other non-metallic substances; (2) SAE grades (formerly AISI grades) of

series 2300 and above; (3) products made to ASTM A710 and A736 or their proprietary equivalents; (4) abrasion-resistant steels (*i.e.,* USS AR 400, USS AR 500); (5) products made to ASTM A202, A225, A514 grade S, A517 grade S, or their proprietary equivalents; (6) ball bearing steels; (7) tool steels; and (8) silicon manganese steel or silicon electric steel.

Imports of steel plate are currently classified in the HTSUS under subheadings 7208.40.30.30, 7208.40.30.60, 7208.51.00.30, 7208.51.00.45, 7208.51.00.60, 7208.52.00.00, 7208.53.00.00, 7208.90.00.00, 7210.70.30.00, 7210.90.90.00, 7211.13.00.00, 7211.14.00.30, 7211.14.00.45, 7211.90.00.00, 7212.40.10.00, 7212.40.50.00, 7212.50.00.00, 7225.40.30.50, 7225.40.70.00, 7225.50.60.00, 7225.99.00.90, 7226.91.50.00, 7226.91.70.00, 7226.91.80.00, and 7226.99.00.00. The HTSUS subheadings are provided for convenience and customs purposes. The written description of the merchandise covered by the order is dispositive.

Fair-Value Comparison

To determine whether DSM's sales of the subject merchandise from Korea to the United States were at prices below normal value, we compared the constructed export price (CEP) to the normal value as described in the ''Constructed Export Price'' and ''Normal Value'' sections of this notice. Pursuant to section 777A(d)(2) of the Act, we compared the CEP of individual U.S. transactions to the monthly weighted-average normal value of the foreign like product where there were sales made in the ordinary course of trade.

Product Comparisons

In accordance with section 771(16) of the Act, we considered all products covered by the ''scope of the order'' section above produced and sold by DSM in the comparison market during the POR to be foreign like product for the purposes of determining appropriate product comparisons to U.S. sales of subject merchandise. Specifically, we made comparisons to weighted-average comparison market prices that were based on all sales which passed the cost-of-production (COP) test of the identical product during the relevant or contemporary month. We calculated the weighted-average comparison market prices on a level of trade-specific basis.

Constructed Export Price

The Department based the price of DSM's U.S. sales of subject merchandise on CEP, as defined in section 772(b) of the Act, because the merchandise was sold, before importation, by a U.S.-based seller affiliated with the producer to unaffiliated purchasers in the United States. In accordance with section 772(d)(1) of the Act, we calculated the CEP by deducting selling expenses associated with economic activities occurring in the United States, which includes direct selling expenses. In accordance with section 772(d)(1) of the Act, we also deducted those indirect selling expenses associated with economic activities occurring in the United States and the profit allocated to expenses deducted under section 772(d)(1) in accordance with sections 772(d)(3) and 772(f) of the Act. In accordance with section 772(f) of the Act, we computed profit based on the total revenues realized on sales in both the U.S. and comparison markets, less all expenses associated with those sales. We then allocated profit to expenses incurred with respect to U.S. economic activity based on the ratio of total U.S. expenses to total expenses for both the U.S. and comparison markets.

Normal Value

A. Affiliation

DSM made home market sales to Dongkuk S&C (DSC), which is a subsidiary of Dongkuk Industries Co., Ltd. (DKI). DKI owns 60 percent of DSC. DSM's Chairperson, Sae Joo Chang, and President, Sae Wook Chang, are brothers. DKI's Chairperson, Sang Kuhn Chang, is the father of DSC's President/Director, Sae Hee Chang. DKI's Chairperson, Sang Kuhn Chang, is also an uncle of DSM's Chairperson, Sae Joo Chang, and President, Sae Wook Chang. Together the Chang family grouping owns the largest block of the outstanding shares of DSM and DKI.

Members of a family are affiliates pursuant to section 771(33)(A) of the Act and 19 CFR 351.102(b)(3). The definition of family includes uncle-nephew relationships under section 771(33)(A) of the Act. *See Ferro Union, Inc.* v. *United States,* 44 F. Supp. 2d 1310, 1325–26 (CIT 1999). Two or more persons directly or indirectly controlling, controlled by, or under common control with any person are affiliates under section 771(33)(F) of the Act and 19 CFR 351.102(b)(3). In past reviews, the Department has found that DSM and DKI are affiliated. *See, e.g., Certain Cut-to-Length Carbon-Quality Steel Plate Products From the Republic of Korea: Preliminary Results of Antidumping Duty Administrative Review,* 73 FR 77614, 77615–16 (December 19, 2008) (*2007–08 Prelim*), unchanged in *Certain Cut-to-Length Carbon-Quality Steel Plate Products From the Republic of Korea: Final Results of Antidumping Duty Administrative Review,* 74 FR 19046 (April 27, 2009) (*2007–08 Final*). The U.S. Court of International Trade has upheld the Department's decision to find DSM and DKI affiliates in a separate review. *See Dongkuk Steel Mill Co.* v. *United States,* 29 CIT 724 (2005).

Therefore, we preliminarily find that DKI's Chairperson, Sang Kuhn Chang, and DSM's Chairperson, Sae Joo Chang, and President, Sae Wook Chang, are affiliated under section 771(33)(A) of the Act and 19 CFR 351.102(b)(3) because of their uncle-nephew relationship. We also preliminarily find that DSM, DKI, and DSC are affiliated under section 771(33)(F) of the Act and 19 CFR 351.102(b)(3) because DSM, DKI, and DSC are under common control of the Chang family grouping. *See* the memorandum entitled ''Certain Cut-to-Length Carbon-Quality Steel Plate Products from the Republic of Korea: Affiliation of Dongkuk Steel Mill Co., Ltd., and Dongkuk Industries Co., Ltd.,'' dated January 9, 2012, for more details which contain DSM's business-proprietary information. Accordingly, we preliminarily treated DSM's home market sales to DSC as sales to an affiliated party and performed the arm's-length test for these sales. *See* the ''Arm's-Length Test'' section, *infra.*

B. Home Market Viability

In accordance with section 773(a)(1)(c) of the Act, in order to determine whether there was a sufficient volume of sales of steel plate in the comparison market to serve as a viable basis for calculating the normal value, we compared the volume of the respondent's home market sales of the foreign like product to its volume of the U.S. sales of the subject merchandise. DSM's quantity of sales in the home market was greater than five percent of its sales to the U.S. market. Based on this comparison of the aggregate quantities sold in the comparison market, *i.e.,* Korea, and to the United States and absent any information that a particular market situation in the exporting country did not permit a proper comparison, we preliminarily determine that the quantity of the foreign like product sold by the respondent in the exporting country was sufficient to permit a proper comparison with the sales of the subject merchandise to the United States. *See* section 773(a)(1) of the Act. Thus, we determine that DSM's home market was viable during the POR. *Id.* Therefore, in accordance with section 773(a)(1)(B)(i)

of the Act, we based normal value for the respondent on the prices at which the foreign like product was first sold for consumption in the exporting country in the usual commercial quantities and in the ordinary course of trade and, to the extent practicable, at the same level of trade as the U.S. sales.

C. Overrun Sales

Section 773(a)(1)(B) of the Act provides that normal value shall be based on the price at which the foreign like product is first sold, *inter alia,* in the ordinary course of trade. Section 771(15) of the Act defines ''ordinary course of trade'' as the ''conditions and practices which, for a reasonable time prior to the exportation of the subject merchandise, have been normal in the trade under consideration with respect to merchandise of the same class or kind.''

DSM reported home market sales of ''overrun'' merchandise, *i.e.,* sales of products that failed to meet the original customer's order specifications because of differences in size, chemical components, and/or strength. In the past, the Department has examined various factors to determine whether ''overrun'' sales are in the ordinary course of trade. *See China Steel Corp.* v. *United States,* 264 F. Supp. 2d. 1339, 1364–65 (CIT May 14, 2003). *See also, e.g., 2007–08 Prelim,* 73 FR at 77616, unchanged in *2007–08 Final.* The Department has the discretion to choose how best to analyze the many factors involved in determining whether sales are made within the ordinary course of trade. *See Laclede Steel Co.* v. *United States,* 19 CIT 1076, 1078 (1995). These factors include, but are not limited to, the following: (1) Whether the merchandise is ''off-quality'' or produced according to unusual specifications; (2) the comparative volume of sales and the number of buyers in the home market; (3) the average quantity of an overrun sale compared to the average quantity of a commercial sale; and (4) price and profit differentials in the home market.

Based on our analysis of these factors and the terms of sale, we preliminarily determine that DSM's overrun sales are outside the ordinary course of trade. Because our analysis includes business-proprietary information, the analysis is available in a separate decision memorandum. *See* the memorandum entitled ''Certain Cut-to-Length Carbon-Quality Steel Plate Products from the Republic of Korea: Home Market Overruns'' dated January 9, 2012.

D. Cost-of-Production Analysis

In the most recently completed administrative review, the Department determined that DSM sold the foreign like product at prices below the cost of producing the merchandise and, as a result, excluded such sales from the calculation of normal value. *See 2007–08 Prelim,* 73 FR at 77616–17, unchanged in *2007–08 Final.* Therefore, in this review, we have reasonable grounds to believe or suspect that DSM's sales of the foreign like product under consideration for the determination of normal value may have been made at prices below COP as provided by section 773(b)(2)(A)(ii) of the Act. Pursuant to section 773(b)(1) of the Act, we have conducted a COP investigation of DSM's sales in the comparison market.

1. Calculation of Cost of Production

In accordance with section 773(b)(3) of the Act, we calculated the COP based on the sum of the costs of materials and labor employed in producing the foreign like product, the selling, general, and administrative expenses, and all costs and expenses incidental to packing the merchandise. In our COP analysis, we used the comparison market sales and COP information provided by DSM in its questionnaire response.

We analyzed DSM's affiliated transactions in accordance with sections 773(f)(2) and (3) of the Act. During the POR, DSM purchased slabs, which are a major input in the production of steel plate, from its affiliates. Section 773(f)(3) of the Act (the major input rule) states:

> If, in the case of a transaction between affiliated persons involving the production by one of such persons of a major input to the merchandise, the administering authority has reasonable grounds to believe or suspect that an amount represented as the value of such input is less than the cost of production of such input, then the administering authority may determine the value of the major input on the basis of the information available regarding such cost of production, if such cost is greater than the amount that would be determined for such input under paragraph (2).

Paragraph 2 of section 773(f) of the Act (transactions disregarded) states:

> A transaction directly or indirectly between affiliated persons may be disregarded if, in the case of any element of value required to be considered, the amount representing that element does not fairly reflect the amount usually reflected in sales of merchandise under consideration in the market under consideration. If a transaction is disregarded under the preceding sentence and no other transactions are available for consideration, the determination of the amount shall be based on the information available as to what the amount would have been if the transaction had occurred between persons who are not affiliated.

In accordance with the major input rule, and as stated in *Stainless Steel Sheet and Strip in Coils From Mexico; Preliminary Results of Antidumping Duty Administrative Review,* 73 FR 45708, 45714 (August 6, 2008), unchanged in *Stainless Steel Sheet and Strip in Coils from Mexico; Final Results of Antidumping Duty Administrative Review,* 74 FR 6365 (February 9, 2009), it is the Department's normal practice to use all three elements of the major input rule, *i.e.,* transfer price, COP, and market price, where available. *See, e.g., Purified Carboxymethylcellulose from the Netherlands; Preliminary Results of Antidumping Duty Administrative Review,* 76 FR 36519, 36521–22 (June 22, 2011), unchanged in *Purified Carboxymethylcellulose From the Netherlands: Final Results of Antidumping Duty Administrative Review,* 76 FR 66687 (October 27, 2011). We adjusted DSM's cost of manufacturing to reflect the results of our analysis. *See* the DSM preliminary analysis memorandum dated January 9, 2012, for more details which contain DSM's business proprietary information.

Based on our review of the record evidence, DSM did not appear to experience significant changes in the cost of manufacturing during the POR. Therefore, we followed our normal methodology of calculating an annual weighted-average cost.

2. Test of Comparison Market Prices

After calculating the COP, in accordance with section 773(b)(1) of the Act, we tested whether comparison market sales of the foreign like product were made at prices below the COP within an extended period of time in substantial quantities and whether such prices permitted the recovery of all costs within a reasonable period of time. *See* section 773(b)(2) of the Act. We compared model-specific COPs to the reported comparison market prices less any applicable movement charges, discounts, and rebates.

3. Results of the COP Test

Pursuant to section 773(b)(2)(C) of the Act, when less than 20 percent of DSM's sales of a given product were at prices less than the COP, we did not disregard any below-cost sales of that product because the below-cost sales were not made in substantial quantities within an extended period of time. When 20 percent or more of DSM's sales of a given product during the POR were at prices less than the COP, we disregarded the below-cost sales

because they were made in substantial quantities within an extended period of time pursuant to sections 773(b)(2)(B) and (C) of the Act and because, based on comparisons of prices to weighted-average COPs for the POR, we determined that these sales were at prices which would not permit recovery of all costs within a reasonable period of time in accordance with section 773(b)(2)(D) of the Act.

In this review, we found that, for certain products, more than 20 percent of DSM's home market sales were at prices less than COP and, in addition, such sales did not provide for the recovery of cost within a reasonable period of time. Therefore, we excluded these sales and used the remaining sales as the basis for determining normal value in accordance with section 773(b)(1) of the Act.

E. Arm's-Length Test

The Department may calculate normal value based on a sale to an affiliated party only if it is satisfied that the price to the affiliated party is comparable to the price at which sales are made to parties not affiliated with the exporter or producer, *i.e.,* sales at arm's-length prices. *See* 19 CFR 351.403(c). For affiliated-party sales, we excluded from our analysis sales to affiliated customers for consumption in the comparison market that we determined not to have been made at arm's-length prices. To test whether these sales were made at arm's-length prices, we compared the prices of sales of comparable merchandise to affiliated and unaffiliated customers, net of all rebates, movement charges, and direct selling expenses. Pursuant to 19 CFR 351.403(c) and in accordance with our practice, when the prices charged to an affiliated party were, on average, between 98 and 102 percent of the prices charged to unaffiliated parties for merchandise comparable to that sold to the affiliated party, we determined that the sales to the affiliated party were at arm's-length prices. *See Antidumping Proceedings: Affiliated Party Sales in the Ordinary Course of Trade,* 67 FR 69186 (November 15, 2002). We included in our calculations of normal value those sales to affiliated parties that were made at arm's-length prices.

F. Price-to-Price Comparisons

We based normal value on comparison market sales to unaffiliated purchasers and sales to affiliated customers that passed the arm's-length test. DSM's comparison market prices were based on the ex-factory or delivered prices. When applicable, we made adjustments for differences for movement expenses in accordance with sections 773(a)(6)(B)(ii) of the Act.

We also made adjustments for differences in cost attributable to differences in physical characteristics of the merchandise pursuant to section 773(a)(6)(C)(ii) of the Act and 19 CFR 351.411 and for differences in circumstances of sale in accordance with section 773(a)(6)(C)(iii) of the Act and 19 CFR 351.410. For comparisons to CEP, we made circumstance-of-sale adjustments by deducting comparison market direct selling expenses from normal value.

Level of Trade

To the extent practicable, we determine normal value for sales at the same level of trade as CEP sales. *See* section 773(a)(1)(B)(i) of the Act and 19 CFR 351.412. When there are no sales at the same level of trade, we compare CEP sales to comparison market sales at a different level of trade. The normal value level of trade is that of the starting-price sales in the comparison market.

To determine whether comparison market sales are at a different level of trade than DSM's U.S. sales in this review, we examined stages in the marketing process and selling functions along the chain of distribution between the producer and the unaffiliated customer. Based on our analysis, we have preliminarily determined that there is one level of trade in the United States and one level of trade in the home market and that the U.S. level of trade is at a less advanced stage than the home market level of trade. Therefore, we have compared U.S. sales to home market sales at different levels of trade.

Because there is only one level of trade in the home market, we were unable to calculate a level-of-trade adjustment based on DSM's home market sales of the foreign like product and we have no other information that provides an appropriate basis for determining a level-of-trade adjustment. For DSM's CEP sales, to the extent possible, we determined normal value at the same level of trade as the U.S. sale to the unaffiliated customer and made a CEP-offset adjustment in accordance with section 773(a)(7)(B) of the Act. The CEP-offset adjustment to normal value is subject to the so-called offset cap, which is calculated as the sum of home market indirect selling expenses up to the amount of U.S. indirect selling expenses deducted from CEP.

For a detailed description of our level-of-trade analysis for DSM in these preliminary results, *see* the DSM preliminary analysis memorandum dated January 9, 2012.

Currency Conversion

We made currency conversions into U.S. dollars in accordance with section 773A(a) of the Act and 19 CFR 351.415 based on the exchange rates in effect on the dates of the relevant U.S. sales as certified by the Federal Reserve Bank. These exchange rates are available on the Import Administration Web site at *http://ia.ita.doc.gov/exchange/index.html.*

Preliminary Results of Review

As a result of this review, we preliminarily determine that the weighted-average dumping margin for DSM is 1.64 percent for the period February 1, 2010, through January 31, 2011.

Disclosure and Public Comment

We will disclose the calculations used in our analysis to parties in this review within five days of the date of publication of this notice. Interested parties, who wish to request a hearing, or to participate if one is requested, must submit a written request to the Assistant Secretary for Import Administration, U.S. Department of Commerce, filed electronically using Import Administration's Antidumping and Countervailing Duty Centralized Electronic Service System (IA ACCESS). An electronically filed document must be received successfully in its entirety by the Department's electronic records system, IA ACCESS, by 5 p.m. Eastern Time within 30 days after the date of publication of this notice. *See* 19 CFR 351.310(c). Requests should contain the party's name, address, and telephone number, the number of participants, and a list of the issues to be discussed. If a request for a hearing is made, we will inform parties of the scheduled date for the hearing which will be held at the U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230, at a time and location to be determined. *See* 19 CFR 351.310. Parties should confirm by telephone the date, time, and location of the hearing.

Interested parties are invited to comment on the preliminary results of this review. The Department will consider case briefs filed by interested parties within 30 days after the date of publication of this notice in the **Federal Register**. Interested parties may file rebuttal briefs, limited to issues raised in the case briefs. The Department will consider rebuttal briefs filed not later than five days after the time limit for filing case briefs. Parties who submit arguments are requested to submit with each argument a statement of the issue,

a brief summary of the argument, and a table of authorities cited. Further, we request that parties submitting written comments provide the Department with a diskette containing an electronic copy of the public version of such comments.

We intend to issue the final results of this administrative review, including the results of our analysis of issues raised in the written comments, within 120 days of publication of these preliminary results in the **Federal Register.**

Assessment Rates

The Department shall determine, and CBP shall assess, antidumping duties on all appropriate entries. In accordance with 19 CFR 351.212(b)(1), we calculated an importer-specific assessment rate for these preliminary results of review. We divided the total dumping margins for the reviewed sales by the total entered value of those reviewed sales for the importer. We will instruct CBP to assess the importer-specific rate uniformly, as appropriate, on all entries of subject merchandise made by the relevant importer during the POR. *See* 19 CFR 351.212(b). The Department intends to issue instructions to CBP 15 days after the publication of the final results of review.

The Department clarified its ''automatic assessment'' regulation on May 6, 2003. *See Antidumping and Countervailing Duty Proceedings: Assessment of Antidumping Duties,* 68 FR 23954 (May 6, 2003) (*Assessment of Antidumping Duties*). This clarification will apply to entries of subject merchandise during the POR produced by DSM for which DSM did not know its merchandise was destined for the United States. In such instances, we will instruct CBP to liquidate unreviewed entries of DSM-produced merchandise at the all-others rate if there is no rate for the intermediate company(ies) involved in the transaction. *See Assessment of Antidumping Duties* for a full discussion of this clarification.

Cash-Deposit Requirements

The following deposit requirements will be effective upon publication of the notice of final results of administrative review for all shipments of steel plate from Korea entered, or withdrawn from warehouse, for consumption on or after the date of publication, as provided by section 751(a)(2)(C) of the Act: (1) The cash-deposit rate for DSM will be the rate established in the final results of this review; (2) for previously reviewed or investigated companies not listed above, the cash-deposit rate will continue to be the company-specific rate published for the most recent period; (3) if the exporter is not a firm covered in this review, a prior review, or the less-than-fair-value investigation but the manufacturer is, the cash-deposit rate will be the rate established for the most recent period for the manufacturer of the merchandise; (4) if neither the exporter nor the manufacturer has its own rate, the cash-deposit rate will be 0.98 percent,[1] the all-others rate established in the less-than-fair-value investigation, adjusted for the export-subsidy rate in the companion countervailing duty investigation. This deposit requirement, when imposed, shall remain in effect until further notice.

Notification to Importers

This notice also serves as a preliminary reminder to importers of their responsibility under 19 CFR 351.402(f) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Department's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of doubled antidumping duties.

These preliminary results of administrative review are issued and published in accordance with sections 751(a)(1) and 777(i)(1) of the Act.

Dated: January 9, 2012.

Paul Piquado,

Assistant Secretary for Import Administration.

[FR Doc. 2012–613 Filed 1–12–12; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[Application No. 92–10A001]

Export Trade Certificate of Review

ACTION: Notice of issuance of an Export Trade Certificate of Review to Aerospace Industries of America (''AIA'') (Application No. 92–10A001).

SUMMARY: The U.S. Department of Commerce issued an amended Export Trade Certificate of Review to Aerospace Industries of America on September 27, 2011. The Certificate has been amended ten times. The previous amendment was issued to AIA on November 29, 2010, and a notice of its issuance was published in the **Federal Register** on December 7, 2010 (75 FR 75963). The original Export Trade Certificate of Review No. 92–0001 was issued on April 10, 1992, and published in the **Federal Register** on April 17, 1992 (57 FR 13707).

FOR FURTHER INFORMATION CONTACT: Joseph E. Flynn, Director, Office of Competition and Economic Analysis, International Trade Administration, by telephone at (202) 482–5131 (this is not a toll-free number) or email at *etca@trade.gov.*

SUPPLEMENTARY INFORMATION: Title III of the Export Trading Company Act of 1982 (15 U.S.C. Sections 4001–21) authorizes the Secretary of Commerce to issue Export Trade Certificates of Review. The regulations implementing Title III are found at 15 CFR Part 325 (2010). The U.S. Department of Commerce, International Trade Administration, Office of Competition and Economic Analysis (''OCEA'') is issuing this notice pursuant to 15 CFR 325.6(b), which requires the Secretary of Commerce to publish a summary of the issuance in the **Federal Register**. Under Section 305(a) of the Export Trading Company Act (15 U.S.C. 4012(b)(1)) and 15 CFR 325.11(a), any person aggrieved by the Secretary's determination may, within 30 days of the date of this notice, bring an action in any appropriate district court of the United States to set aside the determination on the ground that the determination is erroneous.

Description of Certified Conduct

AIA's Export Trade Certificate of Review has been amended to:

1. Add the following new ''Members'' of the Certificate within the meaning of section 325.2(1) of the Regulations (15 CFR 325.2(1)):

Aero-Mark, LLC (Ontario, CA); Aero Vironment, Inc (Monrovia, CA); AGC Aerospace & Defense (Oklahoma City, OK); AlliedBarton Security Services LLC (Conshohocken, PA); Castle Metals Aerospace (Oakbrook, IL); CERTON Software, Inc (Melbourne, FL); CIRCOR International, Inc. (Burlington, MA); Colt Defense, LLC (West Hartford, CT); Comtech AreoAstro, Inc. (Ashburn, VA); Crown Consulting, Inc. (Arlington, VA); Cubic Defense Applications, Inc. (San Diego, CA); DigitialGlobe, Inc. (Longmont, CO); Galactic Venutres, LLC (Las Cruces, NM); Gentex Corporation (Zeeland, MI); HCL America Inc. (Sunnyvale, VA); Hi-Shear Technology Corporation (Torrance, CA); Hydra Electric Company (Burbank, CA); IEC Electronics Corporation (Newark, NJ); Infotech Enterprises America Inc. (East Hartford, CT); Kemet Electronics Corporation (Simpsonville, SC);

[1] *See 2007–08 Final,* 74 FR at 19048.

Metron Aviation (Dulles, VA); O'Neil & Associates, Inc. (Miamisburg, OH); NobleTek (Wooster, OH); Parametric Technology Corporation (Needham, MA); PARTsolutions, LLC (Milford, OH); Qwaltec, Inc. (Tempe, AZ); RAF Tabtronics LLC (Deland, FL); Realization Technologies, Inc (San Jose, CA); Rhinestahl Corportation (Mason, OH); Rix Industries (Benecia, CA); Sanima-SCI Corporation (San Jose, CA); Satiar USA Inc. (Atlanta, GA); SCB Training Inc. (Santa Fe Springs, CA); SIFCO Industries, Inc. (Cleveland, OH); Sila Solutions Group (Tukwila, WA); The SI Organization, Inc. (King of Prussia, PA); Valent Aerostructures, LLC (Kansas City, MO); and Wesco Aircraft Hardware Corporation (Valencia, CA).

2. Change the names of the one Member and the location of another Member:

Timken Aerospace Transmissions LLC—Purdy Systems (Manchester, CT) is now called Timken Aerospace Transmissions, LLC; and Meggit Vibro-Meter Inc. has moved from Manchester, NH to Londonderry, NH.

The effective date of the amended certificate is September 27, 2011, the date on which AIA's application to amend was deemed submitted. A copy of the amended certificate will be kept in the International Trade Administration's Freedom of Information Records Inspection Facility, Room 4001, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230.

Dated: January 9, 2012.

Joseph Flynn,

Director, Office of Competition and Economic Analysis.

[FR Doc. 2012–523 Filed 1–12–12; 8:45 am]

BILLING CODE 3510–DR–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XA929

Marine Mammals; Photography Permit File No. 17032

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

ACTION: Notice; receipt of application.

SUMMARY: Notice is hereby given that Shane Moore, Moore & Moore Films, Box 2980, 1203 Melody Creek Lane, Jackson, WY 83001, has applied in due form for a permit to conduct commercial or educational photography on killer (*Orcinus orca*) and gray (*Eschrichtius robustus)* whales in Alaska.

DATES: Written, telefaxed, or email comments must be received on or before February 13, 2012.

ADDRESSES: The application 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.

Written comments on this application should be submitted to the Chief, Permits and Conservation Division, at the address listed above. Comments may also be submitted by facsimile to (301) 713–0376, or by email to *NMFS.Pr1Comments@noaa.gov.* Please include the File No. in the subject line of the email comment.

Those individuals requesting a public hearing should submit a written request to the Chief, Permits and Conservation Division at the address listed above. The request should set forth the specific reasons why a hearing on this application would be appropriate.

FOR FURTHER INFORMATION CONTACT: Carrie Hubard or Joselyd Garcia-Reyes, (301) 427–8401.

SUPPLEMENTARY INFORMATION: The subject permit is requested under the authority of the Marine Mammal Protection Act of 1972, as amended (MMPA; 16 U.S.C. 1361 *et seq.*) and the regulations governing the taking and importing of marine mammals (50 CFR part 216).

The applicant is requesting a five-year permit to film gray and killer whales in the eastern Aleutian Islands, primarily near Ikatan Bay and along the Ikatan Peninsula on the south side of Unimak Island, Alaska. The purpose of the project is to document killer whales hunting gray whales migrating through False Pass and Unimak Pass. In addition, the filmmaker hopes to document the behavior of marine animals in the presence of a gray whale carcass. Filming would occur between April and June of each year. A maximum of 35 killer whales and 10 gray whales could be closely approached annually. Footage would be obtained from vessel-mounted cameras, a polecam that would be submerged next to the boat, and, as the opportunity arises, from a remotely operated video camera in an underwater housing placed on the sea floor near a gray whale carcass. The applicant would share footage with the scientific community as it may reveal to what extent killer whales continue to feed on submerged kills, how they feed on these carcasses, and document what other animals may benefit from these carcasses as well. Footage would be used for a television program about predators and the challenges they face.

In compliance with the National Environmental Policy Act of 1969 (42 U.S.C. 4321 *et seq.*), an initial determination has been made that the activity proposed is categorically excluded from the requirement to prepare an environmental assessment or environmental impact statement.

Concurrent with the publication of this notice in the **Federal Register,** NMFS is forwarding copies of the application to the Marine Mammal Commission and its Committee of Scientific Advisors.

Dated: January 10, 2012.

P. Michael Payne,

Chief, Permits and Conservation Division, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 2012–608 Filed 1–12–12; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XA928

Endangered and Threatened Species; Take of Anadromous Fish

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

ACTION: Notice of decision and availability of decision documents for ESA section 10(a)(1)(A) research/enhancement permit 16578.

SUMMARY: This notice advises the public that a direct take permit has been issued to the Washington Department of Fish and Wildlife, pursuant to the Endangered Species Act of 1973 (ESA), for installation and operation of three weirs on tributaries of the lower Columbia River, and that the decision documents are available upon request.

DATES: Permit 16578 was issued on November 17, 2011, subject to certain conditions set forth therein. The permit expires on December 31, 2021.

ADDRESSES: Requests for copies of the decision documents or any of the other associated documents should be directed to the Salmon Management

Division, NOAA's National Marine Fisheries Service, 1201 NE. Lloyd Blvd., Suite 1100, Portland, Oregon 97232. The documents are also available on the Internet at *www.nwr.noaa.gov.*

FOR FURTHER INFORMATION CONTACT: Rich Turner, Portland, OR, at phone number: (503) 736–4737, email: *rich.turner@noaa.gov*

SUPPLEMENTARY INFORMATION: This notice is relevant to the following species and evolutionarily significant units (ESUs):

Chinook salmon (*Oncorhynchus tshawytscha*): Threatened, naturally produced and artificially propagated Lower Columbia River.

Chum salmon (*O. keta*): Threatened, naturally produced and artificially propagated Columbia River.

Coho salmon (*O. kisutch*): Threatened, naturally produced and artificially propagated Lower Columbia River.

Steelhead (*O. mykiss*): Threatened, naturally produced and artificially propagated Lower Columbia River.

Dated: January 10, 2012.

Angela Somma,

Chief, Endangered Species Division, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 2012–612 Filed 1–12–12; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XA931

New England Fishery Management Council; Public Meeting

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

ACTION: Notice of a public meeting.

SUMMARY: The New England Fishery Management Council (Council) will hold a three-day meeting from January 31, 2012, through February 2, 2012 to consider actions affecting New England fisheries in the exclusive economic zone (EEZ).

DATES: The meeting will be held on Tuesday, January 31 through Thursday, February 2, 2012, starting at 9 a.m. on Tuesday, 8 a.m. on Wednesday, and 8:30 a.m. on Thursday.

ADDRESSES: The meeting will be held at the Sheraton Portsmouth Harborside Hotel, 250 Market Street, Portsmouth, NH 03801–3478; telephone: (603) 431–2300; fax: (603) 431–7805.

Council address: New England Fishery Management Council, 50 Water Street, Mill 2, Newburyport, MA 01950.

FOR FURTHER INFORMATION CONTACT: Paul J. Howard, Executive Director, New England Fishery Management Council; telephone: (978) 465–0492.

SUPPLEMENTARY INFORMATION:

Tuesday, January 31, 2012

Following introductions and any announcements, brief reports will be presented by the Council Chairman and Executive Director, NOAA Fisheries Regional Administrator (Northeast Region), Northeast Fisheries Science Center and Mid-Atlantic Fishery Management Council liaisons, as well as NOAA General Counsel, representatives of the U.S. Coast Guard and the Atlantic States Marine Fisheries Commission, and staff from the Vessel Monitoring Systems Operations and Law Enforcement offices. During this period, the Council also will receive an update on the activities of the Northeast Regional Ocean Council. That discussion will be followed by a review of any experimental fishery permit applications that have been made available since the November 2011 Council meeting.

The Council will then receive an update on progress to date on Essential Fish Habitat (EFH) Omnibus 2, which is focusing on the development of management alternatives to minimize the adverse effects of fishing activities on essential fish habitat and the protection of deep sea corals. Next, the Council's Research Steering Committee will review its findings on a number final cooperative research projects and its ongoing discussions with NOAA Fisheries about accounting for scientific research catch and the sale of that catch. An open period for public comments will follow during which any interested party may provide brief comments on issues relevant to Council business but not listed on the meeting agenda.

Following a lunch break, Council staff will present a white paper outlining the details of a draft Fishery Management Plan Performance Evaluation process. This will include a question and answer session for both the Council and public. This is part of the Council's actions to respond to the Touchstone Report on the fisheries management process in New England. The Bureau of Ocean Energy Management (BOEM) will present an update and discuss several New England offshore wind energy projects and proposals. The day will conclude with a report from the Council's Sea Scallop Committee. The committee's intent is to request initiation of Framework 24 to the Sea Scallop Fishery Management Plan (FMP). That action will include fishery specifications for fishing years 2013 and 2014, as well as several additional measures identified by the Council in priority order: (1) Possible modification of Georges Bank access area opening dates; (2) measures to address sub-annual catch limits for yellowtail flounder for the limited access general category (LAGC) trawl fishery; and (3) leasing LAGC Individual Fishing Quota (IFQ) fish mid-year.

Wednesday, February 1, 2012

The day will begin with a summary of Stock Assessment Workshop (SAW) 53 results and possibly the subsequent peer review of the Gulf of Maine cod and black sea bass assessments addressed during the SAW. The Scientific and Statistical Committee's (SSC) report will follow, during which the committee chairman will provide an overview of SSC's December 2012 planning meeting, including the use of social science information in the development of a risk policy for ABC recommendations, a process for addressing cod discard mortality in the groundfish hook fishery and SSC outreach. There also will be a detailed report of the committee's January 25, 2012 discussion and any decisions about the status of Gulf of Maine (GOM) cod.

Following the SSC's report, the Council will receive a briefing on new Marine Recreational Information Program estimates of recreational catch for 2004 to 2011. The Council's interest here is Gulf of Maine cod and haddock. The Groundfish Committee will then report on a range of issues. These include a report on the Northeast Multispecies FMP Amendment 18 scoping hearings concerning accumulation limits, the development of a course of action to address the recent Gulf of Maine cod stock assessment and a possible request to NOAA Fisheries for emergency action to address overfishing of that stock. There will be an update concerning progress on a new sector framework adjustment and potential modifications to the groundfish closed areas in effect in the FMP. Finally, there will be a presentation on the Rednet Project, a cooperative fishermen/scientific effort to redevelop a sustainable redfish trawl fishery. This may be followed by a review of recent sector exemption requests and any related Council recommendations.

Thursday, February 2, 2012

The last day of the Council meeting will begin with development of

comments on the Small Mesh Multispecies Secretarial Amendment, an action that which will address the small mesh hake fishery and is scheduled to become effective on May 1, 2012. The Council also will be asked to approve final Draft Amendment 19 to Northeast Multispecies FMP for purposes of holding public hearings on the proposed alternatives. This will be followed by a discussion of progress to develop a range of alternatives for consideration in Amendment 6 to the Monkfish FMP. The Council also will consider adopting a committee recommendation to establish a control date for use in the development of future management measures including, but not limited to, catch shares and accumulation limits. There will be a briefing by NOAA Fisheries concerning its intent to prepare an Environmental Impact Statement and FMP amendment that would consider catch shares for the Atlantic shark fisheries. Council meeting adjournment will take place once the Enforcement Committee asks for Council input on recommendations concerning gear stowage and NOAA Enforcement's draft priorities document.

Although other non-emergency issues not contained in this agenda may come before this Council for discussion, those issues may not be the subjects of formal action during this meeting. Council action will be restricted to those issues specifically listed in this notice and any issues arising after publication of this notice that require emergency action under section 305(c) of the Magnuson-Stevens Act, provided that the public has been notified of the Council's intent to take final action to address the emergency.

Special Accommodations

This meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Paul J. Howard (see **ADDRESSES**) at least 5 days prior to the meeting date.

Dated: January 10, 2012.

Tracey L. Thompson,

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

[FR Doc. 2012–553 Filed 1–12–12; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XA930

North Pacific Fishery Management Council; Public Meetings

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

ACTION: Meetings of the North Pacific Fishery Management Council and its advisory committees.

SUMMARY: The North Pacific Fishery Management Council (Council) and its advisory committees will hold public meetings, January 30—February 7, 2012, at the Renaissance Hotel in Seattle, WA.

DATES: The Council will begin its plenary session at 8 a.m. on Wednesday, February 1 continuing through Tuesday, February 7. Council's Advisory Panel (AP) will begin at 8 a.m., Monday, January 30 and continue through Friday, February 6. The Scientific Statistical Committee (SSC) will begin at 8 a.m. on Monday, January 30 and continue through Wednesday, February 1. The Ecosystem Committee will meet January 31, 9 a.m. The Enforcement Committee will meet January 31 at 1 p.m. All meetings are open to the public, except executive sessions.

ADDRESSES: The meetings will be held at the Renaissance Hotel, 515 Madison Street, Seattle, WA.

Council address: North Pacific Fishery Management Council, 605 W. 4th Avenue, Suite 306, Anchorage, AK 99501–2252.

FOR FURTHER INFORMATION CONTACT: David Witherell, Council staff; telephone: (907) 271–2809.

SUPPLEMENTARY INFORMATION:

Council Plenary Session: The agenda for the Council's plenary session will include the following issues. The Council may take appropriate action on any of the issues identified. Reports:

1. Executive Director's Report (including update on Halibut Catch Share Plan, review and approve Standard Operations and Procedures (SOPPs)).
NMFS Management Report (including update on Essential Fish Habitat (EFH) process)
Alaska Department of Fish & Game Report
NOAA Enforcement Report
United States Coast Guard Report
United States Fish & Wildlife Service Report
International Pacific Halibut Commission (IPHC) Report
Protected Species Report (Steller Sea Lion (SSL) Center of Independent Experts (CIE) Terms of Reference).
2. Final action to allow formation of a Community Quota Entity (CQE) in Area 4B.
3. Halibut Prohibited Species Catch (PSC): Initial review of Fishery Management Plan (FMP) amendment to set Gulf of Alaska (GOA) Halibut PSC.
4. Bering Sea Aleutian Island (BSAI) Crab Management: Update on Pribilof Blue King Crab Rebuilding Plan, action as necessary; BSAI Crab Model Workshop Report. (SSC only); Preliminary Review on BSAI Tanner Crab Rebuilding Plan; Report on BSAI Crab Right of First Refusal (ROFR) Workgroup, action as necessary (T); Final action on BSAI Crab Electronic Data Reporting (EDR) Revisions.
5. Habitat Issues; Initial review of GOA Trawl Sweep modifications; Initial review Habitat Area Particular Concern (HAPC)—Skate egg deposition sites; Updated discussion paper on Bristol Bay Red King Crab spawning area/ fishery effects(T); Report on 2012–2015 Deep Sea Coral Research
6. Groundfish Issues/Miscellaneous; Discussion paper on GOA Chinook Bycatch in all trawl fisheries; Discussion paper on GOA Pollock D-season; Discussion paper on American Fisheries Act (AFA) Vessel Replacement GOA Sideboards; Discussion paper on BSAI Flatfish specification flexibility.
7. Staff Tasking: Review Committees and tasking; discuss schedule for Groundfish Programmatic Supplemental Environmental Impact Statement (PSEIS); Review Individual Fishing Quotas (IFQs) proposals and provide direction.
8. Other Business

The SSC agenda will include the following issues:

1. Crab Management
2. Habitat Issues
3. Halibut PSC
4. SSC workshop—Stock Recruitment

The Advisory Panel will address most of the same agenda issues as the Council, except C–1, and B reports. The Agenda is subject to change, and the latest version will be posted at *http://www.alaskafisheries.noaa.gov/npfmc/*

Although non-emergency issues not contained in this agenda may come before this group for discussion, those issues may not be the subject of formal action during these meetings. Action will be restricted to those issues specifically listed in this notice and any issues arising after publication of this notice that require emergency action under section 305(c) of the Magnuson-Stevens Fishery Conservation and

Management Act, provided the public has been notified of the Council's intent to take final action to address the emergency.

Special Accommodations

These meetings are physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Gail Bendixen at (907) 271–2809 at least 7 working days prior to the meeting date.

Dated: January 10, 2012.

Tracey L. Thompson,

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

[FR Doc. 2012–534 Filed 1–12–12; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XA932

Mid-Atlantic Fishery Management Council (MAFMC); Public Meeting

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

ACTION: Notice of a public meeting.

SUMMARY: The Mid-Atlantic Fishery Management Council (Council) will hold a public meeting in the form of a workshop. The workshop topic is volunteer angler data collection.

DATES: The meeting will be held on Thursday, February 2, 2012, from 8:30 a.m. until 4:30 p.m.

ADDRESSES: The meeting will be held at the Four Points Sheraton BWI Airport, 7032 Elm Road, Baltimore, MD 21240; telephone: (410) 859–3300.

Council address: Mid-Atlantic Fishery Management Council, 800 N. State Street, Suite 201, Dover, DE 19901; telephone: (302) 674–2331.

FOR FURTHER INFORMATION CONTACT: Christopher M. Moore Ph.D., Executive Director, Mid-Atlantic Fishery Management Council, 800 N. State Street, Suite 201, Dover, DE 19901; telephone: (302) 526–5255.

SUPPLEMENTARY INFORMATION: The workshop will include briefings on established volunteer data collection programs, statistical consultant presentations, and discussions of various options for volunteer angler data collections and their uses. This workshop is a product of the Marine Recreational Information Program (MRIP—*http://www.countmyfish.noaa.gov*) and was organized by the Council in cooperation with the National Marine Fisheries Service and the Atlantic States Marines Fisheries Commission. Workshop outcomes may include recommendations, limitations, uses, and best practices that could inform state efforts and/or feed into a pilot project proposal to be submitted to the Marine Recreational Information Program for funding in 2013. The workshop will be available via GoToMeeting and registration can be made at the following link: *https://www1.gotomeeting.com/register/409337168.* A public comment period will take comments from those at the meeting and also via webinar if feasible.

Special Accommodations:

The meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to M. Jan Saunders at the Mid-Atlantic Council Office, (302) 526–5251, at least 5 days prior to the meeting date.

Dated: January 10, 2012.

Tracey L. Thompson,

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

[FR Doc. 2012–589 Filed 1–12–12; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XT82

Marine Mammals; File No. 14676

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

ACTION: Notice; issuance of permit amendment.

SUMMARY: Notice is hereby given that a major amendment to Permit No. 14676 has been issued to Paul Ponganis, Ph.D., University of California at San Diego, La Jolla, CA for research on California sea lions (*Zalophus californianus*).

ADDRESSES: The permit amendment 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

Southwest Region, NMFS, 501 West Ocean Blvd., Suite 4200, Long Beach, CA 90802–4213; phone (562) 980–4001; fax (562) 980–4018.

FOR FURTHER INFORMATION CONTACT: Tammy Adams or Amy Sloan, (301) 427–8401.

SUPPLEMENTARY INFORMATION: On November 7, 2011, notice was published in the **Federal Register** (76 FR 68719) that a request for an amendment Permit No. 14676 to conduct research on California sea lions had been submitted by the above-named applicant. The requested permit amendment has been issued 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).

The amendment includes authorization for capture of up to 30 animals over two field seasons and an additional procedure, deployment of a heart rate/stroke rate recorder on half of the animals. The amendment is valid through the original permit expiration date, February 1, 2015.

In compliance with the National Environmental Policy Act of 1969 (42 U.S.C. 4321 *et seq.*), a final determination has been made that the activity proposed is categorically excluded from the requirement to prepare an environmental assessment or environmental impact statement.

Dated: January 9, 2012.

P. Michael Payne,

Chief, Permits and Conservation Division, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 2012–502 Filed 1–12–12; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XA627

Taking and Importing Marine Mammals: Taking Marine Mammals Incidental to Navy Training Exercises in Three East Coast Range Complexes

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

ACTION: Notice; issuance of three modified Letters of Authorization.

SUMMARY: In accordance with the Marine Mammal Protection Act (MMPA), as amended, and implementing regulations, notification is hereby given that NMFS has made modifications to three Letters of Authorization (LOAs) to take marine mammals by harassment incidental to

the U.S. Navy's training activities within the Navy's Virginia Capes (VACAPES), Jacksonville (JAX), and Cherry Point (CHPT) Range Complexes to the Commander, U.S. Fleet Forces Command, 1562 Mitscher Avenue Suite 250, Norfolk, VA 23551–2487 and persons operating under his authority.

DATES: Effective from January 6, 2012, through June 4, 2012.

ADDRESSES: Copies of the Navy's request for LOA modifications, the LOAs, the Navy's 2010 marine mammal monitoring report and the Navy's 2010 exercise report are available by writing to P. Michael Payne, Chief, Permits and Conservation Division, Office of Protected Resources, National Marine Fisheries Service, 1315 East-West Highway, Silver Spring, MD 20910, by telephoning the contact listed here (See **FOR FURTHER INFORMATION CONTACT**), or online at: *http://www.nmfs.noaa.gov/pr/permits/incidental.htm#applications.* Documents cited in this notice may be viewed, by appointment, during regular business hours, at the aforementioned address.

FOR FURTHER INFORMATION CONTACT: Shane Guan, Office of Protected Resources, NMFS (301) 713–2289 x 137.

SUPPLEMENTARY INFORMATION:

Background

Section 101(a)(5)(A) of the MMPA (16 U.S.C. 1361 *et seq.*) directs the Secretary of Commerce to allow, upon request, the incidental, but not intentional taking of marine mammals by U.S. citizens who engage in a military readiness activity if certain findings are made and either regulations are issued or, if the taking is limited to harassment, a notice of a proposed authorization is provided to the public for review.

Authorization may be granted for periods of 5 years or less if NMFS finds that the taking will have a negligible impact on the species or stock(s), and will not have an unmitigable adverse impact on the availability of the species or stock(s) for certain subsistence uses, and if the permissible methods of taking and requirements pertaining to the mitigation, monitoring and reporting of such taking are set forth.

Regulations governing the taking of marine mammals incidental to the U.S. Navy's training activities at the Navy's VACAPES, JAX, and Cherry Point range complexes were published on June 15, 2009 (VACAPES: 74 FR 28328; JAX: 74 FR 28349; CHPT: 74 FR 28370) and remain in effect through June 4, 2014. They are codified at 50 CFR part 218 subpart A (for VACAPES Range Complex), subpart B (for JAX Range Complex), and subpart C (for Cherry Point Range Complex). These regulations include mitigation, monitoring, and reporting requirements for the incidental taking of marine mammals by the Navy's range complex training exercises. For detailed information on these actions, please refer to the June 15, 2009 **Federal Register** Notices and 50 CFR part 218 subparts A, B, and C.

An interim final rule was issued on May 26, 2011 (76 FR 30552) to allow certain flexibilities concerning Navy's training activities at VACAPES and JAX, and LOAs were issued to the Navy on June 1, 2011 (76 FR 33266; June 8, 2011).

Summary of LOA Request

On July 6, 2011, NMFS received a request from the U.S. Navy for modifications to three LOAs issued by NMFS on June 1, 2011, to take marine mammals incidental to training activities at VACAPES, JAX, and CHPT Range Complexes (76 FR 33266; June 8, 2011). Specifically, the Navy requested that NMFS modify these LOAs to include taking of marine mammals incidental to mine neutralization training using time-delay firing devices (TDFD) within the above Range Complexes, along with revised mitigation measures, to ensure that effects to marine mammals resulting from these activities will not exceed what was originally analyzed in the Final Rules for these Range Complexes (VACAPES: 74 FR 28328; JAX: 74 FR 28349; CHPT: 74 FR 28370). The potential effects of mine neutralization training on marine mammals were comprehensively analyzed in the Navy's 2009 final regulations for these three Range Complexes and mine neutralization training has been included in the specified activity in the associated 2009, 2010, and 2011 LOAs. However, the use of TDFD and the associated mitigation measures have not been previously contemplated, which is why NMFS believes it was appropriate to provide these proposed modified LOAs to the public for review. NMFS published a notice proposing to modify the three LOAs on November 7, 2011 (76 FR 68734).

On March 4, 2011, three dolphins were suspected to be killed by the Navy's mine neutralization training event using TDFDs in its Silver Strand Training Complex. In short, a TDFD device begins a countdown to a detonation event that cannot be stopped, for example, with a 10-min TDFD, once the detonation has been initiated, 10 minutes pass before the detonation occurs and the event cannot be cancelled during that 10 minutes. Although in the **Federal Register** notice for the proposed LOA (76 FR 68734; November 7, 2011), it stated that using TDFDs is believed to have likely resulted in the death of five dolphins, further discussion with the Navy and reviewing of reports concerning the incident showed that there is no concrete evidence that more than three dolphins were killed. Following the March 4th event, the Navy initiated an evaluation of mine neutralization events occurring within the VACAPES, JAX, and CHPT Range Complexes and realized that TDFDs were being used at those Range Complexes. According to the Navy, less than 3% of all MINEX events would not use TDFD. As a result, the Navy subsequently suspended all underwater explosive detonations using TDFDs during training, and the three LOAs issued on June 1, 2011 by NMFS specifically do not cover marine mammals taken incidentally as a result of such training activities. While this suspension was in place, the Navy worked with NMFS to develop a more robust monitoring and mitigation plan to ensure that marine mammal mortality and injury would not occur during mine neutralization training activities using TDFDs.

The Navy requested that the revised LOAs remain valid until June 2012. A detailed description of the Navy's LOA modification request can be found on the NMFS Web site: *http://www.nmfs.noaa.gov/pr/permits/incidental.htm#applications.*

Description of the Need for Time-Delay Firing Devices in MINEX Training

A detailed description of the overall operational mission concerning the use of TDFD is provided in the **Federal Register** notice for the proposed LOA (76 FR 68734; November 7, 2011), therefore, it is not repeated here.

Comments and Responses

A notice of receipt and request for public comment on the application and proposed authorization was published on November 7, 2011 (76 FR 68734). During the 30-day public comment period, NMFS received comments from the Marine Mammal Commission (Commission) and one private citizen.

Comment 1: The Commission recommends that NMFS and the Navy investigate the underlying cause of the high rate of non-compliance with the respective LOAs and determine why it was not detected earlier. Specifically, the Commission stated that the Navy had been using the TDFDs at the three east coast Range Complexes until the dolphin mortality incident at the Silver Strand Training Complex (SSTC),

despite a clear prohibition of using such devices in the applicable LOAs from NMFS. The Commission also states that the non-compliance with this provision also calls into question whether the Navy is fully complying with the other terms and conditions of the applicable letters of authorization.

Response: The Navy has not violated any provisions of their LOAs or rules. There were no prohibitions against using TDFDs in the earlier LOAs and rules issued to the Navy. The use of TDFDs was not identified in the Navy's LOA application and the explosives used in the mine neutralization training was treated as standard underwater detonation with positive control, therefore the use of TDFDs was not analyzed during the rulemaking stage and thus the LOAs issued to the Navy did not include the prohibition of using TDFDs for mine neutralization training. The issue of using TDFDs became known after the SSTC dolphin mortality incident mentioned above, and the Navy suspended all underwater detonation events that use those devices and worked with NMFS to come up with a more robust mitigation and monitoring plan. In the meantime, NMFS modified the 2010 LOAs that were issued to the Navy with the prohibition that no TDFDs be used for mine neutralization training, and the Navy complied with that prohibition.

Comment 2: The Commission recommends that NMFS and the Navy jointly review the full scope of the applicable regulations and letters of authorization to ensure that the responsible Navy officials are aware of, understand, and are in compliance with all mitigation, monitoring, and reporting requirements.

Response: NMFS agrees with the Commission's recommendation. NMFS and the Navy worked together closely in developing all mitigation, monitoring, and reporting measures for the Navy's MMPA authorizations and regulations applicable to training activities. In addition, draft regulations and authorizations were also sent to the Navy for review to ensure that the mitigation, monitoring, and reporting measures set forth are attainable and practicable.

Comment 3: The Commission recommends that NMFS require the Navy to conduct empirical sound propagation measurements to verify the adequacy of the sizes of the exclusion zones for 5-, 10-, and 20-lb charges and to expand those zones and the buffer zones derived from those zones as necessary, if NMFS amends the LOA as proposed.

Response: In 2002, the Navy conducted empirical measurements of underwater detonations at San Clemente Island and at the SSTC in California. During these tests, 2 lb and 15 lb net explosive weight charges were placed at 6 and 15 feet of water and peak pressures and energies were measured for both bottom placed detonations and detonations off the bottom. A finding was that, generally, single-charge underwater detonations, empirically measured, were similar to or less than propagation model predictions (DoN 2006).

On the east coast, the Navy has conducted marine mammal surveys during mine neutralization training events during August of 2009, 2010, and 2011 as part of its marine mammal monitoring program (see Navy's VACAPES, JAX, and CHPT annual monitoring reports for further details). NMFS contacted Navy regarding the feasibility of empirical sound propagation measurement in the east coast range complexes. The Navy stated that it will explore the value of adding field measurements during monitoring of a future mine neutralization event after evaluating the environmental variables affecting sound propagation in the area, such as shallow depths, seasonal temperature variation, bottom sediment composition, and other factors that would affect our confidence in the data collected. If such data can be collected without unreasonable costs and impacts to training, the Navy will move forward in incorporating the measurements into its monitoring program for east coast mine neutralization training.

At this moment, because the modeled exclusion zones are set to be much larger than the measured and modeled zones of injury or TTS, NMFS does not believe that there is added value to conducting empirical measurements before the issuance of the modified LOAs, especially given the short time frame during which the LOA modifications will be effective. Nevertheless, NMFS would recommend the Navy conduct these measurements as funding becomes available.

Comment 4: The Commission recommends that NMFS require the Navy to re-estimate the sizes of the buffer zones using the mean average swim speeds plus at least one standard deviation for marine mammals that inhabit the shallow-water areas where TDFDs would be used, prior to amending the LOAs. The Commission states that if an animal swims at just 1 knot faster than the Navy's assumption of average swim speed at 3 knots, the Navy would have underestimated the size of the buffer zones in 8 of the 18 scenarios presented in Table 3 of the proposed LOA (76 FR 68734; November 7, 2011; Table 4 in the current document). The Commission further supports its argument with studies from Lockyer and Morris (1987) and Mate *et al.* (1995), which showed that the average swim speed for bottlenose dolphins ranged from 2.6 to 8 knots.

Response: First, although the Commission's recommendation of using the mean average swim speeds plus at least one standard deviation for marine mammals warrants consideration, it is not currently possible to implement because the actual data deriving the average swim speeds and the number of samples are unknown, therefore, the standard deviation cannot be calculated. The average dolphin swim speed used in establishing the buffer zones were based on published peer-review papers (e.g., Perrin *et al.* (1979), Würsig and Würsig (1979), Hui (1987), and Mate *et al.* (1995)) instead of actual data measurements. If what the Commission means is to use the mean published average swim speeds to calculate the ''among population standard deviation'', other issues exist: (1) There are only a handful of published reports (four reviewed by NMFS and two additional papers by the Commission, with one reviewed by both NMFS and the Commission), so the mean of the average swim speeds plus their standard deviation reported in these five documents (among three species) would have no statistical meaning, and (2) Some of the papers (e.g., Lockyer and Morris (1987) and Perrin *et al.* (1979)) reported a range of the average speeds, which would not even allow for such calculations. In addition, among these reported delphinid average swim speeds (listed below in Table 1), all support the Navy's suggested average swim speed of 3 knots, except for the Lockyer and Morris (1987) paper. Therefore, NMFS considers that using the average of 3 knots for delphinid speed is a reasonable approach to address the time-delay issue related to the use of TDFDs for mine detonation.

TABLE 1—REPORTED DOLPHIN SWIMMING SPEEDS

Species	Swim speed (knots)	Source
Stenella sp.	0.78–3.70	Perrin *et al.* (1979).
Tursiops truncatus	3.08	Würsig and Würsig (1979).
Delphinus delphis	3.11	Hui (1987).
Tursiops truncatus	2.65	Mate *et al.* (1995).
Tursiops truncatus	5.4–8.1	Lockyer and Morris (1987).

In addition, the Navy proposed (and NMFS concurred) that an additional 200-yard buffer be added to the safety zone to provide additional protection for dolphins that may swim faster than the average of 3 knots.

Furthermore, in order to enhance the monitoring efficiency due to the enlarged buffer zones, buffer zones with a radius greater than 1,000 yards will have 2 boats, and buffer zones with a radius greater than 1,400 yards will have 3 boats or 2 boats and 1 helicopter for monitoring. While larger buffer zones may sometimes add benefits, there must also be an ability to adequately survey the buffer zone to ensure animals are spotted. Due to the type of small unit training being conducted, there are limited surveillance assets available to monitor the buffer zone during a mine neutralization event. Scheduling additional observation boats and crews involves coordination and availability of other units and degrades overall training readiness of the other unit(s) involved, which would not be practical for small training events like these. In summary, based on the above analyses and additional mitigation measures being implemented, NMFS believes the use of published average dolphin swim speed with an additional 200-yard buffer is the best current approach to establishing the buffer zones.

Finally, it is worth noting that even in the absence of mitigation, the Navy modeling suggests that zero animals will likely randomly come within the safety radius during the small amount of time that the detonations actually occur. It is unlikely that an animal will swim into the buffer zone during the brief amount of time that it might be exposed to a detonation without first being detected by the multiple boats circling the detonation area and observing the buffer zone.

Comment 5: The Commission recommends that NMFS consider whether modifications to the LOAs alone are sufficient to satisfy the requirements of the MMPA and provide a thorough explanation of its rationale in the **Federal Register** notice taking final action on the proposed modifications, if it believes that regulatory modifications are not needed.

Response: The amount of incidental harassment authorized in the regulations governing mine neutralization on the three east coast range complexes was based on thorough analyses and assessment of the Navy's activities and marine mammal distribution and occurrence in the vicinity of the range complexes. As explained in the Navy's initial LOA application submitted to NMFS and subsequent TDFD LOA modification application, the Navy's Environmental Impact Statement for these range activities, and NMFS' **Federal Register** notices (VACAPES: 74 FR 28328; June 15, 2009; JAX: 74 FR 28349; June 15, 2009; CHPT: 74 FR 28370; June 15, 2009), the estimated exposures are based on the probability of the animals being present in the area when a training event is occurring, and this probability does not change based on the use of TDFDs or implementation of mitigation measures (i.e., the exposure model does not account for how the charge is initiated and assumes no mitigation is being implemented). The amount of harassment currently authorized and NMFS' determination of negligible impact on the stock already assume a conservative estimate of predicted harassment for these events. The enhanced mitigation measures to be implemented in the LOA modification are to balance the potential additional risks that may arise from the Navy using TDFD during the mine neutralization training. In summary, the take limits are not expected to be exceeded with the use of TDFDs, but the additional mitigation and monitoring measures are to offset the potential risks of using TDFDs. Therefore, NMFS does not believe that further revisions to the regulation are warranted.

Comment 6: One private citizen expressed general opposition to Navy activities and NMFS' issuance of an LOA modification because of the danger of killing marine life.

Response: NMFS appreciates the commenter's concern for the marine mammals that live in the area of the proposed activities. However, the MMPA allows individuals to take marine mammals incidental to specified activities if NMFS can make the necessary findings required by law (i.e., negligible impact, unmitigable adverse impact on subsistence users, etc.), as explained in the rulemakings (VACAPES: 74 FR 28328; June 15, 2009; JAX: 74 FR 28349; June 15, 2009; CHPT: 74 FR 28370; June 15, 2009) and the proposed LOAs (76 FR 68734; November 7, 2011). The detailed analyses in these documents show that no marine mammal mortality would likely occur as a result of the Navy activities, including the use of TDFDs during mine neutralization trainings. Finally, take of marine mammals by mortality and serious injury are not authorized under these rules and regulations. Therefore, NMFS has made the necessary findings under 16 U.S.C. 1371(a)(5)(A) to support our modification of these LOAs.

Modifications to Mitigation and Monitoring Measures Related to Mine Neutralizing Training

NMFS worked with the Navy and developed a series of modifications to improve monitoring and mitigation measures so that take of marine mammals will be minimized and that no risk of injury and/or mortality to marine mammals would result from the Navy's use of TDFD mine neutralization training exercises. The following modifications to the mitigation and monitoring measures are specific to Mine Neutralization training exercises involving TDFDs conducted within the VACAPES, JAX, and CHPT Range Complexes.

(A) This activity shall only occur in W–50 of the VACAPES Range Complex, Undet North and Undet South of the JAX Range Complex, and Mine Neutralization Box of Area 15 of the CHPT Range Complex.

(B) Visual Observation and Exclusion Zone Monitoring.

The estimated potential for marine mammals to be exposed during MINEX training events is not expected to change with the use of TDFDs, as the same amount of explosives will be used and the same area ensonified/pressurized regardless of whether TDFDs are involved. This is due to the

fact that estimated exposures are based on the probability of the animals occurring in the area when a training event is occurring, and this probability does not change because of a time-delay. However, what does change is the potential effectiveness of the current mitigation that is implemented to reduce the risk of exposure.

The locations selected for MINEX are all close to shore (~3–12 nm) and in shallow water (~10–20 m) in all three Range Complexes. Based on marine mammal monitoring during prior MINEX training activities and data from recent monitoring surveys, delphinids (mainly bottlenose dolphins) are the most likely species to be encountered in these areas. However, mitigation measures apply to all species and will be implemented if any marine mammal species is sighted.

The rationale used to develop new monitoring zones to reduce potential impacts to marine mammals when using a TDFD is as follows: The Navy has identified the distances at which the sound and pressure attenuate below NMFS injury criteria (i.e., outside of that distance from the explosion, marine mammals are not expected to be injured). Here, the Navy identifies the distance that a marine mammal is likely to travel during the time associated with the TDFD's time delay, and that distance is added to the injury distance. If this enlarged area is effectively monitored, animals would be monitored and detected at distances far enough to ensure that they could not swim to the injurious zone within the time of the TDFD. Using an average swim speed of 3 knots (102 yd/min) for a delphinid based on Perrin et al. (1979), Würsig and Würsig (1979), Hui (1987), and Mate *et al.* (1995), the Navy provided the approximate distance that an animal would typically travel within a given time-delay period (Table 2). Based on acoustic propagation modeling conducted as part of the NEPA analyses for these Range Complexes, there is potential for injury to a marine mammal within 106 yd of a 5 lb detonation, 163 yd of a 10 lb detonation, and 222 yd of a 20 lb detonation. The buffer zones were calculated based on average swim speed of 3 knots (102 yd/min). The specific buffer zones based on charge size and the length of time delays are presented in Table 3.

TABLE 2—POTENTIAL DISTANCE BASED ON SWIM SPEED AND LENGTH OF TIME-DELAY

Species group	Swim speed	Time-delay	Potential distance traveled
Delphinid	102 yd/min	5 min	510 yd.
		6 min	612 yd.
		7 min	714 yd.
		8 min	816 yd.
		9 min	918 yd.
		10 min	1,020 yd.

TABLE 3—BUFFER ZONE RADIUS (YD) FOR TDFDS BASED ON SIZE OF CHARGE AND LENGTH OF TIME-DELAY

		Time-delay					
		5 min	6 min	7min	8 min	9 min	10 min
Charge Size	5 lb	616 yd	718 yd	820 yd	922 yd	1,024 yd	1,126 yd.
	10 lb	673 yd	775 yd	877 yd	979 yd	1,081 yd	1,183 yd.
	20 lb	732 yd	834 yd	936 yd	1,038 yd	1,140 yd	1,242 yd.

However, it is possible that some animals may travel faster than the average swim speed noted above, thus there may be a possibility that these faster swimming animals would enter the buffer zone during time-delayed to detonation. In order to compensate for the swim distance potentially covered by faster swimming marine mammals, an additional correction factor was applied to increase the size of the buffer zones radii. Specifically, three sizes of buffer zones are designed for the ease of monitoring operations based on size of charge and length of time-delay, with an additional buffer added to account for faster swim speed. These revised buffer zones are shown in Table 4. As long as animals are not observed within the buffer zones before the time-delay detonation is set, then the animals would be unlikely to swim into the injury zone from outside the area within the time-delay window.

TABLE 4—UPDATED BUFFER ZONE RADIUS (YD) FOR TDFDS BASED ON SIZE OF CHARGE AND LENGTH OF TIME-DELAY, WITH ADDITIONAL BUFFER ADDED TO ACCOUNT FOR FASTER SWIM SPEEDS

		Time-delay					
		5 min	6 min	7 min	8 min	9 min	10 min
Charge Size	5 lb	1,000 yd	1,000 yd	1,000 yd	1,000 yd	1,400 yd	1,400 yd.
	10 lb	1,000 yd	1,000 yd	1,000 yd	1,400 yd	1,400 yd	1,400 yd.
	20 lb	1,000 yd	1,000 yd	1,400 yd	1,400 yd	1,400 yd	1,450 yd.

1,000 yds: Minimum of 2 observation boats.
1,400/1,450 yds: Minimum of 3 observation boats or 2 boats and 1 helicopter.

The previous mitigation measure specified that parallel tracklines would be surveyed at equal distances apart to cover the buffer zone. Considering that the buffer zone for protection of a delphinid may be larger than specified

in the current mitigation, a more effective and practicable method for surveying the buffer zone is for the survey boats to position themselves near the mid-point of the buffer zone radius (but always outside the detonation plume radius/human safety zone) and travel in a circular pattern around the detonation location surveying both the inner (toward detonation site) and outer (away from detonation site) areas of the buffer zone, with one observer looking inward toward the detonation site and the other observer looking outward. When using 2 boats, each boat will be positioned on opposite sides of the detonation location, separated by 180 degrees. When using more than 2 boats, each boat will be positioned equidistant from one another (120 degrees separation for 3 boats, 90 degrees separation for 4 boats, etc.). Helicopters will travel in a circular pattern around the detonation location when used.

During mine neutralization exercises involving surface detonations, a helicopter deploys personnel into the water to neutralize the simulated mine. The helicopter will be used to search for any marine mammals within the buffer zone. Use of additional Navy aircraft beyond those participating in the exercise was evaluated. Due to the limited availability of Navy aircraft and logistical constraints, the use of additional Navy aircraft beyond those participating directly in the exercise was deemed impracticable. A primary logistical constraint includes coordinating the timing of the detonation with the availability of the aircraft at the exercise location. Exercises typically last most of the day and would require an aircraft to be dedicated to the event for the entire day to ensure proper surveying of the buffer zone 30 minutes prior to and after the detonation. The timing of the detonation may often shift throughout the day due to training tempo and other factors, further complicating coordination with the aircraft.

Based on the above reasoning, the modified monitoring and mitigation protocols for visual observation is developed as the following:

A buffer zone around the detonation site will be established to survey for marine mammals. Events using positive detonation control will use a 700 yd radius buffer zone. Events using time-delay firing devices will use the table above to determine the radius of the buffer zone. Time-delays longer than 10 minutes will not be used.

Regarding the sizes of the buffer zones, there were two typographical errors in the **Federal Register** notice for the proposed LOA (76 FR 68734; November 7, 2011). On page 68738 of that **Federal Register** notice, it stated that ''[b]uffer zones of 1,000 yds or less shall use a minimum of 2 boats to survey for marine mammals. Buffer zones greater than 1,000 yds radius shall use 3 boats or 1 helicopter and 2 boats to conduct surveys for marine mammals.'' The notice should have stated, ''[b]uffer zones less than 1,400 yds shall use a minimum of 2 boats to survey for marine mammals. Buffer zones greater than 1,400 yds radius shall use 3 boats or 1 helicopter and 2 boats to conduct surveys for marine mammals.'' As indicated in Table 3, there is no buffer zone under 1,000 yds when TDFDs are used.

Two dedicated observers in each of the boats will conduct continuous visual surveys of the buffer zone for marine mammals for the entire duration of the training event. The buffer zone will be surveyed from 30 minutes prior to the detonation and for 30 minutes after the detonation. Other personnel besides the observers can also maintain situational awareness regarding the presence of marine mammals within the buffer zone to the best extent practical given dive safety considerations. If available, aerial visual survey support from Navy helicopters can be utilized, so long as it does not jeopardize safety of flight.

When conducting the survey, boats will position themselves at the mid-point of the buffer zone radius (but always outside the detonation plume radius/human safety zone) and travel in a circular pattern around the detonation location surveying both the inner (toward detonation site) and outer (away from detonation site) areas of the buffer zone. To the extent practicable, boats will travel at 10 knots to ensure adequate coverage of the buffer zone. When using 2 boats in a 1,000 yds buffer zone, each boat will be positioned on opposite sides of the detonation location at 500 yds from the detonation point, separated by 180 degrees. When using 3 boats in a 1,400 or 1,450 yds buffer zone, each boat will be positioned equidistant from one another (120 degrees separation) at 700 or 725 yds respectively from the detonation point. Helicopter pilots will use established Navy protocols to determine the appropriate pattern (e.g., altitude, speed, flight path, etc.) to search and clear the buffer zone of turtles and marine mammals.

(C) Mine neutralization training shall be conducted during daylight hours only.

(D) Maintaining Buffer Zone for 30 Minutes Prior to Detonation and Suspension of Detonation.

Visually observing the mitigation buffer zone for 30 min prior to the detonation allows for any animals that may have been submerged in the area to surface and therefore be observed so that mitigation can be implemented. Based on average dive times for the species groups that are most likely expected to occur in the areas where mine neutralization training events take place, (i.e. delphinids), 30 minutes is an adequate time period to allow for submerged animals to surface. Allowing a marine mammal to leave of their own volition if sighted in the mitigation buffer zone is necessary to avoid harassment of the animal.

Suspending the detonation after a TDFD is initiated is not possible due to safety risks to personnel. Therefore the portion of the measure that requires suspension of the detonation cannot be implemented when using a TDFD and will be removed, noting that revised mitigation measures will make it unnecessary to have to suspend detonation within the maximum of ten minutes between setting the TDFD and detonation.

Based on the above reasoning, the modified monitoring and mitigation for pre-detonation observation is the following:

If a marine mammal is sighted within the buffer zone, the animal will be allowed to leave of its own volition. The Navy will suspend detonation exercises and ensure the area is clear for a full 30 minutes prior to detonation.

When required to meet training criteria, time-delay firing devices with up to a 10 minute delay may be used. The initiation of the device will not start until the area is clear for a full 30 minutes prior to initiation of the timer.

(E) The requirement in the previous LOA that ''no detonation shall be conducted using time-delayed devices'' was deleted as the improved monitoring and mitigation measures will minimize the potential impacts to marine mammals and greatly reduce the likelihood of injury and/or mortality to marine mammals using TDFDs.

(F) Diver and Support Vessel Surveys.

The Navy recommends, and NMFS concurs with, revising this measure to clarify that it applies to divers only. The intent of the measure is for divers to observe the immediate, underwater area around the detonation site for marine mammals while placing the charge.

The modified mitigation measure is provided below:

Divers placing the charges on mines will observe the immediate, underwater area around the detonation site for marine mammals and will report any sightings to the surface observers.

(G) No detonations shall take place within 3.2 nm (6 km) of an estuaries inlet.

(H) No detonations shall take place within 1.6 nm (3 km) of shoreline.

(I) Personnel shall record any protected species observations during the exercise as well as measures taken if species are detected within the zone of influence (ZOI).

Take Estimates

There is no change for marine mammal take estimates from what were analyzed in the final rules (VACAPES: 74 FR 28328; JAX: 74 FR 28349; CHPT: 74 FR 28370; June 15, 2009) for mine neutralization training activities in all three Range Complexes. Take estimates were based on marine mammal densities and distribution data in the action areas, computed with modeled explosive sources and the sizes of the buffer zones.

The Comprehensive Acoustic System Simulation/Gaussian Ray Bundle (OAML, 2002) model, modified to account for impulse response, shock-wave waveform, and nonlinear shock-wave effects, was run for acoustic-environmental conditions derived from the Oceanographic and Atmospheric Master Library (OAML) standard databases. The explosive source was modeled with standard similitude formulas, as in the Churchill FEIS. Because all the sites are shallow (less than 50 m), propagation model runs were made for bathymetry in the range from 10 m to 40 m.

Estimated zones of influence (ZOIs; defined as within which the animals would experience Level B harassment) varied with the explosive weights, however, little seasonal dependence was found among all Range Complexes. Generally, in the case of ranges determined from energy metrics, as the depth of water increases, the range shortens. The single explosion TTS-energy criterion (182 dB re 1 microPa^2-sec) was dominant over the pressure criteria and therefore used to determine the ZOIs for the Level B exposure analysis.

The total ZOI, when multiplied by the animal densities and total number of events, provides the exposure estimates for that animal species for each specified charge in the VACAPES, JAX, and CHPT Range Complexes (Table 4). Since take numbers were estimated without considering marine mammal monitoring and mitigation measures, the additional monitoring and mitigation measures and the use of TDFD for mine neutralization training would not change the estimated takes from the original final rules for JAX (74 FR 28349; June 15, 2009) and CHPT (74 FR 28370; June 15, 2009) Range Complexes and from the interim final rule for VACAPES Range Complex (76 FR 33266; June 8, 2011).

TABLE 4—ESTIMATED TAKES OF MARINE MAMMALS THAT COULD RESULT FROM MINEX

Species/Training Operation	Potential exposures @ 182 dB re 1 μPa^2-s or 23 psi	Potential exposures @ 205 dB re 1 μPa^2-s or 13 psi	Potential exposures @ 30.5 psi
VACAPES Range Complex			
Pantropical spotted dolphin	4	1	0
Bottlenose dolphin	2	0	0
Clymene dolphin	2	0	0
JAX Range Complex			
Atlantic spotted dolphin	2	0	0
Bottlenose dolphin	2	0	0
CHPT Range Complex			
Atlantic spotted dolphin	1	0	0

Analysis and Negligible Impact Determination

Pursuant to NMFS' regulations implementing the MMPA, an applicant is required to estimate the number of animals that will be ''taken'' by the specified activities (i.e., takes by harassment only, or takes by harassment, injury, and/or death). This estimate informs the analysis that NMFS must perform to determine whether the activity will have a ''negligible impact'' on the species or stock. Level B (behavioral) harassment occurs at the level of the individual(s) and does not assume any resulting population-level consequences, though there are known avenues through which behavioral disturbance of individuals can result in population-level effects. A negligible impact finding is based on the lack of likely adverse effects on annual rates of recruitment or survival (i.e., population-level effects). An estimate of the number of Level B harassment takes, alone, is not enough information on which to base an impact determination. In addition to considering estimates of the number of marine mammals that might be ''taken'' through behavioral harassment, NMFS must consider other factors, such as the likely nature of any responses (their intensity, duration, etc.), the context of any responses (critical reproductive time or location, migration, etc.), as well as the number and nature of estimated Level A takes, the number of estimated mortalities, and effects on habitat.

The aforementioned additional mitigation and monitoring measures will increase the buffer zone to account for marine mammal movement and increase marine mammal visual monitoring efforts to ensure that no marine mammal would be in a zone where injury and/or mortality could occur as a result of time-delayed detonation.

In addition, the estimated exposures are based on the probability of the animals occurring in the area when a training event is occurring, and this probability does not change based on the use of TDFDs or implementation of mitigation measures (i.e., the exposure model does not account for how the charge is initiated and assumes no mitigation is being implemented). Therefore, the potential effects to marine mammal species and stocks as a result of the mine neutralization training activities are the same as those analyzed in the final rules governing the incidental takes for these activities. Consequently, NMFS believes that the

existing analyses in the final rules do not change as a result of revising the LOAs to include mine neutralization training activities using TDFDs.

Further, there will be no increase of marine mammal takes as analyzed in previous rules governing NMFS issued incidental take authorizations that could result from the Navy's training activities within these Range Complexes by using TDFDs.

Based on the analyses of the potential impacts from the mine neutralization training exercises conducted within the Navy's VACAPES, JAX, and Cherry Point Range Complexes, especially on the improvement on marine mammal monitoring and mitigation measures, NMFS has determined that the modification of the Navy's current LOAs to include taking of marine mammals incidental to mine neutralization training using TDFD within the above Range Complexes will have a negligible impact on the marine mammal species and stocks present in these action areas, provided that the additional mitigation and monitoring measures are implemented.

ESA

There are six ESA-listed marine mammal species, three sea turtle species, and a fish species that are listed as endangered under the ESA with confirmed or possible occurrence in the VACAPES, JAX, and CHPT Range Complexes: Humpback whale, North Atlantic right whale, blue whale, fin whale, sei whale, sperm whale, loggerhead sea turtle, leatherback sea turtle, the Kemp's ridley sea turtle, and the shortnose sturgeon.

Pursuant to Section 7 of the ESA, NMFS has completed consultation internally on the issuance of the modified LOAs under section 101(a)(5)(A) of the MMPA for these activities. The Biological Opinion concludes that the Navy's training activities using TDFDs within the VACAPES, JAX, and CHPT Range Complexes are likely to adversely affect but are not likely to jeopardize the continued existence of these threatened and endangered species under NMFS jurisdiction.

NEPA

NMFS participated as a cooperating agency on the Navy's Final Environmental Impact Statements (FEIS's) for the VACAPES, JAX, and CHPT Range Complexes. NMFS subsequently adopted the Navy's EIS's for the purpose of complying with the MMPA. For the modification of the LOAs, which include TDFDs, but also specifically add monitoring and mitigation measures to minimize the likelihood of any additional impacts from TDFDs, NMFS has determined that there are no changes in the potential effects to marine mammal species and stocks as a result of the mine neutralization training activities using TDFDs. Therefore, no additional NEPA analysis is required, and the information in the existing EIS's remains sufficient.

Determination

Based on the analysis contained herein of the likely effects of the specified activity on marine mammals and their habitat and dependent upon the implementation of the mitigation measures, NMFS determined that the total taking from Navy mine neutralization training exercises utilizing TDFDs in the VACAPES, JAX, and CHPT Range Complexes will have a negligible impact on the affected marine mammal species or stocks. NMFS has issued three LOAs with modifications to allow takes of marine mammals incidental to the Navy's mine neutralization training exercises using TDFDs, provided that the improvements to the monitoring and mitigation measures are implemented.

Dated: January 6, 2012.

James H. Lecky,

Director, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 2012–610 Filed 1–12–12; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

United States Patent and Trademark Office

[Docket No. PTO–C–2011–0093]

National Medal of Technology and Innovation Call for 2012 Nominations

AGENCY: United States Patent and Trademark Office, Commerce.

ACTION: Notice and request for nominations.

SUMMARY: The Department of Commerce (United States Patent and Trademark Office) is accepting nominations for the National Medal of Technology and Innovation (NMTI). Since establishment by Congress in the Stevenson-Wydler Technology Innovation Act of 1980, the President of the United States has awarded the annual National Medal of Technology and Innovation (initially known as the National Medal of Technology) to our nation's leading innovators. If you know of a candidate who has made an outstanding, lasting contribution to the economy through the promotion of technology or technological manpower, you may obtain a nomination form from: *http://go.usa.gov/1dU*.

ADDRESSES: The NMTI nomination form for the year 2012 may be obtained by visiting the USPTO Web site at *http://go.usa.gov/1dU*. Nomination applications should be submitted to Steven Berk, Program Manager, National Medal of Technology and Innovation Program, by electronic mail to: *NMTI@uspto.gov* or by mail to: Steven Berk, NMTI Program Manager, United States Patent and Trademark Office, P.O. Box 1450, Alexandria, Virginia 22313–1450.

DATES: The deadline for submission of a nomination is March 31, 2012.

FOR FURTHER INFORMATION CONTACT: Steven Berk, Program Manager, National Medal of Technology and Innovation Program, United States Patent and Trademark Office, 600 Dulany Street, Alexandria, VA 22314; telephone (571) 272–8400 or by electronic mail: *nmti@uspto.gov*.

SUPPLEMENTARY INFORMATION:

Background

Enacted by Congress in the Stevenson-Wydler Technology Innovation Act of 1980, the National Medal of Technology was first awarded in 1985. On August 9, 2007, the President signed the America COMPETES (Creating Opportunities to Meaningfully Promote Excellence in Technology, Education, and Science) Act of 2007. The Act amended Section 16 of the Stevenson-Wydler Technology Innovation Act of 1980, changing the name of the Medal to the ''National Medal of Technology and Innovation.'' The Medal is the highest honor awarded by the President of the United States to America's leading innovators in the field of technology and is given annually to individuals, teams, or companies who have made outstanding contributions to the promotion of technology and technological manpower for the improvement of the economic, environmental or social well-being of the United States. The primary purpose of the National Medal of Technology and Innovation is to recognize American innovators whose vision, creativity, and brilliance in moving ideas to market has had a profound and lasting impact on our economy and way of life. The Medal highlights the national importance of fostering technological innovation based upon solid science, resulting in commercially successful products and services.

Eligibility and Nomination Criteria

Nomination Guidelines containing information on eligibility and nomination criteria are at *http://go.usa.gov/1dU.*

Dated: January 9, 2012.

David J. Kappos,

Under Secretary of Commerce for Intellectual Property and Director of the United States Patent and Trademark Office.

[FR Doc. 2012–600 Filed 1–12–12; 8:45 am]

BILLING CODE P

COMMITTEE FOR PURCHASE FROM PEOPLE WHO ARE BLIND OR SEVERELY DISABLED

Procurement List Proposed Additions

AGENCY: Committee for Purchase From People Who Are Blind or Severely Disabled.

ACTION: Proposed Additions to the Procurement List.

SUMMARY: The Committee is proposing to add services to the Procurement List that will be provided by the nonprofit agencies employing persons who are blind or have other severe disabilities.

Comments Must Be Received On or Before: 2/13/2012.

ADDRESSES: Committee for Purchase From People Who Are Blind or Severely Disabled, Jefferson Plaza 2, Suite 10800, 1421 Jefferson Davis Highway, Arlington, Virginia, 22202–3259.

FOR FURTHER INFORMATION CONTACT: Barry S. Lineback, Telephone: (703) 603–7740, Fax: (703) 603–0655, or email *CMTEFedReg@AbilityOne.gov.*

SUPPLEMENTARY INFORMATION: This notice is published pursuant to 41 U.S.C. 47 8503 (a)(2) and 41 CFR 51–2.3. Its purpose is to provide interested persons an opportunity to submit comments on the proposed actions.

Additions

If the Committee approves the proposed additions, the entities of the Federal Government identified in this notice will be required to furnish the services listed below from the nonprofit agencies employing persons who are blind or have other severe disabilities.

Regulatory Flexibility Act Certification

I certify that the following action will not have a significant impact on a substantial number of small entities. The major factors considered for this certification were:

1. If approved, the action will not result in any additional reporting, recordkeeping or other compliance requirements for small entities other than the small organizations that will provide the services to the Government.

2. If approved, the action will result in authorizing small entities to provide the services to the Government.

3. There are no known regulatory alternatives which would accomplish the objectives of the Javits-Wagner-O'Day Act (41 U.S.C. Chapter 85) in connection with the services proposed for addition to the Procurement List.

Comments on this certification are invited. Commenters should identify the statement(s) underlying the certification on which they are providing additional information.

End of Certification

The following services are proposed for addition to the Procurement List for production by the nonprofit agencies listed:

Services:

Service Type/Location: Contractor-Operated Civil Engineer Supply Store, 30th Civil Engineering Squadron, Vandenberg AFB, CA.
NPA: Industries of the Blind, West Allis, WI.
Contracting Activity: 30th Contracting Squadron, Vandenberg AFB, CA.

Service Type/Location: Base Supply Center, National Maritime Intelligence Center/Office of Naval Intelligence, 4251 Suitland Road, Suitland, MD.
NPA: Winston-Salem Industries for the Blind, Inc., Winston-Salem, NC.
Contracting Activity: Dept. of the Navy, Office of Naval Intelligence, Washington, DC.

Barry S. Lineback,

Director, Business Operations.

[FR Doc. 2012–538 Filed 1–12–12; 8:45 am]

BILLING CODE 6353–01–P

COMMODITY FUTURES TRADING COMMISSION

Privacy Act of 1974 System of Records Notice

AGENCY: Commodity Futures Trading Commission.

ACTION: Notice; publication of existence and character of two new systems of records.

SUMMARY: The Commodity Futures Trading Commission is establishing two new systems of records under the Privacy Act of 1974: one, for the collection of information related to new procedures for accounting and determining financial responsibility for lost, stolen, damaged or destroyed CFTC property assigned to CFTC employees, volunteers, interns, contractors and consultants; and two, for the collection of information related to internal electronic collaboration tools which use Microsoft SharePoint, including the CFTC Intranet and social media tools within the Intranet.

DATES: Comments must be received on or before February 13, 2012.

ADDRESSES: You may submit comments identified by ''Lost or Damaged Property SORN'' or ''Internal Electronic Collaboration Tools SORN'' as applicable, by any of the following methods:

- *Agency Web site, via its Comments Online process: http://comments.cftc.gov.* Follow the instructions for submitting comments through the Web site.
- *Federal eRulemaking Portal:* Comments may be submitted at *http://www.regulations.gov.* Follow the instructions for submitting comments.
- *Mail:* David A. Stawick, Secretary of the Commission, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street, NW., Washington, DC 20581.
- *Hand Delivery/Courier:* Same as mail above.

Please submit your comments using only one method.

All comments must be submitted in English, or if not, accompanied by an English translation. Comments will be posted as received to *www.cftc.gov.* You should submit only information that you wish to make available publicly. If you wish the Commission to consider information that you believe is exempt from disclosure under the Freedom of Information Act, a petition for confidential treatment of the exempt information may be submitted according to the procedures established in § 145.9 of the Commission's regulations, 17 CFR 145.9.

The Commission reserves the right, but shall have no obligation, to review, pre-screen, filter, redact, refuse or remove any or all of a submission from *www.cftc.gov* that it may deem to be inappropriate for publication, such as obscene language. All submissions that have been redacted or removed that contain comments on the merits of the notice will be retained in the public comment file and will be considered as required under all applicable laws, and may be accessible under the Freedom of Information Act.

FOR FURTHER INFORMATION CONTACT: Kathy Harman-Stokes, Chief Privacy Officer, *kharman-stokes@cftc.gov,* (202) 418–6629, Office of the Executive Director, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street, NW., Washington, DC 20581.

SUPPLEMENTARY INFORMATION:

I. The Privacy Act

Under the Privacy Act of 1974, 5 U.S.C. 552a, a ''system of records'' is defined as any group of records under the control of a Federal Government agency from which information about individuals is retrieved by name or other personal identifier. The Privacy Act establishes the means by which government agencies must collect, maintain, and use personally identifiable information associated with an individual in a government system of records.

Each government agency is required to publish a notice in the **Federal Register** of a system of records in which the agency identifies and describes each system of records it maintains, the reasons why the agency uses the personally identifying information therein, the routine uses for which the agency will disclose such information outside the agency, and how individuals may exercise their rights under the Privacy Act to determine if the system contains information about them.

II. Lost, Stolen, Damaged or Destroyed CFTC Property

The CFTC assigns its employees, interns, volunteers, contractors and consultants (''employees'') certain accountable CFTC property for their use in accomplishing their official duties. The CFTC is obligated to account for such property for financial responsibility and audit purposes and, in certain situations, to recover costs for property that has been lost, stolen, damaged or destroyed. The property for which an accounting is required includes, but is not limited to, sensitive property, such as a Blackberry or laptop, that requires special controls or is especially vulnerable to loss, theft or misuse, and other property, including printers, monitors, scanners, and cameras.

The Commission is establishing a new business process to require employees to report when CFTC property is lost, stolen, damaged or destroyed, and for the CFTC to document the determination of financial responsibility for the property. The new Privacy Act system of records includes information supplied by the employee; evidence and records requested to facilitate the determination of financial responsibility, such as copies of police reports, accident reports and photographs; Property Survey Board interviews and other notes, meeting minutes, and findings and recommendations concerning responsibility for reimbursement; and information related to the final decision by the Executive Director. The system of records also contains information on reimbursement and, if an employee disagrees with a finding of responsibility, records related to the employee's appeal.

III. Internal Electronic Collaboration Tools

The CFTC is implementing internal electronic collaboration tools utilizing the Microsoft SharePoint platform. These tools will upgrade the Commission's intranet, allow users to set up team collaboration workspaces, facilitate sharing of documents, policies and information, and allow limited social networking through the SharePoint ''MySites'' feature. The new Intranet, built on these tools, will include Commission policies, procedures, forms, organization charts, news clips, links to other sites that are helpful for staff members, and links to other CFTC SharePoint sites containing shared documents and other information. The Intranet will include content regarding program offices, services and support, and projects and activities. By connecting to a CFTC network administration database, the Intranet will display a directory of all CFTC users, including titles, contact information and the photograph used for CFTC credentials for all employees, interns, volunteers, consultants and contractors (collectively ''users''). Certain SharePoint sites may include personal contact information for users. The MySites feature will allow CFTC users to set up a personal profile, identify subject matter areas about which they are knowledgeable, upload pictures, and publish notes, tags, content, and messages that are similar to email. MySites includes a ''newsfeed'' to alert selected users when one user has added or changed information on his or her MySites page. Users will be able to manually select ''colleagues,'' which the colleague may approve or deny, and create and join groups. Overall, the internal collaboration tools will provide invaluable dissemination and exchange of information, allowing users to stay connected within a dashboard that each user can personalize.

While most of the information in the collaboration tools will involve Commission policies, forms, activities and other business, the tools will display personally identifiable information (''PII'') in the form of the CFTC user name, title, business contact information, the photograph a user uses for credentials to access CFTC facilities, and organizational chart and hierarchy information. Those users who elect to participate in MySites will be able to publish additional personal information to selected colleagues only, to specified teams or groups, and/or to all CFTC users, as they choose. That personal information may include personal photographs, information about their family status (such as whether they are married or have children), their hobbies or personal activities, and other content.

All CFTC users will need to use the internal electronic collaboration tools to perform their official duties, for example, to use the Intranet to obtain business phone numbers of other CFTC users, to view internal policies, to link to specific SharePoint sites containing Commission business information, or use SharePoint workspaces with other team members. On the other hand, the use of MySites is purely voluntary. Those who elect to use MySites will have some control over which other users may see their personal information; however, as will be explained to MySites users, Intranet site administrators and other CFTC staff members with a legitimate need to know the information for official purposes will have full access to view all content, including all personal content posted through MySites. Intranet users will be clearly informed that, if they use MySites, they have no reasonable expectation of privacy in any information they post, as with any other information passing through or stored on CFTC equipment.

The Internal Electronic Collaboration Tools system of records will contain CFTC business information, business contact information and photographs for CFTC users, at times personal contact information, and any personal information a user chooses to post within MySites.

IV. Notice: Lost, Stolen, Damaged or Destroyed CFTC Property

System Number:

CFTC–46.

SYSTEM NAME:

Lost, Stolen, Damaged or Destroyed CFTC Property.

SECURITY CLASSIFICATION:

Unclassified.

SYSTEM LOCATION:

This system is located in the Commission's principal office at Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street, NW., Washington, DC 20581.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

CFTC employees, interns, volunteers, contractors and consultants who have experienced the loss, theft, damage or destruction of CFTC accountable property assigned to them.

CATEGORIES OF RECORDS IN THE SYSTEM:

The system of records includes the information provided by employees, volunteers, interns, contractors or consultants on a Lost, Stolen, Damaged or Destroyed CFTC Property reporting form, such as name, office contact information, and details concerning the loss, theft, damage or destruction of property; evidence and records collected from the employee, volunteer, intern, contractor or consultant, his or her supervisor or others interviewed; copies of police reports, accident reports, photographs and notes from interviews; meeting minutes from Property Survey Board meetings; findings, recommendations and the final decision concerning responsibility for reimbursement; information concerning reimbursement; and, if applicable, records related to an appeal.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Commodity Exchange Act Section 2(a)(5) (7 U.S.C. 2(a)(5)), Section 2(a)(6) (7 U.S.C. 2(a)(6)) and Section 2(a)(12) (7 U.S.C. 2(a)(12)), and the rules and regulations promulgated thereunder; the Federal Property and Administrative Services Act of 1949, 40 U.S.C. 471 *et seq.;* the Federal Managers' Financial Integrity Act of 1982, 31 U.S.C. 3512(b) and (c); and the Government Employee's Standard of Conduct, 5 CFR 2635.704.

PURPOSE(S):

The purpose of the new system of records is to facilitate reporting by employees, interns, volunteers, contractors and consultants when CFTC property assigned to them is lost, stolen, damaged or destroyed, to allow the CFTC Logistics and Operations Unit (L&O), a new Property Survey Board, and/or the Commission's Executive Director to review reports and related evidence, to determine whether the employee, intern, volunteer, contractor or consultant should be held financially responsible for reimbursing the CFTC for the costs of the property, and to allow an appeal of a decision.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The information in this system will be routinely used by CFTC staff in the Office of the Executive Director, including L&O, Financial Management Branch, and, as needed, the Human Resources Branch, to facilitate the accounting for and determination of financial responsibility of employees, volunteers, interns, contractors and consultants for lost, stolen, damaged or destroyed CFTC property assigned to them. Information in this system may also be disclosed in accordance with the blanket routine uses that appear in the Commission's Privacy Act Systems of Records Notices, see, *e.g.,* 76 FR 5974 (Feb. 2, 2011).

DISCLOSURE TO CONSUMER REPORTING AGENCIES:

None.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESS CONTROLS, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records are stored in file folders, binders, computer disks, and are uploaded into the CFTC network. Electronic records, including emails, spreadsheets, PDF files and documents maintained on a SharePoint site, are stored on the Commission's network and other electronic media as needed, such as encrypted hard drives and back-up media.

RETRIEVABILITY:

By name of the employee, volunteer, intern, contractor or consultant who completes and provides to L&O staff the Lost, Stolen, Damaged or Destroyed CFTC Property Report and provides other evidence.

ACCESS CONTROLS, SAFEGUARDS:

Records in the system are protected from unauthorized access and misuse through various administrative, technical and physical security measures. Technical security measures within CFTC include restrictions on computer access to authorized individuals, required use of strong passwords that are frequently changed, use of encryption for certain data types and transfers, and regular review of security procedures and best practices to enhance security. Physical measures include restrictions on building access to authorized individuals only and maintaining records in lockable offices and filing cabinets.

RETENTION AND DISPOSAL:

The records will be maintained in accordance with records disposition schedules approved by the National Archives and Records Administration. The schedules are available at *www.cftc.gov.*

SYSTEM MANAGER(S) AND ADDRESS:

The Commission's Logistics and Operations Unit, Property Management Officer, located at the Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street NW., Washington, DC 20581.

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether this system of records contains information about themselves or seeking access to records about themselves in this system of records, or contesting the content of records about themselves contained in this system of records should address written inquiry to the Office of General Counsel, Paralegal Specialist, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street NW., Washington, DC 20581. Telephone (202) 418–5011.

RECORD SOURCE CATEGORIES:

Employees, volunteers, interns, contractors or consultants who provide information through the Lost, Stolen, Damaged or Destroyed CFTC Property Report or in discussions with L&O staff, the Property Survey Board or Executive Director; selected L&O staff and the Property Survey Board members involved in reviewing a particular situation to make a recommendation regarding responsibility for reimbursement; the Executive Director, who makes the final decision regarding responsibility; and personnel in the Commission's Financial Management Branch who handle financial reimbursement issues.

EXEMPTIONS CLAIMED FOR THIS SYSTEM:

None.

V. Notice: Internal Electronic Collaboration Tools

System Number:

CFTC–47.

SYSTEM NAME:

Internal Electronic Collaboration Tools.

SECURITY CLASSIFICATION:

Unclassified.

SYSTEM LOCATION:

This system is located in the Commodity Futures Trading Commission headquarters, Three Lafayette Centre, 1155 21st Street NW., Washington, DC 20581.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

CFTC employees, interns, volunteers, contractors and consultants who are given access to the CFTC network.

CATEGORIES OF RECORDS IN THE SYSTEM:

CFTC user name, title, business and personal contact information, and

organizational chart and hierarchy information. Those users who elect to participate in MySites will be able to publish additional personal information, such as personal photographs, information about their family status (such as whether they are married or have children), their hobbies, subject matter areas of Commission business about which they are knowledgeable, personal activities, notes, messages and other content. Also, the Internal Electronic Collaboration Tools will contain documents in electronic form covered by other CFTC Privacy Act System of Record Notices.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301; Commodity Exchange Act, 7 U.S.C. § 1 *et seq.* including Section 12(b) of the Commodity Exchange Act, at 7 U.S.C. 16(b)(3), and the rules and regulations promulgated thereunder.

PURPOSE(S):

The purpose of the new system of records is to enhance and improve efficiencies in the dissemination and exchange of information within the Commission and allow colleagues to connect with each other. The internal electronic collaboration tools, utilizing the Microsoft SharePoint platform, will upgrade the Commission's intranet, allow users to set up team collaboration workspaces, facilitate sharing of documents, policies and information, and allow limited social networking through the SharePoint ''MySites'' feature. The new intranet will include Commission policies, procedures, forms, organization charts, news clips, links to other sites that are helpful for staff members, and links to other CFTC SharePoint sites containing shared documents and other information. The intranet will include content regarding program offices, services and support, and projects and activities. By connecting to a CFTC network administration database, the intranet will display a directory of all CFTC users, including titles, contact information and the photograph used for CFTC credentials for all employees, interns, volunteers, consultants and contractors (collectively ''users''). The MySites feature will allow CFTC users to set up a personal profile, upload pictures, and publish content and messages that are similar to email. MySites also allows users to join groups, connect with colleagues and receive a newsfeed when new information is posted.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The information in this system will be routinely used by CFTC users to disseminate and share information, collaborate and communicate with each other with the goal of more efficiently conducting Commission business. Also, the Internal Electronic Collaboration Tools system will contain documents in electronic form covered by other System of Record Notices, and the routine uses for those System of Record Notices apply. In addition, information in this system may be disclosed in accordance with the blanket routine uses that appear in the Commission's Privacy Act Systems of Records Notices, see, *e.g.,* 76 FR 5974 (Feb. 2, 2011).

DISCLOSURE TO CONSUMER REPORTING AGENCIES:

None.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESS CONTROLS, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Electronic records, including emails, spreadsheets, PDF files, other documents and content maintained in or through this system are stored on the Commission's network and other electronic media as needed, such as encrypted hard drives and back-up media. Print-outs of records in this system are stored in file folders, binders and similar filing methods.

RETRIEVABILITY:

By name of the employee, volunteer, intern, consultant or contractor who has access to the CFTC network.

ACCESS CONTROLS, SAFEGUARDS:

Records in the system are protected from unauthorized access and misuse through various administrative, technical and physical security measures. Technical security measures within CFTC include restrictions on computer access to authorized individuals, required use of strong passwords that are frequently changed, use of encryption for certain data types and transfers, and regular review of security procedures and best practices to enhance security. Physical measures include restrictions on building access to authorized individuals only and maintaining records in lockable offices and filing cabinets.

RETENTION AND DISPOSAL:

The records will be maintained and dispositioned in accordance with records disposition schedules approved by the National Archives and Records Administration.

SYSTEM MANAGER(S) AND ADDRESS:

The Commission's Office of Data and Technology, located at the Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street NW., Washington, DC 20581.

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether this system of records contains information about themselves or seeking access to records about themselves in this system of records, or contesting the content of records about themselves contained in this system of records should address written inquiry to the Office of General Counsel, Paralegal Specialist, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street NW., Washington, DC 20581. Telephone (202) 418–5011.

RECORD SOURCE CATEGORIES:

CFTC employees, volunteers, interns, contractors or consultants who have access to the CFTC network and post information within the Internal Electronic Collaboration Tools. The source of user directory information is the network administration database.

EXEMPTIONS CLAIMED FOR THIS SYSTEM:

The Internal Electronic Collaboration Tools system will contain documents in electronic form covered by other System of Record Notices, and the exemptions for those System of Record Notices apply.

Issued in Washington, DC, this 5th day of January, 2012, by the Commission.

David Stawick,

Secretary of the Commission.

[FR Doc. 2012–547 Filed 1–12–12; 8:45 am]

BILLING CODE P

DEPARTMENT OF DEFENSE

Office of the Secretary

Federal Advisory Committee; Defense Health Board (DHB) Meeting

AGENCY: Department of Defense (DoD).

ACTION: Notice of meeting.

SUMMARY: Pursuant to the Federal Advisory Committee Act of 1972 (5 U.S.C., Appendix as amended), the Sunshine in the Government Act of 1976 (5 U.S.C. 552b, as amended), and 41 CFR 102–3.150, and in accordance with section 10(a)(2) of Public Law, a Defense Health Board (DHB) meeting is announced.

DATES:

February 21, 2012

9 a.m.–12 p.m. (Open Session).

12 p.m.–1 p.m. (Administrative Working Meeting).

1 p.m.–4:30 p.m. (Open Session).

February 22, 2012

8 a.m.–2 p.m. (Administrative Working Meeting).

ADDRESSES: Marriott Rivercenter, 101 Bowie Street, San Antonio, Texas 78205.

FOR FURTHER INFORMATION CONTACT: Ms. Christine Bader, Director, Defense Health Board, 5111 Leesburg Pike, Suite 810, Falls Church, Virginia 22041–3206, (703) 681–8448, Ext. 1215, Fax: (703) 681–3317, *Christine.bader@tma.osd.mil.*

SUPPLEMENTARY INFORMATION: Additional information, including the agenda and electronic registration are available at the DHB Web site, *http://www.health.mil/dhb/default.cfm.* Anyone intending to attend is encouraged to register to ensure that adequate seating is available.

Purpose of the Meeting

The purpose of the meeting is to address and deliberate pending and new issues before the Board.

Agenda

On February 21, 2012, the Dover Port Mortuary Independent Review Subcommittee will report its findings to the Board. Additionally, the Board will receive briefings regarding military health needs and priorities from guest speakers and representatives of the Department of Defense.

Pursuant to 5 U.S.C. 552b, as amended, and 41 CFR 102–3.140 through 102–3.165 and subject to availability of space, the DHB meeting on February 21, 2012 will be open to the public from 9 a.m. to 12 p.m. and 1 p.m. to 4:30 p.m. On February 22, 2012, the Board will be conducting an administrative working session.

Written Statements

Any member of the public wishing to provide comments to the DHB may do so in accordance with 41 CFR 102–3.140(c) and section 10(a)(3) of the Federal Advisory Committee Act, and the procedures described in this notice.

Individuals desiring to provide comments to the DHB may do so by submitting a written statement to the DHB Designated Federal Officer (DFO) (see **FOR FURTHER INFORMATION CONTACT**). Written statements should address the following details: the issue, discussion, and a recommended course of action. Supporting documentation may also be included, as needed, to establish the appropriate historical context and to provide any necessary background information.

If the written statement is not received at least 10 calendar days prior to the meeting, the DFO may choose to postpone consideration of the statement until the next open meeting.

The DFO will review all timely submissions with the DHB President and ensure they are provided to members of the DHB before the meeting that is subject to this notice. After reviewing the written comments, the DHB President and the DFO may choose to invite the submitter to orally present their issue during an open portion of this meeting or at a future meeting. The DFO, in consultation with the DHB President, may allot time for members of the public to present their issues for review and discussion by the Defense Health Board.

Special Accommodations

If special accommodations are required to attend (sign language, wheelchair accessibility) please contact Ms. Lisa Jarrett at (703) 681–8448 ext. 1280 by Friday, February 10, 2012.

Dated: January 9, 2012.

Aaron Siegel,

Alternate Federal Register Liaison Officer, Department of Defense.

[FR Doc. 2012–518 Filed 1–12–12; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Office of the Secretary

[Docket ID: DOD–2012–OS–0001]

Privacy Act of 1974; System of Records

AGENCY: U.S. Strategic Command, DoD.

ACTION: Notice to Add a System of Records.

SUMMARY: The U.S. Strategic Command proposes to add a system of records to its inventory of record systems subject to the Privacy Act of 1974 (5 U.S.C. 552a), as amended.

DATES: This proposed action will be effective on February 13, 2012 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: Mr. Kendall Cooper, USSTRATCOM/J636 (CSC), 901 SAC Blvd., Ste 1H10, Offutt AFB, NE 68113–6000, or at (402) 294–6321.

SUPPLEMENTARY INFORMATION: The U.S. Strategic Command 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 report, as required by 5 U.S.C. 552a(r) of the Privacy Act of 1974, as amended, was submitted on January 10, 2012, 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: January 10, 2012.

Aaron Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

FSTRATCOM 01

SYSTEM NAME:

Command Data Records

SYSTEM LOCATION:

United States Strategic Command, Command Protocol, 901 SAC Blvd., Suite 2A9, Offutt AFB, NE 68113.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Current USSTRATCOM active duty leadership, former USSTRATCOM leadership and notable civilians in the local area, state government officials, US government leadership for Nebraska, Offutt AFB (55th Wing).

CATEGORIES OF RECORDS IN THE SYSTEM:

Individuals name, address, gender, status (DoD or Non-DoD), type (military or civilian), service, rank, date of rank, duty title, work address, phone number and email address, secretary name, food

preference/dietary restrictions, group affiliation (within same database), spouse information, home address (if work address not available), home phone (if work phone not available), home email (if work email not available).

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 U.S.C. 301, Departmental Regulations; SI 901–5, Visit and Event Management; AFMAN 33–363, Management of Records; AFI 33–332, Air Force Privacy Program; SI 900–7, Privacy Act Program; and SI 930–1, Records Management Program.

PURPOSE(S):

This system of records will be used to maintain records of military and community distinguished visitors for informational purposes for invitations for official visits, events, or ceremonies.

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, as amended, the 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:

Any release of information contained in this system of records outside of the DoD will be compatible with purposes for which the information is collected and maintained.

To state government, agencies or external organizations in order to provide information for invitations to ceremonies or events that are hosted by them.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Electronic storage media.

RETRIEVABILITY:

By individual's name.

SAFEGUARDS:

Access to records is restricted to those users who have an official need-to-know within the Command Protocol office, and who are properly trained to use the system. As a further security measure, access to the system is controlled by Common Access Card (CAC) according to USSTRATCOM policy governing access to data on Command networks. All users are required to complete Information Assurance and Privacy training. Electronic records are maintained within secured buildings in areas accessible only to persons having an official need-to-know, and who are properly trained and screened. No physical records are maintained for this system.

RETENTION AND DISPOSAL:

Cut off on completion of event, hold 5 years, then destroy/delete; or destroy/delete when no longer needed, whichever is later.

SYSTEM MANAGER(S) AND ADDRESS:

United States Strategic Command, Command Protocol, 901 SAC Blvd., Suite 2A9, Offutt AFB, NE 68113–6000.

United States Strategic Command—J636 (CSC), 901 SAC Blvd., Suite 1H10, Offutt AFB, NE 68113–6000.

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether information about themselves is contained in this system should address written inquiries to Command Protocol, United States Strategic Command, 901 SAC Blvd., Suite 2A9, Offutt AFB, NE 68113–6000.

For verification purposes, the individual should provide full name and signature.

RECORD ACCESS PROCEDURES:

Individuals seeking to determine whether information about themselves is contained in this system should address written inquiries to Command Protocol, United States Strategic Command, 901 SAC Blvd., Suite 2A9, Offutt AFB, NE 68113–6000.

For verification purposes, individual should provide full name and signature.

CONTESTING RECORD PROCEDURES:

The USSTRATCOM rules for assessing records, for contesting and appealing initial agency determinations may be obtained from the system manager.

RECORD SOURCE CATEGORIES:

From the individual.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

[FR Doc. 2012–573 Filed 1–12–12; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF ENERGY

Secretary of Energy Advisory Board

AGENCY: Department of Energy.

ACTION: Notice of open meeting.

SUMMARY: This notice announces an open meeting of the Secretary of Energy Advisory Board (SEAB). The Federal Advisory Committee Act (Pub. L. No. 92–463, 86 Stat. 770) (the Act) requires that public notice of these meetings be announced in the **Federal Register**.

DATES: Tuesday, January 31, 2012, 8:30 a.m.–3:30 p.m.

ADDRESSES: U.S. Department of Energy, 1000 Independence Avenue SW., Washington, DC 20585.

FOR FURTHER INFORMATION CONTACT: Alyssa Morrissey, Deputy Designated Federal Officer, U.S. Department of Energy, 1000 Independence Avenue SW., Washington, DC 20585; telephone: (202) 586–2926, facsimile: (202) 586–1441; or email: *seab@hq.doe.gov*.

SUPPLEMENTARY INFORMATION:

Background: The Board was reestablished to provide advice and recommendations to the Secretary on the Department's basic and applied research, economic and national security policy, educational issues, operational issues and other activities as directed by the Secretary of Energy.

Purpose of the Meeting: The meeting will provide briefings to the Board and an opportunity for the subcommittees to report on their progress.

Tentative Agenda: The meeting will start at 8:30 a.m. on Tuesday, January 31, 2012, and will serve as an update meeting for the Board. The tentative meeting agenda includes a welcome, opening remarks from the Secretary, reports on planned activities from the subcommittees and an opportunity for public comment. The meeting will conclude at 3:30 p.m.

Public Participation: The SEAB welcomes the attendance of the public at its advisory board meetings. The meeting is open to the public. Individuals who would like to attend must RSVP to Alyssa Morrissey no later than 5 p.m. on Thursday, January 26, 2012, by email at: *seab@hq.doe.gov*. An early confirmation of attendance will help facilitate access to the building more quickly. Please provide your name, organization, citizenship, and contact information. Anyone attending the meeting will be required to present government-issued identification. Individuals and representatives of organizations who would like to offer comments and suggestions may do so at the end of the meeting on Tuesday, January 31, 2012. Approximately 30 minutes will be reserved for public comments. Time allotted per speaker will depend on the number of individuals who wish to speak, but will not exceed 5 minutes. The Deputy Designated Federal Officer is empowered to conduct the meeting in a fashion that will facilitate the orderly conduct of business. Those wishing to speak should register to do so beginning at 8:30 a.m. on January 31, 2012.

Those not able to attend the meeting or have insufficient time to address the

committee are invited to send a written statement to Alyssa Morrissey, U.S. Department of Energy, 1000 Independence Avenue SW., Washington DC 20585, or send an email to *seab@hq.doe.gov.*

Minutes: The minutes of the meeting will be available on the SEAB Web site at *http://www.energy.gov/SEAB* or by contacting Ms. Morrissey at the postal address or email address listed above.

Issued at Washington, DC, on January 9, 2012.

LaTanya R. Butler,

Acting Deputy Committee Management Officer.

[FR Doc. 2012–545 Filed 1–12–12; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Office of Energy Efficiency and Renewable Energy

Proposed Agency Information Collection

AGENCY: Office of Energy Efficiency and Renewable Energy, U.S. Department of Energy.

ACTION: Notice and request for comments.

SUMMARY: The Department of Energy (DOE) invites public comment on a proposed emergency collection of information that DOE is developing for submission to the Office of Management and Budget (OMB) pursuant to the Paperwork Reduction Act of 1995. Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology.

DATES: Comments regarding this proposed information collection must be received on or before February 9, 2012. If you anticipate difficulty in submitting comments within that period, contact the person listed in **ADDRESSES** as soon as possible.

ADDRESSES: Written comments may be sent to Jamie Vernon or by fax at (202) 586–9260, or by email at *Jamie.Vernon@ee.doe.gov.*

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection instrument and instructions should be directed to Jamie Vernon, *Jamie.Vernon@ee.doe.gov.*

SUPPLEMENTARY INFORMATION: This information collection request contains: (1) *OMB No.:* New; (2) *Information Collection Request Title:* Customer Electricity Consumption Data Access and Control Questionnaire; (3) *Type of Request:* New; (4) *Purpose:* The U.S. Department of Energy (DOE) will generate a ''crowd-sourced map'' that discloses consumer access to personal electricity consumption data and the ability to share that data with third parties for the purpose of developing energy savings plans. Generation of such a map requires DOE to collect information from electricity providers about data access and sharing services offered to their customers. To meet this obligation, the DOE Office of Energy Efficiency and Renewable Energy (EERE) has developed an online questionnaire device that captures and publishes the necessary information as a series of web-based maps upon completion by electricity providers. DOE is requesting a 6-month approval to collect this information; (5) *Annual Estimated Number of Respondents:* 3,261; (6) *Annual Estimated Number of Total Responses:* 3,261; (7) *Annual Estimated Number of Burden Hours:* 435; (8) *Annual Estimated Reporting and Recordkeeping Cost Burden:* $0.

Statutory Authority: Section 13(b) of the Federal Energy Administration Act of 1974 (FEA Act), as amended, codified at 15 U.S.C. 772(b) and Section 1301 of the Energy Independence and Security Act of 2007 (EISA), as amended, codified at 42 U.S.C. 17381.

Issued in Washington, DC, on January 9, 2012.

Carla Frisch,

Acting Director of Analysis, Office of Energy Efficiency and Renewable Energy, U.S. Department of Energy.

[FR Doc. 2012–546 Filed 1–12–12; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP12–38–000]

Trunkline Gas Company, LLC; Notice of Amendment

Take notice that on December 22, 2011, Trunkline Gas Company, LLC (Trunkline), P.O. Box 4967, Houston, Texas 77210–4967, filed an application in Docket No. CP12–38–000, to amend its Certificate of Public Convenience and Necessity issued April 8, 2011 pursuant to section 7 of the Natural Gas Act (NGA), authorizing Trunkline to isolate its South Texas System (System), make minor modifications to convert the System to bi-directional flow, provide for liquids-rich gas transportation and abandon certain facilities. In this amendment, Trunkline requests authorization to relocate its delivery point to DCP Midstream, LP to a point located approximately 1¾ mile southwest of the existing Edna Compressor Station, all as more fully set forth in the application which is on file with the Commission and open for public inspection.

Any questions regarding the applications should be directed to Stephen T. Veatch, Sr., Director, Certificates and Tariffs, Trunkline Gas Company, LLC, 5444 Westheimer Road, Houston, Texas 77056; or call at (713) 989–2024; *Stephen.veatch@sug.com.*

Pursuant to section 157.9 of the Commission's rules, 18 CFR 157.9, within 90 days of this Notice the Commission staff will either: Complete its environmental assessment (EA) and place it into the Commission's public record (eLibrary) for this proceeding; or issue a Notice of Schedule for Environmental Review. If a Notice of Schedule for Environmental Review is issued, it will indicate, among other milestones, the anticipated date for the Commission staff's issuance of the final environmental impact statement (FEIS) or EA for this proposal. The filing of the EA in the Commission's public record for this proceeding or the issuance of a Notice of Schedule for Environmental Review will serve to notify federal and state agencies of the timing for the completion of all necessary reviews, and the subsequent need to complete all federal authorizations within 90 days of the date of issuance of the Commission staff's FEIS or EA.

There are two ways to become involved in the Commission's review of this project. First, any person wishing to obtain legal status by becoming a party to the proceedings for this project

should, on or before the comment date stated below, file with the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426, a motion to intervene in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the NGA (18 CFR 157.10). A person obtaining party status will be placed on the service list maintained by the Secretary of the Commission and will receive copies of all documents filed by the applicant and by all other parties. A party must submit 7 copies of filings made with the Commission and must mail a copy to the applicant and to every other party in the proceeding. Only parties to the proceeding can ask for court review of Commission orders in the proceeding.

However, a person does not have to intervene in order to have comments considered. The second way to participate is by filing with the Secretary of the Commission, as soon as possible, an original and two copies of comments in support of or in opposition to this project. The Commission will consider these comments in determining the appropriate action to be taken, but the filing of a comment alone will not serve to make the filer a party to the proceeding. The Commission's rules require that persons filing comments in opposition to the project provide copies of their protests only to the party or parties directly involved in the protest.

Persons who wish to comment only on the environmental review of this project should submit an original and two copies of their comments to the Secretary of the Commission. Environmental commentors will be placed on the Commission's environmental mailing list, will receive copies of the environmental documents, and will be notified of meetings associated with the Commission's environmental review process. Environmental commentors will not be required to serve copies of filed documents on all other parties. However, the non-party commentors will not receive copies of all documents filed by other parties or issued by the Commission (except for the mailing of environmental documents issued by the Commission) and will not have the right to seek court review of the Commission's final order.

The Commission strongly encourages electronic filings of comments, 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 7 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: January 27, 2012.

Dated: January 6, 2012.

Kimberly D. Bose,

Secretary.

[FR Doc. 2012–509 Filed 1–12–12; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. P–13010–003]

Mississippi 8 Hydro LLC; Notice of Application Tendered for Filing With the Commission and Soliciting Additional Study Requests

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection.

a. *Type of Application:* Original Major License.

b. *Project No.:* P–13010–003.

c. *Date filed:* December 27, 2011.

d. *Applicant:* Mississippi 8 Hydro LLC.

e. *Name of Project:* Lock and Dam 8 Hydroelectric Project.

f. *Location:* The project would be located on the upper Mississippi River in Houston County, Minnesota at an existing lock and dam owned and operated by the U.S. Corps of Engineers (Corps) at about river mile 679. The project would occupy federal lands managed by the U.S. Fish and Wildlife Service.

g. *Filed Pursuant to:* Federal Power Act 16 U.S.C. 791(a)–825(r).

h. *Applicant Contact:* Mr. Brent L. Smith, Chief Operating Officer, Symbiotics LLC, 371 Upper Terrace, Suite 2, Bend, OR 97702, Phone: (541) 330–8779.

i. *FERC Contact:* Lesley Kordella at (202) 502–6406; or email at *Lesley.Kordella@ferc.gov.*

j. *Cooperating agencies:* Federal, State, local, and tribal agencies with jurisdiction and/or special expertise with respect to environmental issues that wish to cooperate in the preparation of the environmental document should follow the instructions for filing such requests described in item l below. Cooperating agencies should note the Commission's policy that agencies that cooperate in the preparation of the environmental document cannot also intervene. *See,* 94 FERC ¶ 61,076 (2001).

k. Pursuant to Section 4.32(b)(7) of 18 CFR of the Commission's regulations, if any resource agency, Indian Tribe, or person believes that an additional scientific study should be conducted in order to form an adequate factual basis for a complete analysis of the application on its merit, the resource agency, Indian Tribe, or person must file a request for a study with the Commission not later than 60 days from the date of filing of the application, and serve a copy of the request on the applicant.

l. Deadline for filing additional study requests and requests for cooperating agency status: February 27, 2012.

All documents 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 1–08–3676, 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.

m. The application is not ready for environmental analysis at this time.

n. The proposed project would utilize the existing U.S. Army Corps of Engineers' Lock & Dam Lock and Dam 8, and would consist of the following facilities: (1) 28 0.5–MW very low head type hydraulic turbines attached to the dam's existing Tainter and roller gate structures; (2) a new 30-foot-long by 40-foot-wide control house; (3) a new 175-foot-long by 200-foot-wide substation; (4) a new 175-foot-long by 100-foot-wide storage yard; (5) a new 350-foot-long transmission line; and (6) appurtenant

facilities. The average annual generation would be about 42.5 gigawatt hours.

o. A copy of the application 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 also register online at *http://www.ferc.gov/docs-filing/esubscription.asp* to be notified via email of new filings and issuances related to this or other pending projects. For assistance, contact FERC Online Support.

p. *Procedural schedule:* The application will be processed according to the following preliminary Hydro Licensing Schedule. Revisions to the schedule will be made as appropriate.

Issue Notice of Acceptance	April 2012.
Issue Scoping Document 1 for comments.	May 2012.
Comments on Scoping Document 1.	June 2012.
Issue Scoping Document 2	August 2012.
Issue notice of ready for environmental analysis.	August 2012.
Commission issues EA, draft EA, or draft EIS.	April 2013.
Comments on EA, or draft EA, or draft EIS.	May 2013.
Commission issues final EA or final EIS.	August 2013.

Final amendments to the application must be filed with the Commission no later than 30 days from the issuance date of the notice of ready for environmental analysis.

Dated: January 6, 2012.

Kimberly D. Bose,

Secretary.

[FR Doc. 2012–507 Filed 1–12–12; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. AC12–27–000]

Midwest Independent Transmission System Operator, Inc.; Notice of Filing

Take notice that on December 27, 2011, Midwest Independent Transmission System Operator, Inc. submitted a request for authorization to defer for future recovery certain costs with the integration of the Entergy Operating Companies.

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 or 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. Such notices, motions, or protests must be filed on or before the comment date. On or before the comment date, it is not necessary to serve motions to intervene or protests on persons other than the Applicant.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov.* Persons unable to file electronically should submit an original and 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: January 20, 2012.

Dated: January 6, 2012.

Kimberly D. Bose,

Secretary.

[FR Doc. 2012–508 Filed 1–12–12; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 2928–007]

Merrimac Paper Company, Inc.; Notice of Termination of License by Implied Surrender and Soliciting Comments and Motions To Intervene

Take notice that the following hydroelectric proceeding has been initiated by the Commission:

a. *Type of Proceeding:* Termination of License by Implied Surrender.

b. *Project No.:* 2928–007.

c. *Date Initiated:* January 06, 2012.

d. *Licensee:* Merrimac Paper Company, Inc.

e. *Name and Location of Project:* The Merrimac Hydroelectric Project is located on the Merrimack River, a navigable waterway in the United States, in the city of Lawrence, Essex County, Massachusetts.

f. *Proceeding Initiated Pursuant to:* Standard Article 17 of the project's license and 18 CFR 6.4 (2011).

g. *Licensee Contact Information:* Ms. Terri Bechta, 9 South Canal Street, Lawrence, MA 01843–1410; phone (617) 686–0342.

h. *FERC Contact:* Krista Sakallaris, (202) 502–6302.

i. Deadline for filing comments, protests, and motions to intervene is 30 days from the issuance date of this notice. All documents may be filed electronically via the Internet in lieu of paper. See 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site at *http://www.ferc.gov/docs-filing/efiling.asp.* The Commission strongly encourages electronic filings. If unable to be filed electronically, documents may be paper-filed. To paper-file, an original and seven copies should be sent to: The Secretary, Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426. 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. Please include the project number (P–2928–007) on any documents or motions filed.

j. Description of Existing Facilities: (1) Unit No. 1: (i) A 6.5-foot-high by 6.0-foot wide head gate and trashrack structure; (ii) a 260-foot-long, 5-foot-diameter penstock connected to; (iii) a generating unit with an installed capacity of 200kW; (iv) an 18-foot-long tailrace canal; and (v) other appurtenances; (2) Unit No. 2: (i) A 6.5-foot-high by 6.0-foot-wide head gate and trashrack structure; (ii) a 288-foot-long, 5.3-foot-diameter penstock connected to; (iii) a generating unit with an installed capacity of 450kW; (iv) a 15-foot-long tailrace canal; and (v) other appurtenances; (3) Unit No. 3: (i) A 6.5-foot-high by 6.0-foot wide head gate and trashrack and other appurtenances; (ii) a 250-foot-long, 8.75-foot-diameter penstock connected to; (iii) a generating unit with an installed capacity of 600kW; (iv) a 80-foot-long tailrace canal; and (v) other appurtenances.

k. Description of Proceeding: The licensee is currently in violation of standard Article 17 of its license,

granted on March 1, 2001 and section 6.4 of the Commission's regulations, which state that it is deemed to be the intent of a licensee to surrender its license, if it abandons a project for a period of three years. The project has not operated since June of 2005. During a 2007 inspection, staff was unable to gain access to the project and confirmed it was non-operational. On October 6, 2011, Commission staff sent the licensee a letter concerning the non-operating status of the project. To date the licensee has failed to respond and the project remains inoperative. By not operating the project as proposed and authorized, the licensee is in violation of the terms and conditions of the license.

l. This notice is available for review and reproduction at the Commission in the Public Reference Room, Room 2A, 888 First Street NE., Washington, DC 20426. The filing may also be viewed on the Commission's Web site at *http://www.ferc.gov/docs-filing/elibrary.asp.* Enter the Docket number (P–2928) in the docket number field to access the notice. You may also register online at *http://www.ferc.gov/docs-filing/esubscription.asp* to be notified via email of new filings and issuances related to this or other pending projects. For assistance, call toll-free 1–(866) 208–3676 or email *FERCOnlineSupport@ferc.gov.* For TTY, call (202) 502–8659.

m. Individuals desiring to be included on the Commission's mailing list should so indicate by writing to the Secretary of the Commission.

n. Comments, Protests, or Motions to Intervene—Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, 385.211, and 385.214. In determining the appropriate action to take, the Commission will consider all protests filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any protests or motions to intervene must be received on or before the specified deadline date for the particular proceeding.

o. Filing and Service of Responsive Documents—Any filing must: (1) Bear in all capital letters the title ''COMMENTS'', ''PROTEST'', or ''MOTION TO INTERVENE,'' as applicable; (2) set forth in the heading the project number of the proceeding to which the filing responds; (3) furnish the name, address, and telephone number of the person commenting, protesting or intervening; and (4) otherwise comply with the requirements of 18 CFR 385.2001 through 385.2005. All comments, protests or motions to intervene must set forth their evidentiary basis and otherwise comply with the requirements of 18 CFR 4.34(b). All comments, protests, or motions to intervene should relate to project works, which are the subject of the termination of license. A copy of any protest or motion to intervene must be served upon each representative of the licensee specified in item g above. If an intervener files comments or documents with the Commission relating to the merits of an issue that may affect the responsibilities of a particular resource agency, they must also serve a copy of the document on that resource agency. A copy of all other filings in reference to this notice must be accompanied by proof of service on all persons listed in the service list prepared by the Commission in this proceeding, in accordance with 18 CFR 4.34(b) and 385.2010.

p. Agency Comments—Federal, state, and local agencies are invited to file comments on the described proceeding. If any agency does not file comments within the time specified for filing comments, it will be presumed to have no comments.

Dated: January 6, 2012.

Kimberly D. Bose,

Secretary.

[FR Doc. 2012–511 Filed 1–12–12; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 2927–006]

Aquamac Corporation; Notice of Termination of License by Implied Surrender and Soliciting Comments and Motions To Intervene

Take notice that the following hydroelectric proceeding has been initiated by the Commission:

a. *Type of Proceeding:* Termination of License by Implied Surrender.

b. *Project No.:* 2927–006.

c. *Date Initiated:* January 06, 2012.

d. *Licensee:* Aquamac Corporation.

e. *Name and Location of Project:* The Aquamac Hydroelectric Project is located on the Merrimack River, a navigable waterway in the United States, in the city of Lawrence, Essex County, Massachusetts.

f. *Issued Pursuant to:* Standard Article 17 of the project's license and 18 CFR 6.4 (2011).

g. *Licensee Contact Information:* Mr. Edmond Roux, 9 South Canal Street, Lawrence, MA 01843–1410; phone (617) 683–2754.

h. *FERC Contact:* Krista Sakallaris, (202) 502–6302.

i. Deadline for filing comments, protests, and motions to intervene is 30 days from the issuance date of this notice. All documents may be filed electronically via the Internet in lieu of paper. See 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site at *http://www.ferc.gov/docs-filing/efiling.asp.* The Commission strongly encourages electronic filings. If unable to be filed electronically, documents may be paper-filed. To paper-file, an original and seven copies should be sent to: The Secretary, Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426. 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. Please include the project number (P–2927–006) on any documents or motions filed.

j. Description of Existing Facilities: (1) A 6.5-foot-high by 6.0-foot-wide head gate and trashrack structure; (2) a 244-foot-long, 5-foot-diameter penstock connected to; (3) a generating unit with the installed capacity of 250 kW; (4) an 80-foot-long tailrace canal; and (5) other appurtenances.

k. Description of Proceeding: The licensee is currently in violation of standard Article 17 of its license, granted on March 1, 2001 and section 6.4 of the Commission's regulations, which state that it is deemed to be the intent of a licensee to surrender its license, if it abandons a project for a period of three years. The project has not operated since June of 2005. During a 2007 inspection, staff was unable to gain access to the project and confirmed it was non-operational. On October 6, 2011, Commission staff sent the licensee a letter concerning the non-operating status of the project. To date the licensee has failed to respond and the project remains inoperative. By not operating the project as proposed and authorized, the licensee is in violation of the terms and conditions of the license.

l. This notice is available for review and reproduction at the Commission in the Public Reference Room, Room 2A, 888 First Street NE., Washington, DC 20426. The filing may also be viewed on the Commission's Web site at *http://www.ferc.gov/docs-filing/elibrary.asp.* Enter the Docket number (P–2927) in the docket number field to access the

notice. You may also register online at *http://www.ferc.gov/docs-filing/esubscription.asp* to be notified via email of new filings and issuances related to this or other pending projects. For assistance, call toll-free 1–(866) 208–3676 or email *FERCOnlineSupport@ferc.gov.* For TTY, call (202) 502–8659.

m. Individuals desiring to be included on the Commission's mailing list should so indicate by writing to the Secretary of the Commission.

n. Comments, Protests, or Motions to Intervene—Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, 385.211, and 385.214. In determining the appropriate action to take, the Commission will consider all protests filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any protests or motions to intervene must be received on or before the specified deadline date for the particular proceeding.

o. Filing and Service of Responsive Documents—Any filing must: (1) bear in all capital letters the title ''COMMENTS'', ''PROTEST'', or ''MOTION TO INTERVENE,'' as applicable; (2) set forth in the heading the project number of the proceeding to which the filing responds; (3) furnish the name, address, and telephone number of the person commenting, protesting or intervening; and (4) otherwise comply with the requirements of 18 CFR 385.2001 through 385.2005. All comments, protests or motions to intervene must set forth their evidentiary basis and otherwise comply with the requirements of 18 CFR 4.34(b). All comments, protests, or motions to intervene should relate to project works, which are the subject of the termination of license. A copy of any protest or motion to intervene must be served upon each representative of the licensee specified in item g above. If an intervener files comments or documents with the Commission relating to the merits of an issue that may affect the responsibilities of a particular resource agency, they must also serve a copy of the document on that resource agency. A copy of all other filings in reference to this notice must be accompanied by proof of service on all persons listed in the service list prepared by the Commission in this proceeding, in accordance with 18 CFR 4.34(b) and 385.2010.

p. Agency Comments—Federal, state, and local agencies are invited to file comments on the described proceeding. If any agency does not file comments within the time specified for filing comments, it will be presumed to have no comments.

Dated: January 6, 2012.

Kimberly D. Bose,

Secretary.

[FR Doc. 2012–510 Filed 1–12–12; 8:45 am]

BILLING CODE 6717–01–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OPPT–2011–0858; FRL–9326–1]

Agency Information Collection Activities; Proposed Collection; Comment Request

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 for a new Information Collection Request (ICR) to the Office of Management and Budget (OMB). This ICR is entitled: ''EPA's Design for the Environment (DfE) Partner of the Year Awards Program'' and is identified by EPA ICR No. 2450.01 and OMB Control No. 2070-new. Before submitting the ICR to OMB for review and approval, EPA is soliciting comments on specific aspects of the proposed information collection.

DATES: Comments must be received on or before March 13, 2012.

ADDRESSES: Submit your comments, identified by docket identification (ID) number EPA–HQ–OPPT–2011–0858, by one of the following methods:

- Federal eRulemaking Portal: *http://www.regulations.gov.* Follow the on-line instructions for submitting comments.
- Mail: Document Control Office (7407M), Office of Pollution Prevention and Toxics (OPPT), Environmental Protection Agency, 1200 Pennsylvania Ave. NW., Washington, DC 20460–0001.
- Hand Delivery: OPPT Document Control Office (DCO), EPA East, Rm. 6428, 1201 Constitution Ave. NW., Washington, DC, Attention: Docket ID Number EPA–HQ–OPPT–2011–0858. The DCO is open from 8 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The telephone number for the DCO is (202) 564–8930. Such deliveries are only accepted during the DCO's normal hours of operation, and special arrangements should be made for deliveries of boxed information.

Instructions: Direct your comments to docket ID number EPA–HQ–OPPT–2011–0858. EPA's policy is that all comments received will be included in the docket without change and may be made available on-line at *http://www.regulations.gov*, including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through regulations.gov or email. The regulations.gov Web site is an ''anonymous access'' system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an email comment directly to EPA without going through regulations.gov, your email address will be automatically captured and included as part of the comment that is placed in the docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD–ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses.

Docket: All documents in the docket are listed in the docket index available at *http://www.regulations.gov.* Although listed in the index, some information is not publicly available, e.g., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, will be publicly available only in hard copy. Publicly available docket materials are available electronically at *http://www.regulations.gov*, or, if only available in hard copy, at the OPPT Docket. The OPPT Docket is located in the EPA Docket Center (EPA/DC) at Rm. 3334, EPA West Bldg., 1301 Constitution Ave. NW., Washington, DC. The EPA/DC Public Reading Room hours of operation are 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number of the EPA/DC Public Reading Room is (202) 566–1744, and the telephone number for the OPPT Docket is (202) 566–0280. Docket visitors are required to show photographic identification, pass through a metal detector, and sign the EPA visitor log. All visitor bags are processed through an X-ray machine and subject to search. Visitors will be provided an EPA/DC badge that must be

visible at all times in the building and returned upon departure.

FOR FURTHER INFORMATION CONTACT: *For technical information contact:* David DiFiore, Economics, Exposure, and Technology Division (7406M), Office of Pollution Prevention and Toxics, Environmental Protection Agency, 1200 Pennsylvania Ave. NW., Washington, DC 20460–0001; telephone number: (202) 564–8796; fax number: (202) 564–8892; email address: *difiore.david@epa.gov.*

For general information contact: The TSCA–Hotline, ABVI–Goodwill, 422 South Clinton Ave., Rochester, NY 14620; telephone number: (202) 554–1404; email address: *TSCA-Hotline@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. What information is EPA particularly interested in?

Pursuant to section 3506(c)(2)(A) of PRA, EPA specifically solicits comments and information to enable it to:

1. Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the Agency, including whether the information will have practical utility.

2. Evaluate the accuracy of the Agency's estimates of the burden of the proposed collection of information, including the validity of the methodology and assumptions used.

3. Enhance the quality, utility, and clarity of the information to be collected.

4. Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses. In particular, EPA is requesting comments from very small businesses (those that employ less than 25) on examples of specific additional efforts that EPA could make to reduce the paperwork burden for very small businesses affected by this collection.

II. 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. Provide specific examples to illustrate your concerns.

6. Offer alternative ways to improve the collection activity.

7. Make sure to submit your comments by the deadline identified under **DATES**.

8. To ensure proper receipt by EPA, be sure to identify the docket ID number assigned to this action in the subject line on the first page of your response. You may also provide the name, date, and **Federal Register** citation.

III. What information collection activity or ICR does this action apply to?

Affected entities: Entities potentially affected by this ICR are establishments engaged in the production, use, and/or advancement of safer chemicals, that have furthered the goals of DfE through active and exemplary participation in and promotion of the program, and that wish to receive recognition for their achievements.

Title: EPA's Design for the Environment (DfE) Partner of the Year Awards Program.

ICR numbers: EPA ICR No. 2450.01, OMB Control No. 2070-new.

ICR status: This ICR is for a new information collection activity. An Agency may not conduct or sponsor, and a person is not required to respond to, a collection of information, unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations in title 40 of the Code of Federal Regulations (CFR), after appearing in the **Federal Register** when approved, are listed in 40 CFR part 9, are displayed either by publication in the **Federal Register** or by other appropriate means, such as on the related collection instrument or form, if applicable. The display of OMB control numbers for certain EPA regulations is consolidated in 40 CFR part 9.

Abstract: EPA has developed the Partner of the Year Awards to recognize DfE stakeholders who have furthered the goals of DfE through active and exemplary participation in and promotion of the DfE program. Making DfE's mission known to the widest possible audience, through its safer product label and in other forms of communication, is critical to fully realizing the program's goals of protecting human health and the environment, promoting a sustainable economy, and creating green jobs, especially in the small business sector.

The Partner of the Year Awards will be an annual event, with recognition for DfE stakeholder organizations from five broad categories: (1) Formulators/product manufacturers (of both consumer and institutional/industrial (I/I) products), (2) purchasers and distributors, (3) retailers, (4) supporters (e.g., non-governmental organizations, including environmental and health advocates, trade associations, academia, sports teams, and others), and (5) innovators (e.g., chemical manufacturers, technology developers, and others). Within these categories and based on the criteria, DfE may elect to give additional awards in the subcategories of ''small business'' and ''sustained excellence.'' This information collection activity addresses the reporting burden associated with making application to EPA for recognition in the Partner of the Year Awards program.

Responses to this information collection are voluntary. Respondents may claim all or part of a response confidential. EPA will disclose information that is covered by a claim of confidentiality only to the extent permitted by, and in accordance with, the procedures in TSCA section 14 and 40 CFR part 2.

Burden statement: The annual public reporting and recordkeeping burden for this collection of information is estimated to average 15 hours per response. Burden is defined in 5 CFR 1320.3(b).

The ICR provides a detailed explanation of this estimate, which is only briefly summarized here:

Estimated total number of potential respondents: 110.

Frequency of response: Annual.

Estimated total average number of responses for each respondent: 1.

Estimated total annual burden hours: 1,650 hours.

Estimated total annual costs: $69,790. This includes an estimated burden cost of $69,790 and an estimated cost of $0 for capital investment or maintenance and operational costs.

IV. What is the next step in the process for this ICR?

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. EPA will issue another **Federal Register** notice pursuant to 5 CFR 1320.5(a)(1)(iv) to announce the submission of the ICR 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**.

List of Subjects

Environmental protection, Reporting and recordkeeping requirements.

Dated: November 21, 2011.

Stephen A. Owens,

Assistant Administrator, Office of Chemical Safety and Pollution Prevention.

[FR Doc. 2012–451 Filed 1–12–12; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[ER–FRL–9001–1]

Environmental Impacts Statements; Notice of Availability

RESPONSIBLE AGENCY: Office of Federal Activities, General Information (202) 564–7146 or *http://www.epa.gov/compliance/nepa/.*

Weekly Receipt of Environmental Impact Statements Filed 01/03/2012 Through 01/06/2012 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. 20120000, Draft EIS, USFS, OR, Jackson Vegetation Management Project, Implementation, Pauline Ranger District, Ochoco National Forest, Crook County, OR, Comment Period Ends: 02/27/2012, Contact: Jeff Marszal (541) 416–6500.

EIS No. 20120001, Draft EIS, NRC, NM, Fluorine Extraction Process and Depleted Uranium Deconversion Plant, License Application to Construct, Operate, and Decommission Phase 1, Lea County, NM, Comment Period Ends: 02/27/2012, Contact: Asimios Malliakos (301) 415–6458.

EIS No. 20120002, Draft EIS, USFS, NM, Taos Ski Valley 2010 Master Development Plan, Phase 1 Project, Implementation, Carson National Forest, Taos County, NM, Comment Period Ends: 02/27/2012, Contact: Audrey Nes Kuykendall (575) 758–6212.

EIS No. 20120003, Final EIS, NPS, DC, White-Tailed Deer Management Plan, To Develop a White-Trailed Deer Management That Supports Long-Term Protection, Preservation and Restoration of Native Vegetation and Other Natural and Cultural Resources in Rock Creek Park, Washington, DC, Review Period Ends: 02/13/2012, Contact: Tara Morrison (202) 895–6000.

Amended Notices

EIS No. 20110386, Draft Supplement, USFS, ID, Upper Lochsa Land Exchange Project, Updated Information on New Alternative F, Proposes to Exchange National Forest System Land for approximately 39,371 Acres of Western Pacific Timber Land, Federal Land Exchange, Clearwater, Nez Perce and Idaho Panhandle National Forests, Clearwater, Latah, Idaho, Benewah, Kootenai, and Bonner Counties, ID, Comment Period Ends: 02/15/2012, Contact: Teresa Trulock (208) 935–4256.

Revision to FR Notice Published 11/18/2011: Comment Period Extended from 01/17/2012 to 02/15/2012

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: 01/31/2012, Contact: Morgan Elmer (303) 969–2317 Revision to FR Notice Published 11/25/2011: Extending Comment Period from 01/23/12 to 01/31/2012.

EIS No. 20110429, Draft EIS, FTA, NJ, Northern Branch Corridor Project, Restoration of Passenger Rail Service in Northeastern Hudson and Southern Bergen Counties, NJ, Comment Period Ends: 02/21/2012, Contact: Anthony Lee (212) 668–2170 Revision to FR Notice Published 12/23/2011: Extending Comment Period from 02/06/2012 to 2/21/2012.

EIS No. 20110440, Revised Draft EIS, USFS, ID, Idaho Panhandle National Forests, Land Management Plan, Revises the 1987 Forest Plan, Implementation, Boundary, Bonner, Kootenai, Benewah, and Shoshone Counties, ID and Pend Oreille County, WA, Comment Period Ends: 04/04/2012, Contact: Mary Farnsworth (208) 765–7223 Revision to FR Notice Published 01/06/2012.

Extending Comment Period from 02/21/2012 to 04/04/2012

EIS No. 20110441, Revised Draft EIS, USFS, MT, Kootenai National Forest Land Management Plan, Revises the 1987 Forest Plan, Implementation, Lincoln, Sanders, Flathead Counties, MT and Bonner and Boundary Counties, ID, Comment Period Ends: 04/04/2012, Contact: Paul Bradford (406) 293–6211 Revision to FR Notice Published 01/06/2012: Extending Comment Period from 02/21/2012 to 04/04/2012.

Dated: January 10, 2012.

Cliff Rader,

Director, NEPA Compliance Division, Office of Federal Activities.

[FR Doc. 2012–570 Filed 1–12–12; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–9618–3; EPA–HQ–OEI–2011–0551]

Amendment of the System of Records for Records of Pesticide Applicators Certified Under EPA–Administered Certification Plans (EPA–59)

AGENCY: Environmental Protection Agency.

ACTION: Notice.

SUMMARY: Pursuant to the provisions of the Privacy Act of 1974 (5 U.S.C. 552a), the Environmental Protection Agency's (EPA) Office of Pesticide Programs, Field and External Affairs Division, is giving notice that it proposes to amend an existing system of records that contains personally identifiable information (PII) which is collected in the process of certifying individuals to apply restricted use pesticides (RUPs) as private or commercial applicators. This amendment gives notice that the Agency plans to make the name of the applicator and information pertaining to the certification granted by EPA publicly available on an EPA Web site.

DATES: *Effective Dates:* Persons wishing to comment on this system of records notice must do so by February 22, 2012.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–HQ–OEI–2011–0551, by one of the following methods:

- *www.regulations.gov:* Follow the online instructions for submitting comments.
- *Email: oei.docket@epa.gov*
- *Fax:* (202) 566–1752.
- *Mail:* OEI Docket, Environmental Protection Agency, Mailcode: 2822T, 1200 Pennsylvania Ave. NW., Washington, DC 20460.
- *Hand Delivery:* OEI Docket, EPA/DC, EPA West Building, Room B102, 1301 Constitution Ave. NW., Washington, DC. Such deliveries are only accepted during the Docket's normal hours of operation, and special arrangements should be made for deliveries of boxed information.

Instructions: Direct your comments to Docket ID No. EPA–HQ–OEI–2011–0551. EPA's policy is that all comments

received will be included in the public docket without change and may be made available online at *www.regulations.gov,* including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information for which disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through *www.regulations.gov.* The *www.regulations.gov* Web site is an ''anonymous access'' system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an email comment directly to EPA without going through *www.regulations.gov* your email address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD–ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses. For additional information about EPA's public docket visit the EPA Docket Center homepage at *http://www.epa.gov/epahome/dockets.htm.*

Docket: All documents in the docket are listed in the *www.regulations.gov* index. Although listed in the index, some information is not publicly available, e.g., CBI or other information for which disclosure is restricted by statute. Certain other material, such as copyrighted material, will be publicly available only in hard copy. Publicly available docket materials are available either electronically in *www.regulations.gov* or in hard copy at the OEI Docket, EPA/DC, EPA West Building, Room B102, 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 OEI Docket is (202) 566–1752.

FOR FURTHER INFORMATION CONTACT:

Nicole Zinn, Office of Pesticide Programs, Field & External Affairs Division, U.S. Environmental Protection Agency, Mail Code 7506P, 1200 Pennsylvania Ave. NW., Washington, DC 20460; telephone number (703) 308–7076.

SUPPLEMENTARY INFORMATION:

I. General Information

The U.S. Environmental Protection Agency has created a Privacy Act system of records to document the Agency's decisions on applications filed requesting certification to apply restricted use pesticides (RUP) under certification plans administered by EPA regional offices or the Office of Pesticide Programs, as described in 75 FR 49489 (August 13, 2010). This system of records, entitled ''Records of Pesticide Applicators Certified Under EPA-Administered Certification Plans,'' covers the following types of information: (1) Contact information (e.g., name, address, telephone number, email address); (2) identification information (e.g., birth date, proof of identification (e.g., driver's license no.)), physical description (e.g., height, weight, gender, race)); (3) certification information (e.g., EPA certified applicator number, certification type (private or commercial), certification categories (e.g., aerial, aquatic, fumigation), certification issuance and expiration dates, and (4) information regarding qualifications (e.g., scores from EPA certification examinations; records of training and continuing education; state, tribal or other federal agency certification number(s), types, categories, issuance and expiration dates; records of compliance with federal, state and tribal pesticide laws). This information is provided by the pesticide applicators applying for EPA certification or it is generated during the certification process.

Records covered by this system of record notice are subject to Agency-wide security requirements governing all Privacy Act database systems at EPA. As described in the August 13, 2010 FR notice, system administrators may disclose certain personal information (e.g., names, addresses, EPA certification numbers, categories of certification) upon request as described in the section describing routine uses of records maintained in the system. The Tribal Pesticide Program Council and other tribes requested EPA to make certain information available online to facilitate their ability to confirm private and commercial certifications. The Agency plans to publish only the name, zip code and certification information for private applicators.

Dated: January 3, 2012.

Malcom D. Jackson,

Assistant Administrator and Chief Information Officer.

EPA–59

SYSTEM NAME:

Records of Pesticide Applicators Certified Under EPA-Administered Certification Plans

SYSTEM LOCATION:

USEPA, Office of Pesticide Programs, Field & External Affairs Division, Mail Code 7506P, 1200 Pennsylvania Ave. NW., Washington, DC 20460, and other EPA offices authorized by the Field & External Affairs Division to maintain portions of the system.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Persons certified or seeking certification to apply restricted use pesticides (RUPs) under Certification Plans administered by EPA.

CATEGORIES OF RECORDS IN THE SYSTEM:

(a) Contact information (e.g., name, address, telephone number, email address).

(b) Identification information (e.g., birth date, proof of identification (e.g., driver's license no.), physical description (e.g., height, weight, gender, race)).

(c) Data generated by EPA in the processing of the EPA certification (e.g., EPA certified applicator number, certification type (private or commercial), certification categories (e.g., aerial, aquatic, fumigation), certification issuance and expiration dates).

(d) Information regarding qualifications (e.g., scores from EPA certification examinations; records of training and continuing education; state, tribal or other federal agency certification number(s), types, categories, issuance and expiration dates; records of compliance with federal, state and tribal pesticide laws).

AUTHORITY FOR MAINTENANCE OF THE SYSTEM (INCLUDES ANY REVISIONS OR AMENDMENTS):

Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) Section 11(a)(1) provides for the certification of RUP applicators. 40 CFR 171.11 further describes certification procedures including the completion and submission of certification applications to EPA, issuance/revocation of certificates, monitoring of certifications, and applicator recordkeeping requirements. Title 7 United States Code, section 136i(a)(1) authorizes the collection of this information.

PURPOSE(S):

The primary purpose of the system is to track RUP applicator certifications issued by EPA under pesticide applicator certification plans, including the initial applications/issuance and any renewals, denials, or revocations of certifications. Certified applicators are subject to RUP recordkeeping requirements under FIFRA, section 11 and 40 CFR part 171. The system may also be used to contribute to the development of inspection targeting schemes to verify compliance with recordkeeping requirements for RUPs.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS, AND THE PURPOSES OF SUCH USES:

RUPs may not be distributed, sold, or made available to persons other than certified applicators. The system will be used to record the identity and certification status of pesticide applicators certified by EPA. Certain personal information contained in the system (e.g., date of birth, drivers' license numbers) will be protected from general disclosure under the Privacy Act. However, many of the records will be subject to general routine uses, particularly routine uses A, B, C, F, G, H, K, and L. (See *http://www.epa.gov/privacy/notice/general.htm*). Routine uses include disclosures to RUP retailers and dealers in order to verify the status of persons claiming to be certified by EPA, and to state or tribal officials intending to grant certifications based upon EPA's prior certification. Information from this system also may be disclosed for law enforcement purposes to federal, state, and tribal officials responsible for pesticide enforcement. Disclosure will assist in determining compliance and non-compliance with Federal, State, and tribal requirements of certified applicators. EPA may also post certain information about certified applicators (name, contact information, and certification information) to an EPA Web site in order to enable interested persons to identify applicators certified by EPA in various categories. The Agency will only publish name, zip code and certification information for private applicators.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

• *Storage:* Records will be stored using the Agency's standard database system (e.g., Lotus Notes) and managed by system administrators and Pesticide Office personnel.

• *Retrievability:* Data will be retrieved by the applicator's name and certification action (e.g., new, recertification, duplicate).

• *Safeguards:*

—Standard Agency-wide protections for internal databases.

—The access control list is limited to Agency system administrators, individuals responsible for evaluating applications and issuing the EPA certifications and program personnel responsible for data entry. No other EPA personnel have access to the database(s). Program personnel are trained to protect sensitive and confidential information submitted under FIFRA. No external access to the system is provided.

• *Retention and Disposal:* Records stored in this system are subject to Schedule 090.

• *System Manager(s) and Address:* Nicole Zinn, Office of Pesticide Programs, Field and External Affairs Division, U.S. Environmental Protection Agency, Mail Code 7506P, 1200 Pennsylvania Ave. NW., Washington, DC 20460; telephone number (703) 308–7076.

NOTIFICATION PROCEDURES:

Requests to determine whether this system of records contains a record pertaining to you must be sent to the Agency's Freedom of Information Office. The address is: U.S. Environmental Protection Agency; 1200 Pennsylvania Ave. NW., Room 6416 West; Washington, DC 20460; (202) 566–1667; Email: (*hq.foia@epa.gov*); Attn: Privacy Act Officer.

RECORD ACCESS PROCEDURES:

Persons seeking access to their own personal information in this system of records will be required to provide adequate identification (e.g., driver's license, military identification card, employee badge or identification card) and, if necessary, proof of authority. Additional identity verification procedures may be required as warranted. Requests must meet the requirements of EPA regulations at 40 CFR part 16.

CONTESTING RECORDS PROCEDURES:

Requests for correction or amendment must identify the record to be changed and the corrective action sought. Complete EPA Privacy Act procedures are set out at 40 CFR part 16.

RECORD SOURCE CATEGORIES:

There are three sources of data for records stored in the system:

(1) State, tribal or other Federal certification data upon which the EPA certification is based.

(2) Data provided by the requesting applicator at the time of its request for EPA certification.

(3) Data generated by EPA in the processing of the EPA certification.

SYSTEM EXEMPTED FROM CERTAIN PROVISIONS OF THE PRIVACY ACT:

None.

[FR Doc. 2012–614 Filed 1–12–12; 8:45 a.m.]

BILLING CODE 6560–50–P

FEDERAL DEPOSIT INSURANCE CORPORATION

Sunshine Act Meeting

Pursuant to the provisions of the ''Government in the Sunshine Act'' (5 U.S.C. 552b), notice is hereby given that the Federal Deposit Insurance Corporation's Board of Directors will meet in open session at 10 a.m. on Tuesday, January 17, 2012, to consider the following matters:

SUMMARY AGENDA: No substantive discussion of the following items is anticipated. These matters will be resolved with a single vote unless a member of the Board of Directors requests that an item be moved to the discussion agenda.

Disposition of minutes of previous Board of Directors' Meetings.

Memorandum and resolution re: Final Rule on Resolution Plans Required for Insured Depository Institutions with $50 Billion or More in Total Assets.

Personnel Resolution for Retiring Executive.

Discussion Agenda

Memorandum and resolution re: Stress Testing Requirements for Certain Banks: Notice of Proposed Rulemaking to Implement Section 165(i)(2) of the Dodd-Frank Wall Street Reform and Consumer Protection Act.

The meeting will be held in the Board Room on the sixth floor of the FDIC Building located at 550 17th Street, NW., Washington, DC

This Board meeting will be Webcast live via the Internet and subsequently made available on-demand approximately one week after the event. Visit *http://www.vodium.com/goto/fdic/boardmeetings.asp* to view the event. If you need any technical assistance, please visit our Video Help page at: *http://www.fdic.gov/video.html.*

The FDIC will provide attendees with auxiliary aids (e.g., sign language interpretation) required for this meeting. Those attendees needing such assistance should call (703) 562–2404 (Voice) or (703) 649–4354 (Video Phone) to make necessary arrangements.

Requests for further information concerning the meeting may be directed to Mr. Robert E. Feldman, Executive

Secretary of the Corporation, at (202) 898–7043.

Dated: January 10, 2012.
Federal Deposit Insurance Corporation.
Robert E. Feldman,
Executive Secretary.
[FR Doc. 2012–636 Filed 1–11–12; 11:15 am]
BILLING CODE P

FEDERAL RESERVE SYSTEM

Change in Bank Control Notices; Acquisitions of Shares of a Bank or Bank Holding Company

The notificants listed below have applied under the Change in Bank Control Act (12 U.S.C. 1817(j)) and § 225.41 of the Board's Regulation Y (12 CFR 225.41) to acquire shares of a bank or bank holding company. The factors that are considered in acting on the notices are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The notices are available for immediate inspection at the Federal Reserve Bank indicated. The notices also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank indicated for that notice or to the offices of the Board of Governors. Comments must be received not later than January 31, 2012.

A. Federal Reserve Bank of San Francisco (Kenneth Binning, Vice President, Applications and Enforcement) 101 Market Street, San Francisco, California 94105–1579:

1. *Montlake Capital, LLC and its control parties, Andrew Russell Dale, Montlake Capital Advisor II, LLC, Montlake Capital II, LP, and Montlake Capital II–B, LP, and their investors;* to retain voting shares of Coastal Financial Corporation, and thereby indirectly acquire voting shares of Coastal Community Bank, both in Everett, Washington.

Board of Governors of the Federal Reserve System, January 10, 2012.
Robert deV. Frierson,
Deputy Secretary of the Board.
[FR Doc. 2012–554 Filed 1–12–12; 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 February 10, 2012.

A. Federal Reserve Bank of Philadelphia (William Lang, Senior Vice President) 100 North 6th Street, Philadelphia, Pennsylvania 19105–1521:

1. *Liberty Bell Bancorp, Inc.,* Marlton, New Jersey, to become a bank holding company by acquiring 100 percent of the voting shares of Liberty Bell Bank, Marlton, New Jersey.

Board of Governors of the Federal Reserve System, January 10, 2012.
Robert deV. Frierson,
Deputy Secretary of the Board.
[FR Doc. 2012–555 Filed 1–12–12; 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 February 6, 2012.

A. Federal Reserve Bank of Kansas City (Dennis Denney, Assistant Vice President) 1 Memorial Drive, Kansas City, Missouri 64198–0001:

1. First Financial Corporation, Wellington, Kansas; to acquire 100 percent of the voting shares of The Caldwell State Bank in Caldwell, Caldwell, Kansas.

Board of Governors of the Federal Reserve System, January 9, 2012.
Robert deV. Frierson,
Deputy Secretary of the Board.
[FR Doc. 2012–499 Filed 1–12–12; 8:45 am]
BILLING CODE 6210–01–P

FEDERAL RESERVE SYSTEM

Formations of, Acquisitions by, and Mergers of Bank Holding Companies; Correction

This notice corrects a notice (FR Doc. 11–33698) published on page 285 of the issue for Wednesday, January 4, 2012.

Under the Federal Reserve Bank of Richmond heading, the entry for First Financial Holdings, Inc., Charleston, South Carolina, is revised to read as follows:

A. Federal Reserve Bank of Richmond (Adam M. Drimer, Assistant Vice President) 701 East Byrd Street, Richmond, Virginia 23261–4528:

1. First Financial Holdings, Inc., Charleston, South Carolina; to become a bank holding company upon the conversion of First Federal Savings and Loan Association, Charleston, South Carolina, to a state chartered commercial bank.

In connection with this application, Applicant also has applied to acquire First Southeast 401(k) Fiduciaries, Inc., and First Southeast Investor Services, Inc., both in Charleston, South Carolina, and thereby engage in financial and investment advisory activities and agency transactional services for customer investments, pursuant to sections 225.28(b)(6) and(b)(7) of Regulation Y.

Comments on this application must be received by January 27, 2012.

Board of Governors of the Federal Reserve System, January 9, 2012.

Robert deV. Frierson,

Deputy Secretary of the Board.

[FR Doc. 2012–498 Filed 1–12–12; 8:45 am]

BILLING CODE 6210–01–P

FEDERAL RESERVE SYSTEM

Formations of, Acquisitions by, and Mergers of Savings and Loan Holding Companies

The companies listed in this notice have applied to the Board for approval, pursuant to the Home Owners' Loan Act (12 U.S.C. 1461 *et seq.*) (HOLA), Regulation LL (12 CFR Part 238), and Regulation MM (12 CFR Part 239), and all other applicable statutes and regulations to become a savings and loan holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a savings association and nonbanking companies owned by the savings and loan holding company, including the companies listed below.

The applications listed below, as well as other related filings required by the Board, are available for immediate inspection at the Federal Reserve Bank indicated. The application also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the standards enumerated in the HOLA (12 U.S.C. 1467a(e)). If the proposal also involves the acquisition of a nonbanking company, the review also includes whether the acquisition of the nonbanking company complies with the standards in section 10(c)(4)(B) of the HOLA (12 U.S.C. 1467a(c)(4)(B)). Unless otherwise noted, nonbanking activities will be conducted throughout the United States.

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than February 6, 2012.

A. Federal Reserve Bank of Richmond (Adam M. Drimer, Assistant Vice President) 701 East Byrd Street, Richmond, Virginia 23261–4528:

1. HomeTrust Bancshares, Inc., Clyde, North Carolina; to become a savings and loan holding company upon the conversion of HomeTrust Bank, Clyde, North Carolina, from a mutual to stock form of ownership.

Board of Governors of the Federal Reserve System, January 9, 2012.

Robert deV. Frierson,

Deputy Secretary of the Board.

[FR Doc. 2012–500 Filed 1–12–12; 8:45 am]

BILLING CODE 6210–01–P

FEDERAL RESERVE SYSTEM

Notice of Proposals To Engage in or To Acquire Companies Engaged in Permissible Nonbanking Activities

The companies listed in this notice have given notice under the Home Owners' Loan Act (HOLA) (12 U.S.C. 1461 *et seq.*), and Regulation LL (12 CFR part 238) or Regulation MM (12 CFR part 239) to engage *de novo,* or to acquire or control voting securities or assets of a company, including the companies listed below, that engages either directly or through a subsidiary or other company, in a nonbanking activity that is described in §§ 238.53 or 238.54 of Regulation LL (12 CFR 238.53 or 238.54) or § 239.8 of Regulation MM (12 CFR 239.8). Unless otherwise noted, these activities will be conducted throughout the United States.

Each notice is available for inspection at the Federal Reserve Bank indicated. The notice also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether the proposal complies with the standards of section 10a(c)(4)(B) of HOLA (12.U.S.C. 1467a(c)(4)(B)).

Unless otherwise noted, comments regarding the applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than January 27, 2012.

A. Federal Reserve Bank of Philadelphia (William Lang, Senior Vice President) 100 North 6th Street, Philadelphia, Pennsylvania 19105–1521:

1. Northeast Community Bancorp, MHC, White Plains, New York; to establish an operating subsidiary, Northeast Insurance Agency, LLC, through its subsidiary Northeast Community Bank, both in White Plains, New York, pursuant to section 239.8 of Regulation MM.

Board of Governors of the Federal Reserve System, January 9, 2012.

Robert deV. Frierson,

Deputy Secretary of the Board.

[FR Doc. 2012–501 Filed 1–12–12; 8:45 am]

BILLING CODE 6210–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Availability of the Report on the International Workshop on Alternative Methods To Reduce, Refine, and Replace the Use of Animals in Vaccine Potency and Safety Testing: State of the Science and Future Directions

AGENCY: Division of the National Toxicology Program (DNTP), National Institute of Environmental Health Sciences (NIEHS), National Institutes of Health (NIH).

ACTION: Availability of workshop report.

SUMMARY: The NTP Interagency Center for the Evaluation of Alternative Toxicological Methods (NICEATM) announces availability of the report on the ''International Workshop on Alternative Methods To Reduce, Refine, and Replace the Use of Animals in Vaccine Potency and Safety Testing: State of the Science and Future Directions.'' The report was published as an issue of the journal *Procedia in Vaccinology,* and is available on the journal's Web site at *http://www.sciencedirect.com/science/journal/1877282X.* A limited number of CDs and printed copies of the report are available from NICEATM (see **ADDRESSES**).

ADDRESSES: Requests for copies of the report should be sent by mail, fax, or email to Dr. William S. Stokes, NICEATM Director, NIEHS, P.O. Box 12233, MD K2–16, Research Triangle Park, NC, 27709, (phone) (919) 541–2384, (fax) (919) 541–0947, (email) *niceatm@niehs.nih.gov.*

FOR FURTHER INFORMATION CONTACT: Dr. William S. Stokes: (telephone) (919) 541–2384, (fax) (919) 541–0947, or (email) *niceatm@niehs.nih.gov.*

SUPPLEMENTARY INFORMATION:

Background

Regulatory authorities require post-licensing potency and safety testing of human and veterinary vaccines to ensure their effectiveness and minimize potential adverse health effects. However, such testing requires large numbers of animals and accounts for the majority of animals reported to the USDA with unrelieved pain and distress. Accordingly, identification and promotion of alternative methods that

can reduce, refine, or replace the use of animals for vaccine potency and safety testing is one of the four highest priorities of the Interagency Coordinating Committee on the Validation of Alternative Methods (ICCVAM), an interagency committee of the Federal government administered by NICEATM.

To address this priority, NICEATM and ICCVAM, along with international partners organized an ''International Workshop on Alternative Methods To Reduce, Refine, and Replace the Use of Animals in Vaccine Potency and Safety Testing: State of the Science and Future Directions,'' which took place on September 14–16, 2010 at NIH in Bethesda, Maryland. The report of the workshop is now available.

Workshop Goals and Outcomes

The goals of the workshop were to (1) review the state of the science of alternative methods currently available and/or accepted for use that can reduce, refine (enhance animal well-being and lessen or avoid pain and distress), and replace animal use in vaccine potency and safety testing, and discuss ways to promote their implementation; (2) identify knowledge and data gaps that should be addressed to develop alternative methods that can further reduce, refine, and/or replace the use of animals in vaccine potency and safety testing; and (3) identify and prioritize research, development, and validation efforts needed to address these knowledge and data gaps in order to advance alternative methods for vaccine potency and safety testing while ensuring the protection of human and animal health.

The workshop report is comprised of 27 papers that summarize the plenary session presentations and the conclusions and recommendations developed by the workshop participants during six breakout group sessions. The report recommends vaccines that should have the highest priority for future reduction, refinement, and replacement efforts. Other key recommendations include:

- Procedures such as earlier humane endpoints should be developed and implemented immediately to reduce or avoid the pain and distress experienced by animals for vaccines that still require live-agent challenge testing. Until non-animal tests are available, development of serological assays should also be considered as a way to avoid challenge testing.
- Specific non-animal approaches that have successfully replaced animals for some vaccine potency testing should be developed for vaccines currently requiring animals through identification, purification, and characterization of vaccine protective antigens.
- International harmonization and cooperation efforts and closer collaborations between human and veterinary vaccine researchers should be enhanced in order to support more rapid progress towards reduction, refinement, and replacement of animal use for vaccine testing.

The workshop was organized by NICEATM and ICCVAM in partnership with the European Centre for the Validation of Alternative Methods, the Japanese Center for the Validation of Alternative Methods, and Health Canada. The workshop was co-sponsored by the Society of Toxicology.

Background Information on NICEATM and ICCVAM

ICCVAM is an interagency committee composed of representatives from 15 Federal regulatory and research agencies that require, use, generate, or disseminate toxicological and safety testing information. The ICCVAM Authorization Act of 2000 (42 U.S.C. 285*l*-3) established ICCVAM as a permanent interagency committee of the NIEHS under NICEATM. ICCVAM conducts technical evaluations of new, revised, and alternative testing methods with regulatory applicability and promotes the scientific validation and regulatory acceptance of toxicological and safety testing methods that more accurately assess the safety and hazards of chemicals and products and that reduce, refine, or replace animal use.

NICEATM administers ICCVAM, provides scientific and operational support for ICCVAM technical evaluations and related activities, and conducts independent validation studies to assess the usefulness and limitations of new, revised, and alternative test methods and strategies. NICEATM and ICCVAM welcome the public nomination of new, revised, and alternative test methods and strategies applicable to the needs of Federal agencies. Additional information about NICEATM and ICCVAM can be found on the NICEATM–ICCVAM Web site (*http://iccvam.niehs.nih.gov*).

Dated: January 6, 2012.

John R. Bucher,

Associate Director, National Toxicology Program.

[FR Doc. 2012–563 Filed 1–12–12; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[30Day–12–0530]

Agency Forms Undergoing Paperwork Reduction Act Review

The Centers for Disease Control and Prevention (CDC) publishes a list of information collection requests under review by the Office of Management and Budget (OMB) in compliance with the Paperwork Reduction Act (44 U.S.C. Chapter 35). To request a copy of these requests, call the CDC Reports Clearance Officer at (404) 639–7570 or send an email to *omb@cdc.gov*. Send written comments to CDC Desk Officer, Office of Management and Budget, Washington, DC 20503 or by fax to (202) 395–5806. Written comments should be received within 30 days of this notice.

Proposed Project

EEOICPA Dose Reconstruction Interviews and Forms (0920–0530, Expiration 03/30/2012)—Extension—National Institute for Occupational Safety and Health (NIOSH), Centers for Disease Control and Prevention (CDC).

Background and Brief Description

On October 30, 2000, the Energy Employees Occupational Illness Compensation Program Act of 2000 (42 U.S.C. 7384–7385) was enacted. This Act established a federal compensation program for employees of the Department of Energy (DOE) and certain of its contractors, subcontractors and vendors, who have suffered cancers and other designated illnesses as a result of exposures sustained in the production and testing of nuclear weapons.

Executive Order 13179, issued on December 7, 2000, delegated authorities assigned to ''the President'' under the Act to the Departments of Labor, Health and Human Services, Energy and Justice. The Department of Health and Human Services (DHHS) was delegated the responsibility of establishing methods for estimating radiation doses received by eligible claimants with cancer applying for compensation. NIOSH is applying the following methods to estimate the radiation doses of individuals applying for compensation.

In performance of its dose reconstruction responsibilities, under the Act, NIOSH is providing voluntary interview opportunities to claimants (or their survivors) individually and providing them with the opportunity to

assist NIOSH in documenting the work history of the employee by characterizing the actual work tasks performed. In addition, NIOSH and the claimant may identify incidents that may have resulted in undocumented radiation exposures, characterizing radiological protection and monitoring practices, and identify co-workers and other witnesses as may be necessary to confirm undocumented information. In this process, NIOSH uses a computer assisted telephone interview (CATI) system, which allows interviews to be conducted more efficiently and quickly as opposed to a paper-based interview instrument. Both interviews are voluntary and failure to participate in either or both interviews will not have a negative effect on the claim, although voluntary participation may assist the claimant by adding important information that may not be otherwise available.

NIOSH uses the data collected in this process to complete an individual dose reconstruction that accounts, as fully as possible, for the radiation dose incurred by the employee in the line of duty for DOE nuclear weapons production programs. After dose reconstruction, NIOSH also performs a brief, voluntary final interview with the claimant to explain the results and to allow the claimant to confirm or question the records NIOSH has compiled. This will also be the final opportunity for the claimant to supplement the dose reconstruction record.

At the conclusion of the dose reconstruction process, the claimant submits a form to confirm that the claimant has no further information to provide to NIOSH about the claim at this time. The form notifies the claimant that signing the form allows NIOSH to forward a dose reconstruction report to DOL and to the claimant, and closes the record on data used for the dose reconstruction. Signing this form does not indicate that the claimant agrees with the outcome of the dose reconstruction. The dose reconstruction results will be supplied to the claimant and to the DOL, the agency that will utilize them as one part of its determination of whether the claimant is eligible for compensation under the Act.

There is no cost to respondents other than their time. The total estimated annual burden hours are 4,900.

ESTIMATED ANNUALIZED BURDEN HOURS

Type of respondent	Number of respondents	Responses per respondent	Average burden per response (in hours)
Initial interview	4,200	1	1
Conclusion form	8,400	1	5/60

Kimberly Lane,

Reports Clearance Officer, Centers for Disease Control and Prevention.

[FR Doc. 2012–583 Filed 1–12–12; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[60Day–12–0740]

Proposed Data Collections Submitted for Public Comment and Recommendations

In compliance with the requirement of Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995 for opportunity for public comment on proposed data collection projects, the Centers for Disease Control and Prevention (CDC) will publish periodic summaries of proposed projects.

To request more information on the proposed projects or to obtain a copy of the data collection plans and instruments, call (404) 639–7570 and send comments to Kimberly Lane, CDC Reports Clearance Officer, 1600 Clifton Road, MS–D74, Atlanta, GA 30333 or send an email to *omb@cdc.gov.*

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Written comments should be received within 60 days of this notice.

Proposed Project

Medical Monitoring Project (MMP)—(OMB No. 0920–0740 Exp: 5/31/2012)—Revision—National Center for HIV/AIDS, Viral Hepatitis, STD, and TB Prevention (NCHHSTP), Centers for Disease Control and Prevention (CDC).

Background and Brief Description

This proposed data collection supplements the HIV/AIDS surveillance programs in 23 selected state and local health departments, which collect information on persons diagnosed with, living with, and dying from HIV infection and AIDS and will incorporate data elements from two data collections: Supplement to HIV/AIDS Surveillance (SHAS) project (0920–0262) and the Adult/Adolescent Spectrum of HIV Disease (ASD). Both projects stopped data collection in 2004. Although CDC receives surveillance data from all U.S. states, these supplemental surveillance data are needed to make population-based national estimates of key indicators, related to the quality of HIV-related ambulatory care, the severity of need for HIV-related care and services, and HIV-related behaviors and clinical outcomes.

This project collects data on behaviors and clinical outcomes from a probability sample of HIV-infected adults receiving care in the U.S. through in-person or telephone interviews and abstraction of medical records. Information is also extracted from HIV case surveillance records for a dataset, referred to as the minimum dataset, which is used to assess non-response bias, for quality control, to improve the ability of MMP to monitor ongoing care and treatment of HIV-infected persons, and to make inferences from the MMP sample to HIV-infected persons in care nationally. No other Federal agency collects nationally representative population-based behavioral and clinical information from HIV-infected adults in care. The data are expected to have significant implications for policy, program development, and resource allocation at the state/local and national levels.

The Centers for Disease Control and Prevention request approval for a

revision and 3-year approval for the previously approved Medical Monitoring Project (MMP) 0920–0740 exp. 5/31/2012). The interview and minimum dataset data collection instruments have been revised based on experience in previous data collection cycles, but these changes will not affect the burden per respondent. The medical record abstraction forms have not changed. CDC's current goal is to interview 80% of 9,400 patients or 7,520, 96% of whom (a total of 7,219 patients) will complete the standard interview and 4% of whom (a total of 301 patients) will complete the short interview. The number of sampled patients has increased by 62 patients compared to the previously approved information collection; thereby increasing the total burden hours by 37 hours, from 8,500 to 8,537.

Data will be collected through in-person and telephone-administered, computer-assisted interviews conducted by trained interviewers in 23 Reporting Areas (16 states, Puerto Rico and 6 separately funded cities), through medical record and abstraction by trained abstractors and through extraction of information from HIV surveillance case records. The project activities and methods will remain the same as those used in the previously approved data collection period.

Interviews with HIV-infected patients provide information on patient demographics, and the current levels of behaviors that may facilitate HIV transmission: sexual and drug use behaviors; patients' access to, use of and barriers to receiving HIV-related secondary prevention services; utilization of HIV-related medical services; and adherence to drug regimens.

Collection of data from patient medical records provides information on: demographics and insurance status; the prevalence and incidence of AIDS-defining opportunistic illnesses and co-morbidities related to HIV disease; the receipt of prophylactic and antiretroviral medications; and whether patients are receiving screening and treatment according to Public Health Service guidelines.

The minimum dataset contains demographic and HIV-related laboratory test information extracted from an existing HIV case surveillance database, the national HIV/AIDS Reporting System.

A standard interview will be conducted with approximately 96% of patients, and will take 45 minutes. A short interview will be conducted with patients who are too ill to complete the standard interview or when the interview must be translated. The short interview, which will be conducted with approximately 4% of patients, will take approximately 20 minutes.

Medical record abstractions will be completed on all eligible participants. Minimal data on all sampled patients will be extracted from the national HIV/AIDS Reporting System.

Participation of respondents is voluntary. There is no cost to the respondents other than their time.

Estimated Annualized Burden Hours

Type of respondent	Form name	Number of respondents	Number of responses per respondent	Average burden per response (in hours)	Total burden (in hours)
Sampled, Eligible HIV–Infected Patients	Standard interview	7219	1	45/60	5,414
Sampled, Eligible HIV–Infected Patients Unable to Complete the Standard Interview.	Short interview	301	1	20/60	100
Facility office staff pulling medical records		7,520	1	3/60	376
Facility office staff providing Estimated Patient Loads.		936	1	2	1,872
Facility office staff providing patient lists		1,030	1	30/60	515
Facility office staff approaching participants for enrollment.		3,120	1	5/60	260
Total					8,537

Kimberly Lane,

Reports Clearance Officer, Centers for Disease Control and Prevention.

[FR Doc. 2012–605 Filed 1–12–12; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

[Document Identifier: CMS–R–306]

Agency Information Collection Activities: Proposed Collection; Comment Request

AGENCY: Centers for Medicare & Medicaid Services, HHS.

In compliance with the requirement of section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Centers for Medicare & Medicaid Services (CMS) is publishing the following summary of proposed collections for public comment. Interested persons are invited to send comments regarding this burden estimate or any other aspect of this collection of information, including any of the following subjects: (1) The necessity and utility of the proposed information collection for the proper performance of the agency's functions; (2) the accuracy of the estimated burden; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

1. *Type of Information Collection Request:* Reinstatement without change of a previously approved collection; *Title of Information Collection:* Condition of Participation—Use of Restraint and Seclusion in Psychiatric Residential Treatment Facilities Providing Psychiatric Services to Individuals Under Age 21 and Supporting Regulations at 42 CFR 483.350–483.376; *Use:* Psychiatric Residential Treatment Facilities are required to report deaths, serious injuries and attempted suicides to the State Medicaid Agency and the Protection and Advocacy Organization. They are also required to provide residents the restraint and seclusion policy in writing, and to document in the residents' records all activities involving the use of restraint and seclusion; *Form Number:* CMS–R–306 (OCN 0938–0833); *Frequency:* Once and Occasionally; *Affected Public:* Private Sector (Business or other for-profits); *Number of Respondents:* 376; *Total Annual Responses:* 329,500; *Total Annual Hours:* 501,750. (For policy questions regarding this collection

contact Jean Close at (410) 786–2804 or Melissa Musotto at (410) 786–6962. For all other issues call (410) 786–1326.)

To obtain copies of the supporting statement and any related forms for the proposed paperwork collections referenced above, access CMS' Web Site address at *http://www.cms.hhs.gov/PaperworkReductionActof1995,* or Email your request, including your address, phone number, OMB number, and CMS document identifier, to *Paperwork@cms.hhs.gov,* or call the Reports Clearance Office on (410) 786–1326.

In commenting on the proposed information collections please reference the document identifier or OMB control number. To be assured consideration, comments and recommendations must be submitted in one of the following ways by *March 13, 2012:*

1. *Electronically.* You may submit your comments electronically to *http://www.regulations.gov.* Follow the instructions for ''Comment or Submission'' or ''More Search Options'' to find the information collection document(s) accepting comments.

2. *By regular mail.* You may mail written comments to the following address: CMS, Office of Strategic Operations and Regulatory Affairs, Division of Regulations Development, Attention: Document Identifier/OMB Control Number CMS–R–306 (0938–0833), Room C4–26–05, 7500 Security Boulevard, Baltimore, Maryland 21244–1850.

Dated: January 6, 2012.

Martique Jones,

Director, Regulations Development Group, Division B, Office of Strategic Operations and Regulatory Affairs.

[FR Doc. 2012–593 Filed 1–12–12; 8:45 am]

BILLING CODE 4120–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

Submission for OMB Review; Comment Request

Title: Temporary Assistance for Needy Families/National Directory of New Hires Match Results Report.

OMB No.: 0970–0311.

Description: Section 453(j)(3) of the Social Security Act (the Act) allows for matching between the National Directory of New Hires (maintained by the Federal Office of Child Support Enforcement (OCSE) and State TANF Agencies for purposes of carrying out responsibilities under programs funded under part A of Title IV of the Act. To assist OCSE and the Office of Family Assistance (OFA) in measuring savings to the TANF program attributable to the use of NDNH data matches, the State TANF Agencies have agreed to provide OCSE with a written description of the performance outputs and outcomes attributable to the State TANF Agency's use of NDNH match results. This information will help OCSE demonstrate how the NDNH supports the OCSE's mission and strategic goals.

Respondents: State TANF Agencies.

ANNUAL BURDEN ESTIMATES

Instrument	Number of respondents	Number of responses per respondent	Average burden hours per response	Total burden hours
TANF/NDNH Match Results Report	12	4	0.17	8.16

Estimated Total Annual Burden Hours: 8.16.

Additional Information: Copies of the proposed collection may be obtained by writing to the Administration for Children and Families, Office of Planning, Research and Evaluation, 370 L'Enfant Promenade SW., Washington, DC 20447, Attn: ACF Reports Clearance Officer. All requests should be identified by the title of the information collection. Email address: *infocollection@acf.hhs.gov.*

OMB Comment: OMB is required to make a decision concerning the collection of information between 30 and 60 days after publication of this document in the **Federal Register.** Therefore, a comment is best assured of having its full effect if OMB receives it within 30 days of publication. Written comments and recommendations for the proposed information collection should be sent directly to the following:

Office of Management and Budget, Paperwork Reduction Project, Fax: (202) 395–7285, Email: *OIRA_SUBMISSION@OMB.EOP.GOV, Attn:* Desk Officer for the Administration for Children and Families.

Robert Sargis,

Reports Clearance Officer.

[FR Doc. 2012–568 Filed 1–12–12; 8:45 am]

BILLING CODE 4184–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2011–N–0755]

Agency Information Collection Activities; Submission for Office of Management and Budget Review; Comment Request; Implementation of Sections 222, 223, and 224 of the Food and Drug Administration Amendments Act of 2007

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.

DATES: Fax written comments on the collection of information by February 13, 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 0910–0625. Also include the FDA 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: In compliance with 44 U.S.C. 3507, FDA has submitted the following proposed collection of information to OMB for review and clearance.

Implementation of Sections 222, 223, and 224 of the Food and Drug Administration Amendments Act of 2007—(OMB Control Number 0910–0625)—Extension

Sections 222, 223, and 224 of FDAAA, which were in effect on October 1, 2007, require that device establishment registrations and listings under section 510 of the Federal Food, Drug, and Cosmetic Act (the FD&C Act) (21 U.S.C. 360), including the submission of updated information, be submitted to the Secretary by electronic means, unless the Secretary grants a request for waiver of the requirement because the use of electronic means is not reasonable for the person requesting the waiver. There are approximately 24,000 establishments that are electronically registered as of September 2011.

Section 222 of FDAAA amends sections 510(b) of the FD&C Act to require domestic establishments to register annually during the period beginning October 1 and ending December 31 of each year. Section 222 of FDAAA also amends section 510(i)(1) of the FD&C Act to require foreign establishments to register immediately upon first engaging in one of the covered device activities described under the statute, and in addition, they must also register annually during the time period beginning October 1 and ending December 31 of each year. Further, section 223 of FDAAA amends section 510(j)(2) of the FD&C Act to require establishments to list their devices with FDA annually, during the time period beginning October 1 and ending December 31 of each year.

Under FDAAA, device establishment owners and operators are required to keep their registration and device listing information up-to-date using the Agency's new electronic system. Owners and operators of new device establishments must use the electronic system to create new accounts, new registration records, and new device listings. Section 224 of FDAAA amends section 510(p) of the FD&C Act by allowing an affected person to request a waiver from the requirement to register electronically when the ''use of electronic means'' is not reasonable for the person.

The estimates in table 1 of this document are based on FDA's experience, data from the device registration and listing database, and our estimates of the time needed to complete the previously required forms. We estimate that the time needed to enter registration and listing information electronically using FDA Form 3673 will not differ significantly from the time needed to fill in the paper forms (FDA Forms 2891, 2891a, and 2892) that previously were used for this purpose because the information required is essentially identical.

In addition, under section 224 of FDAAA, device establishment owner/operators, for whom registering and listing by electronic means is not reasonable, may request a waiver from the Secretary. Because a device establishment's owner/operator is required to register and list, they would need only to have access to a computer, Internet, and an email address for registration and listing by electronic means, the Agency did not anticipate receipt of a large number of requests for waivers. From the October through December 2007 timeframe, FDA received fewer than 10 requests for waivers for the requirement to submit registration and listing information electronically. As data for more than 16,000 establishments were received electronically for the same period, these requests amount to less than 1 percent of the total number of establishments that have responded. The number of waiver requests received through fiscal year 2011 has remained consistently less than 1 percent.

Based on information taken from our databases, FDA estimates that there are 21,254 owner/operators who collectively register a total of 24,000 device establishments. The number of respondents listed for section 222 of FDAAA in table 1 of this document is 21,254, which corresponds to the number of owner/operators who annually register. In addition, FDA estimates that 3,504 owner/operators are initial importers who must register their establishments but who, under FDA's existing regulations, are not required to list their devices unless they initiate or develop the specifications for the devices or repackage or relabel the devices. The number of respondents included in table 1 of this document for section 223 of FDAAA is 17,750, which corresponds to the number of owner/operators who annually list one or more devices (21,254 − 3,504 = 17,750).

To calculate the burden estimate for waiver requests under section 224 of FDAAA, we assume as stated previously, that less than 1 percent of the 24,000 total device establishments would request waivers from FDA. This means the total number of waiver requests would probably not exceed 14 requests (24,000 x 0.0006). We also estimate that the one-time burden on these establishments would be an hour of time for a mid-level manager to draft, approve, and mail a letter. In addition, FDA estimates the total number of establishments will increase by 2,162 new establishments each year. Of the 2,162 new registrants each year, we assume that less than 1 percent (i.e., 1) of these will also request waivers each year. The total, therefore, is 14 waiver requests, which could increase by only one additional request each year.

Based on the number of owner operators of foreign establishments reflected in our current database, approximately 8,067 owner operators will spend an hour annually identifying the name, address, telephone and fax numbers, email address, and registration number, if any has been assigned, of any importer of the establishment's devices that is known to the foreign establishment.

Also based on the current number of owner/operators in the FDA database, we estimate that approximately 1,305 owner operators will spend .25 hours each year to identify changes in their U.S. agent's name, address, or phone number to FDA.

The burden estimate for recordkeeping requirements under section 222 of FDAAA in table 2 of this document complies with the requirement that owners or operators keep a list of officers, directors, and partners for each establishment. Owners or operators will need to provide this information only upon request from FDA. However, it is assumed that some effort will need to be expended for keeping such lists current.

The burden estimate for the recordkeeping requirements under section 223 of FDAAA in table 2 of this document reflect other recordkeeping requirements for devices listed with FDA and the requirement to provide these records upon request from FDA. These estimates are based on FDA experience.

In the **Federal Register** of November 3, 2011 (76 FR 68195), FDA published a 60-day notice requesting public comment on the proposed collection of information. No comments were received.

FDA estimates the burden of this collection of information as follows:

TABLE 1—ESTIMATED ANNUAL REPORTING BURDEN [1]

FDAAA Section of the 2007 amendments	FDA form No.	Number of respondents	Number of responses per respondent	Total annual responses	Average burden per response	Total hours
222 [3]	3673	21,254	1	21,254	0.75	15,941
222 [2]	3673	2,162	1	2,162	0.50	1,081
222 [3]	3673	8,067	1	8,067	1	8,067
222 [3]	3673	1,305	1	1,305	0.25	326
223 [3]	3673	17,750	1	17,750	1	17,750
224 (waiver request) [2]	3673	14	1	14	1	14
224 (waiver request) [3]	3673	1	1	1	2	2
Total						43,181

[1] There are no capital costs or operating and maintenance costs associated with this collection of information.
[2] One-time burden.
[3] Annual recurring burden.

TABLE 2—ESTIMATED AVERAGE ANNUAL RECORDKEEPING BURDEN[1]

FDAAA Section of the 2007 amendments	Number of recordkeepers	Number of records per recordkeeper	Total annual records	Average burden per recordkeeping	Total hours
222 [2]	23,806	1	23,806	0.25	5,952
223 [2]	11,746	4	46,984	0.5	23,492
Total					29,444

[1] There are no capital costs or operating and maintenance costs associated with this collection of information.
[2] Recurring burden.

Dated: January 9, 2012.

David Dorsey,

Acting Associate Commissioner for Policy and Planning.

[FR Doc. 2012–503 Filed 1–12–12; 8:45 am]

BILLING CODE 4160–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2011–N–0589]

Anneri Izurieta: Debarment Order

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is issuing an order under the Federal Food, Drug, and Cosmetic Act (the FD&C Act) debarring Anneri Izurieta for a period of 30 years from importing articles of food or offering such articles for importation into the United States. FDA bases this order on a finding that Ms. Izurieta was convicted of six felony counts under Federal law for conduct relating to the importation into the United States of an article of food. Ms. Izurieta was given notice of the proposed debarment and an opportunity to request a hearing within the timeframe prescribed by regulation. As of November 4, 2011 (30 days after receipt of the notice), Ms. Izurieta had not responded. Ms. Izurieta's failure to respond constitutes a waiver of her right to a hearing concerning this action.

DATES: This order is effective January 13, 2012.

ADDRESSES: Submit applications for termination of debarment to the Division of Dockets Management (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.

FOR FURTHER INFORMATION CONTACT: Kenny Shade, Office of Regulatory Affairs, Food and Drug Administration, 12420 Parklawn Dr., Rockville, MD 20857, (301) 796–4640.

SUPPLEMENTARY INFORMATION:

I. Background

Section 306(b)(1)(C) of the FD&C Act (21 U.S.C. 335a(b)(1)(C)) permits FDA to debar an individual from importing an article of food or offering such an article for import into the United States if FDA finds, as required by section 306(b)(3)(A) of the FD&C Act, that the individual has been convicted of a felony for conduct relating to the importation into the United States of any food.

On May 11, 2011, in the U.S. District Court for the Southern District of Florida, Ms. Izurieta was convicted of one count of conspiracy to smuggle goods into the United States, in violation of 18 U.S.C. 371, and five counts of smuggling goods into the United States, in violation of 18 U.S.C. 545. The U.S. District Court for the Southern District of Florida entered judgment against Ms. Izurieta on July 29, 2011.

FDA's finding that debarment is appropriate is based on the felony convictions referenced herein for conduct relating to the importation into the United States of any food. The factual basis for these convictions is as follows: On or about April 18, 2007, and continuing through on or about December 23, 2010, in violation of 18 U.S.C. 371, Ms. Izurieta knowingly, and with the intent to further the object of the conspiracy, conspired with others to commit an offense against the United States to fraudulently and knowingly import and bring into the United States merchandise contrary to law in violation of 18 U.S.C. 545. Specifically, Ms. Izurieta conspired to distribute and sell imported dairy products that FDA had detained after receiving notice from FDA that the dairy products were suspected to be adulterated.

While serving as president and director of Naver Trading, Ms. Izurieta caused dairy products and other food to be imported from Honduras and Nicaragua. Despite a request from FDA to disclose the location of shipments of dairy products after learning that FDA had slated specific shipments for examination due to concerns of adulteration with *Escherichia coli,*

Staphylococcus aureus, and *Salmonella,* Ms. Izurieta failed to do so. Ms. Izurieta also distributed shipments of dairy products after learning that FDA had slated specific shipments for examination due to concerns of adulteration with *E. coli, S. aureus,* and *Salmonella.* Ms. Izurieta failed to redeliver for destruction and exportation shipments of dairy products that FDA had determined to be adulterated with *E. coli, S. aureus,* and *Salmonella* and that were not authorized for entry into the United States. Ms. Izurieta then distributed dairy products that were adulterated and not authorized for entry into the United States. This conduct was in violation of 18 U.S.C. 545.

From approximately April 18, 2007, and continuing to approximately December 7, 2010, Ms. Izurieta fraudulently and knowingly imported and brought into the United States merchandise contrary to law. Further, Ms. Izurieta failed to redeliver, export, and destroy with FDA supervision the dairy products and other food products contained in these shipments after receiving notice from FDA regarding concerns about the adulteration of these products with *E. coli, S. aureus,* and/or *Salmonella.*

As a result of her conviction, on September 28, 2011, FDA sent Ms. Izurieta a notice by certified mail proposing to debar her for a period of 30 years from importing articles of food or offering such articles for import into the United States. The proposal was based on a finding under section 306(b)(1)(C) of the FD&C Act that Ms. Izurieta was convicted of six felony counts under Federal law for conduct relating to the importation into the United States of an article of food because she conspired to and did commit offenses related to the importation of dairy products and other products into the United States, and a determination, after consideration of the factors set forth in section 306(c)(3) of the FD&C Act that Ms. Izurieta should be subject to the maximum possible period of debarment. The proposal also offered Ms. Izurieta an opportunity to request a hearing, providing her 30 days from the date of receipt of the letter in which to file the request, and advised her that failure to request a hearing constituted a waiver of the opportunity for a hearing and of any contentions concerning this action. Ms. Izurieta failed to respond within the timeframe prescribed by regulation and has, therefore, waived her opportunity for a hearing and waived any contentions concerning her debarment (21 CFR part 12).

II. Findings and Order

Therefore, the Director, Office of Enforcement, Office of Regulatory Affairs, under section 306(b)(1)(C) of the FD&C Act, and under authority delegated to the Director (Staff Manual Guide 1410.35), finds that Ms. Anneri Izurieta has been convicted of six felony counts under Federal law for conduct relating to the importation of an article of food into the United States and that she is subject to the full period of debarment.

As a result of the foregoing finding, Ms. Izurieta is debarred for a period of 30 years from importing articles of food or offering such articles for import into the United States, effective (see **DATES**). Under section 301(cc) of the FD&C Act (21 U.S.C. 331(cc)), the importing or offering for import into the United States of an article of food by, with the assistance of, or at the direction of Ms. Izurieta is a prohibited act.

Any application by Ms. Izurieta for termination of debarment under section 306(d)(1) of the FD&C Act should be identified with Docket No. FDA–2011–N–0589 and sent to the Division of Dockets Management (see **ADDRESSES**). All such submissions are to be filed in four copies. The public availability of information in these submissions is governed by 21 CFR 10.20(j).

Publicly available submissions may be seen in the Division of Dockets Management between 9 a.m. and 4 p.m., Monday through Friday.

Dated: January 4, 2012.

Armando Zamora,

Acting Director, Office of Enforcement, Office of Regulatory Affairs.

[FR Doc. 2012–542 Filed 1–12–12; 8:45 am]

BILLING CODE 4160–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket Nos. FDA–2011–M–0502, FDA–2011–M–0503, FDA–2011–M–0563, FDA–2011–M–0564, FDA–2011–M–0600, FDA–2011–M–0601, FDA–2011–M–0630, and FDA–2011–M–0707]

Medical Devices; Availability of Safety and Effectiveness Summaries for Premarket Approval Applications

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is publishing a list of premarket approval applications (PMAs) that have been approved. This list is intended to inform the public of the availability of safety and effectiveness summaries of approved PMAs through the Internet and the Agency's Division of Dockets Management.

ADDRESSES: Submit written requests for copies of summaries of safety and effectiveness data to the Division of Dockets Management (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852. Please cite the appropriate docket number as listed in table 1 of this document when submitting a written request. See the **SUPPLEMENTARY INFORMATION** section for electronic access to the summaries of safety and effectiveness.

FOR FURTHER INFORMATION CONTACT: Nicole Wolanski, Center for Devices and Radiological Health, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 66, rm. 1650, Silver Spring, MD 20993–0002, (301) 796–6570.

SUPPLEMENTARY INFORMATION:

I. Background

In accordance with section 515(d)(4) and (e)(2) of the Federal Food, Drug, and Cosmetic Act (the FD&C Act) (21 U.S.C. 360e(d)(4) and (e)(2)), notification of an order approving, denying, or withdrawing approval of a PMA will continue to include a notice of opportunity to request review of the order under section 515(g) of the FD&C Act. The 30-day period for requesting reconsideration of an FDA action under § 10.33(b) (21 CFR 10.33(b)) for notices announcing approval of a PMA begins on the day the notice is placed on the Internet. Section 10.33(b) provides that FDA may, for good cause, extend this 30-day period. Reconsideration of a denial or withdrawal of approval of a PMA may be sought only by the applicant; in these cases, the 30-day period will begin when the applicant is notified by FDA in writing of its decision.

The regulations provide that FDA publish a quarterly list of available safety and effectiveness summaries of PMA approvals and denials that were announced during that quarter. The following is a list of approved PMAs for which summaries of safety and effectiveness were placed on the Internet from July 1, 2011, through September 30, 2011. There were no denial actions during this period. The list provides the manufacturer's name, the product's generic name or the trade name, and the approval date.

TABLE 1—LIST OF SAFETY AND EFFECTIVENESS SUMMARIES FOR APPROVED PMAS MADE AVAILABLE FROM JULY 1, 2011, THROUGH SEPTEMBER 30, 2011

PMA No. Docket No.	Applicant	Trade name	Approval date
P100031, FDA–2011–M–0502.	Roche Diagnostics Corp.	ELECSYS ANTI–HBC IMMUNOASSAY & ELECSYS PRECICONTROL ANTI–HBC.	June 22, 2011.
P100032, FDA–2011–M–0503.	Roche Diagnostics Corp.	ELECSYS ANTI–HBC IMMUNOASSAY, ELECSYS PRECICONTROL ANTI–HBC FOR USE ON THE ELECSYS 2010 IMMUNOASSAY ANALYZER.	June 27, 2011.
P100001, FDA–2011–M–0563.	Ortho-Clinical Diagnostics, Inc..	VITROS IMMUNODIAGNOSTICS PRODUCTS ANTI–HBE REAGENT PACK, VITROS IMMUNODIAGNOSTIC PRODUCTS ANTI–HBE CALIBRATOR, AND VITROS IMMUNODIAGNOSTIC PRODUCTS ANTI–HBE CONTROLS.	July 20, 2011.
P110001, FDA–2011–M–0564.	Abbott Vascular	RX HERCULINK ELITE RENAL STENT SYSTEM	July 20, 2011.
P100044, FDA–2011–M–0600.	Intersect ENT	PROPEL	August 11, 2011.
P110020, FDA–2011–M–0601.	Roche Molecular Systems, Inc..	COBAS 4800 BRAF V600 MUTATION TEST	August 17, 2011.
P110012, FDA–2011–M–0630.	Abbott Molecular, Inc.	VYSIS ALK BREAK APART FISH PROBE KIT; VYSIS PARAFFIN PRETREATMENT IV & POST HYBRIDIZATION WASH BUFFER KIT; PROBECHEK ALK NEGATIVE CONTROL SLIDES; AND PROBECHEK ALK POSITIVE CONTROL SLIDES.	August 26, 2011.
H100006, FDA–2011–M–0707.	Synapse Biomedical, Inc.	NEURX DPS DIAPHRAGM PACING SYSTEM	September 28, 2011.

II. Electronic Access

Persons with access to the Internet may obtain the documents at *http://www.fda.gov/cdrh/pmapage.html*.

Dated: January 9, 2012.

Leslie Kux,

Acting Assistant Commissioner for Policy.

[FR Doc. 2012–537 Filed 1–12–12; 8:45 am]

BILLING CODE 4160–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Proposed Collection; Comment Request; Prevalence, Incidence, Epidemiology and Molecular Variants of HIV in Blood Donors in Brazil

SUMMARY: In compliance with the requirement of Section 3506(c) (2) (A) of the Paperwork Reduction Act of 1995, for opportunity for public comment on proposed data collection projects, the National Heart, Lung, and Blood Institute (NHLBI), the National Institutes of Health (NIH), will publish periodic summaries of proposed projects to the Office of Management and Budget (OMB) for review and approval.

Proposed Collection: Title: Prevalence, Incidence, Epidemiology and Molecular Variants of HIV in Blood Donors in Brazil. *Type of Information Collection Request: Extension* (OMB No. 0925–0597). *Need and Use of Information Collection:* Establishing and monitoring viral prevalence and incidence rates, and identifying behavioral risk behaviors for HIV infection among donors are critical steps to assessing and reducing risk of HIV transmission through blood transfusion. Detecting donors with recently acquired HIV infection is particularly critical as it enables characterization of the viral subtypes currently transmitted within the screened population. In addition to characterizing genotypes of recently infected donors for purposes of blood safety, molecular surveillance of incident HIV infections in blood donors serves important public health roles by identifying new HIV infections for anti-retroviral treatment, and enabling documentation of the rates of primary transmission of anti-viral drug resistant strains in the community. This study is a continuation of a previous research project which enrolled eligible HIV positive blood donors and analyzed HIV molecular variants and their association with risk.

This previous project was conducted by the NHLBI Retrovirus Epidemiology Donor Study—II (REDS–II) International Brazil program and included not only data collection on HIV seropositive donors but also collection of risk factor data on uninfected donors. The current Recipient Epidemiology and Donor Evaluation Study—(REDS–III) research proposal is a continuation of the previous REDS–II project at the same four blood centers in Brazil, located in the cities of Sao Paulo, Recife, Rio de Janeiro and Belo Horizonte, but this time restricted to the study of HIV-positive subjects.

The primary study aims are to continue monitoring HIV molecular variants and risk behaviors in blood donors in Brazil, and to evaluate HIV subtype and drug resistance profiles among HIV positive donors according to HIV infection status (recent versus long-standing infection), year of donation, and site of collection. Additional study objectives include determining trends in HIV molecular variants and risk factors associated with HIV infection by combining data collected in the previous REDS–II project with that which will be obtained in the planned research activities.

Nucleic acid testing (NAT) testing for HIV is currently being implemented in Brazil. It will be important to continue to collect molecular surveillance and risk factor data on HIV infections, especially now that infections that might not have been identified by serology testing alone could be recognized through the use of NAT. NAT-only infections represent very recently acquired infections. The NAT assay will be used at the four REDS–III blood centers in Brazil during the planned research activities. In addition, in order to distinguish between recent seroconversion and long-standing infection, samples from all HIV antibody- dual reactive donations and/or NAT positive donations will be tested by the Recent Infection Testing

Algorithm (*RITA*) which is based on use of a sensitive/less-sensitive enzyme immunoassay (''detuned'' Enzyme Immunoassay). RITA testing will be performed by the Blood Systems Research Institute, San Francisco, California, USA, which is the REDS–III Central Laboratory.

Subjects will be enrolled for a 5-year period from March 2012 through February 2017. According to the Brazilian guidelines, blood donors are requested to return to the blood bank for HIV confirmatory testing and HIV counseling. Donors will be invited to participate in the study through administration of informed consent when they return for HIV counseling. Once informed consent has been administered and enrollment has occurred, participants will be asked to complete a confidential self-administered risk factor questionnaire by computer. In addition, a small blood sample will be collected from each HIV positive participant to be used for the genotyping and drug resistance testing. The results of the drug resistance testing will be communicated back to the HIV positive participants during an in-person counseling session at the blood center. For those individuals who do not return for confirmatory testing, the samples will be anonymized and sent to the REDS–III central laboratory to perform the recent infection testing algorithm (RITA).

This research effort will allow for an evaluation of trends in the trafficking of non-B subtypes and rates of transmission of drug resistant viral strains in low risk blood donors. These data could also be compared with data from similar studies in higher risk populations. Monitoring drug resistance strains is extremely important in a country that provides free anti-retroviral therapy for HIV infected individuals, many of whom have low level education and modest resources, thus making compliance with drug regimens and hence the risk of drug resistant HIV a serious problem.

The findings from this project will add to those obtained in the REDS–II study, allowing for extended trend analyses over a 10-year period and will complement similar monitoring of HIV prevalence, incidence, transfusion risk and molecular variants in the USA and other funded international REDS–III sites in South Africa and China, thus allowing direct comparisons of these parameters on a global level.

Frequency of Response: Once. *Affected Public:* Individuals. *Type of Respondents:* Adult Blood Donors. The annual reporting burden is as follows: *Estimated Number of Respondents:* 100; *Estimated Number of Responses per Respondent:* 1; *Average Burden of Hours per Response:* 0.40 (including administration of the informed consent form and questionnaire completion instructions); and *Estimated Total Annual Burden Hours Requested:* 40. The annualized cost to respondents is estimated at: $260 (based on $6.50 per hour). There are no Capital Costs to report. There are no Operating or Maintenance Costs to report.

Estimated annual number of respondents	Estimated number of responses per respondent	Average burden hours per response	Estimated total annual burden hours requested
100	1	0.40	40

Request for Comments: Written comments and/or suggestions from the public and affected agencies should address one or more of the following points: (1) Whether the proposed collection of information is necessary for the proper performance of the function of the agency, including whether the information will have practical utility; (2) The accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and the assumptions used; (3) Ways to enhance the quality, utility, and clarity of the information collected; and (4) Ways to minimize the burden of the collection of information on those who are to respond, including the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

FOR FURTHER INFORMATION CONTACT: To request more information on the proposed project or to obtain a copy of the data collection plans and instruments, contact: Simone Glynn, MD, Project Officer/ICD Contact, Two Rockledge Center, Suite 9142, 6701 Rockledge Drive, Bethesda, MD 20892, or call (301) 435–0065, or Email your request to: *glynnsa@nhlbi.nih.gov.*

Comments Due Date: Comments regarding this information collection are best assured of having their full effect if received within 60 days of the date of this publication.

Dated: January 3, 2012.

Keith Hoots,

Director, Division of Blood Diseases and Resources, National Heart, Lung, and Blood Institute, NIH.

Dated: January 3, 2012.

Lynn Susulske,

NHLBI Project Clearance Liaison, National Institutes of Health.

[FR Doc. 2012–571 Filed 1–12–12; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Surgical Sciences, Biomedical Imaging and Bioengineering Integrated Review Group; Medical Imaging Study Section.

Date: February 1–2, 2012.

Time: 7 p.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Serrano Hotel, 405 Taylor Street, San Francisco, CA 94102.

Contact Person: Xiang-Ning Li, MD, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5112, MSC 7854, Bethesda, MD 20892, (301) 435–1744, *lixiang@csr.nih.gov.*

Name of Committee: Integrative, Functional and Cognitive Neuroscience Integrated Review Group; Mechanisms of Sensory, Perceptual, and Cognitive Processes Study Section.

Date: February 2–3, 2012.
Time: 8:30 a.m. to 6 p.m.
Agenda: To review and evaluate grant applications.
Place: Hotel Nikko San Francisco, 222 Mason Street, San Francisco, CA 94102.
Contact Person: Kirk Thompson, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5184, MSC 7844, Bethesda, MD 20892, (301) 435–1242, *kgt@mail.nih.gov*.

Name of Committee: Integrative, Functional and Cognitive Neuroscience Integrated Review Group; Sensorimotor Integration Study Section.
Date: February 3, 2012.
Time: 8:30 a.m. to 6 p.m.
Agenda: To review and evaluate grant applications.
Place: Hotel Nikko San Francisco, 222 Mason Street, San Francisco, CA 94102.
Contact Person: John Bishop, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5182, MSC 7844, Bethesda, MD 20892, (301) 408–9664, *bishopj@csr.nih.gov*.

Name of Committee: Vascular and Hematology Integrated Review Group; Atherosclerosis and Inflammation of the Cardiovascular System Study Section.
Date: February 6–7, 2012.
Time: 8 a.m. to 5 p.m.
Agenda: To review and evaluate grant applications.
Place: Hyatt Regency Bethesda, One Bethesda Metro Center, 7400 Wisconsin Avenue, Bethesda, MD 20814.
Contact Person: Anshumali Chaudhari, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4124, MSC 7802, Bethesda, MD 20892, (301) 435–1210, *chaudhaa@csr.nih.gov*.

Name of Committee: Oncology 2—Translational Clinical Integrated Review Group; Basic Mechanisms of Cancer Therapeutics Study Section.
Date: February 6–7, 2012.
Time: 8 a.m. to 5 p.m.
Agenda: To review and evaluate grant applications.
Place: Ritz Carlton Hotel, 1150 22nd Street NW., Washington, DC 20037.
Contact Person: Lambratu Rahman Sesay, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 6214, MSC 7804, Bethesda, MD 20892, (301) 451–3493, *rahman-sesayl@csr.nih.gov*.

Name of Committee: Population Sciences and Epidemiology Integrated Review Group; Kidney, Nutrition, Obesity and Diabetes Study Section.
Date: February 6–7, 2012.
Time: 8:30 a.m. to 5 p.m.
Agenda: To review and evaluate grant applications.
Place: Washington Marriott Wardman Park, 2660 Woodley Road NW., Washington, DC 20008.
Contact Person: Fungai Chanetsa, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3135, MSC 7770, Bethesda, MD 20892, (301) 408–9436, *fungai.chanetsa@nih.hhs.gov*.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Member Conflicts: Liver Pathobiology, Toxicology, and Pharmacology.
Date: February 6, 2012.
Time: 12 p.m. to 3 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: Peter J. Perrin, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 2180, MSC 7818, Bethesda, MD 20892, (301) 435–0682, *perrinp@csr.nih.gov*.

Name of Committee: Center for Scientific Review Special Emphasis Panel; PAR–11–045: Outcome Measures for Use in Treatment Trials for, Individuals with Intellectual and Developmental Disabilities (R01).
Date: February 7, 2012.
Time: 11:30 a.m. to 1 p.m.
Agenda: To review and evaluate grant applications. Ritz Carlton Hotel.
Place: 1150 22nd Street NW., Washington, DC 20037.
Contact Person: Jane A. Doussard-Roosevelt, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3184, MSC 7848, Bethesda, MD 20892, (301) 435–4445, *doussarj@csr.nih.gov*.

Name of Committee: Biobehavioral and Behavioral Processes Integrated Review Group; Biobehavioral Regulation, Learning and Ethology Study Section.
Date: February 9–10, 2012.
Time: 8 a.m. to 5 p.m.
Agenda: To review and evaluate grant applications.
Place: Doubletree Guest Suites Santa Monica, 1707 Fourth Street, Santa Monica, CA 90401.
Contact Person: Melissa Gerald, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3172, MSC 7848, Bethesda, MD 20892, (301) 408–9107, *geraldmel@csr.nih.gov*.

Name of Committee: Population Sciences and Epidemiology Integrated Review Group; Neurological, Aging and Musculoskeletal Epidemiology Study Section.
Date: February 9–10, 2012.
Time: 8 a.m. to 2 p.m.
Agenda: To review and evaluate grant applications.
Place: Melrose Hotel, 2430 Pennsylvania Ave. NW., Washington, DC 20037.
Contact Person: Heidi B. Friedman, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 1012A, MSC 7770, Bethesda, MD 20892, (301) 435–1721, *hfriedman@csr.nih.gov*.

Name of Committee: Genes, Genomes, and Genetics Integrated Review Group; Therapeutic Approaches to Genetic Diseases Study Section.
Date: February 9, 2012.
Time: 8 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 Person: Michael K. Schmidt, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 2214, MSC 7890, Bethesda, MD 20892, (301) 435–1147, *mschmidt@mail.nih.gov*.

Name of Committee: Infectious Diseases and Microbiology Integrated Review Group; Virology—A Study Section.
Date: February 9–10, 2012.
Time: 8:30 a.m. to 5 p.m.
Agenda: To review and evaluate grant applications. Crowne Plaza Hotel—Silver Spring, 8777 Georgia Avenue, Silver Spring, MD 20910.
Contact Person: Joanna M Pyper, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3198, MSC 7808, Bethesda, MD 20892, (301) 435–1151, *pyperj@csr.nih.gov*.

Name of Committee: Infectious Diseases and Microbiology Integrated Review Group; Host Interactions with Bacterial Pathogens Study Section.
Date: February 10, 2012.
Time: 8 a.m. to 6 p.m.
Agenda: To review and evaluate grant applications.
Place: Hyatt Regency Bethesda, One Bethesda Metro Center, 7400 Wisconsin Avenue, Bethesda, MD 20814.
Contact Person: Fouad A El-Zaatari, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3186, MSC 7808, Bethesda, MD 20892, (301) 435–1149, *elzaataf@csr.nih.gov*.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Biobehavioral Regulation, Learning and Ethology.
Date: February 10, 2012.
Time: 2 p.m. to 3 p.m.
Agenda: To review and evaluate grant applications.
Place: Doubletree Guest Suites Santa Monica, 1707 Fourth Street, Santa Monica, CA 90401.
Contact Person: Biao Tian, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3166, MSC 7848, Bethesda, MD 20892, (301) 402–4411, *tianbi@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: January 6, 2012.

Jennifer S. Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 2012–556 Filed 1–12–12; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Neurological Disorders and Stroke Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable materials, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Neurological Disorders and Stroke Initial Review Group NST–1 Subcommittee.

Date: January 30–31, 2012.

Time: 8 a.m. to 6 p.m.

Agenda: To review and evaluate grant applications.

Place: The Fairmont Washington, DC, 2401 M Street NW., Washington, DC 20037.

Contact Person: Raul A. Saavedra, Ph.D., Scientific Review Officer, Scientific Review Branch, Division of Extramural Research, National Institute of Neurological Disorders and Stroke, NIH, NSC, 6001 Executive Blvd., Suite 3208, MSC 9529 Bethesda, MD 20892–9529 (301) 496–9223, *saavedrr@ninds.nih.gov*.

(Catalogue of Federal Domestic Assistance Program Nos. 93.853, Clinical Research Related to Neurological Disorders; 93.854, Biological Basis Research in the Neurosciences, National Institutes of Health, HHS)

Dated: January 6, 2012.

Jennifer S. Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 2012–564 Filed 1–12–12; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Diabetes and Digestive and Kidney Diseases Notice of Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of meetings of the National Diabetes and Digestive and Kidney Diseases Advisory Council.

The meetings will be open to the public as indicated below, with attendance limited to space available. Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should notify the Contact Person listed below in advance of the meeting.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Diabetes and Digestive and Kidney Diseases Advisory Council.

Date: February 15, 2012.

Open: 8:30 a.m. to 12 p.m.

Agenda: To present the Director's Report and other scientific presentations.

Place: National Institutes of Health, Natcher Building, 45 Center Drive, Conference Room E1/E2, Bethesda, MD 20892.

Closed: 1 p.m. to 4 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Natcher Building, 45 Center Drive, Conference Room E1/E2, Bethesda, MD 20892.

Contact Person: Brent B. Stanfield, Ph.D., Director, Division of Extramural Activities, National Institutes of Diabetes and Digestive and Kidney Diseases, 6707 Democracy Blvd. Room 715, MSC 5452, Bethesda, MD 20892, (301) 594–8843, *stanfibr@niddk.nih.gov.*

Name of Committee: National Diabetes and Digestive and Kidney Diseases Advisory Council, Digestive Diseases and Nutrition Subcommittee.

Date: February 15, 2012.

Open: 1 p.m. to 2:15 p.m.

Agenda: To review the Division's scientific and planning activities.

Place: National Institutes of Health, Natcher Building, 45 Center Drive, Conference Room D, Bethesda, MD 20892.

Closed: 2:30 p.m. to 4 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Natcher Building, 45 Center Drive, Conference Room D, Bethesda, MD 20892.

Contact Person: Brent B. Stanfield, Ph.D., Director, Division of Extramural Activities, National Institutes of Diabetes and Digestive and Kidney Diseases, 6707 Democracy Blvd. Room 715, MSC 5452, Bethesda, MD 20892, (301) 594–8843, *stanfibr@niddk.nih.gov.*

Name of Committee: National Diabetes and Digestive and Kidney Diseases Advisory Council, Diabetes, Endocrinology and Metabolic Diseases Subcommittee.

Date: February 15, 2012.

Open: 2:30 p.m. to 4 p.m.

Agenda: To review the Division's scientific and planning activities.

Place: National Institutes of Health, Natcher Building, 45 Center Drive, Conference Room E1/E2, Bethesda, MD 20892.

Closed: 1 p.m. to 2:30 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Natcher Building, 45 Center Drive, Conference Room E1/E2, Bethesda, MD 20892.

Contact Person: Brent B. Stanfield, Ph.D., Director, Division of Extramural Activities, National Institutes of Diabetes and Digestive and Kidney Diseases, 6707 Democracy Blvd., Room 715, MSC 5452, Bethesda, MD 20892, (301) 594–8843, *stanfibr@niddk.nih.gov.*

Name of Committee: National Diabetes and Digestive and Kidney Diseases Advisory Council Kidney, Urologic and Hematologic Diseases Subcommittee.

Date: February 15, 2012.

Open: 1 p.m. to 2:30 p.m.

Agenda: To review the Division's scientific and planning activities.

Place: National Institutes of Health, Natcher Building, 45 Center Drive, Conference Room F1/F2, Bethesda, MD 20892.

Closed: 2:30 p.m. to 4 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Natcher Building, 45 Center Drive, Conference Room F1/F2, Bethesda, MD 20892.

Contact Person: Brent B. Stanfield, Ph.D., Director, Division of Extramural Activities, National Institutes of Diabetes and Digestive and Kidney Diseases, 6707 Democracy Blvd. Room 715, MSC 5452, Bethesda, MD 20892, (301) 594–8843, *stanfibr@niddk.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.

In the interest of security, NIH has instituted stringent procedures for entrance onto the NIH campus. All visitor vehicles, including taxicabs, hotel, and airport shuttles will be inspected before being allowed on campus. Visitors will be asked to show one form of identification (for example, a government-issued photo ID, driver's license, or passport) and to state the purpose of their visit.

Information is also available on the Institute's/Center's home page: *www.niddk.nih.gov/fund/divisions/DEA/Council/coundesc.htm,* where an agenda and any additional information for the meeting will be posted when available.

(Catalogue of Federal Domestic Assistance Program Nos. 93.847, Diabetes, Endocrinology and Metabolic Research; 93.848, Digestive Diseases and Nutrition Research; 93.849, Kidney Diseases, Urology and Hematology Research, National Institutes of Health, HHS)

Dated: January 9, 2012.

Jennifer S. Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 2012–574 Filed 1–12–12; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Diabetes and Digestive and Kidney Diseases Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Diabetes and Digestive and Kidney Diseases Special Emphasis Panel; NIDDK DEM Fellowship Review.

Date: January 31–February 1, 2012.

Time: 8 a.m. to 2 p.m.

Agenda: To review and evaluate grant applications.

Place: Hyatt Regency Bethesda, One Bethesda Metro Center, 7400 Wisconsin Avenue, Bethesda, MD 20814.

Contact Person: Carol J. Goter-Robinson, Ph.D., Scientific Review Officer, Review Branch, DEA, NIDDK, National Institutes of Health, Room 748, 6707 Democracy Boulevard, Bethesda, MD 20892–5452, (301) 594–7791, *goterrobinsonc@extra.niddk.nih.gov.*

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: National Institute of Diabetes and Digestive and Kidney Diseases Special Emphasis Panel; Artificial Pancreas Review.

Date: February 22–23, 2012.

Time: 5 p.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Bethesda Marriott Suites, 6711 Democracy Boulevard, Bethesda, MD 20817.

Contact Person: D.G. Patel, Ph.D., Scientific Review Officer, Review Branch, DEA, NIDDK, National Institutes of Health, Room 756, 6707 Democracy Boulevard, Bethesda, MD 20892–5452, (301) 594–7682, *pateldg@niddk.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.847, Diabetes, Endocrinology and Metabolic Research; 93.848, Digestive Diseases and Nutrition Research; 93.849, Kidney Diseases, Urology and Hematology Research, National Institutes of Health, HHS)

Dated: January 9, 2012.

Jennifer S. Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 2012–572 Filed 1–12–12; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Eye Institute; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the National Advisory Eye Council.

The meeting will be open to the public as indicated below, with attendance limited to space available. Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should notify the Contact Person listed below in advance of the meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and/or contract proposals and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications and/or contract proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Advisory Eye Council.

Date: February 2, 2012.

Open: 8 a.m. to 12 p.m.

Agenda: Following opening remarks by the Director, NEI, there will be presentations by the staff of the Institute and discussions concerning Institute programs.

Place: National Institutes of Health, 5635 Fishers Lane, Terrace Level Conference Center, Bethesda, MD 20892.

Open: 12 p.m. to 1:15 p.m.

Agenda: Working lunch.

Place: National Institutes of Health, 5635 Fishers Lane, Terrace Level Conference Center, Bethesda, MD 20892.

Closed 1:45 p.m. to Adjournment.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 5635 Fishers Lane, Terrace Level Conference Center, Bethesda, MD 20892.

Contact Person: Lore Anne McNicol, Ph.D., Director, Division of Extramural Research, National Eye Institute, National Institutes of Health, (301) 451–2020, *lam@nei.nih.gov.*

Any person interested may file written comments with the committee by forwarding the statement to the Contact Person listed on this notice. The statement should include the name, address, telephone number and when applicable, the business or professional affiliation of the interested person.

Information is also available on the Institute's/Center's home page: *http://www.nei.nih.gov,* where an agenda and any additional information will be posted when available.

(Catalogue of Federal Domestic Assistance Program Nos. 93.867, Vision Research, National Institutes of Health, HHS)

Dated: January 9, 2012.

Jennifer S. Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 2012–569 Filed 1–12–12; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Mental Health Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Mental Health Special Emphasis Panel; Services Conflicts.

Date: February 10, 2012.

Time: 4 p.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Ritz Carlton Hotel, 1150 22nd Street NW., Washington, DC 20037.

Contact Person: Marina Broitman, Ph.D., Scientific Review Officer, Division of Extramural Activities, National Institute of Mental Health, NIH Neuroscience Center, 6001 Executive Blvd., Room 6153, MSC 9608, Bethesda, MD 20892–9608, (301) 402–8152, *mbroitma@mail.nih.gov.*

Name of Committee: National Institute of Mental Health Special Emphasis Panel; NIMH Pathway to Independence (K99) Review.

Date: February 13, 2012.

Time: 12:30 p.m. to 4 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health Neuroscience Center, 6001 Executive Boulevard, Rockville, MD 20852 (Telephone Conference Call).

Contact Person: Megan Libbey, Ph.D., Scientific Review Officer, Division of Extramural Activities, National Institute of Mental Health, NIH Neuroscience Center, 6001 Executive Blvd., Room 6148, MSC 9609, Rockville, MD 20852–9609, (301) 402–6807, *libbeym@mail.nih.gov.*

Name of Committee: National Institute of Mental Health Special Emphasis Panel; NIMH Research Education Applications (R25).

Date: February 16, 2012.

Time: 12 p.m. to 3 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health Neuroscience Center, 6001 Executive Boulevard, Rockville, MD 20852 (Telephone Conference Call).

Contact Person: Rebecca C. Steiner, Ph.D., Scientific Review Officer, Division of Extramural Activities, National Institute of Mental Health, NIH Neuroscience Center, 6001 Executive Blvd., Room 6149, MSC 9608, Bethesda, MD 20892–9608, (301) 443–4525, *steinerr@mail.nih.gov.*

Name of Committee: National Institute of Mental Health Special Emphasis Panel; Dimensional Approaches to Research Classification in Psychiatric Disorders (RDoc).

Date: March 5, 2012.

Time: 8 a.m. to 5:30 p.m.

Agenda: To review and evaluate grant applications.

Place: Melrose Hotel, 2430 Pennsylvania Avenue NW., Washington, DC 20037.

Contact Person: Rebecca C. Steiner, Ph.D., Scientific Review Officer, Division of Extramural Activities, National Institute of Mental Health, NIH Neuroscience Center, 6001 Executive Blvd., Room 6149, MSC 9608, Bethesda, MD 20892–9608, (301) 443–4525, *steinerr@mail.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.242, Mental Health Research Grants; 93.281, Scientist Development Award, Scientist Development Award for Clinicians, and Research Scientist Award; 93.282, Mental Health National Research Service Awards for Research Training, National Institutes of Health, HHS)

Dated: January 6, 2012.

Jennifer S. Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 2012–566 Filed 1–12–12; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute on Deafness and Other Communication Disorders; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute on Deafness and Other Communication Disorders Special Emphasis Panel; Translating Basic Research Review.

Date: January 25, 2012.

Time: 11 a.m. to 1 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6120 Executive Blvd., Rockville, MD 20852, (Telephone Conference Call).

Contact Person: Shiguang Yang, DVM, Ph.D., Scientific Review Officer, Division of Extramural Activities, NIDCD, NIH, 6120 Executive Blvd., Bethesda, MD 20892, (301) 496–8683.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: National Institute on Deafness and Other Communication Disorders Special Emphasis Panel; NIDCD Community-Wide Scientific Resources R24 Applications.

Date: January 30, 2012.

Time: 10:30 a.m. to 12:30 p.m.

Agenda: To review and evaluate grant applications and/or proposals.

Place: National Institutes of Health, 6120 Executive Blvd., Rockville, MD 20852, (Telephone Conference Call).

Contact Person: Kausik Ray, Ph.D., Scientific Review Officer, National Institute on Deafness and Other Communication Disorders, National Institutes of Health, Rockville, MD 20850, (301) 402–3587, *rayk@nidcd.nih.gov.*

Name of Committee: National Institute on Deafness and Other Communication Disorders Special Emphasis Panel; Chemosensory P50

Date: February 9, 2012.

Time: 12:45 p.m. to 4:45 p.m.

Agenda: To review and evaluate grant applications and/or proposals.

Place: National Institutes of Health, 6120 Executive Blvd., Rockville, MD 20852, (Telephone Conference Call).

Contact Person: Kausik Ray, Ph.D., Scientific Review Officer, National Institute on Deafness and Other Communication Disorders, National Institutes of Health, Rockville, MD 20850, (301) 402–3587, *rayk@nidcd.nih.gov.*

Information is also available on the Institute's/Center's home page: *http://www.nidcd.nih.gov/about/groups/sep/,* where an agenda and any additional information for the meeting will be posted when available.

(Catalogue of Federal Domestic Assistance Program Nos. 93.173, Biological Research Related to Deafness and Communicative Disorders, National Institutes of Health, HHS)

Dated: January 9, 2012.

Jennifer S. Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 2012–557 Filed 1–12–12; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HOMELAND SECURITY

Transportation Security Administration

[Docket No. TSA–2006–26514]

Intent To Request Renewal From OMB of One Current Public Collection of Information: Rail Transportation Security

AGENCY: Transportation Security Administration, DHS.

ACTION: 60-Day Notice.

SUMMARY: The Transportation Security Administration (TSA) invites public comment on one currently approved Information Collection Request (ICR), Office of Management and Budget (OMB) control number 1652–0051, abstracted below that we will submit to OMB for renewal in compliance with the Paperwork Reduction Act (PRA). The ICR describes the nature of the information collection and its expected burden. The collection involves the submission of contact information of Rail Security Coordinators and alternate Rail Security Coordinators from freight railroad carriers; shippers and receivers of certain hazardous materials; passenger railroad carriers, including each carrier operating light rail or heavy rail transit service on track that is part of the general railroad system of transportation and rail transit systems. Also, these persons are required to report significant security concerns, including security incidents, suspicious activity, and any threat information. In addition, freight railroad carriers and the affected shippers and receivers of

hazardous materials are required to document the transfer of custody of certain hazardous materials.

DATES: Send your comments by March 13, 2012.

ADDRESSES: Comments may be emailed to *TSAPRA@dhs.gov* or delivered to the TSA PRA Officer, Office of Information Technology (OIT), TSA–11, Transportation Security Administration, 601 South 12th Street, Arlington, VA 20598–6011.

FOR FURTHER INFORMATION CONTACT: Joanna Johnson at the above address, or by telephone (571) 227–3651.

SUPPLEMENTARY INFORMATION:

Comments Invited

In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), an agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a valid OMB control number. The ICR documentation is available at *http://www.reginfo.gov*. Therefore, in preparation for OMB review and approval of the following information collection, TSA is soliciting comments to—

(1) Evaluate whether the proposed information requirement is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agency's estimate of the burden;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, including using appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

Information Collection Requirement

OMB Control Number 1652–0051; Rail Transportation Security Rule, 49 CFR part 1580. TSA collects this information under 49 CFR part 1580 and cleared under OMB control number 1652–0051. The information is collected and used by TSA and the Department of Homeland Security (DHS) to enhance the security of the Nation's rail systems. The Rail Transportation Security Rule requires freight railroad carriers, certain rail hazardous materials shipper and receiver facilities, passenger railroad carriers, and rail mass transit systems to designate and submit contact information for a Rail Security Coordinator (RSC) and at least one alternate RSC to TSA.

This collection requires, in accordance with 49 CFR 1580.103, freight railroad carriers, shippers, and receivers in a High Threat Urban Area (HTUA) that handle certain categories and quantities of hazardous materials set forth in 49 CFR 1580.100(b), known as ''rail security-sensitive materials,'' to provide location and shipping information on rail cars under their physical custody and control to TSA upon request. Rail security-sensitive materials are defined as explosive materials, materials poisonous by inhalation, and radioactive materials.

This collection also requires freight railroad carriers, certain rail hazardous materials shipper and receiver facilities, passenger railroad carriers, and rail mass transit systems to report to TSA significant security concerns, which include security incidents, suspicious activities, and threat information.

TSA requires a secure chain of physical custody for rail cars containing rail security-sensitive materials. This collection also requires freight railroad carriers and certain hazardous materials shippers, and receivers of rail security-sensitive materials to document the transfer of custody of certain rail cars in writing or electronically and to retain these records for a minimum of 60 days. Specifically, 49 CFR 1580.107 requires documentation of the secure exchange of custody of rail cars containing rail security-sensitive materials between: A rail hazardous materials shipper and a freight railroad carrier; two separate freight railroad carriers, when the transfer of custody occurs within or HTUA or outside of an HTUA but the rail car may subsequently enter an HTUA; and a freight railroad carrier and a rail hazardous materials receiver located within an HTUA. The documentation must uniquely identify that the rail car was attended during the transfer of custody, including car initial and number; identification of individuals who attended the transfer (names or uniquely identifying employee number); location of transfer; and date and time the transfer was completed. The total burden for this collection is approximately 54,023 hours.

Issued in Arlington, Virginia, on January 9, 2012.

Joanna Johnson,

TSA Paperwork Reduction Act Officer, Office of Information Technology.

[FR Doc. 2012–601 Filed 1–12–12; 8:45 am]

BILLING CODE 9110–05–P

DEPARTMENT OF HOMELAND SECURITY

U.S. Citizenship and Immigration Services

Agency Information Collection Activities: Form I–134, Extension of an Existing Information Collection; Comment Request

ACTION: 60-Day Notice of Information Collection Under Review: Affidavit of Support, Form I–134; OMB Control No. 1615–0014.

* * * * *

The Department of Homeland Security, U.S. Citizenship and Immigration Services (USCIS) will be submitting the following information collection request for review and clearance in accordance with the Paperwork Reduction Act of 1995 (PRA). The information collection is published to obtain comments from the public and affected agencies. Comments are encouraged and will be accepted for 60 days until March 13, 2012.

During this 60-day period, USCIS will be evaluating whether to revise the Affidavit of Support, Form I–134. Should USCIS decide to revise the Affidavit of Support, Form I–134, we will advise the public when we publish the 30-day notice in the **Federal Register** in accordance with the PRA. The public will then have 30 days to comment on any revisions to the Affidavit of Support, Form I–134.

Written comments and/or suggestions regarding the item(s) contained in this notice, especially regarding the estimated public burden and associated response time, should be directed to the Department of Homeland Security (DHS), USCIS, Chief, Regulatory Products Division, Office of the Executive Secretariat, 20 Massachusetts Avenue NW., Washington, DC 20529–2020. Comments may also be submitted to DHS via facsimile to (202) 272–0997 or via email at *USCISFRComment@dhs.gov.* When submitting comments by email, please make sure to add OMB Control No. 1615–0014 in the subject box.

Note: The address listed in this notice should only be used to submit comments concerning the revision of this information collection. Please do not submit requests for individual case status inquiries to this address. If you are seeking information about the status of your individual case, please check ''My Case Status'' online at: *https://egov.uscis.gov/cris/Dashboard.do,* or call the USCIS National Customer Service Center at 1–(800) 375–5283 (TTY 1–(800) 767–1833).

Written comments and suggestions from the public and affected agencies concerning the collection of information should address one or more of the following four points:

(1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agencies estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Overview of This Information Collection

(1) *Type of Information Collection:* Extension of an existing information collection.

(2) *Title of the Form/Collection:* Affidavit of Support.

(3) *Agency form number, if any, and the applicable component of the Department of Homeland Security sponsoring the collection:* Form I–134; U.S. Citizenship and Immigration Services (USCIS).

(4) *Affected public who will be asked or required to respond, as well as a brief abstract: Primary:* Individuals or households. This information collection is necessary to determine if at the time of application into the United States, the applicant is likely to become a public charge.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* 44,000 responses at 90 minutes (1.5 hours) per response.

(6) *An estimate of the total public burden (in hours) associated with the collection:* 66,000 annual burden hours.

If you need a copy of this information collection instrument, please visit the Web site at: *http://www.regulations.gov.*

We may also be contacted at: USCIS, Regulatory Products Division, Office of the Executive Secretariat, 20 Massachusetts Avenue NW., Washington, DC 20529–2020, Telephone number (202) 272–8377.

Dated: January 9, 2012.

Sunday Aigbe,

Chief, Regulatory Products Division, Office of the Executive Secretariat, U.S. Citizenship and Immigration Services, Department of Homeland Security.

[FR Doc. 2012–519 Filed 1–12–12; 8:45 am]

BILLING CODE 9111–97–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–5601–N–02]

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: January 5, 2012.

Mark R. Johnston,

Deputy Assistant Secretary for Special Needs.

[FR Doc. 2012–254 Filed 1–12–12; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF THE INTERIOR

National Park Service

[2253–665]

Notice of Inventory Completion: Minnesota Indian Affairs Council, Bemidji, MN

AGENCY: National Park Service, Interior.

ACTION: Notice.

SUMMARY: The Minnesota Indian Affairs Council has completed an inventory of human remains, in consultation with the appropriate Indian tribes, and has determined that there is no cultural affiliation between the remains and any present-day Indian tribe. Representatives of any Indian tribe that believes itself to be culturally affiliated with the human remains may contact the Minnesota Indian Affairs Council. Disposition of the human remains to the Indian tribes stated below may occur if no additional requestors come forward.

DATES: Representatives of any Indian tribe that believes it has a cultural affiliation with the human remains should contact the Minnesota Indian Affairs Council at the address below by February 13, 2012.

ADDRESSES: James L. (Jim) Jones, Cultural Resource Director, Minnesota Indian Affairs Council, 3801 Bemidji Avenue NW., Suite 5, Bemidji, MN 56601, telephone (218) 755–3223.

SUPPLEMENTARY INFORMATION: Notice is here given in accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), 25 U.S.C. 3003, of the completion of an inventory of human remains in the possession of the Minnesota Indian Affairs Council (MIAC). The human remains were removed from Clearwater County, MN.

This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA, 25 U.S.C. 3003(d)(3) and 43 CFR 10.11(d). The determinations in this notice are the sole responsibility of the museum, institution, or Federal agency that has control of the Native American human remains. The National Park Service is not responsible for the determinations in this notice.

Consultation

A detailed assessment of the human remains was made by the Minnesota Indian Affairs Council professional staff in consultation with representatives of the Leech Lake Band of the Minnesota Chippewa Tribe, Minnesota; the Minnesota Chippewa Tribe, Minnesota; the Red Lake Band of Chippewa Indians, Minnesota; the Turtle

Mountain Band of Chippewa Indians of North Dakota; and the White Earth Band of Minnesota Chippewa Tribe, Minnesota.

History and Description of the Remains

At an unknown date, human remains representing three individuals were recovered from site 21–CE–4, Upper Rice Lake during archeological excavation by the University of Minnesota (UM641). In 1989, the human remains were transferred to the MIAC. No known individuals were identified. No associated funerary objects are present.

The condition of the human remains and the dental morphology identify these human remains as American Indian from the pre-contact period. Site 2–CE–4 is identified with the Late Woodland Tradition based on cultural materials, including ceramics. The human remains from the site are associated with the Late Woodland Tradition, a broad archeological classification which cannot be associated with any present-day Indian tribe. The geographical location of site 21–CE–4 is on the tribal land of the White Earth Band of Minnesota Chippewa Tribe, Minnesota.

Determinations Made by the Minnesota Indian Affairs Council

Officials of the MIAC have determined that:

- Based on non-destructive physical analysis and catalogue records, the human remains are Native American.
- Pursuant to 25 U.S.C. 3001(2), a relationship of shared group identity cannot be reasonably traced between the Native American human remains and any present-day Indian tribe.
- According to final judgments of the Indian Claims Commission, the land from which the Native American human remains were removed is the tribal land of the White Earth Band of Minnesota Chippewa Tribe, Minnesota.
- Pursuant to 25 U.S.C. 3001(9), the human remains described in this notice represent the physical remains of three individuals of Native American ancestry.
- Pursuant to 43 CFR 10.11(c)(1), the disposition of the human remains is to the White Earth Band of Minnesota Chippewa Tribe, Minnesota

Additional Requestors and Disposition

Representatives of any Indian tribe that believes itself to be culturally affiliated with the human remains or any other Indian tribe that believes it satisfies the criteria in 43 CFR 10.11(c)(1) should contact James L. (Jim) Jones, Cultural Resource Director, Minnesota Indian Affairs Council, 3801 Bemidji Avenue NW., Suite 5, Bemidji, MN 56601, telephone (218) 755–3223, before February 13, 2012. Disposition of the human remains to the White Earth Band of Minnesota Chippewa Tribe, Minnesota may proceed after that date if no additional requestors come forward.

The Minnesota Indian Affairs Council is responsible for notifying the Leech Lake Band of the Minnesota Chippewa Tribe, Minnesota; the Minnesota Chippewa Tribe, Minnesota; the Red Lake Band of Chippewa Indians, Minnesota; the Turtle Mountain Band of Chippewa Indians of North Dakota; and the White Earth Band of Minnesota Chippewa Tribe, Minnesota that this notice has been published.

Dated: January 9, 2012.

Sherry Hutt,

Manager, National NAGPRA Program.

[FR Doc. 2012–512 Filed 1–12–12; 8:45 am]

BILLING CODE 4312–50–P

DEPARTMENT OF THE INTERIOR

National Park Service

[2253–665]

Notice of Inventory Completion: Minnesota Indian Affairs Council, Bemidji, MN

AGENCY: National Park Service, Interior.

ACTION: Notice.

SUMMARY: The Minnesota Indian Affairs Council has completed an inventory of human remains, in consultation with the appropriate Indian tribes, and has determined that there is no cultural affiliation between the remains and any present-day Indian tribe. Representatives of any Indian tribe that believes itself to be culturally affiliated with the human remains may contact the Minnesota Indian Affairs Council. Disposition of the human remains to the Indian tribes stated below may occur if no additional requestors come forward.

DATES: Representatives of any Indian tribe that believes it has a cultural affiliation with the human remains should contact the Minnesota Indian Affairs Council at the address below by February 13, 2012.

ADDRESSES: James L. (Jim) Jones, Cultural Resource Director, Minnesota Indian Affairs Council, 3801 Bemidji Avenue NW., Suite 5, Bemidji, MN 56601, telephone (218) 755–3223.

SUPPLEMENTARY INFORMATION: Notice is here given in accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), 25 U.S.C. 3003, of the completion of an inventory of human remains in the possession of the Minnesota Indian Affairs Council (MIAC). The human remains were removed from Chippewa County, MN.

This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA, 25 U.S.C. 3003(d)(3) and 43 CFR 10.11(d). The determinations in this notice are the sole responsibility of the museum, institution, or Federal agency that has control of the Native American human remains. The National Park Service is not responsible for the determinations in this notice.

Consultation

A detailed assessment of the human remains was made by the MIAC professional staff in consultation with representatives of the Bad River Band of the Lake Superior Tribe of Chippewa Indians of the Bad River Reservation, Wisconsin; Bois Forte Band (Nett Lake) of the Minnesota Chippewa Tribe, Minnesota; Flandreau Santee Sioux Tribe of South Dakota; Fond du Lac Band of the Minnesota Chippewa Tribe, Minnesota; Grand Portage Band of the Minnesota Chippewa Tribe, Minnesota; Keweenaw Bay Indian Community, Michigan; Lac Courte Oreilles Band of Lake Superior Chippewa Indians of Wisconsin; Lac Vieux Desert Band of Lake Superior Chippewa Indians, Michigan; Leech Lake Band of the Minnesota Chippewa Tribe, Minnesota; Lower Sioux Indian Community in the State of Minnesota; Mille Lacs Band of the Minnesota Chippewa Tribe, Minnesota; Minnesota Chippewa Tribe, Minnesota; Prairie Island Indian Community in the State of Minnesota; Red Cliff Band of Lake Superior Chippewa Indians of Wisconsin; Red Lake Band of Chippewa Indians, Minnesota; Santee Sioux Nation, Nebraska; Sisseton-Wahpeton Oyate of the Lake Traverse Reservation, South Dakota; Sokaogon Chippewa Community, Wisconsin; Spirit Lake Tribe, North Dakota; St. Croix Chippewa Indians of Wisconsin; Upper Sioux Community, Minnesota; and the White Earth Band of Minnesota Chippewa Tribe, Minnesota (hereinafter referred to as ''The Tribes'').

History and Description of the Remains

At an unknown date, human remains representing five individuals were removed from site 21–CP–28, Lac qui Parle Mission, Chippewa County, MN, by an unknown individual who donated the human remains to the Minnesota Historical Society (MHS 293). In 1993, the human remains were transferred to the MIAC (H282). No known

individuals were identified. No associated funerary objects are present.

The context of recovery and dental morphology identify these human remains as pre-contact American Indian affiliation. The remains have no archeological classification and cannot be associated with any present-day Indian tribe.

In 2007, human remains representing two individuals were recovered from site 21–CP–64, an eroding bank on the east shore of the Minnesota River, just above the Lac qui Parle Mission site. The remains were recovered by the Chippewa County Sheriff's Office and transferred to the Minnesota Office of the State Archaeologist, and then transferred to the MIAC (H435). No known individuals were identified. No associated funerary objects are present.

Femora morphology identifies these human remains as American Indian. A single tongue-river silica flake recovered from the shoreline in the immediate vicinity of the grave supports the identification. The remains have no archeological classification and cannot be associated with any present-day Indian tribe.

Determinations Made by the Minnesota Indian Affairs Council

Officials of the MIAC have determined that:

- Based on non-destructive physical analysis and catalogue records, the human remains are Native American.
- Pursuant to 25 U.S.C. 3001(2), a relationship of shared group identity cannot be reasonably traced between the Native American human remains and any present-day Indian tribe.
- According to final judgments of the Indian Claims Commission, the land from which the Native American human remains were removed is the aboriginal land of The Tribes.
- Pursuant to 25 U.S.C. 3001(9), the human remains described in this notice represent the physical remains of seven individuals of Native American ancestry.
- Pursuant to 43 CFR 10.11(c)(1), the disposition of the human remains is to The Tribes.

Additional Requestors and Disposition

Representatives of any Indian tribe that believes itself to be culturally affiliated with the human remains or any other Indian tribe that believes it satisfies the criteria in 43 CFR 10.11(c)(1) should contact James L. (Jim) Jones, Cultural Resource Director, Minnesota Indian Affairs Council, 3801 Bemidji Avenue NW., Suite 5, Bemidji, MN 56601, telephone (218) 755–3223, before February 13, 2012. Disposition of the human remains to The Tribes may proceed after that date if no additional requestors come forward.

The Minnesota Indian Affairs Council is responsible for notifying The Tribes that this notice has been published.

Dated: January 9, 2012.

Sherry Hutt,

Manager, National NAGPRA Program.

[FR Doc. 2012–515 Filed 1–12–12; 8:45 am]

BILLING CODE 4312–50–P

DEPARTMENT OF THE INTERIOR

National Park Service

[2253–665]

Notice of Inventory Completion: Minnesota Indian Affairs Council, Bemidji, MN

AGENCY: National Park Service, Interior.

ACTION: Notice.

SUMMARY: The Minnesota Indian Affairs Council has completed an inventory of human remains, in consultation with the appropriate Indian tribes, and has determined that there is no cultural affiliation between the human remains and any present-day Indian tribe. Representatives of any Indian tribe that believes itself to be culturally affiliated with the human remains may contact the Minnesota Indian Affairs Council. Disposition of the human remains to the Indian tribes stated below may occur if no additional requestors come forward.

DATES: Representatives of any Indian tribe that believes it has a cultural affiliation with the human remains should contact the Minnesota Indian Affairs Council at the address below by February 13, 2012.

ADDRESSES: James L. (Jim) Jones, Cultural Resource Director, Minnesota Indian Affairs Council, 3801 Bemidji Avenue NW., Suite 5, Bemidji, MN 56601, telephone (218) 755–3223.

SUPPLEMENTARY INFORMATION: Notice is here given in accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), 25 U.S.C. 3003, of the completion of an inventory of human remains in the possession of the Minnesota Indian Affairs Council (MIAC). The human remains were removed from Mille Lacs County, MN.

This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA, 25 U.S.C. 3003(d)(3) and 43 CFR 10.11(d). The determinations in this notice are the sole responsibility of the museum, institution, or Federal agency that has control of the Native American human remains. The National Park Service is not responsible for the determinations in this notice.

Consultation

A detailed assessment of the human remains was made by the MIAC professional staff in consultation with representatives the Bad River Band of the Lake Superior Tribe of Chippewa Indians of the Bad River Reservation, Wisconsin; Bois Forte Band (Nett Lake) of the Minnesota Chippewa Tribe, Minnesota; Fond du Lac Band of the Minnesota Chippewa Tribe, Minnesota; Grand Portage Band of the Minnesota Chippewa Tribe, Minnesota; Keweenaw Bay Indian Community, Michigan; Lac Courte Oreilles Band of Lake Superior Chippewa Indians of Wisconsin; Lac Vieux Desert Band of Lake Superior Chippewa Indians, Michigan; Leech Lake Band of the Minnesota Chippewa Tribe, Minnesota; Mille Lacs Band of the Minnesota Chippewa Tribe, Minnesota; Minnesota Chippewa Tribe, Minnesota; Red Cliff Band of Lake Superior Chippewa Indians of Wisconsin; Sokaogon Chippewa Community, Wisconsin; St. Croix Chippewa Indians of Wisconsin; and the White Earth Band of Minnesota Chippewa Tribe, Minnesota (hereinafter referred to as ''The Tribes'').

History and Description of the Remains

In 2003, human remains representing, at minimum, one individual were recovered from site 21–ML–81, Mille Lacs County, MN, during archeological excavations related to a Sanitary Sewer District project. Site 21–ML–81 is located on the tribal land of the Mille Lacs Band of the Minnesota Chippewa Tribe, Minnesota. In 2007, the human remains were transferred to the MIAC (H427). No known individuals were identified. No associated funerary objects are present.

The condition of the bones suggests a pre-contact/ancient time period and dental morphology identify this individual as American Indian. These human remains have no archeological classification and cannot be associated with any present-day Indian tribe.

Determinations Made by the Minnesota Indian Affairs Council

Officials of the MIAC have determined that:

- Based on non-destructive physical analysis and catalogue records, the human remains are Native American.
- Pursuant to 25 U.S.C. 3001(2), a relationship of shared group identity cannot be reasonably traced between the Native American human remains and any present-day Indian tribe.

• According to final judgments of the Indian Claims Commission, the land from which the Native American human remains were removed is the tribal land of the Mille Lacs Band of the Minnesota Chippewa Tribe, Minnesota.

• Pursuant to 25 U.S.C. 3001(9), the human remains described in this notice represent the physical remains of one individual of Native American ancestry.

• Pursuant to 43 CFR 10.11(c)(1), the disposition of the human remains is to the Mille Lacs Band of the Minnesota Chippewa Tribe, Minnesota.

Additional Requestors and Disposition

Representatives of any Indian tribe that believes itself to be culturally affiliated with the human remains or any other Indian tribe that believes it satisfies the criteria in 43 CFR 10.11(c)(1) should contact James L. (Jim) Jones, Cultural Resource Director, Minnesota Indian Affairs Council, 3801 Bemidji Avenue NW., Suite 5, Bemidji, MN 56601, telephone (218) 755–3223, before February 13, 2012. Disposition of the human remains to the Mille Lacs Band of the Minnesota Chippewa Tribe, Minnesota may proceed after that date if no additional requestors come forward.

The Minnesota Indian Affairs Council is responsible for notifying The Tribes that this notice has been published.

Dated: January 9, 2012.

Sherry Hutt,

Manager, National NAGPRA Program.

[FR Doc. 2012–513 Filed 1–12–12; 8:45 am]

BILLING CODE 4312–50–P

DEPARTMENT OF THE INTERIOR

National Park Service

[2253–665]

Notice of Inventory Completion: Minnesota Indian Affairs Council, Bemidji, MN

AGENCY: National Park Service, Interior.

ACTION: Notice.

SUMMARY: The Minnesota Indian Affairs Council has completed an inventory of human remains in consultation with the appropriate Indian tribes, and has determined that there is no cultural affiliation between the remains and any present-day Indian tribe. Representatives of any Indian tribe that believes itself to be culturally affiliated with the human remains may contact the Minnesota Indian Affairs Council. Disposition of the human remains to the Indian tribes stated below may occur if no additional requestors come forward.

DATES: Representatives of any Indian tribe that believes it has a cultural affiliation with the human remains should contact the Minnesota Indian Affairs Council at the address below by February 13, 2012.

ADDRESSES: James L. (Jim) Jones, Cultural Resource Director, Minnesota Indian Affairs Council, 3801 Bemidji Avenue NW., Suite 5, Bemidji, MN 56601, telephone (218) 755–3223.

SUPPLEMENTARY INFORMATION: Notice is here given in accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), 25 U.S.C. 3003, of the completion of an inventory of human remains in the possession of the Minnesota Indian Affairs Council (MIAC). The human remains were removed from Beltrami County, MN.

This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA, 25 U.S.C. 3003(d)(3) and 43 CFR 10.11(d). The determinations in this notice are the sole responsibility of the museum, institution, or Federal agency that has control of the Native American human remains. The National Park Service is not responsible for the determinations in this notice.

Consultation

A detailed assessment of the human remains was made by the MIAC professional staff in consultation with representatives of the Leech Lake Band of the Minnesota Chippewa Tribe, Minnesota; Mille Lacs Band of the Minnesota Chippewa Tribe, Minnesota; Minnesota Chippewa Tribe, Minnesota; Red Lake Band of Chippewa Indians, Minnesota; and the White Earth Band of Minnesota Chippewa Tribe, Minnesota (hereinafter referred to as ''The Tribes'').

History and Description of the Remains

At an unknown date, human remains representing, at minimum, six individuals were recovered from site 21–BL–22, Lake Irving, Beltrami County, MN. The remains were removed during construction of a building and subsequently transferred to Bemidji State University. In 1990, the human remains were transferred to the MIAC (H170). No known individuals were identified. No associated funerary objects are present.

These human remains are associated with the Woodland Tradition, a broad archeological classification which cannot be associated with any present-day Indian tribe.

At an unknown date, human remains representing, at minimum, one individual were removed from the Bemidji area, Beltrami County, MN, by unknown person(s). In 1974, the remains were donated to the Minneapolis Public Library and subsequently, at an unknown date, were donated to the Science Museum of Minnesota (Acc. A74:14:1). In 1994, the human remains were transferred to the MIAC (H257). No known individuals were identified. No associated funerary objects are present.

The condition of the remains and cranial morphology identify these human remains as pre-contact American Indian. These human remains have no archeological classification and cannot be associated with any present-day Indian tribe.

In 1998, human remains representing, at minimum, one individual were recovered from site 21–BL–37, Midway site, Beltrami County, MN. The remains were removed during an archeological survey by Rose Kluth of the Leech Lake Heritage Sites Program, and transferred to the Minnesota Office of the State Archeologist. In 2002, the human remains were transferred to the MIAC (H379). No known individuals were identified. No associated funerary objects are present.

These human remains are associated with the Woodland Tradition, a broad archeological classification which cannot be associated with any present-day Indian tribe.

At an unknown date, human remains representing, at minimum, one individual were recovered from a road construction project on Hwy 197 in Beltrami County, MN, and transferred to the Minnesota Office of the State Archaeologist. In 2002, the human remains were transferred to the MIAC (H392). No known individuals were identified. No associated funerary objects are present.

The condition of the remains and femora morphology identify these human remains as pre-contact American Indian affiliation. The remains have no archeological classification and cannot be associated with any present-day Indian tribe.

In 2007, human remains representing, at minimum, one individual were recovered from an undesignated site in Diamond Point Park in Bemidji, Beltrami County, MN. The remains were removed during an archeological survey by The 106 Group Ltd. and transferred to the Bemidji Police Department, who transferred them to the Minnesota Bureau of Criminal Apprehension—Bemidji Office for identification. The human remains were identified as pre-contact American Indian based on the condition of the bones and dental morphology. The human remains were then transferred to the MIAC (H426). No

known individuals were identified. No associated funerary objects are present.

Patterns of dental attrition and dental morphology identify these human remains as pre-contact American Indian affiliation. The remains have no archeological classification and cannot be associated with any present-day Indian tribe.

At an unknown date, human remains representing, at minimum, one individual were removed from an undesignated site on the east side of Lake Bemidji, Beltrami County, MN, by unknown person(s) and transferred to the Beltrami County Sheriff's Office. In 2007, the human remains were transferred to the MIAC (H428). No known individuals were identified. No associated funerary objects are present.

The condition of the remains and the context of recovery identify these human remains as pre-contact American Indian affiliation. The remains have no archeological classification and cannot be associated with any present-day Indian tribe.

In 2007, human remains representing, at minimum, one individual were recovered from a site in Bemidji, Beltrami County, MN. The remains were removed during a sewer construction project and transferred to the MIAC (H444). No known individual was identified. No associated funerary objects are present.

The condition of the remains and the context of recovery identify these human remains as pre-contact American Indian affiliation. These human remains from Beltrami County have no archeological classification and cannot be associated with any present-day Indian tribe.

Determinations Made by the Minnesota Indian Affairs Council

Officials of the MIAC have determined that:

- Based on non-destructive physical analysis and catalogue records, the human remains are Native American.
- Pursuant to 25 U.S.C. 3001(2), a relationship of shared group identity cannot be reasonably traced between the Native American human remains and any present-day Indian tribe.
- According to final judgments of the Indian Claims Commission, the land from which the Native American human remains were removed is the aboriginal land of The Tribes.
- Pursuant to 25 U.S.C. 3001(9), the human remains described in this notice represent the physical remains of 12 individuals of Native American ancestry.
- Pursuant to 43 CFR 10.11(c)(1), the disposition of the human remains is to The Tribes.

Additional Requestors and Disposition

Representatives of any Indian tribe that believes itself to be culturally affiliated with the human remains or any other Indian tribe that believes it satisfies the criteria in 43 CFR 10.11(c)(1) should contact James L. (Jim) Jones, Cultural Resource Director, Minnesota Indian Affairs Council, 3801 Bemidji Avenue NW., Suite 5, Bemidji, MN 56601, telephone (218) 755–3223, before February 13, 2012. Disposition of the human remains to The Tribes may proceed after that date if no additional requestors come forward.

The Minnesota Indian Affairs Council is responsible for notifying The Tribes that this notice has been published.

Dated: January 9, 2012.

Sherry Hutt,

Manager, National NAGPRA Program.

[FR Doc. 2012–520 Filed 1–12–12; 8:45 am]

BILLING CODE 4312–50–P

DEPARTMENT OF THE INTERIOR

National Park Service

[2253–665]

Notice of Inventory Completion: Minnesota Indian Affairs Council, Bemidji, MN

AGENCY: National Park Service, Interior.

ACTION: Notice.

SUMMARY: The Minnesota Indian Affairs Council has completed an inventory of human remains in consultation with the appropriate Indian tribes, and has determined that there is no cultural affiliation between the remains and any present-day Indian tribe. Representatives of any Indian tribe that believes itself to be culturally affiliated with the human remains may contact the Minnesota Indian Affairs Council. Disposition of the human remains to the Indian tribes stated below may occur if no additional requestors come forward.

DATES: Representatives of any Indian tribe that believes it has a cultural affiliation with the human remains should contact the Minnesota Indian Affairs Council at the address below by February 13, 2012.

ADDRESSES: James L. (Jim) Jones, Cultural Resource Director, Minnesota Indian Affairs Council, 3801 Bemidji Avenue NW., Suite 5, Bemidji, MN 56601, telephone (218) 755–3223.

SUPPLEMENTARY INFORMATION: Notice is here given in accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), 25 U.S.C. 3003, of the completion of an inventory of human remains in the possession of the Minnesota Indian Affairs Council (MIAC). The human remains were removed from Becker County, MN.

This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA, 25 U.S.C. 3003(d)(3) and 43 CFR 10.11(d). The determinations in this notice are the sole responsibility of the museum, institution, or Federal agency that has control of the Native American human remains. The National Park Service is not responsible for the determinations in this notice.

Consultation

A detailed assessment of the human remains was made by the MIAC professional staff in consultation with representatives of the Leech Lake Band of the Minnesota Chippewa Tribe, Minnesota; the Minnesota Chippewa Tribe, Minnesota; and the White Earth Band of Minnesota Chippewa Tribe, Minnesota.

History and Description of the Remains

In 1935, human remains representing, at minimum, one individual were recovered from the north side of Height of Land Lake, site 21BK48, by Mr. William Krause during road construction and donated to the Becker County Historical Society (HR–4). In 1997, the human remains were transferred to the Minnesota Office of the State Archaeologist, and subsequently were transferred to the MIAC (H362) in 1999. No known individuals were identified. No associated funerary objects are present.

The human remains have no archeological classification and cannot be associated with any present-day Indian tribe. Site 21BK48 is located on land within the reservation boundaries of the White Earth Band of the Minnesota Chippewa Tribe, Minnesota.

In 1961, human remains representing, at minimum, one individual were recovered near Ice Cracking Lake during road construction and donated to the Becker County Historical Society (HR–7). In 1997, the human remains were transferred to the Minnesota Office of the State Archaeologist, and subsequently were transferred to the MIAC (H360) in 1999. No known individuals were identified. No associated funerary objects are present.

The human remains have no archeological classification and cannot be associated with any present-day Indian tribe. This burial site is located on land within the reservation

boundaries of the White Earth Band of the Minnesota Chippewa Tribe, Minnesota.

Determinations Made by the Minnesota Indian Affairs Council

Officials of the MIAC have determined that:

- Based on non-destructive physical analysis and catalogue records, the human remains are Native American.
- Pursuant to 25 U.S.C. 3001(2), a relationship of shared group identity cannot be reasonably traced between the Native American human remains and any present-day Indian tribe.
- According to final judgments of the Indian Claims Commission, the land from which the Native American human remains were removed is within the reservation boundaries of the White Earth Band of Minnesota Chippewa Tribe, Minnesota.
- Pursuant to 25 U.S.C. 3001(9), the human remains described in this notice represent the physical remains of two individuals of Native American ancestry.
- Pursuant to 43 CFR 10.11(c)(1), the disposition of the human remains is to the White Earth Band of Minnesota Chippewa Tribe, Minnesota.

Additional Requestors and Disposition

Representatives of any Indian tribe that believes itself to be culturally affiliated with the human remains or any other Indian tribe that believes it satisfies the criteria in 43 CFR10.11(c)(1) should contact James L. (Jim) Jones, Cultural Resource Director, Minnesota Indian Affairs Council, 3801 Bemidji Avenue NW., Suite 5, Bemidji, MN 56601, telephone (218) 755–3223, before February 13, 2012. Disposition of the human remains to the White Earth Band of Minnesota Chippewa Tribe, Minnesota may proceed after that date if no additional requestors come forward.

The Minnesota Indian Affairs Council is responsible for notifying the Leech Lake Band of the Minnesota Chippewa Tribe, Minnesota; the Minnesota Chippewa Tribe, Minnesota; and the White Earth Band of Minnesota Chippewa Tribe, Minnesota that this notice has been published.

Dated: January 9, 2012.

Sherry Hutt,

Manager, National NAGPRA Program.

[FR Doc. 2012–517 Filed 1–12–12; 8:45 am]

BILLING CODE 4312–50–P

DEPARTMENT OF THE INTERIOR

National Park Service

[2253–665]

Notice of Inventory Completion: Minnesota Indian Affairs Council, Bemidji, MN

AGENCY: National Park Service, Interior.

ACTION: Notice.

SUMMARY: The Minnesota Indian Affairs Council has completed an inventory of human remains in consultation with the appropriate Indian tribes, and has determined that there is no cultural affiliation between the remains and any present-day Indian tribe. Representatives of any Indian tribe that believes itself to be culturally affiliated with the human remains may contact the Minnesota Indian Affairs Council. Disposition of the human remains to the Indian tribes stated below may occur if no additional requestors come forward.

DATES: Representatives of any Indian tribe that believes it has a cultural affiliation with the human remains should contact the Minnesota Indian Affairs Council at the address below by February 13, 2012.

ADDRESSES: James L. (Jim) Jones, Cultural Resource Director, Minnesota Indian Affairs Council, 3801 Bemidji Avenue NW., Suite 5, Bemidji, MN 56601, telephone (218) 755–3223.

SUPPLEMENTARY INFORMATION: Notice is here given in accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), 25 U.S.C. 3003, of the completion of an inventory of human remains in the possession of the Minnesota Indian Affairs Council (MIAC). The human remains were removed from the following counties: Anoka, Cass, Lincoln, Pope and Sherburne in the State of Minnesota.

This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA, 25 U.S.C. 3003(d)(3) and 43 CFR 10.11(d). The determinations in this notice are the sole responsibility of the museum, institution, or Federal agency that has control of the Native American human remains. The National Park Service is not responsible for the determinations in this notice.

Consultation

A detailed assessment of the human remains was made by the Minnesota Indian Affairs Council professional staff in consultation with representatives of the Bad River Band of the Lake Superior Tribe of Chippewa Indians of the Bad River Reservation, Wisconsin; Bois Forte Band (Nett Lake) of the Minnesota Chippewa Tribe, Minnesota; Flandreau Santee Sioux Tribe of South Dakota; Fond du Lac Band of the Minnesota Chippewa Tribe, Minnesota; Grand Portage Band of the Minnesota Chippewa Tribe, Minnesota; Keweenaw Bay Indian Community, Michigan; Lac Courte Oreilles Band of Lake Superior Chippewa Indians of Wisconsin; Lac Vieux Desert Band of Lake Superior Chippewa Indians, Michigan; Leech Lake Band of the Minnesota Chippewa Tribe, Minnesota; Lower Sioux Indian Community in the State of Minnesota; Mille Lacs Band of the Minnesota Chippewa Tribe, Minnesota; Minnesota Chippewa Tribe, Minnesota; Prairie Island Indian Community in the State of Minnesota; Red Cliff Band of Lake Superior Chippewa Indians of Wisconsin; Santee Sioux Nation, Nebraska; Sisseton-Wahpeton Oyate of the Lake Traverse Reservation, South Dakota; Sokaogon Chippewa Community, Wisconsin; Spirit Lake Tribe, North Dakota; St. Croix Chippewa Indians of Wisconsin; Upper Sioux Community, Minnesota; White Earth Band of Minnesota Chippewa Tribe, Minnesota (hereinafter referred to as ''The Tribes'').

History and Description of the Remains

At an unknown date, human remains representing, at minimum, one individual were removed from site 21–AN–1, Howard Lake, Anoka County, MN, by unknown person(s) and attached to a display board that was in the possession of a collector in Duluth, MN. In 2006, the human remains were transferred to the MIAC (H421). No known individual was identified. No associated funerary objects are present.

Site 21–AN–1, consisting of three large mounds, has been identified as Middle Woodland Tradition. In 1950, L.A. Wilford of the University of Minnesota excavated human remains representing 32 individuals from site 21–AN–1 (UM309). The human remains recovered in 1950 were published in the **Federal Register** (65 FR, 53214, August 9, 1999) and have been repatriated and reburied. The human remains from 21–AN–1 are associated with the Middle Woodland Tradition, a broad archeological classification which cannot be associated with any present-day Indian tribe.

In 1997, human remains representing, at minimum, one individual were recovered from private land in Ramsey City, Anoka County, MN, by the Ramsey City Police Department and transferred to the Anoka County Coroner's Office (97–80193) for identification. In 2000, the human remains were transferred to

the Minnesota Office of the State Archeologist and then transferred to the MIAC (H376). No known individuals were identified. No associated funerary objects are present.

The condition of the remains and the degree of dental attrition suggest these human remains are ancient/pre-contact in time. Cranial morphology identifies this individual as American Indian. The human remains have no archeological classification and cannot be associated with any present-day Indian tribe.

At an unknown date, human remains representing, at minimum, eight individuals were removed from an undesignated site on the south end of Gull Lake, Cass County, MN, by unknown person(s) and transferred to D. Birk of the Minnesota Historical Society. In 1998, the human remains were transferred to the Minnesota Office of the State Archeologist and in 1999, to the MIAC (H372). No known individuals were identified. No associated funerary objects are present.

The condition of the remains identifies these human remains as pre-contact American Indian. The human remains have no archeological classification and cannot be associated with any present-day Indian tribe.

At an unknown date, human remains representing one individual were removed from mounds on the north end of Lake Benton City, Lincoln County, MN, by unknown person(s). In 2002, Mr. David Norden donated the human remains to the Lake Benton Area Historical Society. In 2004, the human remains were transferred to the MIAC (H409). No known individual was identified. No associated funerary objects are present.

The human remains are associated with the Woodland Tradition, an archeological classification which cannot be associated with any present-day Indian tribe.

At an unknown date, human remains representing, at minimum, two individuals were removed from an undesignated site in Pope County, MN, and donated to the Pope County Historical Society (Acc. 66.391 and 66.394). In 1997, the human remains were transferred to Dave Nystuen, Minnesota Historical Society who transferred the remains to the Minnesota Office of the State Archeologist. In 1999, the human remains were transferred to the MIAC (H370). No known individuals were identified. No associated funerary objects are present.

Archeological material transferred with the human remains including Onamia style ceramic sherds suggest the remains may be associated with the Woodland Tradition, a broad archeological classification which cannot be associated with any present-day Indian tribe.

In the late 1940s, human remains representing, at minimum, two individuals were recovered when a mound was leveled during construction of a parking lot at the site of the Elk Lake Tavern in (Little) Elk Lake, Sherburne County, MN, and donated to the University of Minnesota. In 1999, the human remains were transferred to the MIAC (H355). No known individuals were identified. No associated funerary objects are present.

The context of these human remains in a mound and femora morphology identify these human remains as pre-contact American Indian. The human remains are associated with the Woodland Tradition, a broad archeological classification which cannot be associated with any present-day Indian tribe.

Determinations Made by the Minnesota Indian Affairs Council

Officials of the MIAC have determined that:

- Based on non-destructive physical analysis and catalogue records, the human remains are Native American.
- Pursuant to 25 U.S.C. 3001(2), a relationship of shared group identity cannot be reasonably traced between the Native American human remains and any present-day Indian tribe.
- According to final judgments of the Indian Claims Commission, the land from which the Native American human remains were removed is the aboriginal land of The Tribes.
- Pursuant to 25 U.S.C. 3001(9), the human remains described in this notice represent the physical remains of 15 individuals of Native American ancestry.
- Pursuant to 43 CFR 10.11(c)(1), the disposition of the human remains is to The Tribes.

Additional Requestors and Disposition

Representatives of any Indian tribe that believes itself to be culturally affiliated with the human remains or any other Indian tribe that believes it satisfies the criteria in 43 CFR 10.11(c)(1) should contact James L. (Jim) Jones, Cultural Resource Director, Minnesota Indian Affairs Council, 3801 Bemidji Avenue NW., Suite 5, Bemidji, MN 56601, telephone (218) 755–3223, before February 13, 2012. Disposition of the human remains to The Tribes may proceed after that date if no additional requestors come forward.

The Minnesota Indian Affairs Council is responsible for notifying The Tribes that this notice has been published.

Dated: January 9, 2012.

Sherry Hutt,

Manager, National NAGPRA Program.

[FR Doc. 2012–522 Filed 1–12–12; 8:45 am]

BILLING CODE 4312–50–P

DEPARTMENT OF THE INTERIOR

National Park Service

[2253–665]

Notice of Inventory Completion: Minnesota Indian Affairs Council, Bemidji, MN

AGENCY: National Park Service, Interior.

ACTION: Notice.

SUMMARY: The Minnesota Indian Affairs Council has completed an inventory of human remains and associated funerary objects in consultation with the appropriate Indian tribes, and has determined that there is no cultural affiliation between the remains and any present-day Indian tribe. Representatives of any Indian tribe that believes itself to be culturally affiliated with the human remains may contact the Minnesota Indian Affairs Council. Disposition of the human remains and associated funerary objects to the Indian tribes stated below may occur if no additional requestors come forward.

DATES: Representatives of any Indian tribe that believes it has a cultural affiliation with the human remains should contact the Minnesota Indian Affairs Council at the address below by February 13, 2012.

ADDRESSES: James L. (Jim) Jones, Cultural Resource Director, Minnesota Indian Affairs Council, 3801 Bemidji Avenue NW., Suite 5, Bemidji, MN 56601, telephone (218) 755–3223.

SUPPLEMENTARY INFORMATION: Notice is here given in accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), 25 U.S.C. 3003, of the completion of an inventory of human remains and associated funerary objects in the possession of the Minnesota Indian Affairs Council (MIAC). The human remains and associated funerary objects were removed from Becker and Wadena counties, MN.

This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA, 25 U.S.C. 3003(d)(3) and 43 CFR 10.11(d). The determinations in this notice are the sole responsibility of the museum, institution, or Federal agency that has control of the Native American human remains. The National Park Service is not responsible for the determinations in this notice.

Consultation

A detailed assessment of the human remains was made by the MIAC professional staff in consultation with representatives of the Leech Lake Band of the Minnesota Chippewa Tribe, Minnesota; the Minnesota Chippewa Tribe, Minnesota; and the White Earth Band of Minnesota Chippewa Tribe, Minnesota.

History and Description of the Remains

In 1970, human remains representing, at minimum, one individual were removed from the Dunton Locks area, Becker County, MN, by unknown person(s) and donated to the Becker County Historical Society (HR–1). In 1997, the human remains were transferred to the Minnesota Office of the State Archaeologist and subsequently transferred to the MIAC (H366) in 1999. No known individuals were identified. No associated funerary objects are present.

The red ochre staining on the human remains is consistent with American Indian mortuary practices over a broad temporal span and cannot be associated with any single archeological tradition. The human remains have no archeological classification and cannot be associated with any present-day Indian tribe.

In 1955, human remains representing, at minimum, two individuals were removed from the Rock Lake area, Becker County, MN, by unknown person(s) and donated to the Becker County Historical Society (HR–2). In 1997, the human remains were transferred to the Minnesota Office of the State Archaeologist and subsequently transferred to the MIAC (H364) in 1999. No known individuals were identified. No associated funerary objects are present.

The human remains have no archeological classification and cannot be associated with any present-day Indian tribe.

In the 1980s, human remains representing, at minimum, two individuals were recovered from site 21BK37, Buck's Mill (aka Hildebrand site). The remains were collected by Mr. Hildebrand, the property owner, during construction of a garage and were donated to the Becker County Historical Society (HR–3). In 1997, the human remains were transferred to the Minnesota Office of the State Archaeologist and subsequently transferred to the MIAC (H365) in 1999. No known individuals were identified. No associated funerary objects are present. Additional individuals were removed from this site in 1985, a notice of inventory completion was published in the **Federal Register** (FR 64 FR 43212, September 8, 1999) and the human remains from the 1985 collection were repatriated and reburied.

Site 21BK37 has no archeological classification. The human remains cannot be associated with any present-day Indian tribe.

In 1954, human remains representing, at minimum, four individuals were recovered from the north shore of Detroit Lake (Steffen Lot), Becker County, MN, by unknown person(s) during basement construction and donated to the Becker County Historical Society (HR–5). In 1997, the human remains were transferred to the Minnesota Office of the State Archeologist and then to the MIAC (H363). No known individuals were identified. The twelve associated funerary objects include three bone needles made from the ribs of a black bear, six pieces of modified rib bone from a black bear, two unmodified fibulae from a black bear and one piece of quartz with red ochre pigment.

The human remains are associated with the Archaic Tradition, a broad archeological classification which cannot be associated with any present-day Indian tribe.

In 1888, human remains representing, at minimum, four individuals were recovered from a mound in the city of Detroit Lakes, Becker County, MN, by Rev. W.A. Pratt and donated to the Becker County Historical Society (HR–6). In 1997, the human remains were transferred to the Minnesota Office of the State Archaeologist and subsequently transferred to MIAC (H361) in 1999. No known individuals were identified. No associated funerary objects are present.

The human remains are associated with the Woodland Tradition, a broad archeological classification which cannot be associated with any present-day Indian tribe.

In 1935, human remains representing, at minimum, three individuals were recovered from a mound (Mound Z/1), site 21BK9, on the north shore of Detroit Lake, MN, by Otto Zeck. At an unknown date, the human remains were transferred to J. Oothoudt who then transferred the human remains to the Minnesota Office of the State Archaeologist. In 2002, the remains were transferred to the MIAC (H383). No known individuals were identified. No associated funerary objects are present.

The context of burial in a mound identifies the human remains with the Woodland Tradition, a broad archeological classification which cannot be associated with any present-day Indian tribe.

In 2001, human remains representing, at minimum, one individual were recovered from the Crow Wing River, Wadena County, MN, by two swimmers while wading in the river. The human remains were turned over to the Wadena County Sheriff's Department, who transferred them to the Minnesota Bureau of Criminal Apprehension and then to the Minnesota Office of the State Archaeologist. In 2004, the human remains were transferred to the MIAC (H408). No known individuals were identified. No associated funerary objects are present.

The condition and morphology of the human remains, in addition to a radiocarbon date (AD 1290–1420) obtained by the Minnesota Bureau of Criminal Apprehension, indicate pre-contact American Indian affiliation. The human remains have no archeological classification and cannot be associated with any present-day Indian tribe.

Determinations Made by the Minnesota Indian Affairs Council

Officials of the MIAC have determined that:

- Based on non-destructive physical analysis and catalogue records, the human remains are Native American.
- Pursuant to 25 U.S.C. 3001(2), a relationship of shared group identity cannot be reasonably traced between the Native American human remains and associated funerary objects and any present-day Indian tribe.
- According to final judgments of the Indian Claims Commission, the land from which the Native American human remains and associated funerary objects were removed is the aboriginal land of the Leech Lake Band of the Minnesota Chippewa Tribe, Minnesota; the Minnesota Chippewa Tribe, Minnesota and the White Earth Band of Minnesota Chippewa Tribe, Minnesota.
- Pursuant to 25 U.S.C. 3001(9), the human remains described in this notice represent the physical remains of 17 individuals of Native American ancestry.
- Pursuant to 25 U.S.C. 3001(3)(A) the 12 objects described above are reasonably believed to have been placed with or near individual human remains at the time of death or later as part of the death rite or ceremony.
- Pursuant to 43 CFR 10.11(c)(1), the disposition of the human remains is to the Leech Lake Band of the Minnesota Chippewa Tribe, Minnesota; the Minnesota Chippewa Tribe, Minnesota and the White Earth Band of Minnesota Chippewa Tribe, Minnesota.

Additional Requestors and Disposition

Representatives of any Indian tribe that believes itself to be culturally affiliated with the human remains or any other Indian tribe that believes it satisfies the criteria in 43 CFR 10.11(c)(1) should contact James L. (Jim) Jones, Cultural Resource Director, Minnesota Indian Affairs Council, 3801 Bemidji Avenue NW., Suite 5, Bemidji, MN 56601, telephone (218) 755–3223, before February 13, 2012. Disposition of the human remains to the Leech Lake Band of the Minnesota Chippewa Tribe, Minnesota; the Minnesota Chippewa Tribe, Minnesota and the White Earth Band of Minnesota Chippewa Tribe, Minnesota may proceed after that date if no additional requestors come forward.

The Minnesota Indian Affairs Council is responsible for notifying the Leech Lake Band of the Minnesota Chippewa Tribe, Minnesota; the Minnesota Chippewa Tribe, Minnesota and the White Earth Band of Minnesota Chippewa Tribe, Minnesota that this notice has been published.

Dated: January 9, 2012.

Sherry Hutt,

Manager, National NAGPRA Program.

[FR Doc. 2012–516 Filed 1–12–12; 8:45 am]

BILLING CODE 4312–50–P

INTERNATIONAL TRADE COMMISSION

[Inv. No. 337–TA–825]

Certain Silicon Microphone Packages 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 December 7, 2011, under section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. 1337, on behalf of Knowles Electronics LLC of Itasca, Illinois. A supplement to the Complaint was filed on December 21, 2011. The complaint, as supplemented, 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 silicon microphone packages and products containing same by reason of infringement of certain claims of U.S. Patent No. 7,439,616 (''the '616 patent'') and U.S. Patent No. 8,018,049 (''the '049 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 complainant requests that the Commission institute an investigation and, after the investigation, issue an exclusion order and cease and desist orders.

ADDRESSES: The complaint, except for any confidential information contained therein, is available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 500 E Street SW., Room 112, Washington, DC 20436, telephone (202) 205–2000. Hearing impaired individuals are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on (202) 205–1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at (202) 205–2000. General information concerning the Commission may also be obtained by accessing its internet server at *http://www.usitc.gov*. The public record for this investigation may be viewed on the Commission's electronic docket (EDIS) at *http://edis.usitc.gov*.

FOR FURTHER INFORMATION CONTACT: The Office of Unfair Import Investigations, U.S. International Trade Commission, telephone (202) 205–2560.

Authority: The authority for institution of this investigation is contained in section 337 of the Tariff Act of 1930, as amended, and in section 210.10 of the Commission's Rules of Practice and Procedure, 19 CFR 210.10 (2011).

Scope Of Investigation: Having considered the complaint, the U.S. International Trade Commission, on January 6, 2012, *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 silicon microphone packages and products containing same that infringe one or more of claims 1, 2, and 8–18 of the '616 patent and claims 1, 2, 5, 6, 11, 12, 15, 16, 19, 21–23, and 26 of the '049 patent, and whether an industry in the United States exists as required by subsection (a)(2) of section 337;

(2) For the purpose of the investigation so instituted, the following are hereby named as parties upon which this notice of investigation shall be served:

(a) The complainant is: Knowles Electronics LLC, 1151 Maplewood Drive, Itasca, IL 60143.

(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:

Analog Devices Inc., One Technology Way, P.O. Box 9106, Norwood, MA 02062–9106;

Amkor Technology, Inc., 1900 South Price Road, Chandler, AZ 85286;

Avnet, Inc., 2211 South 47th Street, Phoenix, AZ 85034.

(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: January 9, 2012.

James R. Holbein,

Secretary to the Commission.

[FR Doc. 2012–526 Filed 1–12–12; 8:45 am]

BILLING CODE 7020–02–P

DEPARTMENT OF LABOR

Office of the Secretary

Agency Information Collection Activities; Submission for OMB Review; Comment Request; Notice of Final Payment or Suspension of Compensation Benefits

ACTION: Notice.

SUMMARY: The Department of Labor (DOL) is submitting the Office of Workers' Compensation Programs (OWCP) sponsored information collection request (ICR) titled, ''Notice of Final Payment or Suspension of Compensation Benefits,'' as proposed to be revised, to the Office of Management and Budget (OMB) for review and approval for use in accordance with the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C. 3501 et seq.).

DATES: Submit comments on or before February 13, 2012.

ADDRESSES: A copy of this ICR with applicable supporting documentation; including a description of the likely respondents, proposed frequency of response, and estimated total burden may be obtained from the RegInfo.gov Web site, *http://www.reginfo.gov/public/do/PRAMain,* on the day following publication of this notice or by contacting Michel Smyth by telephone at (202) 693–4129 (this is not a toll-free number) or sending an email to *DOL_PRA_PUBLIC@dol.gov.*

Submit comments about this request to the Office of Information and Regulatory Affairs, Attn: OMB Desk Officer for the Department of Labor, Office of Workers' Compensation Programs (OWCP), Office of Management and Budget, Room 10235, Washington, DC 20503, Telephone: (202) 395–6929/Fax: (202) 395–6881 (these are not toll-free numbers), email: *OIRA_submission@omb.eop.gov.*

FOR FURTHER INFORMATION CONTACT: Michel Smyth by telephone at (202) 693–4129 (this is not a toll-free number) or by email at *DOL_PRA_PUBLIC@dol.gov.*

SUPPLEMENTARY INFORMATION: The Notice of Final Payment or Suspension of Compensation Benefits, Form LS–208, is used by insurance carriers and self-insured employers to report the payment of benefits under the Longshore and Harbors Workers Compensation Act. While not affecting the public burden estimates, the OWCP intends to make this collection available on the Internet as fillable/printable and not fileable. The OWCP is also making certain cosmetic changes to Form LS–208, such as replacing a no longer used logo with the DOL seal. These cosmetic changes are not expected to affect the public burden; however, they do make it that this submission must be characterized as a revision under the PRA.

This information collection is subject to the PRA. A Federal agency generally cannot conduct or sponsor a collection of information, and the public is generally not required to respond to an information collection, unless it is approved by the OMB under the PRA and displays a currently valid OMB Control Number. In addition, notwithstanding any other provisions of law, no person shall generally be subject to penalty for failing to comply with a collection of information if the collection of information does not display a valid OMB Control Number. *See* 5 CFR 1320.5(a) and 1320.6. The DOL obtains OMB approval for this information collection under OMB Control Number 1240–0041. The current OMB approval is scheduled to expire on January 31, 2012; however, it should be noted that information collections submitted to the OMB receive a month-to-month extension while they undergo review. For additional information, see the related notice published in the **Federal Register** on November 1, 2011 (76 FR 67481).

Interested parties are encouraged to send comments to the OMB, Office of Information and Regulatory Affairs at the address shown in the **ADDRESSES** section within 30 days of publication of this notice in the **Federal Register**. In order to help ensure appropriate consideration, comments should reference OMB Control Number 1240–0041. The OMB is particularly interested in comments that:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Agency: Office of Workers' Compensation Programs (OWCP).

Title of Collection: Notice of Final Payment or Suspension of Compensation Benefits.

OMB Control Number: 1240–0041.

Affected Public: Private Sector—Businesses or other for-profits.

Total Estimated Number of Respondents: 600.

Total Estimated Number of Responses: 21,000.

Total Estimated Annual Burden Hours: 5,250.

Total Estimated Annual Other Costs Burden: $16,590.

Dated: January 9, 2012.

Michel Smyth,

Departmental Clearance Officer.

[FR Doc. 2012–584 Filed 1–12–12; 8:45 am]

BILLING CODE 4510–CF–P

DEPARTMENT OF LABOR

Information Collection Request for the ETA 9128, Reemployment and Eligibility Assessments Workloads Report, and the ETA 9129, Reemployment and Eligibility Assessments Outcomes Report: Extension Without Change, Comment Request

AGENCY: Employment and Training Administration, Department of Labor.

ACTION: Notice.

SUMMARY: The Department of Labor, as part of its continuing effort to reduce paperwork and respondent burden, conducts a preclearance consultation program to provide the general public and Federal agencies with an opportunity to comment on proposed and/or continuing collection of information in accordance with the Paperwork Reduction Act of 1995 (PRA95) [44 U.S.C. 3506(c)(2)(A)]. This program helps to ensure that requested data can be provided in the desired format, reporting burden (time and financial resources) is minimized, collection instruments are clearly understood, and the impact of collection requirements on respondents can be properly assessed.

A copy of the proposed information collection request (ICR) can be obtained by contacting the office listed below in the addressee section of this notice or by accessing: *http://www.doleta.gov/OMBCN/OMBControlNumber.cfm.*

DATES: Written comments must be submitted to the office listed in the addressee section below on or before March 13, 2012.

ADDRESSES: Send comments to Diane Wood, U.S. Department of Labor,

Employment and Training Administration, Office of Workforce Security, 200 Constitution Avenue NW., Frances Perkins Bldg. Room S–4524, Washington, DC 20210, telephone number (202) 693–3212 (this is not a toll-free number) or by email at *wood.diane@dol.gov*.

SUPPLEMENTARY INFORMATION: I. *Background:* Funds will be awarded to participating states in REA program year 2012 to continue the Reemployment and Eligibility Assessment (REA) initiative. The REA guidelines require that these funds be used to conduct in-person assessments in the One-Stop Career Centers. The REA must include an unemployment insurance (UI) eligibility review, the provision of labor market information, development of a re-employment plan and referral to reemployment services and/or training, as appropriate. The guidelines require that participation exclude those claimants who have a specific return-to-work date.

II. *Desired Focus of Comments:* Currently, the Employment and Training Administration is soliciting comments on extending the collection of the ETA 9128, Reemployment and Eligibility Assessments Workloads Report and the ETA 9129, Reemployment and Eligibility Assessments Outcomes Report. Comments are requested to:

* Evaluate whether the proposed collection of information is necessary to assess performance of the REA initiative, including whether the information has practical utility;

* Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

* Enhance the quality, utility, and clarity of the information to be collected; and

* Minimize the burden of the collection of information on those who are to respond, including the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submissions of responses.

III. *Current Actions:* The continued collection of the information contained on the ETA 9128 and the ETA 9129 reports is necessary to enable the Office of Unemployment Insurance (OUI) to continue evaluating the effectiveness of this initiative through workload and outcomes reports.

Type of Review: Extension without change.

Agency: Employment and Training Administration (ETA).

Title: Reemployment and Eligibility Assessments Workloads Report and Reemployment and Eligibility Assessments Outcomes Report.

OMB Number: 1205–0456.

Agency Number: ETA 9128 and ETA 9129.

Affected Public: State and Local Governments.

Total Respondents: In fiscal year 2011, 41 State Workforce Agencies are participating in the REA initiative.

Frequency: Quarterly.

Estimated Annual Responses: 168.

Average Time per Response: .5 hours.

Estimated Total Burden Hours: 84 hours.

Total Burden Cost (capital/startup): $0.

Total Burden Cost (operating/maintaining): $0.

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.

Signed in Washington, DC this 9th day of January, 2012.

Jane Oates,

Assistant Secretary, Employment and Training Administration.

[FR Doc. 2012–592 Filed 1–12–12; 8:45 am]

BILLING CODE 4510–FW–P

DEPARTMENT OF LABOR

Proposed Information Collection Request of the ETA 204, Experience Rating Report; Comment Request on Extension Without Change

AGENCY: Employment and Training Administration, Labor.

ACTION: Notice.

SUMMARY: The Department of Labor, as part of its continuing effort to reduce paperwork and respondent burden, conducts a preclearance consultation program to provide the general public and Federal agencies with an opportunity to comment on proposed and/or continuing collections of information in accordance with the Paperwork Reduction Act of 1995 (PRA95) [44 U.S.C. 3506(c)(2)(A)]. This program helps to ensure that requested data can be provided in the desired format, reporting burden (time and financial resources) is minimized, collection instruments are clearly understood, and the impact of collection requirements on respondents can be properly assessed.

A copy of the proposed information collection request (ICR) can be obtained by contacting the office listed below in the addressee section of this notice.

DATES: Written comments must be submitted to the office listed in the addressee section below on or before March 13, 2012.

ADDRESSES: Send comments to Edward M. Dullaghan, U.S. Department of Labor, Employment and Training Administration, Office of Workforce Security, 200 Constitution Avenue NW., Frances Perkins Bldg. Room S–4524, Washington, DC 20210, telephone number (202) 693–2927 (this is not a toll-free number) or by email: *dullaghan.edward@dol.gov*.

SUPPLEMENTARY INFORMATION:

I. Background: The data submitted annually on the ETA–204 report enables the Employment and Training Administration to project revenues for the Unemployment Insurance (UI) program on a state-by-state basis and to measure the variations in assigned contribution rates which result from different experience rating systems. Used in conjunction with other data, the ETA–204 assists in determining the effects of certain factors (e.g., seasonality, stabilization, expansion, or contraction in employment, etc.) on the unemployment experience of various groups of employers. The data also provide an early signal for potential solvency problems and are useful in analyzing factors which give rise to these potential problems and permit an evaluation of the effectiveness of the various approaches available to correct the detected problems. The report collects annual information about the taxing efforts in states relative to both taxable and total wages and allows comparison between states. Further, the data are key components to the Significant Tax Measures Report. The Significant Tax Measures Report provides the information necessary to evaluate and compare state UI tax systems.

II. Desired Focus of Comments: Currently, the Employment and Training Administration is soliciting comments concerning the proposed extension of the ETA–204, Experience Rating Report which:

• Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

• evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

• enhance the quality, utility, and clarity of the information to be collected; and

• minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submissions of responses.

A copy of the proposed information collection request (ICR) can be obtained by contacting the office listed below in the addressee section of this notice.

III. Current Actions:

Type of Review: Extension without change.

Agency: Employment and Training Administration (ETA).

Title: Experience Rating Report.

OMB Number: 1205–0164.

Agency Number: ETA 204.

Affected Public: State Governments.

Total Respondents: 53.

Frequency: Annual.

Total Responses: 53.

Average Time per Response: 15 minutes.

Estimated Total Burden Hours: 13 Hours.

Total Burden Cost (capital/startup): $0.

Total Burden Cost (operating/maintaining): $0.

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.

Signed: Signed in Washington, DC, this 9th day of January, 2012.

Jane Oates,

Assistant Secretary, Employment and Training Administration.

[FR Doc. 2012–596 Filed 1–12–12; 8:45 am]

BILLING CODE 4510–FW–P

DEPARTMENT OF LABOR

Office of the Secretary

Agency Information Collection Activities; Submission for OMB Review; Comment Request; Servicing Multi-Piece and Single Piece Rim Wheels Standard

ACTION: Notice.

SUMMARY: The Department of Labor (DOL) is submitting the Occupational Safety and Health Administration sponsored information collection request (ICR) titled, ''Servicing Multi-Piece and Single Piece Rim Wheels Standard,'' to the Office of Management and Budget (OMB) for review and approval for continued use in accordance with the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C. 3501 *et seq.*).

DATES: Submit comments on or before February 13, 2012.

ADDRESSES: A copy of this ICR with applicable supporting documentation; including a description of the likely respondents, proposed frequency of response, and estimated total burden may be obtained from the RegInfo.gov Web site, *http://www.reginfo.gov/public/do/PRAMain,* on the day following publication of this notice or by contacting Michel Smyth by telephone at (202) 693–4129 (this is not a toll-free number) or sending an email to *DOL_PRA_PUBLIC@dol.gov.*

Submit comments about this request to the Office of Information and Regulatory Affairs, Attn: OMB Desk Officer for the Department of Labor, Occupational Safety and Health Administration, Office of Management and Budget, Room 10235, Washington, DC 20503, Telephone: (202) 395–6929/Fax: (202) 395–6881 (these are not toll-free numbers), email: *OIRA_submission@omb.eop.gov.*

FOR FURTHER INFORMATION CONTACT: Contact Michel Smyth by telephone at (202) 693–4129 (this is not a toll-free number) or by email at *DOL_PRA_PUBLIC@dol.gov.*

SUPPLEMENTARY INFORMATION: The provisions of the Servicing Multi-Piece and Single Piece Rim Wheels Standard include a requirement that the manufacturer or a Registered Professional Engineer certify that repaired restraining devices and barriers meet the strength requirements specified in the Standard, and a requirement that defective wheels and wheel components be marked or tagged. The purpose of the requirement is to reduce workers' risk of death or serious injury by ensuring that restraining devices used by them during the servicing of multi-piece rim wheels are in safe operating condition.

This information collection is subject to the PRA. A Federal agency generally cannot conduct or sponsor a collection of information, and the public is generally not required to respond to an information collection, unless it is approved by the OMB under the PRA and displays a currently valid OMB Control Number. In addition, notwithstanding any other provisions of law, no person shall generally be subject to penalty for failing to comply with a collection of information if the collection of information does not display a valid OMB Control Number. *See* 5 CFR 1320.5(a) and 1320.6. The DOL obtains OMB approval for this information collection under OMB Control Number 1218–0219. The current OMB approval is scheduled to expire on January 31, 2012; however, it should be noted that existing information collection requirements submitted to the OMB receive a month-to-month extension while they undergo review. For additional information, see the related notice published in the **Federal Register** on September 8, 2011 (76 FR 55708).

Interested parties are encouraged to send comments to the OMB, Office of Information and Regulatory Affairs at the address shown in the **ADDRESSES** section within 30 days of publication of this notice in the **Federal Register**. In order to help ensure appropriate consideration, comments should reference OMB Control Number 1218–0219. The OMB is particularly interested in comments that:

• Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

• Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

• Enhance the quality, utility, and clarity of the information to be collected; and

• Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Agency: Occupational Safety and Health Administration.

Title of Collection: Servicing Multi-Piece and Single Piece Rim Wheels Standard.

OMB Control Number: 1218–0219.

Affected Public: Private Sector—Businesses or other for-profits.

Total Estimated Number of Respondents: 8.

Total Estimated Number of Responses: 8.

Total Estimated Annual Burden Hours: 1.

Total Estimated Annual Other Costs Burden: $0.

Dated: January 9, 2012.

Michel Smyth,

Departmental Clearance Officer.

[FR Doc. 2012–588 Filed 1–12–12; 8:45 am]

BILLING CODE 4510–26–P

DEPARTMENT OF LABOR

Employment and Training Administration

Notice of a Change in Status of an Extended Benefit (EB) Period for Delaware and Minnesota

AGENCY: Employment and Training Administration, Labor.

ACTION: Notice.

SUMMARY: This notice announces a change in benefit period eligibility under the EB program for Delaware and Minnesota.

The following changes have occurred since the publication of the last notice regarding State EB status:

• Based on data released by the Bureau of Labor Statistics on December 20, 2011, the estimated three month average, seasonally adjusted total unemployment rate for Minnesota fell to 6.4%, and their third year look-back fell to 108%. These two factors trigger Minnesota ''off'' the EB program with the week ending December 24, 2011, and the end of the payable period in Minnesota in the EB program will be January 14, 2012.

• Based on data released by the Bureau of Labor Statistics on December 20, 2011, the estimated three month average, seasonally adjusted total unemployment rate for Delaware fell to 7.9%, below the rate required to remain in a high unemployment period (HUP). Claimants will remain eligible for up to 20 weeks of benefits in Delaware through January 14, 2012, but starting January 15, 2012, the maximum potential entitlement in the EB program in Delaware will decrease from 20 weeks to 13 weeks.

The trigger notice covering state eligibility for the EB program can be found at: *http://ows.doleta.gov/unemploy/claims_arch.asp.*

Information for Claimants

The duration of benefits payable in the EB program, and the terms and conditions on which they are payable, are governed by the Federal-State Extended Unemployment Compensation Act of 1970, as amended, and the operating instructions issued to the states by the U.S. Department of Labor. In the case of a state concluding an EB period, the State Workforce Agency will furnish a written notice of potential entitlement to each individual who has exhausted all rights to regular benefits and is potentially eligible for EB (20 CFR 615.13 (c) (4)).

Persons who believe they may be entitled to EB, or who wish to inquire about their rights under the program, should contact their State Workforce Agency.

FOR FURTHER INFORMATION CONTACT: Scott Gibbons, U.S. Department of Labor, Employment and Training Administration, Office of Unemployment Insurance, 200 Constitution Avenue NW., Frances Perkins Bldg. Room S–4524, Washington, DC 20210, telephone number (202) 693–3008 (this is not a toll-free number) or by email: *gibbons.scott@dol.gov.*

Signed in Washington, DC, this 9th day of January, 2012.

Jane Oates,

Assistant Secretary, Employment and Training Administration.

[FR Doc. 2012–591 Filed 1–12–12; 8:45 am]

BILLING CODE 4510–FW–P

DEPARTMENT OF LABOR

Employment And Training Administration

Notice of a Change in Status of the Payable Periods in the Emergency Unemployment Compensation 2008 (EUC08) Program for Iowa and Oklahoma

AGENCY: Employment and Training Administration, Labor.

ACTION: Notice.

SUMMARY: Announcement regarding Notice of a Change in Status of the payable period in the Emergency Unemployment Compensation 2008 (EUC08) program for Iowa and Oklahoma.

Public law 112–78 extended provisions in Public Law 111–92 which amended prior laws to create a Third and Fourth Tier of benefits within the EUC08 program for qualified unemployed workers claiming benefits in high unemployment states. The Department of Labor produces a trigger notice indicating which states qualify for EUC08 benefits within Tiers Three and Four and provides the beginning and ending dates of payable periods for each qualifying state. The trigger notice covering state eligibility for the EUC08 program can be found at: *http://ows.doleta.gov/unemploy/claims_arch.asp.*

• Based on data released by the Bureau of Labor Statistics on December 20, 2011, the estimated three month average, seasonally adjusted total unemployment rate for Iowa fell to 5.9%, below the threshold to remain ''on'' in Tier 3 of the EUC08 program. As a result, the current maximum potential duration for claimants in Iowa in the EUC08 program will decrease from 47 weeks to 34 weeks. The week ending January 14, 2012 will be the last week in which EUC claimants in Iowa can exhaust Tier 2, and establish Tier 3 eligibility. Under the phase-out provisions, claimants can receive any remaining entitlement they have in Tier 3 after January 14, 2012.

• Based on data released by the Bureau of Labor Statistics on December 20, 2011, the estimated three month average, seasonally adjusted total unemployment rate for Oklahoma rose to 6.0%, meeting the criteria to trigger ''on'' to Tier 3 in the EUC08 program. Claimants who have exhausted Tier 2 in the EUC08 program may be eligible for up to 13 additional weeks of benefits. The payable period for Oklahoma in Tier 3 of the EUC08 program begins January 8, 2012.

Information for Claimants

The duration of benefits payable in the EUC program, and the terms and conditions under which they are payable, are governed by Public Laws 110–252, 110–449, 111–5, 111–92, 111–118, 111–144, 111–157, 111–205, 111–312, and 112–78, and the operating instructions issued to the states by the U.S. Department of Labor. Persons who believe they may be entitled to additional benefits under the EUC08 program, or who wish to inquire about their rights under the program, should contact their State Workforce Agency.

FOR FURTHER INFORMATION CONTACT: Scott Gibbons, U.S. Department of Labor, Employment and Training Administration, Office of Unemployment Insurance, 200 Constitution Avenue NW., Frances Perkins Bldg. Room S–4524, Washington, DC 20210, telephone number (202) 693–3008 (this is not a toll-free number) or by email: *gibbons.scott@dol.gov.*

Signed in Washington, DC, this 9th day of January 2012.

Jane Oates,

Assistant Secretary, Employment and Training Administration.

[FR Doc. 2012–590 Filed 1–12–12; 8:45 am]

BILLING CODE 4510–FW–P

DEPARTMENT OF LABOR

Employment and Training Administration

Notice of Funding Opportunity and Solicitation for Grant Application (SGA) for Reintegration of Ex-Offenders (RExO) Adult Generation 5

AGENCY: Employment and Training Administration, Labor.

ACTION: Notice of Solicitation for Grant Applications (SGA).

Funding Opportunity Number: SGA/DFA PY 11–02.

SUMMARY: Through this notice, the Department of Labor's Employment and Training Administration (ETA) announces the availability of approximately $20.6 million to serve adult ex-offenders returning to their communities. ETA expects to award approximately 17 grants of up to $1,212,000 each for 27-months, which includes up to three months for a planning phase and a minimum of 24 months of operation. Any non-profit organization with IRS 501(c)(3) status may apply for these grants to provide pre-release and post-release services to ex-offenders returning to high-poverty, high-crime communities. These services will include job training leading to credentials for in-demand industries, employment preparation, mentoring and assistance connecting to supportive services such as housing, substance abuse programs, and mental health treatment. Applicants must describe their community's need for reentry services and the degree to which reentry is an issue in their communities; describe their program's design to provide services to adult ex-offenders that will result in employment for in-demand industries; and provide evidence of partnerships with the criminal justice system, local One-Stop Career Centers and other workforce investments programs, the local public housing authority and other providers of housing services, and of mental health and substance abuse treatment service.

The complete SGA and any subsequent SGA amendments, in connection with this solicitation is described in further detail on ETA's Web site at *http://www.doleta.gov/grants/* or on *http://www.grants.gov.* The Web sites provide application information, eligibility requirements, review and selection procedures and other program requirements governing this solicitation.

DATES: The closing date for receipt of applications is March 13, 2012.

FOR FURTHER INFORMATION CONTACT: Brinda Ruggles, 200 Constitution Avenue NW., Room N–4716, Washington, DC 20210; Telephone: (202) 693–3437.

The Grant Officer for this SGA is Latifa Jeter.

Signed at Washington, DC, this 4th day of January, 2012.

Eric D. Luetkenhaus,

Grant Officer, Employment and Training Administration.

[FR Doc. 2012–524 Filed 1–12–12; 8:45 am]

BILLING CODE 4510–FN–P

LEGAL SERVICES CORPORATION

Sunshine Act Meeting Notice

DATE AND TIME: The Legal Services Corporation's Board of Directors and its six committees will meet January 19–21, 2012. On Thursday, January 19, the first meeting will commence at 3:15 p.m., Pacific Standard Time, and the second meeting will commence immediately upon adjournment of the first. On Friday, January 20, the Promotion & Provision for the Delivery of Legal Services Committee meeting will commence at 10:35 a.m., Pacific Standard Time, and the Finance Committee meeting will commence immediately upon the conclusion of the Board's scheduled luncheon. The Governance & Performance Review Committee meeting will commence promptly upon adjournment of the Finance Committee meeting. On Saturday, January 21, the first meeting will commence at 8:30 a.m., Pacific Standard Time, and the second meeting will commence immediately upon adjournment of the first.

LOCATION: On Thursday, January 19, the committee meetings will be held at the Legal Aid Society of San Diego, 1764 San Diego Avenue—Suite 200, San Diego, CA 92110. On Friday, January 20, the Promotion & Provision for the Delivery of Legal Services Committee meeting will be held in the Crystal Ballroom of the U.S. Grant Hotel, 326 Broadway, San Diego CA 92101, and the remaining committee meetings for that day will be held in the Versailles Ballroom of the Westgate Hotel, 1055 Second Avenue, San Diego, CA 92101. On Saturday, January 21, the Institutional Advancement Committee meeting will be held in the Regency Room of the Westgate Hotel and the Board meeting will be held in the hotel's Versailles Ballroom.

PUBLIC OBSERVATION: Unless otherwise noted herein, the Board and all committee meetings will be open to public observation. Members of the public who are unable to attend in person but wish to listen to the public proceedings may do so by following the telephone call-in directions provided below but are asked to keep their telephones muted to eliminate background noises. From time to time, the presiding Chair may solicit comments from the public.

CALL-IN DIRECTIONS FOR OPEN SESSIONS:

- Call toll-free number: 1–(866) 451–4981;
- When prompted, enter the following numeric pass code: 5907707348
- When connected to the call, please immediately ''mute'' your telephone.

MEETING SCHEDULE

	Time *
Thursday, January 19, 2012:	
1. Audit Committee	3:15 p.m.
2. Operations & Regulations Committee	
Friday, January 20, 2012:	
1. Promotion & Provision for the Delivery of Legal Services Committee	10:35 a.m.
2. Finance Committee	
3. Governance & Performance Review Committee	
Saturday, January 21, 2012:	
1. Institutional Advancement Committee	8:30 a.m.
2. Board of Directors	

* Please note that all times in this notice are in the Pacific Standard Time.

STATUS OF MEETING: Open, except as noted below.

Board of Directors—Open, except that, upon a vote of the Board of Directors, a portion of the meeting may be closed to the public to hear briefings from management and LSC's Inspector General, to consider and act on the General Counsel's report on potential and pending litigation involving LSC, and to consider and act on the request of an officer of the Corporation for authorization to accept compensation for non-LSC work.**

A verbatim written transcript will be made of the closed session of the Board meeting. However, the transcript of any portions of the closed session falling within the relevant provisions of the Government in the Sunshine Act, 5 U.S.C. 552b(c)(6) and (10), and the corresponding provisions of the Legal Services Corporation's implementing regulations, 45 CFR 1622.5(e) and (h), will not be available for public inspection. A copy of the General Counsel's Certification that in his opinion the closing is authorized by law will be available upon request.

MATTERS TO BE CONSIDERED: Thursday, January 19, 2012

Audit Committee

Agenda

1. Approval of agenda.
2. Approval of minutes of the Committee's meeting of October 18, 2011.
3. Presentation of the Fiscal Year (FY) 2011 Annual Financial Audit:
- Ronald ''Dutch'' Merryman, Assistant Inspector General for Audits.
- Nancy Davis, WithumSmith+Brown.
4. Report on Program Quality Evaluations:
- Janet LaBella, Director of the Office of Program Performance.
5. Report on LSC's 403(b) plan performance.
6. Consider and act on revisions to the Audit Committee Charter:
- Mattie Cohan, Office of Legal Affairs.
7. Discussion of Committee members' self-evaluations for 2011 and the Committee's goals for 2012.
8. Public comment.
9. Consider and act on other business.
10. Consider and act on adjournment of meeting.

Closed Briefing

1. Communication by Corporate Auditor with those charged with governance under Statement on Auditing Standard 114:
- Jeffrey Schanz, Inspector General.
- Ronald ''Dutch'' Merryman, Assistant Inspector General for Audits.
- Nancy Davis, WithumSmith+Brown.

Operations & Regulations Committee

Agenda

1. Approval of agenda.
2. Approval of minutes of the Committee's meeting of October 17, 2011, and December 16, 2011.
3. Consider and act on potential initiation of rulemaking on enforcement mechanisms and sanctions:
- Mattie Cohan, Office of Legal Affairs.
- Laurie Tarantowicz, Office of Inspector General.
- Public Comment.
4. Discussion of Committee members' self-evaluations for 2011 and the Committee's goals for 2012.
5. Staff report on notice and comment, publication requirement of the LSC Act and Board review of LSC promulgations:
- Mattie Cohan, Office of Legal Affairs.
6. Public comment.
7. Consider and act on other business.
8. Consider and act on adjournment of meeting.

Friday, January 20, 2012

Promotion & Provision for the Delivery of Legal Services Committee

Agenda

1. Approval of Agenda.
2. Approval of minutes of the Committee's meeting of October 18, 2011.
3. Panel Discussion on Rural Legal Services Delivery:
- Moderator—Willie Abrams, Office of Program Performance.
4. Discussion of Committee members' self-evaluations for 2011 and the Committee's goals for 2012.
5. Public comment.
6. Consider and act on other business.
7. Consider and act on adjournment of meeting.

Finance Committee

Agenda

1. Approval of agenda.
2. Approval of minutes of the Committee's meeting of October 18, 2011.
3. Consider and act on Revised Consolidated Operating Budget for Fiscal Year (FY) 2011, Resolution 2012–001:
- Presentation by David Richardson, Treasurer & Comptroller.
4. Consider and act on Consolidated Operating Budget for FY 2012, Resolution 2012–002:
- Presentation by David Richardson, Treasurer & Comptroller.
5. Presentation on LSC's Financial Reports for the first two months of FY 2012:
- Presentation by David Richardson, Treasurer & Comptroller.
6. Staff report on submission of LSC's FY 2013 budget request:
- Presentation by John Constance, Director, Office of Government Relations & Public Affairs.
7. Discussion of Committee members' self-evaluations for 2011 and the Committee's goals for 2012.
8. Consider and act on a Resolution regarding selection of accounts and depositories for LSC funds.
9. Public comment.
10. Consider and act on other business.
11. Consider and act on adjournment of meeting.

Governance & Performance Review Committee

Agenda

1. Approval of agenda.
2. Approval of minutes of the Committee's meeting of October 16, 2011.
3. Committee Chairman's report on:
- Results of Board, Individual, and Committee Self-Evaluation process for 2011.
- Consider and act on report to full Board on Self-Evaluation results.
4. Staff report on progress on implementation of GAO recommendations:
- Report by John Constance, Director of Government Relations & Public Affairs.
5. Consider and act on a proposal for the evaluation of the President and other officers of the Corporation.
6. IG Evaluation discussion for 2011.
7. Consider and act on other business.
8. Public Comment.
9. Consider and act on motion to adjourn meeting.

Saturday, January 21, 2012

Institutional Advancement Committee

Agenda

1. Approval of agenda.
2. Approval of minutes of the Committee's open session meeting of July 20, 2011.
3. Approval of minutes of the Committee's closed session meeting of October 17, 2011.
4. Report on Public Welfare Foundation grant(s).
- Jim Sandman, President.
5. Discussion of Committee members' self-evaluations for 2011 and the Committee's goals for 2012.

** Any portion of the closed session consisting solely of staff briefings does not fall within the Sunshine Act's definition of the term ''meeting'' and, therefore, the requirements of the Sunshine Act do not apply to such portion of the closed session. 5 U.S.C. 552b(a)(2) and (b). *See also* 45 CFR 1622.2 & 1622.3.

6. Public comment.
7. Consider and act on other business.
8. Consider and act on adjournment of meeting.

Board of Directors

Agenda

Open Session

1. Pledge of Allegiance.
2. Approval of agenda.
3. Approval of Minutes of the Board's Open Session telephonic meeting of December 21, 2011.
4. Approval of Minutes of the Board's Open Session telephonic meeting of November 18, 2011.
5. Approval of Minutes of the Board's Open Session meeting of October 19, 2011.
6. Consider and act on nominations for Chairman of the Board of Directors.
7. Consider and act on nominations for Vice Chairman of the Board of Directors.
8. Consider and act on delegation to the Chairman of authority to make committee appointments, including appointment of committee Chairs.
9. Chairman's Report.
10. Members' Reports.
11. President's Report.
12. Inspector General's Report.
13. Interim report by Co-Chairs of the Pro Bono Task Force.
14. Consider and act on the report of the Promotion and Provision for the Delivery of Legal Services Committee.
15. Consider and act on the report of the Finance Committee.
16. Consider and act on the report of the Audit Committee.
17. Consider and act on the report of the Operations and Regulations Committee.
18. Consider and act on the report of the Governance and Performance Review Committee.
19. Consider and act on the report of the Institutional Advancement Committee.
20. Consider and act on the report of the Special Task Force on Fiscal Oversight.
21. Consider and act on a Resolution thanking the members of the Fiscal Oversight Task Force for their service on the Task Force.
22. Consider and act on a Resolution thanking Alice Dickerson for her service to LSC.
23. Consider and act on a Resolution thanking John Constance for his service to LSC.
24. Public comment.
25. Consider and act on other business.
26. Consider and act on whether to authorize an executive session of the Board to address items listed below, under Closed Session.

Closed Session

27. Approval of Minutes of the Board's Closed Session of October 18, 2011.
28. Briefing by Management.
29. Briefing by the Inspector General.
30. Consider and act on General Counsel's report on potential and pending litigation involving LSC.
31. Consider and act on the request of an officer of the Corporation for authorization to receive compensation for services from a source other than the Corporation.
32. Consider and act on motion to adjourn meeting.

CONTACT PERSON FOR INFORMATION: Katherine Ward, Executive Assistant to the Vice President & General Counsel, at (202) 295–1500. Questions may be sent by electronic mail to *FR_NOTICE_QUESTIONS@lsc.gov.*

ACCESSIBILITY: LSC complies with the American's with Disabilities Act and Section 504 of the 1973 Rehabilitation Act. Upon request, meeting notices and materials will be made available in alternative formats to accommodate individuals with disabilities. Individuals who need other accommodations due to disability in order to attend the meeting in person or telephonically should contact Katherine Ward, at (202) 295–1500 or *FR_NOTICE_QUESTIONS@lsc.gov*, at least 2 business days in advance of the meeting. If a request is made without advance notice, LSC will make every effort to accommodate the request but cannot guarantee that all requests can be fulfilled.

Dated: January 11, 2012.

Victor M. Fortuno,

Vice President & General Counsel.

[FR Doc. 2012–754 Filed 1–11–12; 4:15 pm]

BILLING CODE 7050–01–P

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

Proposed Collection; Comment Request

AGENCY: National Endowment for the Arts, National Foundation on the Arts and Humanities.

ACTION: Notice.

SUMMARY: The National Endowment for the Arts (NEA), as part of its continuing effort to reduce paperwork and respondent burden, conducts a preclearance consultation program to provide the general public and federal agencies with an opportunity to comment on proposed and/or continuing collections of information in accordance with the Paperwork Reduction Act of 1995 (PRA95) [44 U.S.C. 3506(c)(A)]. This program helps to ensure that requested data can be provided in the desired format, reporting burden (time and financial resources) is minimized, collection instruments are clearly understood, and the impact of collection requirements on respondents can be properly assessed. Currently, the NEA is soliciting comments concerning revisions to existing information collection on arts activities funded through State Arts Assemblies and Regional Arts Organizations. A copy of the current information collection request can be obtained by contacting the office listed below in the address section of this notice.

DATES: Written comments must be submitted to the office listed in the address section below on or before March 13, 2012. The NEA is particularly interested in comments which:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submissions of responses.

ADDRESSES: Sunil Iyengar, National Endowment for the Arts, 1100 Pennsylvania Avenue, NW., Room 616, Washington, DC 20506–0001, telephone (202) 682–5424 (this is not a toll-free number), fax (202) 682–5677.

Kathleen Edwards,

Director, Administrative Services, National Endowment for the Arts.

[FR Doc. 2012–567 Filed 1–12–12; 8:45 am]

BILLING CODE 7537–01–P

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

Charter Renewal for Humanities Panel

AGENCY: The National Endowment for the Humanities.

ACTION: Notice of Charter Renewal for Humanities Panel.

SUMMARY: Under the provisions of the Federal Advisory Committee Act of 1972, 5 U.S.C. App. 2 (Pub. L. 92–463, 86 Stat. 770), as amended, the National Endowment for the Humanities (NEH) gives notice that the Charter for the Advisory Committee, Humanities Panel, was renewed for an additional two-year period on December 29, 2011.

The Chairman of NEH has determined that the renewal of the Humanities Panel is necessary and in the public interest in connection with the performance of duties imposed upon the Chairman of NEH by the Federal Advisory Committee Act of 1972, 5 U.S.C. App. 3(2) (Pub. L. 92–463, 86 Stat. 770), as amended, and Section 10(a)(4) of the National Foundation on the Arts and the Humanities Act of 1965, 20 U.S.C. 959(a)(4), as amended.

FOR FURTHER INFORMATION CONTACT: Lisette Voyatzis, Committee Management Officer, 1100 Pennsylvania Avenue NW., Room 529, Washington, DC 20506. Telephone: (202) 606–8322, facsimile (202) 606–8600, or email at *gencounsel@neh.gov.* Hearing-impaired individuals are advised that information on this matter may be obtained by contacting the NEH's TDD terminal on (202) 606–8282.

Lisette Voyatzis,

Committee Management Officer.

[FR Doc. 2012–504 Filed 1–12–12; 8:45 am]

BILLING CODE 7536–01–P

NATIONAL SCIENCE FOUNDATION

Astronomy and Astrophysics Advisory Committee #13883; Notice of Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation announces the following Astronomy and Astrophysics Advisory Committee (#13883) meeting:

Date and Time: February 10–11, 2012, 8:30 a.m.–5 p.m.

Place: National Science Foundation, Room 555 Stafford II Building on 2/10/12, 2121 Wilson Boulevard, Arlington, VA 22230 and Room 1060 Stafford I Building on 2/11/12, 4201 Wilson Blvd., Arlington, VA, 22230

Type of Meeting: Open.

Contact Person: Dr. Jim Ulvestad, Division Director, Division of Astronomical Sciences, Suite 1045, National Science Foundation, 4201 Wilson Blvd., Arlington, VA 22230. Telephone: (703) 292–7165.

Purpose of Meeting: To provide advice and recommendations to the National Science Foundation (NSF), the National Aeronautics and Space Administration (NASA) and the U.S. Department of Energy (DOE) on issues within the field of astronomy and astrophysics that are of mutual interest and concern to the agencies.

Agenda: To hear presentations of current programming by representatives from NSF, NASA, DOE and other agencies relevant to astronomy and astrophysics; to discuss current and potential areas of cooperation between the agencies; to formulate recommendations for continued and new areas of cooperation and mechanisms for achieving them.

Dated: January 10, 2012.

Susanne E. Bolton,

Committee Management Officer.

[FR Doc. 2012–559 Filed 1–12–12; 8:45 am]

BILLING CODE 7555–01–P

NATIONAL SCIENCE FOUNDATION

Proposal Review Panel for Materials Research; 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: Site visit review of the Materials Research Science and Engineering Center (MRSEC) at Georgia Tech by the Division of Materials Research (DMR) #1203.

Dates and Times: Feb. 20, 2012; 7:45 a.m. –6 p.m., Feb. 21, 2012; 8 a.m.–3:30 p.m.

Place: Georgia Tech, School of Material Science in Atlanta, Georgia.

Type of Meeting: Partial Open.

Contact Person: Dr. Sean L. Jones, Program Director, Materials Research Science and Engineering Centers Program, Division of Materials Research, Room 1065, National Science Foundation, 4201 Wilson Boulevard, Arlington, VA 22230, Telephone (703) 292–2986.

Purpose of Meeting: To provide advice and recommendations concerning further support of the MRSEC at Georgia Tech.

Agenda:

Monday, February 20, 2012

7:45 a.m.–9 a.m. Closed (Panel Brief)
9 a.m.–4:30 p.m. Open (Review of MRSEC)
4:30 p.m.–6 p.m. Closed (Exec Session)

Tuesday, February 21, 2012

8 a.m.–9 a.m. Closed (Exec Session)
9 a.m.–10 a.m. Open (Review of MRSEC)
10 a.m.–3:30 p.m. Closed (Exec Session, Draft & Review Report)

Reason for Closing: The work being reviewed may include information of a proprietary or confidential nature, including technical information; financial data, such as salaries and personal information concerning individuals associated with PREM. These matters are exempt under 5 U.S.C. 552 b(c), (4) and (6) of the Government in the Sunshine Act.

Dated: January 10, 2012.

Susanne Bolton,

Committee Management Officer.

[FR Doc. 2012–560 Filed 1–12–12; 8:45 am]

BILLING CODE 7555–01–P

NATIONAL SCIENCE FOUNDATION

Proposal Review Panel for Materials Research; 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: Site visit review of the Materials Research Science and Engineering Center (MRSEC) at the University of Minnesota by the Division of Materials Research (DMR) #1203.

Dates and Times: Feb 12, 2012; 5:30 p.m.–8:30 p.m., Feb 13, 2012; 7:45 a.m.–7:30 p.m., Feb 14, 2012; 8 a.m.–4:45 p.m.

Place: University of Minnesota, Minneapolis, MN.

Type of Meeting: Part open.

Contact Person: Dr. Thomas Rieker, Program Director, Materials Research Science and Engineering Centers Program, Division of Materials Research, Room 1065, National Science Foundation, 4201 Wilson Boulevard, Arlington, VA 22230, Telephone (703) 292–4914.

Purpose of Meeting: To provide advice and recommendations concerning further support of the MRSEC at the University of Minnesota.

Agenda:

Sunday, February 12, 2012

6 p.m.–7 p.m. Closed—Briefing of panel
7 p.m.–8:30 p.m. Open—Poster Session

Monday, February 13, 2012

7:45 a.m.–3:45 p.m. Open—Review of the MRSEC
3:45 p.m.–5:30 p.m. Closed—Executive Session
6 p.m.–7:30 p.m. Open—Dinner

Tuesday, February 14, 2012

8 a.m.–9 a.m. Closed—Executive session
9 a.m.–10:45 a.m. Open—Review of the MRSEC
10:45 a.m.–4:45 p.m. Closed—Executive Session, Draft and Review Report

Reason for Closing: The work being reviewed may include information of a proprietary or confidential nature, including technical information; financial data, such as salaries and personal information concerning individuals associated with the MRSEC. These matters are exempt under 5 U.S.C. 552 b(c), (4) and (6) of the Government in the Sunshine Act.

Dated: January 10, 2012.

Susanne Bolton,

Committee Management Officer.

[FR Doc. 2012–562 Filed 1–12–12; 8:45 am]

BILLING CODE 7555–01–P

NATIONAL SCIENCE FOUNDATION

Proposal Review Panel for Materials Research; 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: Site visit review of the Materials Research Science and Engineering Center (MRSEC) at Massachusetts Institute of Technology (MIT) by the Division of Materials Research (DMR) #1203.

Dates and Times: Feb 16, 2012; 7:15 a.m.–6:45 p.m., Feb 17, 2012; 8 a.m.–4:30 p.m.

Place: Massachusetts Institute of Technology, Cambridge, Massachusetts 02139.

Type of Meeting: Part open.

Contact Person: Dr. Charles Ying, Program Director, Materials Research Science and Engineering Centers Program, Division of Materials Research, Room 1065, National Science Foundation, 4201 Wilson Boulevard, Arlington, VA 22230, Telephone (703) 292–8428.

Purpose of Meeting: To provide advice and recommendations concerning further support of the MRSEC at Massachusetts Institute of Technology.

Agenda:

Thursday, February 16, 2012

7:15 a.m.–8:15 a.m. Closed—Executive Session
8:15 a.m.–5 p.m. Open—Review of the MIT MRSEC
5 p.m.–6:45 p.m. Closed—Executive Session
Friday, February 17, 2012
8 a.m.–9 a.m. Closed—Executive session
9 a.m.–10 a.m. Open—Review of the MIT MRSEC
10 a.m.–4:30 p.m. Closed—Executive Session, Report Writing

Reason for Closing: The work being reviewed may include information of a proprietary or confidential nature, including technical information; financial data, such as salaries and personal information concerning individuals associated with the MRSEC. These matters are exempt under 5 U.S.C. 552 b(c), (4) and (6) of the Government in the Sunshine Act.

Dated: January 10, 2012.

Susanne Bolton,

Committee Management Officer.

[FR Doc. 2012–561 Filed 1–12–12; 8:45 am]

BILLING CODE 7555–01–P

NUCLEAR REGULATORY COMMISSION

[NRC–2010–0143]

Notice of Availability of Draft Environmental Impact Statement for the Proposed International Isotopes Fluorine Extraction Process and Depleted Uranium Deconversion Plant in Lea County, NM

AGENCY: U.S. Nuclear Regulatory Commission.

ACTION: Draft environmental impact statement; request for comment.

SUMMARY: Notice is hereby given that the U.S. Nuclear Regulatory Commission (NRC) is issuing for public comment the Draft Environmental Impact Statement (EIS) for the Proposed Fluorine Extraction Process and Depleted Uranium Deconversion Plant. By letter dated December 30, 2009, International Isotopes Fluorine Products, Inc. (IIFP), a wholly-owned subsidiary of International Isotopes, Inc., submitted a license application, which included an Environmental Report that proposes the construction, operation, and decommissioning of a fluoride extraction and depleted uranium deconversion facility to be located in Lea County, New Mexico (the ''proposed action'').

This Draft EIS is being issued as part of the NRC's process to decide whether to issue a license to IIFP, pursuant to Title 10 of the Code of Federal Regulations (10 CFR) Part 40, to build and operate the proposed depleted uranium deconversion facility. Specifically, IIFP proposed to deconvert depleted uranium hexafluoride (DUF_6) into uranium oxide compounds for long-term disposal.

The NRC staff will hold a public meeting on February 2, 2012, to present an overview of the licensing process and the contents of the Draft EIS, and to accept oral and written public comments on the Draft EIS. The meeting will take place at the Lea County Event Center, 5101 Lovington Highway in Hobbs, New Mexico. For 1 hour prior to the public meeting, the NRC staff will be available to informally discuss the proposed IIFP project and answer questions in an ''open house'' format. This ''open house'' format provides for one-on-one discussions with the NRC staff involved with the preparation of the Draft EIS. The Draft EIS public meeting will officially begin at 5:30 p.m. The meeting will include the following agenda items: (1) A brief presentation of NRC's roles and responsibilities and the licensing process; (2) a presentation summarizing the contents of the Draft EIS; and (3) an opportunity for interested government agencies, Tribal governments, organizations, and individuals to provide comments on the draft EIS. The public meeting will be transcribed by a court reporter, and the meeting transcript will be made publicly available at a later date.

Persons wishing to provide oral comments at the public meeting may register in advance by contacting Ms. Antoinette Walker-Smith at (800) 368–5642, ext. 6390 no later than January 26, 2012. Those who wish to present comments may also register at the meeting. Individual oral comments may have to be limited by the time available, depending upon the number of persons who register. Written comments can also be provided at the meeting, and should be given to an NRC staff person at the registration desk at the meeting entrance. If special equipment or accommodations are needed to attend or present information at the public meeting, the need should be brought to the attention of Ms. Antoinette Walker-Smith at (800) 368–5642, ext.6390, no later than January 26, 2012, to provide NRC staff with adequate notice to determine whether the request can be accommodated. Please note that comments do not have to be provided at the public meeting and may be submitted at any time during the comment period, as described in the **DATES** section of this notice. Any interested party may submit comments on the Draft EIS for consideration by NRC staff. Comments may be submitted by any of the methods described in the **ADDRESSES** section of this notice.

DATES: The public comment period on the Draft EIS begins on the date of publication of the U.S. Environmental Protection Agency's **Federal Register** (FR) Notice of Filing and ends on February 27, 2012. To ensure consideration, comments on the Draft EIS and the proposed action must be received or postmarked by February 27, 2012. The NRC staff will consider comments received or postmarked after that date to the extent practical.

The NRC will conduct a public meeting in Hobbs, New Mexico. The meeting date, location, and time are listed below:

Meeting Date: Thursday, February 2, 2012.

Meeting Location: Lea County Event Center, 5101 Lovington Highway in Hobbs, New Mexico.

Informal Open House Session: 4:30–5:30 p.m.

Draft EIS Comment Meeting: 5:30–8:30 p.m.

ADDRESSES: Please include Docket ID NRC–2010–0143 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–2010–0143. 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.

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 document 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 ''Draft Environmental Impact Statement for the Proposed Fluorine Extraction Process and Depleted Uranium Deconversion Plant in Lea County, New Mexico'' is available electronically under ADAMS Accession Number ML12001A000.

• *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–2010–0143.

The Draft EIS for the proposed Fluorine Extraction Process and Depleted Uranium Deconversion Plant also may be accessed on the Internet at *www.nrc.gov/reading-rm/doc-collections/nuregs/staff/* by selecting ''NUREG–2113.'' Additionally, a copy of the Draft EIS will be available at the following public library: Hobbs Public Library, 509 North Shipp, Hobbs, NM 88240, (575) 397–9328.

FOR FURTHER INFORMATION CONTACT: For information about the environmental review process or the Draft EIS for the proposed Fluorine Extraction Process and Depleted Uranium Deconversion Plant, please contact Asimios Malliakos, Project Manager, Environmental Review Branch, Division of Waste Management and Environmental Protection (DWMEP), Mail Stop T–8 F5, U.S. Nuclear Regulatory Commission, Washington, DC 20555–001, by phone at (301) 415–6458. For general or technical information associated with the safety and licensing of uranium deconversion facilities, please contact Matthew Bartlett, Project Manager, Conversion, Deconversion and Enrichment Branch, Division of Fuel Cycle Safety and Safeguards (FCSS), Mail Stop E–2 C40, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, by phone at (301) 492–3119.

The Draft EIS was prepared in response to an application submitted by IIFP by letter dated December 30, 2009. The application proposes to construct, operate, and decommission a fluorine extraction and depleted uranium deconversion facility to deconvert commercially generated depleted DUF_6 to DUO_2 for long-term stable disposal as low-level waste. The fluoride extraction and depleted uranium deconversion facility would be located 14 miles west of Hobbs, New Mexico.

The Draft EIS was prepared by the NRC and its contractor, Straughan Environmental Services, Inc. in compliance with the *National Environmental Policy Act of 1969,* as amended (NEPA), and the NRC's regulations for implementing NEPA (10 CFR Part 51).

The site is located 22.5 kilometers (km) (14 miles [mi]) west of Hobbs, New Mexico. The proposed tract of land (IIFP site) occupies 259 ha (640 ac), and the proposed facility would occupy an estimated 16 ha (40 ac) of the tract, not including roadways and other infrastructure improvements.

The Draft EIS is being issued as part of the NRC's process to decide whether to issue a license to IIFP, pursuant to 10 CFR Part 40. In this Draft EIS, the NRC staff has assessed the potential environmental impacts from the preconstruction, construction, operation, and decommissioning of the proposed IIFP facility. If a license is granted, the IIFP facility would include a commercial plant to produce specialty fluoride gas products for sale and DUO_2 for disposal. IIFP would own the facility and be responsible for its operation and performance.

The NRC staff published a Notice of Intent to prepare an Environmental Impact Statement for the proposed IIFP facility and to conduct a scoping process in the **Federal Register** on July 15, 2010 (75 FR 41242). The NRC staff accepted comments through August 30, 2010. The NRC staff issued a Scoping Summary Report in November 2010 (ADAMS Accession Number: ML102871105).

The NRC staff assessed the impacts of the proposed action on land use, historical and cultural resources, visual and scenic resources, climatology, meteorology and air quality, geology, minerals and soils, water resources, ecological resources, socioeconomics, environmental justice, noise, traffic and transportation, public and occupational health and safety, and waste management.

Additionally, the Draft EIS analyzes and compares the benefits and costs of the proposed action. Based on the preliminary evaluation in the Draft EIS, the NRC environmental review staff has concluded that the environmental impacts that would result from the proposed action and associated preconstruction activities on the physical environment and human communities would mostly be small, with the exception of small to moderate impacts on climatology, meteorology, and air quality associated with vehicle emissions and temporary fugitive dust released to the air during construction.

In addition to the action proposed by IIFP, the NRC staff addressed the no-action alternative and also a reasonable

range of alternatives to the proposed action, including alternative sites for an IIFP facility, alternative technologies, shipment of the U.S.-generated DUF_6 to overseas facilities, and the four U.S.-based enrichment companies to construct and operate their own deconversion facilities. These alternatives were eliminated from further analysis due to economic, environmental, or other reasons. The proposed action and the no-action alternative were analyzed in detail. The no-action alternative serves as a baseline for comparison of the potential environmental impacts of the proposed action.

This DEIS is being issued for public comment. The public comment period on the Draft EIS begins with publication of this notice and continues until February 27, 2012. Written comments should be submitted as described in the **ADDRESSES** section of this notice. The NRC will consider comments received or postmarked after that date to the extent practical.

Dated at Rockville, Maryland, this 5th day of January, 2012.

For The Nuclear Regulatory Commission.

Andrew Persinko,

Deputy Director, Environmental Protection and Performance Assessment Directorate, Division of Waste Management and Environmental Protection, Office of Federal and State Materials and Environmental Management Programs.

[FR Doc. 2012–548 Filed 1–12–12; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

Advisory Committee on the Medical Uses of Isotopes: Meeting Notice

AGENCY: U.S. Nuclear Regulatory Commission.

ACTION: Notice of meeting.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) will convene a teleconference meeting of the Advisory Committee on the Medical Uses of Isotopes (ACMUI) on February 7, 2012, to discuss the ACMUI Permanent Implant Brachytherapy Subcommittee Report. A copy of the agenda for the meeting will be available at *http://www.nrc.gov/reading-rm/doc-collections/acmui/agenda.* Handouts for the meeting will be available at *http://www.nrc.gov/reading-rm/doc-collections/acmui/meeting-slides/.* The agenda and handouts may also by obtained by contacting Ms. Ashley Cockerham using the information below.

DATES: The teleconference meeting will be held on Tuesday, February 7, 2012, 12 p.m. to 2 p.m. Eastern Standard Time (EST).

Public Participation: Any member of the public who wishes to participate in the teleconference discussions should contact Ms. Cockerham using the contact information below.

Contact Information: Ashley M. Cockerham, email: *ashley.cockerham@nrc.gov,* telephone: (240) 888–7129.

Conduct of the Meeting

Leon S. Malmud, M.D., will chair the meeting. Dr. Malmud will conduct the meeting in a manner that will facilitate the orderly conduct of business. The following procedures apply to public participation in the meeting:

1. Persons who wish to provide a written statement should submit an electronic copy to Ms. Cockerham at the contact information listed above. All submittals must be received by February 2, three business days prior to the meeting, and must pertain to the topic on the agenda for the meeting.

2. Questions and comments from members of the public will be permitted during the meetings, at the discretion of the Chairman.

3. The transcript will be available on the ACMUI's web site (*http://www.nrc.gov/reading-rm/doc-collections/acmui/tr/)* approximately 30 calendar days following the meeting, on March 8, 2012. A meeting summary will be available approximately 30 business days following the meeting, on March 21, 2012.

The meetings will be held in accordance with the Atomic Energy Act of 1954, as amended (primarily Section 161a); the Federal Advisory Committee Act (5 U.S.C. App); and the Commission's regulations in Title 10, U.S. Code of Federal Regulations, Part 7.

Dated: January 10, 2012.

Andrew L. Bates,

Advisory Committee Management Officer.

[FR Doc. 2012–551 Filed 1–12–12; 8:45 am]

BILLING CODE 7590–01–P

POSTAL REGULATORY COMMISSION

[Docket Nos. MC2012–6, CP2012–12 and CP2012–13; Order No. 1112]

New Postal Product

AGENCY: Postal Regulatory Commission.

ACTION: Notice.

SUMMARY: The Commission is noticing a recently-filed Postal Service request to add Global Plus 1C agreements to the competitive product list. This notice addresses procedural steps associated with the filing.

DATES: *Comments are due:* January 17, 2012.

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:

Introduction. The Postal Service has filed a request to add Global Plus 1C Contracts, consisting of two Global Plus 1C agreements, to the competitive product list.[1] The instant agreements are set to begin on January 22, 2012, at the expiration of customers' current customized (Global Plus 1B) agreements.[2] *Id.* at 4–5.

Product history. Prices and classifications for Global Plus Contracts 1 were added to the competitive product list in 2008; several groupings within this product, including Global Plus 1A and Global Plus 1B, were later added. *Id.* at 1–2. The Postal Service describes the instant contracts as the immediate successors to, and counterparts of, the instruments the Commission found eligible for inclusion in the Global Plus 1B product in previous dockets.[3] *Id.* at 4. It also says the contracts are on behalf of the same customers. *Id.*

Functional equivalence. The Postal Service addresses the functional equivalence of the two Global Plus 1C contracts, including a review of their similarities and differences. *Id.* at 5–6. It attributes any differences to the result of negotiations, and says they do not affect the Global Plus rate design or

[1] Request of the United States Postal Service to Add Global Plus 1C to the Competitive Products List and Notice of Filing Two Functionally Equivalent Global Plus 1C Contracts Negotiated Service Agreements and Application for Non-Public Treatment of Materials Filed Under Seal, December 30, 2011 (Notice). The Notice was filed pursuant to 39 U.S.C. 3642, 39 CFR 3020.30 *et seq.,* and Order No. 112; the agreements were filed pursuant to Commission rule 3015.5.

[2] For an explanation of the duration of the instant contracts, *see id.* at 5.

[3] *See* Docket Nos. CP2011–39 and CP2011–40.

market characteristics. *Id.* at 6. It also notes that Global Plus 1C is distinct from Global Plus 1B due to the addition of Global Express Guaranteed and Commercial ePacket. *Id.* at 7. This distinction is reflected in a minor classification change and in the financial models. *Id.*

Other supporting material. The Postal Service has filed the two Global Plus 1C contracts and certain other material under seal. Attachment 1 to the Notice is an application for non-public treatment of that material. Attachments 2 through 4 include redacted versions of two pertinent Governors' Decisions; revised Mail Classification Schedule language; certifications and a related statement required under Commission rules; and redacted versions of the contracts.

Postal Service representations. The Postal Service asserts that its filing establishes that the new Global Plus 1C contracts are in compliance with the requirements of 39 U.S.C. 3633; fit within the proposed MCS language for Global Plus Contracts based on the controlling Governors' Decisions; and are functionally equivalent to each other.[4] It therefore requests that Global Plus 1C be added to the competitive product list; that the contracts included in this filing be included within the Global Plus 1C product; and that these contracts be considered the baseline agreements for future functionally equivalency analyses for the Global Plus 1C product. *Id.* at 9.

Initial Commission action. The Commission establishes three related dockets, designated as Docket Nos. MC2012–6, CP2012–12, and CP2012–13, to consider matters raised in the Notice. The Commission strongly encourages those interested in the Postal Service's proposal to review the filing in its entirety. Public portions of the Postal Service's filing can be accessed via the Commission's Web site, *www.prc.gov.* Commission rule 3007.40 (39 CFR 3007.40) addresses procedures for obtaining access to non-public information. Interested persons may submit comments on whether addition of the new product is consistent with the policies of 39 U.S.C. 3632 or 3633 and 39 CFR part 3015. Comments are due no later than January 17, 2012.

The Commission appoints James F. Callow to serve as Public Representative in the captioned filings.

It is ordered:

1. The Commission establishes Docket Nos. MC2012–6, CP2012–12, and CP2012–13 to consider matters raised by the Postal Service's Notice.

2. Comments by interested persons in these proceedings are due no later than January 17, 2012.

3. Pursuant to 39 U.S.C. 505, James F. Callow is appointed to serve as the officer of the Commission (Public Representative) to represent the interests of the general public in these proceedings.

4. The Secretary shall arrange for publication of this order in the **Federal Register**.

By the Commission.

Shoshana M. Grove,

Secretary.

[FR Doc. 2012–539 Filed 1–12–12; 8:45 am]

BILLING CODE 7710–FW–P

[4] Governors' Decision No. 08–8 authorizes Global Plus 1 contracts. Governors' Decision No. 11–6 authorizes Postal Service management to prepare any necessary product description, including Mail Classification Schedule text, and to present such description to the Commission.

POSTAL REGULATORY COMMISSION

[Docket No. A2012–105; Order No. 1110]

Post Office Closing

AGENCY: Postal Regulatory Commission.

ACTION: Notice.

SUMMARY: This document informs the public that an appeal of the closing of the Hope, Minnesota 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: February 1, 2012, 4:30 p.m., Eastern Time: Deadline for Petitioner's Form 61; February 21, 2012, 4:30 p.m., Eastern Time: Deadline for answering brief in support of the Postal Service. *See* the Procedural Schedule in the **SUPPLEMENTARY INFORMATION** section for other dates of interest.

ADDRESSES: Submit comments electronically by accessing the ''Filing Online'' link in the banner at the top of the Commission's Web site (*http://www.prc.gov*) or by directly accessing the Commission's Filing Online system at *https://www.prc.gov/prc-pages/filing-online/login.aspx.* Commenters who cannot submit their views electronically should contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section as the source for case-related information for advice on alternatives to electronic filing.

FOR FURTHER INFORMATION CONTACT: Stephen L. Sharfman, General Counsel, at (202) 789–6820 (case-related information) or *DocketAdmins@prc.gov* (electronic filing assistance).

SUPPLEMENTARY INFORMATION: Notice is hereby given that, pursuant to 39 U.S.C. 404(d), the Commission received two petitions for review of the Postal Service's determination to close the Hope post office in Hope, Minnesota. The first petition for review received December 28, 2011, was filed by Ed Nelson. The second petition for review received December 28, 2011, was filed by Marcia Dahle. The earliest postmark date is December 16, 2011. The Commission hereby institutes a proceeding under 39 U.S.C. 404(d)(5) and establishes Docket No. A2012–105 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 February 1, 2012.

Notwithstanding the Postal Service's determination to close this post office, on December 15, 2011, the Postal Service advised the Commission that it ''will delay the closing or consolidation of any Post Office until May 15, 2012.'' [1] The Postal Service further indicated that it ''will proceed with the discontinuance process for any Post Office in which a Final Determination was already posted as of December 12, 2011, including all pending appeals.'' *Id.* It stated that the only ''Post Offices'' subject to closing prior to May 16, 2012, are those that were not in operation on, and for which a Final Determination was posted as of, December 12, 2011. It affirmed that it ''will not close or consolidate any other Post Office prior to May 16, 2012.'' *Id.* at 2. Lastly, the Postal Service requested the Commission ''to continue adjudicating appeals as provided in the 120-day decisional schedule for each proceeding.'' *Id.*

The Postal Service's Notice outlines the parameters of its newly announced discontinuance policy. Pursuant to the Postal Service's request, the Commission will fulfill its appellate responsibilities under 39 U.S.C. 404(d)(5).

Categories of issues apparently raised. Petitioners contend that the Postal Service failed to consider the effect of the closing on the community (*see* 39 U.S.C. 404(d)(2)(A)(i)).

After the Postal Service files the administrative record and the Commission reviews it, the Commission may find that there are more legal issues than those set forth above, or that the

[1] United States Postal Service Notice of Status of the Moratorium on Post Office Discontinuance Actions, December 15, 2011, (Notice).

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 January 12, 2012. *See* 39 CFR 3001.113. In addition, the due date for any responsive pleading by the Postal Service to this Notice is January 12, 2012.

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 January 31, 2012. 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 January 12, 2012.

2. Any responsive pleading by the Postal Service to this notice is due no later than January 12, 2012.

3. The procedural schedule listed below is hereby adopted.

4. Pursuant to 39 U.S.C. 505, Brent W. Peckham 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.

Shoshana M. Grove,

Secretary.

PROCEDURAL SCHEDULE

December 28, 2011	Filing of Appeal.
January 12, 2012	Deadline for the Postal Service to file the applicable administrative record in this appeal.
January 12, 2012	Deadline for the Postal Service to file any responsive pleading.
January 31, 2012	Deadline for notices to intervene (*see* 39 CFR 3001.111(b)).
February 1, 2012	Deadline for Petitioners' Form 61 or initial brief in support of petition (*see* 39 CFR 3001.115(a) and (b)).
February 21, 2012	Deadline for answering brief in support of the Postal Service (*see* 39 CFR 3001.115(c)).
March 7, 2012	Deadline for reply briefs in response to answering briefs (*see* 39 CFR 3001.115(d)).
March 14, 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).
April 13, 2012	Expiration of the Commission's 120-day decisional schedule (*see* 39 U.S.C. 404(d)(5)).

[FR Doc. 2012–506 Filed 1–12–12; 8:45 am]

BILLING CODE 7710–FW–P

SECURITIES AND EXCHANGE COMMISSION

Submission for OMB Review; Comment Request

Upon Written Request, Copies Available From: U.S. Securities and Exchange Commission, Office of Investor Education and Advocacy, Washington, DC 20549–0213.

Extension:

Rule 15c1–5, SEC File No. 270–422, OMB Control No. 3235–0471.

Notice is hereby given that pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*) the Securities and Exchange Commission (''Commission'') has submitted to the Office of Management and Budget (''OMB'') a request for approval of extension of the previously approved collection of information provided for in Rule 15c1–5 (17 CFR 240.15c1–5) under the Securities Exchange Act of 1934 (15 U.S.C. 78a *et seq.*).

Rule 15c1–5 states that any broker-dealer controlled by, controlling, or under common control with the issuer of a security that the broker-dealer is trying to sell to or buy from a customer must give the customer written notification disclosing the control relationship at or before completion of the transaction. The Commission estimates that 241 respondents collect information annually under Rule 15c1–5 and that each respondent would spend approximately 10 hours per year collecting this information (2,410 hours in aggregate). There is no retention period requirement under Rule 15c1–5. This Rule does not involve the collection of confidential information.

The Commission may not conduct or sponsor a collection of information unless it displays a currently valid control number. No person shall be subject to any penalty for failing to comply with a collection of information

subject to the PRA that does display a valid Office of Management (OMB) control number.

Background documentation for this information collection may be viewed at the following Web site, *www.reginfo.gov.* Comments should be directed to: (i) Desk Officer for the Securities and Exchange Commission, Office of Information and Regulatory Affairs, Office of Management and Budget, Room 10102, New Executive Office Building, Washington, DC 20503 or by sending an email to: *Shagufta_Ahmed@omb.eop.gov;* and (ii) Thomas Bayer, Director/Chief Information Officer, Securities and Exchange Commission, c/o Remi Pavlik-Simon, 6432 General Green Way, Alexandria, VA 22312 or send an email to *PRA_Mailbox@sec.gov.* Comments must be submitted within 30 days of this notice.

Dated: January 9, 2012.

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2012–532 Filed 1–12–12; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

Submission for OMB Review; Comment Request

Upon Written Request, Copies Available from: U.S. Securities and Exchange Commission, Office of Investor Education and Advocacy, Washington, DC 20549–0213.

Extension:

Rule 12f–3, OMB Control No. 3235–0249, SEC File No. 270–141.

Notice is hereby given that, pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), the Securities and Exchange Commission (''Commission'') has submitted to the Office of Management and Budget requests for extension of the previously approved collection of information provided for in the following rule: Rule 12f–3 (17 CFR 240.12f–3).

Rule 12f–3 (the ''Rule''), which was originally adopted in 1934 pursuant to Sections 12(f) and 23(a) of the Securities Exchange Act of 1934 (15 U.S.C. 78a *et seq.*) (''Act''), as modified in 1995, prescribes the information which must be included in applications for and notices of termination or suspension of unlisted trading privileges for a security as contemplated in Section 12(f)(4) of the Act. An application must provide, among other things, the name of the applicant; a brief statement of the applicant's interest in the question of termination or suspension of such unlisted trading privileges; the title of the security; the name of the issuer; certain information regarding the size of the class of security and its recent trading history; and a statement indicating that the applicant has provided a copy of such application to the exchange from which the suspension or termination of unlisted trading privileges are sought, and to any other exchange on which the security is listed or admitted to unlisted trading privileges.

The information required to be included in applications submitted pursuant to Rule 12f–3, is intended to provide the Commission with sufficient information to make the necessary findings under the Act to terminate or suspend by order the unlisted trading privileges granted a security on a national securities exchange. Without the Rule, the Commission would be unable to fulfill these statutory responsibilities.

The burden of complying with Rule 12f–3 arises when a potential respondent, having a demonstrable bona fide interest in the question of termination or suspension of the unlisted trading privileges of a security, determines to seek such termination or suspension. The staff estimates that each such application to terminate or suspend unlisted trading privileges requires approximately one hour to complete. Thus each potential respondent would incur on average one burden hour in complying with the Rule. The Commission staff estimates that there could be as many as 15 responses annually. Compliance with the application requirements of Rule 12f–3 is mandatory, though the filing of such applications is undertaken voluntarily. Rule 12f–3 does not have a record retention requirement *per se.* However, responses made pursuant to Rule 12f–3 are subject to the recordkeeping requirements of Rules 17a–3 and 17a–4 of the Act. Information received in response to Rule 12f–3 shall not be kept confidential; the information collected is public information.

The Commission may not conduct or sponsor a collection of information unless it displays a currently valid control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the PRA that does not display a valid Office of Management and Budget (OMB) control number. The public may view the background documentation for this information collection at the following Web site, *www.reginfo.gov.*

Comments should be directed to: (i) Desk Officer for the Securities and Exchange Commission, Office of Information and Regulatory Affairs, Office of Management and Budget, Room 10102, New Executive Office Building, Washington, DC 20503, or by sending an email to: *Shagufta_Ahmed@omb.eop.gov;* and (ii) Thomas Bayer, Director/Chief Information Officer, Securities and Exchange Commission, c/o Remi Pavlik-Simon, 6432 General Green Way, Alexandria, VA 22312 or send an email to: *PRA_Mailbox@sec.gov.* Comments must be submitted to OMB within 30 days of this notice.

Dated: January 9, 2012.

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2012–531 Filed 1–12–12; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

Submission for OMB Review; Comment Request

Upon Written Request, Copies Available from: U.S. Securities and Exchange Commission, Office of Investor Education and Advocacy, Washington, DC 20549–0213.

Extension:

Rule 12f–1, OMB Control No. 3235–0128, SEC File No. 270–139.

Notice is hereby given that, pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), the Securities and Exchange Commission (''Commission'') has submitted to the Office of Management and Budget requests for extension of the previously approved collection of information provided for in the following rule: Rule 12f–1 (17 CFR 240.12f–1).

Rule 12f–1 (the ''Rule''), originally adopted in 1934 pursuant to Sections 12(f) and 23(a) of the Securities Exchange Act of 1934 (15 U.S.C. 78a *et seq.*) (''Act''), as modified in 1995 and 2005, sets forth the information which an exchange must include in an application to reinstate its ability to extend unlisted trading privileges to any security for which such unlisted trading privileges have been suspended by the Commission, pursuant to Section 12(f)(2)(A) of the Act. An application must provide the name of the issuer, the title of the security, the name of each national securities exchange, if any, on which the security is listed or admitted to unlisted trading privileges, whether transaction information concerning the security is reported pursuant to an effective transaction reporting plan contemplated by Rule 601 of Regulation

NMS, the date of the Commission's suspension of unlisted trading privileges in the security on the exchange, and any other pertinent information. Rule 12f–1 further requires a national securities exchange seeking to reinstate its ability to extend unlisted trading privileges to a security to indicate that it has provided a copy of such application to the issuer of the security, as well as to any other national securities exchange on which the security is listed or admitted to unlisted trading privileges.

The information required by Rule 12f–1 enables the Commission to make the necessary findings under the Act prior to granting applications to reinstate unlisted trading privileges. This information is also made available to members of the public who may wish to comment upon the applications. Without the Rule, the Commission would be unable to fulfill these statutory responsibilities.

There are currently 15 national securities exchanges subject to Rule 12f–1. The burden of complying with Rule 12f–1 arises when a potential respondent seeks to reinstate its ability to extend unlisted trading privileges to any security for which unlisted trading privileges have been suspended by the Commission, pursuant to Section 12(f)(2)(A) of the Act. The staff estimates that each application would require approximately one hour to complete. Thus each potential respondent would incur on average one burden hour in complying with the Rule.

The Commission staff estimates that there could be as many as 15 responses annually and that each respondent's related cost of compliance with Rule 12f–1 would be $168.00, or, the cost of one hour of professional work of a paralegal needed to complete the application. The total annual related reporting cost for all potential respondents, therefore, is $2,520 (15 responses × $168.00 per response).

Compliance with Rule 12f–1 is mandatory. Rule 12f–1 does not have a record retention requirement *per se.* However, responses made pursuant to Rule 12f–1 are subject to the recordkeeping requirements of Rules 17a–3 and 17a–4 of the Act. Information received in response to Rule 12f–1 shall not be kept confidential; the information collected is public information.

The Commission may not conduct or sponsor a collection of information unless it displays a currently valid control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the PRA that does not display a valid Office of Management and Budget (OMB) control number. The public may view the background documentation for this information collection at the following Web site, *www.reginfo.gov*.

Comments should be directed to: (i) Desk Officer for the Securities and Exchange Commission, Office of Information and Regulatory Affairs, Office of Management and Budget, Room 10102, New Executive Office Building, Washington, DC 20503, or by sending an email to: *Shagufta_Ahmed@omb.eop.gov;* and (ii) Thomas Bayer, Director/Chief Information Officer, Securities and Exchange Commission, c/o Remi Pavlik-Simon, 6432 General Green Way, Alexandria, VA 22312 or send an email to: *PRA_Mailbox@sec.gov.* Comments must be submitted to OMB within 30 days of this notice.

Dated: January 9, 2012.

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2012–530 Filed 1–12–12; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release Nos. 33–9293; 34–66123, File No. 265–27]

Advisory Committee on Small and Emerging Companies

AGENCY: Securities and Exchange Commission.

ACTION: Notice of Meeting of SEC Advisory Committee on Small and Emerging Companies.

SUMMARY: The Securities and Exchange Commission Advisory Committee on Small and Emerging Companies is providing notice that it will hold a public meeting on Wednesday, February 1, 2012, in Multi-Purpose Room LL–006 at the Commission's headquarters, 100 F Street NE., Washington, DC. The meeting will begin at 10 a.m. (EST) and will be open to the public. The meeting will be webcast on the Commission's Web site at *www.sec.gov*. Persons needing special accommodations to take part because of a disability should notify the contact person listed below. The public is invited to submit written statements to the Committee.

The agenda for the meeting includes consideration of recommendations and other matters relating to rules and regulations affecting small and emerging companies under the federal securities laws.

DATES: Written statements should be received on or before January 27, 2012.

ADDRESSES: Written statements may be submitted by any of the following methods:

Electronic Statements

- Use the Commission's Internet submission form (*http://www.sec.gov/info/smallbus/acsec.shtml*);

or

- Send an email message to *rule-comments@sec.gov*. Please include File Number 265–27 on the subject line; or

Paper Statements

- Send paper statements in triplicate to Elizabeth M. Murphy, Federal Advisory Committee Management Officer, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File No. 265–27. This file number should be included on the subject line if email is used. To help us process and review your statement more efficiently, please use only one method. The Commission will post all statements on the Advisory Committee's Web site (*http://www.sec.gov./info/smallbus/acsec.shtml*).

Statements also will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Room 1580, Washington, DC 20549, on official business days between the hours of 10 a.m. and 3 p.m. All statements received will be posted without change; we do not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly.

FOR FURTHER INFORMATION CONTACT: Johanna V. Losert, Special Counsel, at (202) 551–3460, Office of Small Business Policy, Division of Corporation Finance, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–3628.

SUPPLEMENTARY INFORMATION: In accordance with Section 10(a) of the Federal Advisory Committee Act, 5 U.S.C.–App. 1, § 10(a), and the regulations thereunder, Meredith B. Cross, Designated Federal Officer of the Committee, has ordered publication of this notice.

Dated: January 10, 2012.

Elizabeth M. Murphy

Committee Management Officer.

[FR Doc. 2012–552 Filed 1–12–12; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–66124; File No. SR–FICC–2008–01]

Self-Regulatory Organizations; Fixed Income Clearing Corporation; Notice of Designation of Longer Period for Commission Action on Proposed Rule Change To Allow the Mortgage-Backed Securities Division To Provide Guaranteed Settlement and Central Counterparty Services

January 10, 2012.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'')[1] and Rule 19b–4 thereunder[2] on March 12, 2008, the Fixed Income Clearing Corporation (''FICC'') filed with the Securities and Exchange Commission (''Commission''), and on November 21, 2011, amended a proposed rule change to allow the Mortgage-Backed Securities Division (''MBSD'') to provide guaranteed settlement and central counterparty services. The proposed rule change was published for comment in the **Federal Register** on December 12, 2011.[3] The Commission received one comment letter on the proposal.[4]

Prior to amendments introduced by the Dodd-Frank Wall Street Reform and Consumer Protection Act (''Dodd-Frank Act''), Section 19(b)(2) of the Act[5] provided that, within thirty-five days of the publication of notice of the filing of a proposed rule change, or within such longer period 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, the Commission shall either approve the proposed rule change or institute proceedings to determine whether the proposed rule change should be disapproved.[6] The thirty-fifth day after publication of notice of this filing is Monday, January 16, 2012, a national holiday. The last business day preceding that date is Friday, January 13, 2012.

The proposed rule change would modify the rules of FICC's MBSD to allow MBSD to provide guaranteed settlement and central counterparty (''CCP'') services to the mortgage-backed securities market. As FICC notes in the proposed rule change, the conversion of the MBSD to a CCP would increase the amount of risk to FICC because FICC would assume risk currently borne by bilateral counterparties in the market. The Commission finds it appropriate to designate a longer period within which to take action on the proposed rule change so that it has sufficient time to consider the risk management implications of the proposed rule change in light of, among other things, initiatives FICC proposed to develop under the proposed rule change and any other initiatives FICC may develop during the extended period.

Accordingly, pursuant to Section 19(b)(2) of the Act,[7] the Commission designates March 9, 2012, as the date by which the Commission should either approve or institute proceedings to determine whether to disapprove the proposed rule change.

For the Commission by the Division of Trading and Markets, pursuant to delegated authority.[8]

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2012–587 Filed 1–12–12; 8:45 am]

BILLING CODE 8011–01–P

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] Securities Exchange Act Release No. 65899 (Dec. 6, 2011), 76 FR 77287 (Dec. 12, 2011) (''Notice'') and Securities Exchange Act Release No. 65899A (Dec. 12, 2011), 76 FR 77865 (Dec. 14, 2011) (correcting a non-substantive portion of the Notice).

[4] *See* Letter from Christopher Killian, Managing Director, Securities Industry and Financial Markets Association, to Elizabeth M. Murphy, Secretary, Commission, dated December 19, 2011.

[5] 15 U.S.C. 78s(b)(2) (2010), amended by Section 916 of Pub. L. 111–203, 124 Stat. 1376 (2010).

[6] Because the original rule proposal was received by the Commission prior to the Dodd-Frank Act amendments to Section 19(b)(2) of the Act, the operative timing and procedural requirements for Commission action are those that applied at the time the Commission received the original rule proposal.

[7] 15 U.S.C. 78s(b)(2) (2010), amended by Section 916 of Pub. L. 111–203, 124 Stat. 1376 (2010).

[8] 17 CFR 200.30–3(a)(31).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–66118; File No. SR–CHX–2011–33]

Self-Regulatory Organizations; Chicago Stock Exchange, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Add a Rule Regarding the Brokerplex Order Entry, Recordation, and Management System

January 9, 2012.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'')[1] and Rule 19b–4 thereunder,[2] notice is hereby given that, on December 28, 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)(6) 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 add Article 17, Rule 5 (Brokerplex) to include an explicit description of the Exchange's Brokerplex order entry, recordation, and management system. The text of this proposed rule change is available on the Exchange's Web site at (*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 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

The Exchange is proposing to add new Rule 5 to Article 17 (Institutional Brokers) to set forth the terms governing the operation of the Brokerplex® system. Brokerplex is an Exchange-owned order and trade entry, recordation and management system developed and operated by the CHX for use by Participant Firms registered with the Exchange as Institutional Brokers under Article 17 (''Institutional Brokers''). The Exchange provides the Brokerplex trading system for use by Institutional Broker Representatives (''IBRs''), as defined in Rule 1 of this Article and the Interpretations and Policies thereto, who are affiliated with Institutional Brokers. Brokerplex can be used by IBRs to receive, transmit and hold orders from their clients while seeking execution within the CHX

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 15 U.S.C. 78s(b)(3)(A).

[4] 17 CFR 240.19b–4(f)(6).

Matching System or elsewhere in the National Market System.[5] Brokerplex can be used to record trade executions and send transaction reports to a Trade Reporting Facility (''TRF''), as defined in FINRA Rules 6300 *et seq.,* as amended from time-to-time. Brokerplex can also be used by IBRs to initiate clearing submissions to a Qualified Clearing Agency via the Exchange's reporting systems. Reports of orders, executions and clearing submissions received, handled or submitted via Brokerplex are kept by the system. The Brokerplex system has been generally described in rule filings made by the CHX with the Commission, but the Exchange's rules do not contain a comprehensive description of the system.[6] In order to remove any potential ambiguity about the nature of the Exchange's technology offerings, we are now proposing to add language to our rules which fully describes the basic functionality of the Brokerplex system.

Proposed new Rule 5 provides that IBR users of the Brokerplex system are responsible for entering all transactional, order and other information into the system as required by CHX rules and in an accurate, timely and complete manner. As the operator of the Brokerplex system, the CHX retains such information on behalf of the Institutional Broker users in conformity with applicable rules and regulations. The Exchange provides such information to Institutional Brokers in a format designated by the Exchange to assist Institutional Brokers in processing orders and transactions, responding to requests for information from customers and regulatory bodies and for other legitimate business purposes. The Exchange charges the Institutional Brokers the fees specified in its published Schedule of Fees and Assessments for the retrieval of information.[7]

Brokerplex accepts and handles all of the order types, conditions and instructions accepted by the Matching System as specified in Article 20, Rule 4.[8] Orders may be entered into Brokerplex manually by an IBR or submitted by an Exchange-approved electronic connection. In addition to the order types accepted by the Matching System, Brokerplex permits the entry and processing of certain additional order types, conditions and instructions accepted by other market centers. Finally, Brokerplex accepts and processes certain specified orders types, conditions and instructions, specifically—Quote@CHX and Reprice@CHX.[9]

Quote@CHX. The Quote@CHX order type allows the Institutional Broker to submit an order to be priced within Brokerplex at a defined limit price which is one minimum price increment (normally 1 cent for most securities) from the relevant side of the NBBO. For buy orders, the relevant side of the NBBO is the offer; for sell orders it is the bid. An IBR handling a customer limit order must enter the limit price into Brokerplex as part of submitting a Quote@CHX order. In pricing the Quote@CHX, Brokerplex will reject any entries if the systematically-generated price would be outside the customer's specified limit price. The Quote@CHX order may not be transmitted to destinations other than the CHX Matching System. The Matching System itself will not be eligible to receive this order type; rather, it will receive a standard limit order at a price generated by Brokerplex.

Reprice@CHX. The Reprice@CHX order type allows a Brokerplex user to cancel an existing limit order residing in the Matching System and replace it with an order generated in the same manner as a Quote@CHX order type. An IBR handling a customer limit order must enter the limit price into Brokerplex as part of submitting a Reprice@CHX order. In pricing the Reprice@CHX orders, Brokerplex will reject any entries if the systematically-generated price would be outside the customer's specified limit price. The Reprice@CHX order type may not be transmitted to destinations other than the CHX Matching System. The Matching System itself will not be eligible to receive this order type; rather, it will receive a standard limit order at a price generated by Brokerplex.

As permitted by CHX rules, an IBR may make post-trade entries in Brokerplex to transfer positions from one Clearing Participant to one or more other Clearing Participants or from its own account to the account of a Clearing Participant.[10]

Brokerplex also provides for the transmission of orders to the Exchange's Matching System, another trading center which is connected to Brokerplex, or a systems provider which can perform routing services. As directed by the user, Brokerplex will either send orders that are eligible for submission to the Matching System under Article 20, Rule 4 first to the Matching System to execute or display and then, if they cannot be executed or displayed in the Matching System, to another destination according to the Institutional Broker's instructions, or to another trading center designated by the user. Orders which are not eligible for submission to the Matching System will be directly sent to another destination in accordance with the IBR's instructions.

Any order entered into Brokerplex and sent through Brokerplex to another exchange or trading center via the provisions of this rule and which results in an execution shall be binding on the Participant on whose behalf such order was entered, including any access, transaction or other fee imposed by that trading center. The Institutional Broker will be responsible for ensuring that it has a relationship with its chosen destinations to permit the requested access. The Exchange shall not have responsibility for the handling of the order by the other destination, but will report any execution or cancellation of the order reported by the other destination to Brokerplex, and will notify the other venue of any cancellations or changes to the order submitted by the IBR into Brokerplex.

An IBR may use Brokerplex to record the execution of a trade in the Over-the-Counter (''OTC'') marketplace using Brokerplex.[11] As directed by the IBR, Brokerplex will transmit an execution report to a Trade Reporting Facility designated by the Institutional Broker, either directly or through a service provider designated by the Institutional Broker.

The Exchange makes clearing submissions for trades entered and/or recorded in Brokerplex as directed by an IBR to a Qualified Clearing Agency pursuant to the provisions of Article 21, Rules 1 (Trade Recording with a Qualified Clearing Agency) and 6 (Submission of Clearing Information for Transactions Executed Off-Exchange), for CHX and non-CHX trade executions, respectively. These submissions can be made for trades executed by either an Institutional Broker or a third-party

[5] The Exchange is amending Article 17, Rule 3(b) to make explicit that use of Brokerplex satisfies the requirement that each Institutional Broker handle orders within an integrated system acceptable to the Exchange.

[6] *See infra* note 12.

[7] Pursuant to Section L.2. of the Exchange's Schedule of Fees and Assessments, trade and order data is rebilled to the Participant at cost.

[8] Additionally, Institutional Brokers may use the services of a layoff vendor, *i.e.,* a broker-dealer or routing services provider to transmit orders to other trading centers. Those layoff vendors may offer additional orders types beyond those in Brokerplex and which are not part of this rule filing. Brokerplex can be used by the Institutional Broker to record the terms of those orders and any resulting executions.

[9] The existing provisions in our rules regarding the Quote@CHX and Reprice@CHX order types are being moved from Interpretation and Policy .03 of Rule 3 of Article 17 to new Rule 5. Current Interpretation and Policy .04 is being renumbered as Interpretation and Policy .03, and certain minor clarifying changes within are being proposed as well.

[10] *See* Article 21, Rule 6 (Submission of Clearing Information for Transactions Executed Off-Exchange).

[11] The Institutional Broker would retain the responsibility for compliance with all applicable rules of FINRA or other self-regulatory organization with jurisdiction over that activity.

broker dealer which in turn instructs an Institutional Broker to make the submission to clearing, including any substitution of Clearing Participants and allocation of the trade.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Act in general, and furthers the objectives of Section 6(b)(1) of the Act in particular, in that it allows the Exchange to be organized and have the capacity to be able to carry out the purposes of the Act and to comply, and (subject to any rule or order of the Commission pursuant to section 17(d) or 19(g)(2) of the Act) to enforce compliance by its members and persons associated with such members, with the provisions of the Act, the rules and regulations thereunder, and the rules of the exchange. The Brokerplex system has been generally described in rule filings made by the CHX with the Commission, but the Exchange's rules do not contain a comprehensive description of the system.[12] In order to remove any potential ambiguity about the nature of the Exchange's technology offerings, we are now proposing to add language to our rules which fully describes the basic functionality of the Brokerplex system.

In addition, the Exchange believes that the proposed rule change is consistent with Section 6(b) of the Act in general,[13] and furthers the objectives of Section 6(b)(5) in particular,[14] in that it is designed to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in facilitating transaction in securities, to remove impediments and perfect the mechanisms of a free and open market, and, in general, to protect investors and the public interest by setting forth the rules and principles governing the use of Brokerplex by Institutional Brokers. Brokerplex is the principal system used by the Exchange's Institutional Brokers to handle orders placed by their customers. Brokerplex has been designed specifically for use by IBRs and it represents a customized solution for those firms. The adoption of rules governing the use of Brokerplex will help facilitate the ability of Institutional Brokers and their IBRs to meet their customers' needs. The proposed changes to Article 17, Rule 3 conform those rules to the proposed new Rule 5 of Article 17 by transferring certain order types currently described in Rule 3 and consolidating them with others more fully set out in new Rule 5. The additional language in Rule 3(b) clarifies that use of the Brokerplex system satisfies the requirement that Institutional Brokers utilize an acceptable, integrated order management system. Proposed Rule 5(a) provides a basic description of the Brokerplex system and the uses of that system. Proposed Rule 5(b) specifies the record retention requirements regarding the use of Brokerplex, which provides certainty to Participants on that issue. Proposed Rule 5(c) sets forth the order types accepted and processed by Brokerplex, including those order types accepted by the Exchange's Matching System pursuant to Article 20, Rule 4, as well as additional order types which can be sent to other trading centers for execution. The specification of these order types helps Institutional Brokers and Participants who may wish to have their orders handled by Institutional Brokers understand the conditions and obligations associated with each particular order type which can by employed by Institutional Brokers and IBRs using Brokerplex. Proposed Rule 5(d) describes the trade allocation process within Brokerplex which allows IBRs to make post-trade substitution of Clearing Participants pursuant to the provisions of CHX rules. The facilitation of trade allocation should assist Institutional Brokers in the handling of customer orders, in particular the execution and post-trade processing of the equities component of complex derivatives transactions. Proposed Rule 5(e) permits Institutional Brokers to send orders to other trading centers and destinations. By facilitating the transmission of such orders when they cannot be executed or displayed on the Exchange, the proposed rule assists customers seeking execution of their orders in a prompt and fair manner. Proposed Rule 5(f) permits Institutional Brokers to use Brokerplex to execute trades in the OTC marketplace, provided that all FINRA requirements are satisfied. Allowing Institutional Brokers to use Brokerplex to execute trades in the OTC marketplace should give them additional flexibility and options in handling their customer's orders. Brokerplex can also be used to submit trade reports for OTC transactions. Finally, the proposal provides that transactions reflected in Brokerplex be submitted to a Qualified Clearing Agency pursuant to Exchange rules, which should help ensure the reliable and prompt clearance and settlement of such transactions.

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. The Exchange believes that its provision of an order management system for certain of its Participants acts as a competitive force, since there are a number of other private systems providers for order routing and execution systems. Additionally, use of an Exchange-provided system is a benefit for smaller firms, since they may lack the resources to develop or lease a system specifically tailored for their needs as CHX-registered Institutional Brokers.

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

Pursuant to Section 19(b)(3)(A) of the Act[15] and Rule 19b–4(f)(6) thereunder,[16] CHX has designated this proposal as one that effects a change that (A) Does not significantly affect the protection of investors or the public interest; (B) does not impose any significant burden on competition; and (C) will not become operative for 30 days after the date of the filing, or such shorter time as the Commission may designate if consistent with the protection of investors and the public interest. CHX has provided the Commission written notice of its intent to file the proposed rule change, along with a brief description and text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change.

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if

[12] *See* Exchange Act Release No. 53772 (May 8, 2006), 71 FR 27758 (May 12, 2006) (SR–CHX–2004–38). This proposal amended the Exchanges rules regarding the required reporting of orders and executions by CHX Participants. Footnote 6 contains a basic description of the Brokerplex systems used at that time by CHX floor brokers to ''manage their orders, route orders to the Exchange's co-specialists for execution and report executed trades.''; Exchange Act Release No. 60620 (Sept. 3, 2009), 74 FR 46814 (Sept. 11, 2009) (SR–CHX–2009–10). This proposal added the ''Quote@CHX'' and ''Reprice@CHX'' order types as orders which could be entered into the Brokerplex system by Institutional Brokers in handling and seeking execution of their customer's orders.

[13] 15 U.S.C. 78f(b).

[14] 15 U.S.C. 78f(b)(5).

[15] 15 U.S.C. 78s(b)(3)(A).

[16] 17 CFR 240.19b–4(f)(6).

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 Exchange 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–2011–33 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–2011–33. 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–2011–33 and should be submitted on or before February 3, 2012.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[17]

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2012–533 Filed 1–12–12; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–66121; File No. SR–NASDAQ–2012–001]

Self-Regulatory Organizations; NASDAQ Stock Market LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Relating to Routing Fees

January 9, 2012.

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 January 3, 2012, The NASDAQ Stock Market LLC (''NASDAQ'' 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 NASDAQ. 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 NASDAQ Stock Market LLC proposes to modify Rule 7050, governing pricing for NASDAQ members using the NASDAQ Options Market (''NOM''), NASDAQ's facility for executing and routing standardized equity and index options.

The text of the proposed rule change is set forth below. Proposed new text is italicized and deleted text is in brackets.

* * * * *

7050. NASDAQ Options Market

The following charges shall apply to the use of the order execution and routing services of the NASDAQ Options Market for all securities.

* * * * *

(4) Fees for routing contracts to markets other than the NASDAQ Options Market shall be assessed as provided below. The current fees and a historical record of applicable fees shall be posted on the *NasdaqTrader.com* Web site.

Exchange	Customer	Firm	MM	Professional
BATS	$0.[36]*50*	$0.55	$0.55	$0.[48]*50*
BOX	0.06	0.55	0.55	0.06
CBOE	0.06	0.55	0.55	0.26
CBOE orders greater than 99 contracts in NDX, MNX ETFs, ETNs & HOLDRs	0.24	0.55	0.55	0.26
C2	0.50	0.55	0.55	0.51
ISE	0.06	0.55	0.55	0.24
ISE Select Symbols*	0.18	0.55	0.55	0.34
NYSE Arca Penny Pilot	0.50	0.55	0.55	0.50
NYSE Arca Non Penny Pilot	0.06	0.55	0.55	0.06
NYSE AMEX	0.06	0.55	0.55	0.26
PHLX (for all options other than PHLX Select Symbols)	0.06	0.55	0.55	0.26
PHLX Select Symbols**	0.30	0.55	0.55	0.46

* These fees are applicable to orders routed to ISE that are subject to Rebates and Fees for Adding and Removing Liquidity in Select Symbols. See ISE's Schedule of Fees for the complete list of symbols that are subject to these fees.

** These fees are applicable to orders routed to PHLX that are subject to Rebates and Fees for Adding and Removing Liquidity in Select Symbols. See PHLX's Fee Schedule for the complete list of symbols that are subject to these fees.

[17] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

* * * * *

The text of the proposed rule change is available on the Exchange's Web site at *http://www.nasdaq.cchwallstreet.com*, at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

NASDAQ proposes to modify Rule 7050 governing fees assessed for option orders entered into NOM but routed to and executed on away markets (''Routing Fees''). Specifically, NASDAQ is proposing to amend its Customer and Professional Routing Fees for orders routed to the BATS Exchange, Inc. (''BATS'').

The Exchange currently assesses the following Routing Fees to route orders to BATS: a Customer is assessed $0.36 per contract; a Firm is assessed $0.55 per contract; a Market Maker is assessed $0.55 per contract; and a Professional is assessed $0.48 per contract. The Exchange proposes to amend the Customer and Professional Routing Fees to BATS to $0.50 per contract. The other BATS Routing Fees for Firms and Market Makers would remain the same. Recently, BATS announced that it would amend its customer and professional fees to remove liquidity to $0.44 per contract on January 3, 2012.[3] The Exchange is proposing to amend its Customer and Professional Routing Fees to BATS to $0.50 per contract to recoup this fee.

In addition, NASDAQ Options Services LLC (''NOS''), a member of the Exchange, is the Exchange's exclusive order router. Each time NOS routes to away markets NOS is charged a $0.06 clearing fee and, in the case of certain exchanges, a transaction fee is also charged in certain symbols, which are passed through to the Exchange. The Exchange is proposing this amendment in order to recoup clearing and transaction charges incurred by the Exchange when Customer and Professional orders are routed to BATS. The Exchange proposes to recoup the $0.44 per contract customer and professional taker fee for option orders that are routed to BATS along with the $0.06 clearing fee which is incurred by the Exchange, as explained herein.

As with all fees, the Exchange may adjust these Routing Fees in response to competitive conditions by filing a new proposed rule change.

2. Statutory Basis

NASDAQ believes that the proposed rule changes are consistent with the provisions of Section 6 of the Act,[4] in general, and with Section 6(b)(4) of the Act,[5] in particular, in that it provides for the equitable allocation of reasonable dues, fees and other charges among members and issuers and other persons using any facility or system which NASDAQ operates or controls.

The Exchange believes that this fee is reasonable because it seeks to recoup costs that are incurred by the Exchange when routing Customer and Professional orders to BATS on behalf of its members. Each destination market's transaction charge varies and there is a standard clearing charge for each transaction incurred by the Exchange. The Exchange believes that the proposed Routing Fee would enable the Exchange to recover the customer and professional taker fees assessed by BATS, plus clearing fees for the execution of Customer and Professional orders. The Exchange also believes that the proposed Routing Fee is equitable and not unfairly discriminatory because it would be uniformly applied to all Customers and Professionals.

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.

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.[6] At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml);* or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–NASDAQ–2012–001 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–NASDAQ–2012–001. 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

[3] *See* BATS (BZX) Exchange Fee Schedule. *See also* BATS Options Exchange Pricing Update Effective January 3, 2012 (dated December 15, 2011).

[4] 15 U.S.C. 78f.

[5] 15 U.S.C. 78f(b)(4).

[6] 15 U.S.C. 78s(b)(3)(A)(ii).

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–NASDAQ–2012–001 and should be submitted on or before February 3, 2012.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[7]

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2012–529 Filed 1–12–12; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–66120; File No. SR–BATS–2011–053]

Self-Regulatory Organizations; BATS Exchange, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Related to Fees for Use of BATS Exchange, Inc.

January 9, 2012.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on December 30, 2011, BATS Exchange, Inc. (the ''Exchange'' or ''BATS'') 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 Exchange has designated the proposed rule change as one establishing or changing a member due, fee, or other charge imposed by the Exchange under Section 19(b)(3)(A)(ii) of the Act[3] and Rule 19b–4(f)(2) thereunder,[4] which renders the proposed rule change effective upon filing with the Commission. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes [sic] amend the fee schedule applicable to Members[5] and non-members of the Exchange pursuant to BATS Rules 15.1(a) and (c). While changes to the fee schedule pursuant to this proposal will be effective upon filing, the changes will become operative on January 3, 2012.

The text of the proposed rule change is available at the Exchange's Web site at *http://www.batstrading.com,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to modify the ''Options Pricing'' section of its fee schedule to: (i) Adopt the ''Grow with Us'' pricing program, which will provide Members with some of the benefits of the Exchange's tiered pricing structure to the extent such Members are increasing their activity on the Exchange's options platform (''BATS Options'') month over month; (ii) modify the fees charged by the Exchange to remove liquidity from BATS Options; (iii) modify the rebates provided by the Exchange for Customer[6] orders that add liquidity to BATS Options; (iv) modify the NBBO Setter Program, which is a program intended to incentivize aggressive quoting on BATS Options; (v) modify the Quoting Incentive Program, which is a program intended to incentivize sustained, aggressive quoting on BATS Options; and (vi) adopt fees for logical ports used to access BATS Options for order entry and receipt of market data. The Exchange also proposes minor grammatical changes to conform various sections of the Exchange's Options Pricing section.

(i) Grow With Us Pricing Program

The Exchange currently has volume tiers in place that provide Members that satisfy certain volume thresholds with additional rebates on executions for which they have added liquidity to the BATS Options order book and reduced fees for executions that remove liquidity from the BATS Options order book. Further, as described below, the Exchange is proposing to add certain additional tiers to its fee schedule. The Exchange's tiered pricing structure includes and will continue to include a lower tier applicable to Members with an average daily volume (''ADV'')[7] equal to or greater than 0.30% of average total consolidated volume (''TCV'')[8] and a second tier applicable to Members with an ADV equal to or greater than 1% of average TCV. Pursuant to the ''Grow with Us'' pricing program, the Exchange proposes to provide a Member with one-half of the economic benefit such Member would achieve if such Member were in the next highest volume tier to the extent such Member shows a minimum of 5 basis points TCV improvement over the Member's previous highest monthly TCV on BATS Options, or ''High Water Mark.'' The Exchange proposes to define High Water Mark as the greater of a Member's fourth quarter 2011 TCV or a Member's best monthly TCV on BATS Options thereafter. For example, assume that for the fourth quarter of 2011, a Member has an ADV of 0.10% of average TCV. Such Member would not qualify for volume tier pricing applicable to Members with an ADV of 0.30% of average TCV. However, if, in January of 2012, such Member achieves an average TCV of 0.15% on BATS Options, such Member will receive one-half of the economic benefit such

[7] 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)(ii).

[4] 17 CFR 240.19b–4(f)(2).

[5] A Member is any registered broker or dealer that has been admitted to membership in the Exchange.

[6] As defined on the Exchange's fee schedule, a ''Customer'' order is any transaction identified by a Member for clearing in the Customer range at the Options Clearing Corporation (''OCC'').

[7] As defined on the Exchange's fee schedule, ADV is average daily volume calculated as the number of contracts added or removed, combined, per day on a monthly basis. The fee schedule also provides that routed contracts are not included in ADV calculation.

[8] As defined on the Exchange's fee schedule, TCV is total consolidated volume calculated as the volume reported by all exchanges to the consolidated transaction reporting plan for the month for which the fees apply.

Member would receive if the Member had reached the 0.30% TCV volume tier and the Member's new High Water Mark will now be 0.15%. The applicability of the Grow with Us pricing program is explained in further detail below.

(ii) Fees to Remove Liquidity

The Exchange currently charges $0.42 per contract for Professional,[9] Firm and Market Maker [10] orders that remove liquidity from the BATS Options order book. The Exchange proposes to raise the fee to $0.44 per contract for Professional, Firm and Market Maker orders that remove liquidity from the BATS Options order book.

With respect to Customer orders, the Exchange currently charges standard fees of $0.30 per contract for Customer orders that remove liquidity from BATS Options, subject to potential reduction for any Member with an ADV of 0.30% or more of average TCV on BATS Options, as described below. Pursuant to the Exchange's tiered pricing structure Members can realize lower liquidity removal fees if such Members have an ADV equal to or greater than 0.30% of average TCV. For Members reaching this volume threshold, the Exchange currently charges a fee of $0.27 per contract for Customer orders that remove liquidity from BATS Options.

The Exchange proposes to increase the standard fees for Customer orders that remove liquidity from BATS Options and expand the tiered pricing structure applicable to Customer orders by adding another level at which Customer orders will be subject to a discounted liquidity fee. First, the Exchange proposes to increase the standard fee to remove liquidity for Customer orders to $0.44 per contract, which is the same fee the Exchange proposes to assess for Professional, Firm and Market Maker orders. Second, the Exchange proposes to increase the charge per contract for a Customer order that removes liquidity from the BATS Options order book where the Member has an ADV equal to or greater than 0.30% of average TCV from $0.27 per contract to $0.36 per contract. Third, the Exchange proposes to introduce a new volume tier applicable to Members with an ADV equal to or greater than 1% average TCV. As proposed, such Members will be charged $0.28 per contract for Customer orders that remove liquidity from the BATS Options order book.

Finally, the Exchange proposes to apply its Grow with Us pricing program, as described above, to Customer orders that remove liquidity. Accordingly, a Member that does not qualify for the lower tier applicable to Members with an ADV equal to or greater than 0.30% of average TCV but achieves at least a 5 basis point increase over its previous High Water Mark will be assessed a fee of $0.40 per contract for Customer orders that remove liquidity from BATS Options (i.e., half way between the standard fee of $0.44 per contract and the fee of $0.36 charged to Members that reach the 0.30% TCV tier). Similarly, a Member that qualifies for the lower tier applicable to Members with an ADV equal to or greater than 0.30% of average TCV but not the 1% of average TCV tier that achieves at least a 5 basis point increase over its previous High Water Mark will be assessed a fee of $0.32 per contract for Customer orders that remove liquidity from BATS Options (i.e., half way between the $0.36 per contract charged to Members that reach the 0.30% TCV tier and the $0.28 per contract charged to Members that reach the 1% TCV tier).

(iii) Customer Rebates for Adding Liquidity

The Exchange currently provides a rebate of $0.30 per contract for Customer orders that add liquidity to the BATS Options order book. The Exchange proposes to maintain this standard rebate but to begin to provide increased rebates to Members pursuant to volume thresholds analogous to those applied to fees for removing liquidity. First, the Exchange proposes to adopt a volume tier applicable to Members with an ADV equal to or greater than 0.30% of average TCV, for which the Exchange will provide a rebate of $0.40 per contract for Customer orders that add liquidity to the BATS Options order book. Second, [sic] Exchange proposes to adopt a volume tier applicable to Members with an ADV equal to or greater than 1% of average TCV, for which the Exchange will provide a rebate of $0.42 per contract for Customer orders that add liquidity to the BATS Options order book. Finally, the Exchange proposes to apply its Grow with Us pricing program to Customer orders that add liquidity. Accordingly, a Member that does not qualify for the lower tier applicable to Members with an ADV equal to or greater than 0.30% of average TCV but achieves at least a 5 basis point increase over its previous High Water Mark will be provided a rebate of $0.35 per contract for Customer orders that add liquidity to BATS Options (i.e., half way between the standard rebate of $0.30 per contract and the rebate of $0.40 per contract provided to Members that reach the 0.30% TCV tier). Similarly, a Member that qualifies for the lower tier applicable to Members with an ADV equal to or greater than 0.30% of average TCV but not the 1% of average TCV tier that achieves at least a 5 basis point increase over its previous High Water Mark will be provided a rebate of $0.41 per contract for Customer orders that add liquidity to BATS Options (i.e., half way between the $0.40 per contract provided to Members that reach the 0.30% TCV tier and the $0.42 per contract provided to Members that reach the 1% TCV tier).

The Exchange is not proposing to modify the rebates provided for Professional, Firm and Market Maker orders, other than to move such rebates on the fee schedule to clearly delineate from the rebates applicable to Customer orders.

(iv) Modification to NBBO Setter Program

The Exchange currently offers a rebate upon execution for all orders that add liquidity that sets either the NBB or NBO (the ''NBBO Setter Rebate''),[11] subject to certain volume requirements. The Exchange currently provides an additional $0.06 per contract rebate for executions that qualify for the NBBO Setter Rebate by Members with an ADV equal to or greater than 0.30% of average TCV but less than 1% of average TCV and an additional $0.10 per contract for qualifying executions by Members with an ADV equal to or greater than 1% of TCV. Given the changes proposed for Customer rebates, as described above, the Exchange proposes to modify the NBBO Setter Rebate such that it is only applicable to Professional, Firm and Market Maker orders. As currently in place, the NBBO Setter Rebate is available only to Members that reach one of the Exchange's volume tiers. Because, as proposed, such Members will receive enhanced rebates on all Customer orders, and not just orders that set a new national best bid or offer, the Exchange proposes to apply the program only to

[9] As defined in Rule 16.1, 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).

[10] As set forth on the Exchange's fee schedule, and consistent with the definition of a Customer order, classification as a ''Firm'' or ''Market Maker'' order depends on the identification by a Member of the applicable clearing range at the OCC.

[11] An order that is entered at the most aggressive price both on the BATS Options book and according to then current OPRA data will be determined to have set the NBB or NBO for purposes of the NBBO Setter Rebate without regard to whether a more aggressive order is entered prior to the original order being executed.

Professional, Firm and Market Maker orders.

The Exchange also proposes to apply its Grow with Us pricing program to the NBBO Setter Rebate. Accordingly, a Member that does not qualify for NBBO Setter Rebates applicable to Members with an ADV equal to or greater than 0.30% of average TCV but achieves at least a 5 basis point increase over its previous High Water Mark will receive NBBO Setter Rebates of $0.03 per contract for qualifying executions (i.e., half of the NBBO Setter Rebate of $0.06 per contract provided to Members that reach the 0.30% TCV tier). Similarly, a Member that qualifies for the lower tier applicable to Members with an ADV equal to or greater than 0.30% of average TCV but not the 1% of average TCV tier that achieves at least a 5 basis point increase over its previous High Water Mark will be provided a NBBO Setter Rebate of $0.08 per contract for qualifying executions (i.e., half way between the $0.06 per contract provided to Members that reach the 0.30% TCV tier and the $0.10 per contract provided to Members that reach the 1% TCV tier).

(v) Modification to Quoting Incentive Program

BATS Options offers a Quoting Incentive Program (''QIP''), through which Members receive a rebate of $0.05 per contract, in addition to any other applicable liquidity rebate, for executions subject to the QIP. To qualify for the QIP a BATS Options Market Maker must be at the NBB or NBO 60% of the time for series trading between $0.03 and $5.00 for the front three (3) expiration months in that underlying during the current trading month. A Member not registered as a BATS Options Market Maker can also qualify for the QIP by quoting at the NBB or NBO 70% of the time in the same series. Given the enhancement to Customer rebates described above, the Exchange proposes to modify the QIP to differentiate between QIP rebates provided for Customer orders and Professional, Firm and Market Maker orders. Specifically, as proposed, qualifying Customer order executions in products subject to the QIP will receive an additional rebate of $0.03 per contract. The Exchange proposes to maintain the rebate of $0.05 per contract, in addition to any other applicable liquidity rebate, for executions subject to the QIP of Professional, Firm and Market Maker orders.

All other aspects of the QIP currently in place will remain the same. As is true under the current operation of the QIP, the Exchange will determine whether a Member qualifies for QIP rebates at the end of each month by looking back at each Member's (including BATS Options Market Makers) quoting statistics during that month. If at the end of the month a Market Maker meets the 60% criteria or a Member that is not registered as a Market Maker meets the 70% criteria, the Exchange will provide the additional rebate for all executions subject to the QIP executed by that Member during that month. The Exchange will provide Members with a report on a daily basis with quoting statistics so such Members can determine whether or not they are meeting the QIP criteria. The Exchange is not proposing to impose any ADV requirements in order to qualify for the QIP at this time.

(vi) Logical Port Fees

The Exchange currently charges a fee of $400.00 per month per logical port used by Members or non-members to access and receive information from the Exchange's equities platform. A logical port is also commonly referred to as a TCP/IP port, and represents a port established by the Exchange within the Exchange's system for trading and billing purposes. Each logical port established is specific to a Member or non-member and grants that Member or non-member the ability to operate a specific application, such as FIX order entry or Multicast PITCH data receipt.

In contrast to its equities platform, with the exception of logical ports with bulk-quoting capabilities, as further described below, the Exchange currently provides logical ports free of charge to Members and non-members that have access to or receive data from BATS Options. The Exchange proposes to begin charging a monthly fee for logical ports used to enter orders in the Exchange's trading system for BATS Options and to receive BATS Options data from the Exchange. The Exchange proposes to charge $400.00 per month of any port type other than a Multicast PITCH Spin Server Port, GRP Port or logical port with bulk-quoting capabilities. Similar to its provision of ports applicable to the Exchange's equities platform, the Exchange proposes to provide all Exchange constituents that receive the Exchange's Multicast PITCH Feed with 32 free Multicast PITCH Spin Server Ports free of charge and, if such ports are used, one free GRP Port. The Exchange proposes to charge such customers $400.00 per month per additional GRP Port or additional set of 32 Multicast PITCH Spin Server Ports. The Exchange's proposal to provide certain ports free of charge to Multicast Pitch customers is designed to encourage use of the Exchange's Multicast PITCH Feed because the Exchange believes that the feed is its most efficient feed, and thus, will reduce infrastructure costs for both the Exchange and those who utilize the feed. Any Member or non-member that has entered into the appropriate agreements with the Exchange is permitted to receive Multicast Pitch Spin Server Ports and GRP Ports from the Exchange.

The Exchange recently began offering logical ports with bulk-quoting capabilities, for which the Exchange charges Members $1,000.00 per month. The bulk-quoting interface allows Users to provide both a bid and an offer in one message as well as bundle several quote updates into one bulk message. This is a useful feature for Users that provide quotations in many different options. In order to encourage participation in the QIP program and the usage of bulk-quoting ports, which the Exchange believes provide Users and the Exchange with operational efficiencies, the Exchange proposes to waive fees for logical ports with bulk-quoting capabilities for any Member that satisfies the criteria of the QIP program in more than 25 underlying securities.

Based on the proposal, the change applies to Members that obtain ports for direct access to the Exchange, non-member service bureaus that act as a conduit for orders entered by Exchange Members that are their customers, and market data recipients. Other than logical ports with bulk-quoting capabilities, the Exchange has previously provided ports free of charge to all Members and non-members that use such ports for order entry to BATS Options or for receipt of BATS Options market data. However, over time, the Exchange's infrastructure costs have continued to increase. In addition, the Exchange believes that providing BATS Options logical ports free of charge has not encouraged Members and non-members to reserve and maintain ports efficiently, but rather, has led to a significant number of ports that are reserved and enabled by such market participants but are never used or are under used. Accordingly, the Exchange believes that the imposition of port fees will help the Exchange to continue to maintain and improve its infrastructure, while also encouraging Exchange customers to request and enable only the ports that are necessary for their operations related to the Exchange.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with the requirements of the Act and the

rules and regulations thereunder that are applicable to a national securities exchange, and, in particular, with the requirements of Section 6 of the Act.[12] Specifically, the Exchange believes that the proposed rule change is consistent with Section 6(b)(4) of the Act,[13] 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. The Exchange notes that it operates in a highly competitive market in which market participants can readily direct order flow to competing venues if they deem fee levels at a particular venue to be excessive.

The Exchange believes that providing additional financial incentives to Members that demonstrate a 5 basis point increase over their previous High Water Mark offers an additional, flexible way to achieve financial incentives from the Exchange and encourages Members to add increasing amounts of liquidity to BATS Options each month. The Grow with Us pricing program thereby rewards a Member's growth patterns. Such increased volume increases potential revenue to the Exchange, and will allow the Exchange to continue to provide and potentially expand the incentive programs operated by the Exchange. The increased liquidity also benefits all investors by deepening the BATS Options liquidity pool, offering additional flexibility for all investors to enjoy cost savings, supporting the quality of price discovery, promoting market transparency and improving investor protection. The Grow with Us program is also fair and equitable in that it is available to all Members and will expand the applicability of the Exchange's tiered pricing structure, even for Members that do not meet the Exchange's volume-based tiers.

Volume-based rebates such as the ones proposed herein have been widely adopted in the cash equities markets, and are equitable because they are open to all Members on an equal basis and provide discounts that are reasonably related to the value to an exchange's market quality associated with higher levels of market activity, such as higher levels of liquidity provision and/or growth patterns, and introduction of higher volumes of orders into the price and volume discovery processes. Accordingly, the Exchange believes that the proposal is not unfairly discriminatory because it is consistent with the overall goals of enhancing market quality. Similarly, the Exchange believes that continuing to base its tiered fee structure and NBBO Setter Program based on overall TCV, rather than a static number of contracts irrespective of overall volume in the options industry, is a fair and equitable approach to pricing.

Despite the increases in fees for all orders that remove liquidity (Customer, Professional, Firm and Market Maker orders), the Exchange believes that its proposed fee structure is fair and equitable as the Exchange's standard fees generally still remain equivalent to or slightly lower than standard fees charged by other markets with similar fee structures, such as NYSE Arca and Nasdaq. Further, the Exchange believes that the various programs offered by the Exchange to receive reduced fees and enhanced rebates provide all Members with several different ways to offset the increase in fees or receive a reduction in fees. Further, with respect to the increase to Customer fees to remove liquidity, the Exchange has expanded its rebate structure to provide Customer orders with enhanced rebates, subject to the volume tier structure and the Grow with Us pricing program. As noted above, the Exchange believes that such volume-based tiers are fair and equitable and not unreasonably discriminatory because they are consistent with the overall goals of enhancing market quality.

Furthermore, the Exchange believes that the modification of the NBBO Setter Rebate program, to eliminate the applicability of such program for Customer orders, is fair and equitable and not unreasonably discriminatory because Customer orders from Members that reach at least the 0.30% TCV tier can achieve higher rebates than they would under the current pricing structure of a standard rebate of $0.30 per contract plus either $0.06 or $0.10 per contract. In addition, such higher rebates will be available on every order, and not just on orders that set a new national best bid or national best offer. Also due to the increased levels of rebates for Customer orders, the Exchange believes that the proposed modification to the Quoting Incentive Program is fair and equitable and not unreasonably discriminatory. Although the proposed QIP rebate for qualifying Customer orders is slightly lower than is currently offered and will be slightly lower than the QIP rebate provided to Professional, Firm and Market Maker orders, the Exchange believes that this distinction is reasonable and not unreasonably discriminatory because of the significant increase to rebates on Customer orders. The Exchange also believes that continuing to maintain a slightly lower threshold for meeting the QIP for registered BATS Options Market Makers appropriately incentivizes Members of BATS Options to register with the Exchange as Options Market Makers. While the Exchange does wish to allow participation in the QIP by all Members, the Exchange believes that registration by additional Members as Market Makers will help to continue to increase the breadth and depth of quotations available on the Exchange. The Exchange notes that in addition to the fact that the QIP is available to all Members, the proposal is not unfairly discriminatory despite a slightly higher quotation requirement for non-Market Makers due to the fact that registration as a BATS Options Market Maker is equally available to all Members.

The Exchange believes that its proposed logical port fees are reasonable in light of the benefits to Members of direct market access and receipt of data, which data, other than the proposed logical port fee, is currently provided free of charge. In addition, the Exchange believes that its fees are equitably allocated among its constituents based upon the number of access ports that they require to submit orders to the Exchange or receive data from the Exchange. The Exchange believes that its fees for access services will enable it to better cover its infrastructure costs and to improve its market technology and services. The Exchange also believes that providing financial incentives to use Exchange technology that the Exchange believes is the most technologically efficient for the Exchange and its constituents is a fair and equitable approach to pricing. Accordingly, the Exchange believes that promotion of its Multicast PITCH data feed through the offering of free logical ports as well as the waiver of bulk-quoting logical port fees for Members that achieve QIP thresholds in more than 25 underlying securities are fair and equitable. Participation in the QIP is available to all Members, and as such, all Members have the ability to qualify for free bulk-quoting ports. Based on the foregoing, the Exchange believes that the proposed pricing structure for logical ports is not unreasonably discriminatory.

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.

[12] 15 U.S.C. 78f.

[13] 15 U.S.C. 78f(b)(4).

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.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Pursuant to Section 19(b)(3)(A)(ii) of the Act [14] and Rule 19b–4(f)(2) thereunder,[15] the Exchange has designated this proposal as establishing or changing a due, fee, or 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–BATS–2011–053 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–BATS–2011–053. 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–BATS–2011–053 and should be submitted on or before February 3, 2012.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[16]

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2012–528 Filed 1–12–12; 8:45 am]

BILLING CODE 8011–01–P

[14] 15 U.S.C. 78s(b)(3)(A)(ii).

[15] 17 CFR 240.19b–4(f)(2).

[16] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–66119; File No. SR–CBOE–2011–126]

Self-Regulatory Organizations; Chicago Board Options Exchange, Incorporated; Notice of Filing of a Proposed Rule Change Relating to the CBOE Stock Exchange Request for Quote Rules

January 9, 2012.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the ''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on December 27, 2011, the Chicago Board Options Exchange, Incorporated (the ''Exchange'' or ''CBOE'') filed with the Securities and Exchange Commission (the ''Commission'') the proposed rule change as described in Items I, II and III below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend its rules relating to requests for quotes on the CBOE Stock Exchange (''CBSX''). The text of the proposed rule change is available on the Exchange's Web site (*http://www.cboe.com/AboutCBOE/CBOELegalRegulatoryHome.aspx*), at the Exchange's Office of the Secretary, and at the Commission.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

CBSX is a stock-trading facility of CBOE. Prior to the establishment of CBSX, CBOE adopted trading rules in Chapters 50–54 for the purely electronic trading of non-option securities.[3] Those rules, which were based, to an extent, on CBOE's screen-based trading rules in Chapters 40–46, contemplated the use of request-for-quote messages (RFQs). Chapters 50–54 were subsequently modified in connection with the introduction of CBSX.[4] The provisions related to RFQs were not materially changed at that time. RFQ messages are generally intended to prompt market-makers in a given security to respond with a quote. RFQs are generally beneficial when seeking liquidity for a security in which a quote does not exist.

The purpose of this filing is to delete Rule 50.1 regarding the definition of RFQ, Rule 52.9 regarding RFQ processing, and references to RFQs in Rule 53.23 regarding CBSX Remote Market-Maker obligations. There are two reasons behind the Exchange's desire to eliminate RFQs on CBSX: (1) Because

[3] *See* Securities Exchange Act Release No. 54422 (September 11, 2006), 71 FR 54537 (September 15, 2006) approving SR–CBOE–2004–21.

[4] *See* Securities Exchange Act Release No. 55392 (March 2, 2007), 72 FR 10572 (March 8, 2007) approving SR–CBOE–2006–112.

CBSX Remote Market-Makers are required by rule to maintain two-sided quotations and because CBSX links orders to NBBO markets when CBSX is not quoting at the NBBO, CBSX participants have never inquired about utilizing RFQs; and (2) the functionality for users to transmit RFQs on CBSX is not fully supported by the system.

As more fully set forth in CBSX Rule 53.23 Interpretation and Policy .01, CBSX Remote Market-Makers are required to maintain two-sided quotations throughout the trading day using prices that are no further than a designated percentage from the national best bid and offer (''NBBO''). This requirement, the fact that the CBSX market is typically competitive in terms of displayed prices, and the fact that CBSX transmits orders to other market centers displaying the NBBO when CBSX is not posting the NBBO, obviates the need for an RFQ process.[5]

The Exchange also has realized that the ability of a CBSX participant to submit an RFQ is not currently functional. Accordingly, the Exchange believes it is appropriate to delete RFQ processes from the CBSX trading rules. This will ensure that CBSX participants or other interested parties are not confused by these rules and do not expect to be able to submit RFQs on CBSX. The Exchange notes that it is not aware of any CBSX participants, or any other party, having expressed an interest in utilizing RFQs.

2. Statutory Basis

The Exchange believes the proposed rule change is consistent with the Securities Exchange Act of 1934 (the ''Act'') [6] and the rules and regulations thereunder and, in particular, the requirements of Section 6(b) of the Act.[7] Specifically, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5) [8] requirements that the rules of an exchange be designed to remove impediments to and to perfect the mechanism for a free and open market in that elimination of references to RFQs in the CBSX trading rules will remove any potential confusion caused by having rules that reference functionality that is not operational.

B. Self-Regulatory Organization's Statement on Burden on Competition

CBOE does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 45 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will: (A) by order approve or disapprove such proposed rule change, or (B) institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–CBOE–2011–126 on the subject line.

Paper Comments

- Send paper comments in triplicate to Elizabeth M. Murphy, Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–CBOE–2011–126. 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–CBOE–2011–126 and should be submitted on or before February 3, 2012.

[5] The Exchange notes that it is working with SEC Staff on enhancements to the CBSX Market-Maker obligations and that those revisions do not contemplate the use of RFQs.

[6] 15 U.S.C. 78s(b)(1)[sic].

[7] 15 U.S.C. 78f(b).

[8] 15 U.S.C. 78f(b)(5).

[9] 17 CFR 200.30–3(a)(12).

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[9]

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2012–527 Filed 1–12–12; 8:45 am]

BILLING CODE 8011–01–P

SOCIAL SECURITY ADMINISTRATION

Agency Information Collection Activities: Proposed Request and Comment Request

The Social Security Administration (SSA) publishes a list of information collection packages requiring clearance by the Office of Management and Budget (OMB) in compliance with Public Law 104–13, the Paperwork Reduction Act (PRA) of 1995, effective October 1, 1995. This notice includes revisions and one extension of OMB-approved information collections, information collections in use without an OMB number, and a new information collection.

SSA is soliciting comments on the accuracy of the agency's burden estimate; the need for the information; its practical utility; ways to enhance its quality, utility, and clarity; and ways to minimize burden on respondents, including the use of automated collection techniques or other forms of information technology. Mail, email, or fax your comments and recommendations on the information collection(s) to the OMB Desk Officer and SSA Reports Clearance Officer at the following addresses or fax numbers.

(OMB), Office of Management and Budget, *Attn:* Desk Officer for SSA, *Fax:* (202) 395–6974, *Email address: OIRA_Submission@omb.eop.gov.*

(SSA), Social Security Administration, DCRDP, *Attn:* Reports Clearance Officer, 107 Altmeyer Building, 6401 Security Blvd., Baltimore, MD 21235, *Fax:* (410) 966–2830, *Email address: OPLM.RCO@ssa.gov.*

I

The information collections below are pending at SSA. SSA will submit them to OMB within 60 days from the date of this notice. To be sure we consider your comments, we must receive them no later than March 13, 2012. Individuals can obtain copies of the collection instruments by calling the SSA Reports Clearance Officer at (410) 965–8783 or by writing to the above email address.

1. Request for Documents or Information—20 CFR 404.703—0960–NEW. SSA asks individuals applying for Social Security benefits for additional information when the information they provided is incomplete or insufficient for us to determine their eligibility for benefits. SSA uses Form SSA–2118–U2, Request for Documents or Information, to request the additional documents or information we need to process individuals' claims for benefits. Respondents are claimants for title II Social Security Old Age, Survivors, and Disability Insurance (OASDI) benefits.

Type of Request: Existing collection in use without an OMB number.

Collection instrument	Number of respondents	Frequency of response	Average burden per response (minutes)	Estimated total annual burden (hours)
SSA–2118–U2	7,500	1	5	625

2. Notice to Show Cause for Failure to Appear—20 CFR 404.938, 416.1438, 404.957(a)(ii)—0960–NEW. In situations where claimants who requested a hearing before an administrative law judge (ALJ) fail to appear at their scheduled hearings, the ALJ may reschedule the hearing if the claimants establish good cause for missing the hearings. The claimants can provide a reason for not appearing at their scheduled hearings using Form HA–L90. If the ALJ determines the claimants established good cause for failure to appear at the hearings, the ALJ will schedule a supplemental hearing; if not, the ALJ makes a claims eligibility determination based on the claimants' evidence of record. Respondents are claimants seeking to show cause for failure to appear at a scheduled hearing before an ALJ.

Type of Request: Existing collection in use without an OMB number.

Collection instrument	Number of respondents	Frequency of response	Average burden per response (minutes)	Estimated total annual burden (hours)
HA–L90 PDF/Paper	7,000	1	10	1,167
Electronic Records Express	28,000	1	10	4,667
Total	35,000	.....	.....	5,834

3. Permanent Residence in the United States Under Color of Law (PRUCOL)—20 CFR 416.1615 and 416.1618—0960–0451. As discussed in 20 CFR 416.1415 and 416.1618 of the Code of Federal Regulations, PRUCOL aliens must present evidence of their alien status when they apply for Supplemental Security Income (SSI) payments, and periodically thereafter as part of the eligibility re-determination process for SSI. SSA verifies the validity of the PRUCOL evidence for grandfathered nonqualified aliens with the Department of Homeland Security (DHS). SSA determines whether the individual is PRUCOL based on the DHS response. Without this information, SSA is unable to determine whether the individual is eligible for SSI payments. Respondents are qualified and unqualified aliens who apply for SSI payments under PRUCOL.

Type of Request: Extension of an OMB-approved information collection.

Collection instrument	Number of respondents	Frequency of response	Average burden per response (minutes)	Estimated total annual burden (hours)
Personal or Telephone Interview	1,300	1	5	108

II

SSA submitted the information collections below to OMB for clearance. Your comments regarding the information collections would be most useful if OMB and SSA receive them within 30 days from the date of this publication. To be sure we consider your comments, we must receive them no later than February 13, 2012. Individuals can obtain copies of the OMB clearance packages by calling the SSA Reports Clearance Officer at (410) 965–8783 or by writing to the above email address.

1. Homeless with Schizophrenia Presumptive Disability Pilot Demonstration—45 CFR 46.101(b)(5)—0960—NEW. The Federal Strategic Plan to Prevent and End Homelessness 2010 calls on Federal agencies to work in partnership with State and local governments and with the private sector to end homelessness. A specific objective of the Strategic Plan is to increase economic security by improving access to mainstream programs and services.

In response to and in support of the President's efforts to end homelessness, SSA has developed the Homeless with Schizophrenia Presumptive Disability Pilot Demonstration, which tests both administrative improvements to the SSI application process and interventions that provide financial stability to individuals who are homeless. The pilot will test strategies that would remove the barriers homeless adult applicants with schizophrenia or schizoaffective disorder experience when completing the SSI application process.

SSA uses two key forms to conduct the demonstration: The Research Subject Information and Consent Form and the Schizophrenia Presumptive Disability Recommendation Form. The consent form provides assurances from the participants that they understand the demonstration project and voluntarily are consenting to participate in it. The Presumptive Disability Recommendation Form, filled out by a medical authority, provides information on how the applicant meets the disability criteria necessary to qualify for SSI benefits. SSA uses the information in making a presumptive disability determination. Respondents are homeless, adult SSI applicants with schizophrenia or schizoaffective disorder.

Type of Request: Request for a new information collection.

Collection instrument	Number of respondents	Frequency of response	Number of responses	Average burden per response (minutes)	Estimated total annual burden (hours)
Consent Form	200	1	(200)	120	400
PD Recommendation Form	16	13	(208)	10	35
Totals	216	.....	(408)	.....	435

2. Partnership Questionnaire—20 CFR 404.1080–1082—0960–0025. SSA considers partnership income in determining entitlement to Social Security benefits. SSA uses information from the SSA–7104 to determine several aspects of eligibility for benefits, including the accuracy of reported partnership earnings, the veracity of a retirement, and lag earnings. The respondents are applicants for, and recipients of, title II Social Security OASDI benefits.

Type of Request: Revision of an OMB-approved information collection.

Collection instrument	Number of respondents	Frequency of response	(Number of responses)	Average burden per response (minutes)
SSA–7104	12,350	1	30	6,175

3. Supplement to Claim of Person Outside the United States—20 CFR 404.463, 20 CFR 422.505(b) and 20 CFR 407.27(c)—0960–0051. Claimants or beneficiaries (both United States {U.S.} citizens and aliens entitled to benefits) living outside the U.S. complete Form SSA–21 as a supplement to an application for benefits. SSA collects the information to determine eligibility for U.S. Social Security benefits for those months an alien beneficiary or claimant is outside the U.S., and to determine if tax withholding applies. In addition, SSA uses the information to terminate Supplemental Medical Insurance coverage for recipients who request it, because they are, or will be, out of the U.S. The respondents are individuals entitled to Social Security benefits who are, will be, or have been residing outside the U.S. for three months or longer.

Note: This is a correction notice. SSA published the incorrect burden information for this collection at 76 FR 65315, on 10/20/11. We are correcting this error here.

Type of Request: Revision of an OMB-approved information collection.

Collection instrument	Number of responses	Frequency of response	Average burden per response (minutes)	Estimated total annual burden (hours)
SSA–21 (non-residents)	36,874	1	5	3,073
SSA–21 (U.S. citizens and residents)	1,941	1	15	485
Totals	38,815			3,558

4. Statement of Funds You Provided to Another and Statement of Funds You Received—20 CFR 404.1520(b), 404.1571–.1576, 404.1584–.1593 and 416.971–.976—0960–0059. SSA uses the SSA–821–BK to collect recipient employment information to determine whether recipients worked after becoming disabled and, if so, whether the work is substantial gainful activity (SGA). SSA's field offices use Form SSA–821–BK to obtain work information during the initial claims process, the continuing disability review process, and for SSI claims involving work issues. SSA's processing centers and the Office of Disability and International Operations use the form to document post-adjudicative work issues with recipients. SSA reviews and evaluates the data to determine if the applicant or recipient meets the disability requirements of the law. The respondents are applicants and recipients of Title II Social Security and SSI disability payments.

Note: This is a correction notice: SSA published the incorrect burden information for this collection at 76 FR 68805, on 11/07/11. We provide the correct burden data below.

Type of Request: Revision of an OMB-approved information collection.

Collection instrument	Number of respondents	Frequency of response	Average burden per response (minutes)	Estimated total annual burden (hours)
SSA–821–BK	300,000	1	30	150,000

5. Application for a Social Security Number Card, and the Social Security Number Application Process (SSNAP)—20 CFR 422.103–422.110—0960–0066. SSA collects information on the SS–5 (used in the United States) and SS–5–FS (used outside the United States) to issue original or replacement Social Security cards. SSA also enters the application data into the Social Security Number Application Process (SSNAP) when applicants request a new or replacement card via telephone or in person.

In addition, hospitals collect the same information on SSA's behalf for newborn children through the Enumeration-at-Birth process. In this process, parents of newborns provide hospital birth registration clerks with information required to register these newborns. Hospitals send this information to State Bureaus of Vital Statistics (BVS), and they send the information to SSA's National Computer Center. SSA then uploads the data to the SSA mainframe along with all other enumeration data, and we assign the newborn a Social Security Number (SSN) and issue a Social Security card.

The respondents for this collection are applicants for original and replacement Social Security cards who use any of the modalities described above.

Type of Request: Revision of an OMB-approved information collection.

Application scenario	Number of respondents	Frequency of response	Average burden per response (minutes)	Estimated total annual burden (hours)
Respondents who do not have to provide parents' SSNs	10,500,000	1	8.5	1,487,500
Respondents whom we ask to provide parents' SSNs (when applying for original SSN cards for children under age 18)	400,000	1	9	60,000
Applicants age 12 or older who need to answer additional questions so SSA can determine whether we previously assigned an SSN	1,100,000	1	9.5	174,167
Applicants asking for a replacement SSN card beyond the new allowable limits (i.e., who must provide additional documentation to accompany the application)	600	1	60	600
Authorization to SSA to obtain personal information cover letter	500	1	15	125
Authorization to SSA to obtain personal information follow-up cover letter	500	1	15	125
Totals	12,001,600			1,722,517

Cost Burden: The state BVSs incur costs of approximately $9.5 million for transmitting data to SSA's mainframe. However, SSA reimburses the states for these costs.

6. Application for Search of Census Records for Proof of Age—20 CFR 404.716–0960–0097. When preferred evidence of age is not available or the available evidence is not convincing, SSA may ask the U.S. Department of Commerce, Bureau of the Census, to search its records to establish a claimant's date of birth. SSA collects information from claimants using Form SSA–1535–U3 to provide the Census Bureau with sufficient identification information to allow an accurate search of census records. Additionally, the Census Bureau uses a completed, signed SSA–1535–U3 to bill SSA for the search. The respondents are applicants for Social Security benefits who need to

establish their date of birth as a factor of entitlement.

Type of Request: Revision of an OMB-approved information collection.

Collection instrument	Number of respondents	Frequency of response	Average burden per response (minutes)	Estimated total annual burden (hours)
SSA–1535–U3	18,030	1	12	3,606

7. Medical Report on Adult with Allegation of Human Immunodeficiency Virus Infection; Medical Report on Child with Allegation of Human Immunodeficiency Virus Infection—20 CFR 416.933–20 CFR 416.934—0960–0500. SSA uses Forms SSA–4814–F5 and SSA–4815–F6 to collect information necessary to determine if an individual with human immunodeficiency virus infection who is applying for SSI disability benefits, meets the requirements for presumptive disability payments. The respondents are the medical sources of the applicants for SSI disability payments.

Collection instrument	Number of responses	Frequency of response	Average burden per response (minutes)	Estimated total annual burden (hours)
SSA–4814–F5	46,200	1	10	7,700
SSA–4815–F6	12,900	1	10	2,150
Totals	59,100			9,850

8. Modified Benefit Formula Questionnaire—Foreign Pension—0960–0561. SSA uses Form SSA–308 to determine exactly how much (if any) of a foreign pension SSA may use to reduce the amount of title II Social Security retirement or disability benefits under the modified benefit formula. The respondents are applicants for title II Social Security retirement or disability benefits who have foreign pensions.

Type of Request: Revision of an OMB-approved information collection.

Collection instrument	Number of responses	Frequency of response	Average burden per response (minutes)	Estimated total annual burden (hours)
SSA–308	13,452	1	10	2,242

9. Medicare Subsidy Quality Review Forms—20 CFR 418(b)(5)–0960–0707. The Medicare Modernization Act of 2003 mandated the creation of the Medicare Part D prescription drug coverage program and provides certain subsidies for eligible Medicare beneficiaries to help pay for the cost of prescription drugs. As part of its stewardship duties of the Medicare Part D subsidy program, SSA must conduct periodic quality review checks of the information Medicare beneficiaries report on their subsidy applications (Form SSA–1020). SSA uses the Medicare Quality Review program to conduct these checks. The respondents are applicants for the Medicare Part D subsidy whom SSA chose to undergo a quality review.

Type of Request: Revision of an OMB-approved information collection.

Collection instrument	Number of respondents	Frequency of response	Average burden per response (minutes	Estimated total annual burden (hours)
SSA–9301 (Medicare Subsidy Quality Review Case Analysis Questionnaire)	3,500	1	30	1,750
SSA–9302 (Notice of Quality Review Acknowledgement Form for those with Phones)	3,500	1	15	875
SSA–9303 (Notice of Quality Review Acknowledgement Form for those without Phones)	350	1	15	88
SSA–9304 (Checklist of Required Information; burden accounted for with Forms SSA–9302, SSA–9303, SSA–9311, SSA–9314)				
SSA–9308 (Request for Information)	7,000	1	15	1,750
SSA–9310 (Request for Documents)	3,500	1	5	292
SSA–9311 (Notice of Appointment—Denial-Reviewer Will Call)	450	1	15	113
SSA–9312 (Notice of Appointment—Denial- Please Call Reviewer)	50	1	15	13
SSA–9313 (Notice of Quality Review Acknowledgement Form for those with Phones)	2,500	1	15	625
SSA–9314 (Notice of Quality Review Acknowledgement Form for those without Phones)	500	1	15	125

Collection instrument	Number of respondents	Frequency of response	Average burden per response (minutes	Estimated total annual burden (hours)
SSA–8510 (Authorization to the Social Security Administration to Obtain Personal Information)	3,500	1	5	292
Totals	24,850	.....	.....	5,923

10. Application to Collect a Fee for Payee Service—20 CFR 416.640.640(a), 416.1103(f)—0960–0719. Sections 205(j)(4)(A) and (B) and 1631(a)(2) of the Social Security Act (Act) allow SSA to authorize certain organizational representative payees to collect a fee for providing payee services. Before an organization may collect this fee, they complete and submit Form SSA–445. SSA uses the information to determine whether to authorize or deny permission to collect fees for payee services. The respondents are private sector businesses or State and local government offices applying to become fee-for-service organizational representative payees.

Type of Request: Revision of an OMB-approved information collection.

Collection instrument	Number of responses	Frequency of response	Average burden per response (minutes)	Estimated total annual burden (hours)
Private sector business	90	1	10	15
State/local government offices	10	1	10	2
Totals	100	.....	.....	17

Dated: January 10, 2012.

Faye Lipsky,

Reports Clearance Officer, Office of Regulations and Reports Clearance, Social Security Administration.

[FR Doc. 2012–580 Filed 1–12–12; 8:45 am]

BILLING CODE 4191–02–P

DEPARTMENT OF STATE

[Public Notice: 7755]

Culturally Significant Objects Imported for Exhibition Determinations: ''The Steins Collect: Matisse, Picasso and the Parisian Avant-Garde''

ACTION: Notice, correction.

SUMMARY: On April 1, 2011, notice was published on page 18292 of the **Federal Register** (volume 76, number 63) of determinations made by the Department of State pertaining to the exhibition ''The Steins Collect: Matisse, Picasso and the Parisian Avant-Garde.'' This notice was corrected by a November 18, 2011, notice published on page 71616 of the **Federal Register** (volume 76, number 223) as to the number of objects covered at the Metropolitan Museum of Art. These two referenced notices are now corrected as to additional objects to be included in the exhibition. Notice is hereby given of the following determinations: Pursuant to the authority vested in me by the Act of October 19, 1965 (79 Stat. 985; 22 U.S.C. 2459), Executive Order 12047 of March 27, 1978, the Foreign Affairs Reform and Restructuring Act of 1998 (112 Stat. 2681, *et seq.;* 22 U.S.C. 6501 note, *et seq.*), Delegation of Authority No. 234 of October 1, 1999, Delegation of Authority No. 236–3 of August 28, 2000 (and, as appropriate, Delegation of Authority No. 257 of April 15, 2003), I hereby determine that additional objects to be included in the exhibition ''The Steins Collect: Matisse, Picasso and the Parisian Avant-Garde'' imported from abroad for temporary exhibition within the United States, are of cultural significance. The additional objects are imported pursuant to loan agreements with the foreign owners or custodians. I also determine that the exhibition or display of the additional exhibit objects at The Metropolitan Museum of Art, New York, NY, from on or about February 22, 2012, until on or about June 3, 2012, and at possible additional exhibitions or venues yet to be determined, is in the national interest. I have ordered that Public Notice of these Determinations be published in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: For further information, including a list of the additional exhibit objects, contact Julie Simpson, Attorney-Adviser, Office of the Legal Adviser, U.S. Department of State (telephone: (202) 632–6467). The mailing address is U.S. Department of State, SA–5, L/PD, Fifth Floor (Suite 5H03), Washington, DC 20522–0505.

Dated: January 9, 2012.

J. Adam Ereli,

Principal Deputy Assistant Secretary, Bureau of Educational and Cultural Affairs, Department of State.

[FR Doc. 2012–609 Filed 1–12–12; 8:45 am]

BILLING CODE 4710–05–P

DEPARTMENT OF STATE

[Public Notice: 7754]

In the Matter of the Designation of al-Qa'ida Kurdish Battalions (AQKB), Also Known as Kurdistan Brigades, Also Known as Kurdistan Battalion of Islamic State in Iraq, Also Known as Kurdistan Brigade of al-Qaeda in Iraq, as a Specially Designated Global Terrorist Pursuant to Section 1(b) of Executive Order 13224, as Amended

Acting under the authority of and in accordance with section 1(b) of Executive Order 13224 of September 23, 2001, as amended by Executive Order 13268 of July 2, 2002, and Executive Order 13284 of January 23, 2003, I hereby determine that the entity known as al-Qa'ida Kurdish Battalions (AQKB), also known as Kurdistan Brigades, also known as, Kurdistan Battalion of Islamic State in Iraq, also known as Kurdistan Brigade of al-Qaeda in Iraq, committed, or poses a significant risk of committing, acts of terrorism that threaten the security of U.S. nationals or the national security, foreign policy, or economy of the United States.

Consistent with the determination in section 10 of Executive Order 13224 that ''prior notice to persons determined to be subject to the Order who might have a constitutional presence in the United States would render ineffectual the blocking and other measures authorized in the Order because of the ability to transfer funds instantaneously,'' I determine that no prior notice needs to be provided to any person subject to this determination who might have a constitutional presence in the United States, because to do so would render ineffectual the measures authorized in the Order.

This notice shall be published in the **Federal Register**.

Dated: January 3, 2012.

Hillary Rodham Clinton,

Secretary of State.

[FR Doc. 2012–607 Filed 1–12–12; 8:45 am]

BILLING CODE 4710–10–P

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

[Dispute No. WTO/DS427]

WTO Dispute Settlement Proceeding Regarding China—Anti-Dumping and Countervailing Duty Measures on Broiler Products From the United States

AGENCY: Office of the United States Trade Representative.

ACTION: Notice; request for comments.

SUMMARY: The Office of the United States Trade Representative (''USTR'') is providing notice that on December 8, 2011, the United States requested establishment of a dispute settlement panel under the *Marrakesh Agreement Establishing the World Trade Organization* (''WTO Agreement'') with the People's Republic of China (''China'') concerning countervailing and antidumping duties on chicken broiler products from the United States. That request may be found at *www.wto.org* contained in a document designated as WT/DS427/2. USTR invites written comments from the public concerning the issues raised in this dispute.

DATES: Although USTR will accept any comments received during the course of the dispute settlement proceedings, comments should be submitted on or before February 10, 2012 to be assured of timely consideration by USTR.

ADDRESSES: Public comments should be submitted electronically to *www.regulations.gov,* docket number USTR–2011–0022. If you are unable to provide submissions to *www.regulations.gov,* please contact Sandy McKinzy at (202) 395–9483 to arrange for an alternative method of transmission. If (as explained below) the comment contains confidential information, then the comment should be submitted by fax only to Sandy McKinzy at (202) 395–3640.

FOR FURTHER INFORMATION CONTACT: Mayur R. Patel, Assistant General Counsel, Office of the United States Trade Representative, or Joseph M. Johnson, Assistant General Counsel, 600 17th Street, NW., Washington, DC 20508, (202) 395–3150.

SUPPLEMENTARY INFORMATION: Section 127(b)(1) of the Uruguay Round Agreements Act (URAA) (19 U.S.C. 3537(b)(1)) requires that notice and opportunity for comment be provided after the United States submits or receives a request for establishment of a WTO dispute settlement panel. Consistent with this obligation, USTR is providing notice that it has requested a panel pursuant to the WTO *Understanding on Rules and Procedures Governing the Settlement of Disputes* (''DSU''). Once it is established, the panel will hold its meetings in Geneva, Switzerland, and would be expected to issue a report on its findings and recommendations within nine months of its establishment.

Major Issues Raised by the United States

The United States considers that certain measures imposing countervailing duties and antidumping duties on chicken broiler products from the United States are inconsistent with China's commitments and obligations under the WTO Agreement. The measures are set forth in the Ministry of Commerce of the People's Republic of China (''MOFCOM'') Notice No. 8 [2010], Notice No. 26 [2010], Notice No. 51 [2010], and Notice No. 52 [2010], including any and all annexes. These measures appear to be inconsistent with Articles 1, 2.2, 2.2.1.1, 2.4, 3.1, 3.2, 3.4, 3.5, 4.1, 6.2, 6.4, 6.5.1, 6.8, 6.9, 12.2, 12.2.1, and 12.2.2 of the Anti-dumping Agreement; Articles 10, 12.3, 12.4.1, 12.7, 12.8, 15.1, 15.2, 15.4, 15.5, 16.1, 19.4, 22.3, 22.4, 22.5 of the Subsidies and Countervailing Measures Agreement; and Article VI of the GATT 1994. On September 20, 2011, the United States requested consultations with China. That request may be found at *www.wto.org* contained in a document designated as WT/DS427/1. The United States and China held consultations on October 28, 2011, but the consultations did not resolve the matter.

Public Comment: Requirements for Submissions

Interested persons are invited to submit written comments concerning the issues raised in this dispute. Persons may submit public comments electronically to *www.regulations.gov,* docket number USTR–2011–0022. If you are unable to provide submissions by *www.regulations.gov,* please contact Sandy McKinzy at (202) 395–9483 to arrange for an alternative method of transmission.

To submit comments via *www.regulations.gov,* enter docket number USTR–2011–0022 on the home page and click ''search''. The site will provide a search-results page listing all documents associated with this docket. Find a reference to this notice by selecting ''Notice'' under ''Document Type'' on the left side of the search-results page, and click on the link entitled ''Submit a Comment.'' (For further information on using the *www.regulations.gov* Web site, please consult the resources provided on the Web site by clicking on ''How to Use This Site'' on the left side of the home page.)

The *www.regulations.gov* site provides the option of providing comments by filling in a ''Type Comments'' field, or by attaching a document using an ''upload file'' field. It is expected that most comments will be provided in an attached document. If a document is attached, it is sufficient to type ''See attached'' in the ''Type Comments'' field.

A person requesting that information contained in a comment submitted by that person be treated as confidential business information must certify that such information is business confidential and would not customarily be released to the public by the submitter. Confidential business information must be clearly designated as such and the submission must be marked ''BUSINESS CONFIDENTIAL'' at the top and bottom of the cover page and each succeeding page. Any comment containing business confidential information must be submitted by fax to Sandy McKinzy at (202) 395–3640. A non-confidential summary of the confidential information must be submitted to *www.regulations.gov.* The non-confidential summary will be placed in the docket and open to public inspection.

Information or advice contained in a comment submitted, other than business confidential information, may be

determined by USTR to be confidential in accordance with section 135(g)(2) of the Trade Act of 1974 (19 U.S.C. 2155(g)(2)). If the submitter believes that information or advice may qualify as such, the submitter—

(1) Must clearly so designate the information or advice;

(2) Must clearly mark the material as ''SUBMITTED IN CONFIDENCE'' at the top and bottom of the cover page and each succeeding page; and

(3) Must provide a non-confidential summary of the information or advice.

Any comment containing confidential information must be submitted by fax to Sandy McKinzy at (202) 395–3640. A non-confidential summary of the confidential information must be submitted to *www.regulations.gov.* The non-confidential summary will be placed in the docket and open to public inspection.

Pursuant to section 127(e) of the URAA (19 U.S.C. 3537(e)), USTR will maintain a docket on this dispute settlement proceeding accessible to the public. The public file will include non-confidential comments received by USTR from the public with respect to the dispute. If a dispute settlement panel is convened or in the event of an appeal from such a panel, the U.S. submissions, any non-confidential submissions, or non-confidential summaries of submissions, received from other participants in the dispute, will be made available to the public on USTR's Web site at *www.ustr.gov,* and the report of the panel, and, if applicable, the report of the Appellate Body, will be available on the Web site of the World Trade Organization, *www.wto.org.* Comments open to public inspection may be viewed on the *www.regulations.gov* Web site.

Bradford Ward,

Acting Assistant United States Trade Representative for Monitoring and Enforcement.

[FR Doc. 2012–606 Filed 1–12–12; 8:45 am]

BILLING CODE 3190–W2–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[Summary Notice No. PE–2012–02]

Petition for Exemption; Summary of Petition Received

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of petition for exemption received.

SUMMARY: This notice contains a summary of a petition seeking relief from specified requirements of Title 14, Code of Federal Regulations (14 CFR). The purpose of this notice is to improve the public's awareness of, and participation in, this aspect of the FAA's regulatory activities. Neither publication of this notice nor the inclusion or omission of information in the summary is intended to affect the legal status of the petition or its final disposition.

DATES: Comments on this petition must identify the petition docket number and must be received on or before February 2, 2012.

ADDRESSES: You may send comments identified by docket number FAA–2011–1240 using any of the following methods:

- *Government-wide rulemaking Web site:* Go to *http://www.regulations.gov* and follow the instructions for sending your comments digitally.
- *Mail:* Send comments to the Docket Management Facility; U.S. Department of Transportation, 1200 New Jersey Avenue SE., West Building Ground Floor, Room W12–140, Washington, DC 20590.
- *Fax:* Fax comments to the Docket Management Facility at (202) 493–2251.
- *Hand Delivery:* Bring comments to the Docket Management Facility in Room W12–140 of the West Building Ground Floor at 1200 New Jersey Avenue SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

Privacy: We will post all comments we receive, without change, to *http://www.regulations.gov,* including any personal information you provide. Using the search function of our docket Web site, anyone can find and read the comments received into any of our dockets, including the name of the individual sending the comment (or signing the comment for 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).

Docket: To read background documents or comments received, go to *http://www.regulations.gov* at any time or to the Docket Management Facility in Room W12–140 of the West Building Ground Floor at 1200 New Jersey Avenue SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Mark Forseth, ANM–113, (425) 227–2796, Federal Aviation Administration, 1601 Lind Avenue SW., Renton, WA 98057–3356, or Frances Shaver, (202) 267–4059, Office of Rulemaking (ARM–207), Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591. This notice is published pursuant to 14 CFR 11.85.

Issued in Washington, DC, on January 9, 2012.

Julie Ann Lynch,

Acting Director, Office of Rulemaking.

Petition for Exemption

Docket No.: FAA–2011–1240.
Petitioner: Embraer S.A.
Section of 14 CFR Affected: § 25.791(a).
Description of Relief Sought: Embraer S.A. requests an exemption from the interior-cabin location requirements for no-smoking placard placement on Embraer Model EMB–550 airplanes.

[FR Doc. 2012–611 Filed 1–12–12; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

Environmental Impact Statement for New Orleans Rail Gateway (NORG), Jefferson and Orleans Parishes, LA

AGENCY: Federal Railroad Administration (FRA), DOT.

ACTION: Notice of Intent to prepare an Environmental Impact Statement (EIS).

SUMMARY: FRA is issuing this notice to advise the public that it will prepare an EIS with the Louisiana Department of Transportation and Development (LA DOTD) to evaluate environmental and related impacts of upgrading the New Orleans Rail Gateway (NORG) and infrastructure in Jefferson and Orleans Parishes, Louisiana (proposed action). FRA is also issuing this notice to solicit public and agency input into the development of the scope of the EIS and to advise the public that outreach activities conducted by LA DOTD and its representatives will be considered in preparation of the EIS. FRA is issuing this Notice to alert interested parties, to provide information on the nature of the proposed action, including the purpose and need for the proposed action, possible alternatives to be considered in the preparation of the EIS, potentially significant impacts to the natural and built environment of those alternatives, and to invite public participation in the EIS process.

DATES: Two public scoping meetings will be advertised locally and will be held from 6 p.m.–7:30 p.m. at the following dates and locations.

- February 7, 2012 at the Xavier University of Louisiana, University Center, 3rd Floor, Mary and William McCaffrey Ballroom B, 4980 Dixon Street, New Orleans, LA 70125

• February 8, 2012 at the Joseph S. Yenni Building, Council Chambers, 1221 Elmwood Park Boulevard, Jefferson, LA 70123

Information on the meeting locations is also available on the following Web site: *http://www.dotd.la.gov/administration/public_info/projects/NORG/.*

Persons requiring special assistance in order to participate in these public scoping meetings should contact Mr. Dean Goodell, Intermodal Transportation Manager, Louisiana Department of Transportation and Development, 1201 Capitol Access Road, Room S–515, Baton Rouge, LA 70802, or by telephone at (225) 379–3031, at least five (5) working days prior to the public meetings dates.

To ensure all significant issues are identified and considered, the public will be invited to comment on the proposed action. Comments on the scope of the EIS, including the proposed action's purpose and need, the alternatives to be considered, the impacts to be evaluated, and the methodologies to be used in the evaluations will be accepted at the public scoping meetings. Those attending the public scoping meetings will be asked to register at the meeting location and may comment in written form, or orally. Interested parties may also provide written comments on the scope of the EIS to Mr. Dean Goodell, Intermodal Transportation Manager, Louisiana Department of Transportation and Development, 1201 Capitol Access Road, Room S–515, Baton Rouge, LA 70802, telephone (225) 379–3031. Comments will be considered if postmarked within ten (10) calendar days following the meetings.

FOR FURTHER INFORMATION CONTACT: Ms. Catherine Dobbs, Environmental Protection Specialist, Federal Railroad Administration, 1200 New Jersey Avenue SE., Washington 20590, telephone: (202) 493–6347 or Mr. Dean Goodell, Intermodal Transportation Manager, Louisiana Department of Transportation and Development, 1201 Capitol Access Road, Room S–515, Baton Rouge, LA 70802, telephone (225) 379–3031. Information and documents regarding the environmental review process will be made available through the following Web site: *http://www.dotd.la.gov/administration/public_info/projects/NORG/.*

Environmental Review Process

The EIS will be prepared in accordance with the National Environmental Policy Act (NEPA), the Council on Environmental Quality (CEQ) regulations implementing NEPA and the FRA's Procedures for Considering Environmental Impacts as set forth in 64 FR 28545 dated May 26, 1999 (Environmental Procedures). The EIS will also address Section 106 of the National Historic Preservation Act, Section 4(f) of the U.S. Department of Transportation Act of 1966 (49 U.S.C. 303) and other applicable Federal and state laws and regulations.

The study will result in a NEPA document that will address broad overall issues of concern, including but not limited to:

• Describing the purpose and need for the proposed action.

• Describing the environment likely to be affected by the proposed action.

• Developing evaluation criteria to identify alternatives that meet the purpose and need of the proposed action and those that do not.

• Identifying the range of reasonable alternatives that satisfy the purpose and need for the proposed action.

• Developing the no-build alternative to serve as a baseline for comparison.

• Describing and evaluating the potential environmental impacts and mitigation associated with the proposed alternatives.

SUPPLEMENTARY INFORMATION: The FRA and the LA DOTD will prepare the EIS for the New Orleans Rail Gateway Program and infrastructure in Jefferson and Orleans Parishes, Louisiana in coordination with the New Orleans Regional Planning Commission (NORPC) and the railroads operating in the New Orleans metropolitan area. The Class I railroads, which are members of the Association of American Railroads (AAR), include Burlington Northern Santa Fe Railway (BNSF), Canadian National (CN), CSX, Kansas City Southern Railway (KCS), Norfolk Southern Railroad (NS), and Union Pacific (UP) railroads, the terminal switching railroad, the New Orleans Public Belt Railroad (NOPB), and the National Railroad Passenger Corporation (Amtrak). LA DOTD and these railroads are advancing the proposed action as a public-private partnership (P3) among these entities.

I. New Orleans Rail Gateway (NORG)

The NORG is a rail corridor within Jefferson and Orleans Parishes, beginning on the west bank of the Mississippi River near the St. Charles/Jefferson Parish line. From the Parish line it proceeds easterly along tracks of the UP and BNSF through the Avondale Yard at West Bridge Junction (WBJ) and crosses the Mississippi River on the Huey P. Long Bridge (HPLB), which is owned and operated by the New Orleans Public Belt Railroad. At the base of the HPLB, it traverses East Bridge Junction (EBJ) to the Back Belt tracks owned and operated by the NS. The NORG proceeds along the Back Belt, entering the City of New Orleans at the 17th Street Canal. It proceeds through the City of New Orleans along the Back Belt, and connects with CSX trackage at Elysian Fields Avenue, and continues on CSX trackage crossing the Inner Harbor Navigation Canal on the Almonaster Bridge, traversing the CSX Gentilly Yard and proceeding easterly through New Orleans East to its terminus near Industrial Parkway.

II. Study Area

For the purpose of the EIS, a Study Area has been established that includes the above described NORG corridor and the other existing rail corridors within the New Orleans metropolitan area, and is of sufficient geographic extent to allow for a variety of alternatives to be considered and potential impacts to the human, natural, and cultural environments to be assessed. The Study Area encompasses approximately 110 square miles and is roughly bounded on the west by the Jefferson/St. Charles Parish line; on the north by I–10 within Jefferson Parish then turns north along the Jefferson/Orleans Parish line, eastward along Filmore Avenue, north along Franklin Avenue, northeast near Leon C Simon Drive and Lakeshore Drive, southeast along Martin Drive, southwest along Wales Street, southward along Press Drive and then continuing eastward along Dwyer Road; on the east along Maxent Canal near Bayou Sauvage; and on the south following the Intracoastal waterway and Mississippi River, then crossing the Mississippi River at Louisiana Street following US 90 to where it meets the Jefferson/St. Charles Parish line.

III. Purpose and Need

The NORG serves six Class I Railroads and three Amtrak passenger rail routes and the NOPB railroad links the Port of New Orleans, the eighth largest tonnage port in the United States, to the national rail network.

The Gateway is a critical link in the national freight rail system. It is one of five major rail interchange points between the eastern and western Class I Railroads and also has one of the four major Mississippi River rail bridges. It is one of only three national rail gateways that are both rail interchange hubs and major Mississippi River rail crossings.

Throughout the NORG, trains must observe a maximum speed of 20 mph, necessitated, in part, by antiquated control systems and switches. Flood gates at various locations are closed up

to 24 hours prior to and following storm events, such as Hurricane Katrina in 2005, limiting the railroads' ability to transport evacuees and emergency supplies. The NORG includes the existing Almonaster Avenue Bridge across the Inner Harbor Navigation Canal (IHNC), an 80 year old structure that is subject to frequent breakdowns. The electrical and mechanical components of the bridge are obsolete and are the cause of continual maintenance problems. In the closed to navigation position, the bridge has virtually no vertical clearance for marine traffic.

Due to its existing design and limited capacity, the NORG cannot efficiently handle current traffic volumes, routinely resulting in delays to both rail and road traffic.

The 29-mile NORG handles approximately 35 freight trains per day with a combined delay of 29.7 hours per day for train meets, including deceleration and acceleration. Each of the 20 at-grade crossings along the NORG handles over 20 trains per day. Several of these crossings are moderate to high volume arterials, carrying between 10,000 and 20,000 vehicles daily. Average daily delays to vehicles and trucks at these crossings are 112.4 hours and 12.1 hours, respectively.

The NORG is not able to accommodate anticipated future freight demand. The U.S. Department of Transportation forecasts that import and export freight tonnage could double by 2020 and domestic freight tonnage could increase by approximately 60 percent. Growth of shipping port traffic will increase rail traffic in the NORG. This results in negative impacts to the community and decreased regional economic competitiveness.

The purpose of the proposed action is to:

- Correct physical and operational deficiencies to improve rail traffic flow to better serve existing and future users of the Gateway,
- Improve the reliability of marine traffic passing through the Inner Harbor Navigation Canal under the Almonaster Avenue Bridge,
- Improve the safety of rail and vehicle operations in the affected area,
- Reduce vehicle congestion at street crossings,
- Improve emergency evacuation conditions, and
- Improve overall environmental quality.

IV. Previous Studies

Over the past 35 years, the FRA, the LA DOTD, the New Orleans Community and the railroads have examined rail improvements within the Gateway that would reduce delays and improve rail service to rail customers in the greater New Orleans region. Most recently, the LA DOTD, NORPC, and the AAR, representing Amtrak and the six Class I freight railroads serving New Orleans, studied improvements to the New Orleans Rail Gateway that would:

- Improve rail service,
- Reduce rail impacts on the adjacent communities, and
- Further the economic recovery and development of the metropolitan area.

Studies in 2002, 2004, and 2007 evaluated potential physical and operational improvements to eliminate the worst chokepoints and improve freight movement.

The 2007 NORG Infrastructure Feasibility Analysis (2007 Study) evaluated possible improvements to the Back Belt, Front Belt along the Mississippi River, and the Middle Belt along the Earhart Expressway/I–10 Corridor. Improvements to the Front Belt were determined to be unfeasible due to the adjacent development and numerous at-grade crossings. Back Belt improvements included grade separating numerous highway-railroad crossings to improve highway traffic flow and would provide limited additional rail capacity with minimal track construction. Middle Belt improvements included creating a new route between East Bridge Junction and East City Junction by linking existing, but lightly used rail lines through Jefferson and Orleans Parishes. Commonly known as the ''Carrolton Curve'', this route was first identified in 1955 and would reroute trains to the Earhart Expressway/I–10 corridor to provide additional rail capacity through a more industrial part of the City of New Orleans. While the Back and Middle Belt improvements both improved public safety by eliminating or separating most highway-rail grade crossings, the Middle Belt improvements appeared to offer the best benefits for both the public and the railroads, and would improve emergency evacuation procedures by eliminating flood-prone highway underpasses on I–10 and Airline Highway.

V. Alternatives To Be Considered

Preliminary alternatives identified include a No-Build Alternative and various Build Alternatives. The No-Build Alternative is defined to serve as the baseline for comparison of all alternatives. The No-Build Alternative represents the transportation system (highway and rail) as it exists, and as it would exist after completion of programs or projects currently funded or being implemented. The No-Build Alternative would draw upon the following sources on information:

- State Transportation Improvement Program (STIP)
- New Orleans Urbanized Area Transportation Improvement Program (for all travel modes)
- Freight and passenger rail plans.

The Build Alternatives would include a program of rail and roadway infrastructure and operations improvements (program of projects) that are cost-feasible and satisfy the stated purpose and need. Improvements to be considered could include, but not be limited to, closing or grade-separating crossings, reconfiguring or adding trackage, upgrading structures (including culverts and over/underpass structures), improving signal systems, and incorporating positive train control (PTC) and/or centralized train control (CTC). The Build Alternatives would include the alternatives evaluated in the 2007 Study and additional alternatives identified during scoping and the alternatives development process.

VI. Possible Effects

The FRA and LA DOTD will evaluate direct, indirect and cumulative changes to the social, economic, and physical environment—including land use and socioeconomic conditions, ecology, water resources, historic and archaeological resources, visual character and aesthetics, contaminated and hazardous materials, transportation, air quality, noise and vibration. Environmental justice will be examined for all alternatives, and Limited English Proficiency and Title VI requirements documented. The evaluation will take into account both beneficial and adverse affects and identify measures to avoid, minimize, and mitigate adverse community and environmental impacts. The analysis will be undertaken consistent with the National Environmental Policy Act, Council on Environmental Quality regulations defined previously, Section 106 of the National Historic Preservation Act, the Endangered Species Act, Clean Air Act, Clean Water Act, FRA's Environmental Procedures, LA DOTD guidance, and Section 4(f) of the Department of Transportation Act of 1966, along with other applicable Federal and state regulations.

VII. Scoping Process

To ensure that the full range of issues related to this proposal is addressed and all significant issues identified, comments and suggestions are invited from all interested parties. Comments or

questions concerning this proposed action and the EIS should be directed to the LA DOTD at the address above. Letters describing the proposed action and soliciting comments have been sent to the appropriate Federal, State and local agencies, Native American tribes and to private organizations who have previously expressed or who are known to have an interest in this proposal. Federal agencies with jurisdiction by law or special expertise with respect to potential environmental issues will be requested to act as a Cooperating Agency in accordance with 40 CFR 1501.6.

LA DOTD will lead the outreach activities, beginning with the scoping meetings identified under **DATES** above. Public involvement initiatives, including public meetings, newsletters, and outreach to engage low-, minority-, and other environmentally-disadvantaged groups will be held throughout the course of this study. Opportunities for public participation will be announced through mailings, notices, advertisements, press releases and a project Web site: *http://www.dotd.la.gov/administration/public_info/projects/NORG/*.

Two public hearings on the Draft EIS will be held following its issuance. Public notice will be given, in local newspapers, of the time and place of the meetings and hearings. The Draft EIS will be available for public and agency review prior to the public hearings.

Issued in Washington, DC, on January 10, 2012.

Paul Nissenbaum,

Associate Administrator for Railroad Policy and Development, Federal Railroad Administration.

[FR Doc. 2012–603 Filed 1–12–12; 8:45 am]

BILLING CODE 4910–06–P

DEPARTMENT OF TRANSPORTATION

Pipeline and Hazardous Materials Safety Administration

Notice of Applications for Modification of Special Permit

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

ACTION: List of applications for modification of special permits.

SUMMARY: In accordance with the procedures governing the application for, and the processing of, special permits from the Department of Transportation's Hazardous Material Regulations (49 CFR Part 107, Subpart B), notice is hereby given that the Office of Hazardous Materials Safety has received the applications described herein. This notice is abbreviated to expedite docketing and public notice. Because the sections affected, modes of transportation, and the nature of application have been shown in earlier **Federal Register** publications, they are not repeated here. Requests for modification of special permits (e.g., to provide for additional hazardous materials, packaging design changes, additional mode of transportation, etc.) are described in footnotes to the application number. Application numbers with the suffix ''M'' denote a modification request. These applications have been separated from the new application for special permits to facilitate processing.

DATES: Comments must be received on or before January 30, 2012.

Address Comments to: Record Center, Pipeline and Hazardous Materials Safety Administration, U.S. Department of Transportation, Washington, DC, 20590.

Comments should refer to the application number and be submitted in triplicate. If confirmation of receipt of comments is desired, include a self-addressed stamped postcard showing the special permit number.

FOR FURTHER INFORMATION CONTACT: Copies of the applications are available for inspection in the Records Center, East Building, PHH–30, 1200 New Jersey Avenue SE., Washington, DC, or at *http://regulations.gov.*

This notice of receipt of applications for modification of special permit is published in accordance with Part 107 of the Federal hazardous materials transportation law (49 U.S.C. 5117(b); 49 CFR 1.53(b)).

Issued in Washington, DC, on January 6, 2012.

Donald Burger,

Chief, General Approvals and Permits.

Application No.	Docket No.	Applicant	Regulation(s) affected	Nature of special permit thereof
MODIFICATION SPECIAL PERMITS				
11215–M	.....	Orbital Sciences Corporation, Mojave, CA.	49 CFR Part 172, Subparts C, D; 172.101, Special Provision 109.	To modify the special permit to add a Class 9 material.
11606–	.....	Safety-Kleen Systems, Inc., Plano, TX.	49 CFR 173.28(b)(2)	To modify the special permit to authorize double stacking of pallets used for shipping and to authorize approved third party transporters to transport the material authorized in the permit.
12135–M	.....	Daicel Safety Systems Inc. Hyogo Prefecture 671–1682.	49 CFR 173.301(h) ..... 173.302 ..... 173.306(d)(3)	To modify the special permit to authorize a new design of non-DOT specification cylinders (pressure vessels) for use as components of automobile vehicle safety systems.
14175–M	.....	The Linde Group, Murray Hill, NJ.	49 CFR 180.209	To modify the special permit to authorize additional Division 2.2 gases.
14467–M	.....	Brennar Tank, LLC, Fond Du Lac, WI.	49 CFR 178.345–2	To modify the special permit to authorize construction of series 400 cargo tanks using certain materials not authorized in 178.345(2) as materials of construction and to add additional UNS Designation tanks.
14952–M	.....	Mebrom NV Ertvelde-Rieme.	49 CFR 173.193	To modify the special permit to Belgium to authorize an alternative method of retesting qualification.

Application No.	Docket No.	Applicant	Regulation(s) affected	Nature of special permit thereof
15181–M	.....	JBI Helicopter, Pembroke, NH.	49 CFR 172.101 Column (9B). 172.204(c)(3) ..... 173.27(b)(2) ..... 175.30(a)(1) ..... 172.200 ..... 172.300 and 172.400	To modify the special permit to authorize additional Division 1.1, 2.1, 2.2, 3, 4.1, 4.2, and Class 9 materials.

[FR Doc. 2012–495 Filed 1–12–12; 8:45 am]

BILLING CODE 4910–60–M

DEPARTMENT OF TRANSPORTATION

Pipeline and Hazardous Materials Safety Administration

Notice of Application for Special Permits

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

ACTION: List of applications for special permits.

SUMMARY: In accordance with the procedures governing the application for, and the processing of, special permits from the Department of Transportation's Hazardous Material Regulations (49 CFR Part 107, Subpart B), notice is hereby given that the Office of Hazardous Materials Safety has received the application described herein. Each mode of transportation for which a particular special permit is requested is indicated by a number in the ''Nature of Application'' portion of the table below as follows: 1—Motor vehicle, 2—Rail freight, 3—Cargo vessel, 4—Cargo aircraft only, 5—Passenger-carrying aircraft.

DATES: Comments must be received on or before February 13, 2012.

ADDRESS COMMENTS TO: Record Center, Pipeline and Hazardous Materials Safety Administration, U.S. Department of Transportation, Washington, DC 20590.

Comments should refer to the application number and be submitted in triplicate. If confirmation of receipt of comments is desired, include a self-addressed stamped postcard showing the special permit number.

FOR FURTHER INFORMATION CONTACT: Copies of the applications are available for inspection in the Records Center, East Building, PHH–30, 1200 New Jersey Avenue SW., Washington, DC or at *http://regulations.gov*.

This notice of receipt of applications for special permit is published in accordance with part 107 of the Federal Hazardous Materials Transportation Law (49 U.S.C. 5117(b); 49 CFR 1.53(b)).

Issued in Washington, DC, on January 6, 2012.

Donald Burger,

Chief, General Approvals and Permits.

NEW SPECIAL PERMITS

Application No.	Docket No.	Applicant	Regulation(s) affected	Nature of special permits thereof
15519–N	.....	KMG Electronic Chemicals Pueblo, CO.	49 CFR 107.102(c)(4) IP Code 15.	To authorize the transportation of IBCs used to carry UN2031 with more than 55% nitric acid without replacing the rigid lastic inner receptacle every 2 years. (mode 1)
15532–N	.....	SET Environmental Inc. Wheeling, IL.	49 CFR 173.244	To authorize the one-time, one-way transportaion in commerce of one irregulary shaped sodium dispersion vessels in alternative packaging. (mode 1)

[FR Doc. 2012–494 Filed 1–12–12; 8:45 am]

BILLING CODE 4909–60–M

DEPARTMENT OF TRANSPORTATION

Pipeline and Hazardous Materials Safety Administration

Notice of Delays in Processing of Special Permits Applications

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

ACTION: List of Applications Delayed more than 180 days.

SUMMARY: In accordance with the requirements of 49 U.S.C. 5117(c), PHMSA is publishing the following list of special permit applications that have been in process for 180 days or more. The reason(s) for delay and the expected completion date for action on each application is provided in association with each identified application.

FOR FURTHER INFORMATION CONTACT: Ryan Paquet, Director, Office of Hazardous Materials Special Permits and Approvals, Pipeline and Hazardous Materials Safety Administration, U.S. Department of Transportation, East Building, PHH–30, 1200 New Jersey Avenue SE., Washington, DC 20590–0001, (202) 366–4535

Key to ''Reason for Delay''

1. Awaiting additional information from applicant.
2. Extensive public comment under review.
3. Application is technically complex and is of significant impact or precedent-setting and requires extensive analysis.
4. Staff review delayed by other priority issues or volume of special permit applications.

Meaning of Application Number Suffixes

N—New application.
M—Modification request.
R—Renewal Request.

P—Party To Exemption Request.

Issued in Washington, DC, on January 6, 2012.

Donald Burger,

Chief, General Approvals and Permits.

Application No.	Applicant	Reason for delay	Estimated date of completion
	Modification to Special Permits		
13736–M	ConocoPhillips, Anchorage, AK	4	03–31–2012
12561–M	Rhodia, Inc., Cranbury, NJ	4	03–31–2012
14860–M	Alaska Airlines, Seattle, WA	4	03–31–2012
14909–M	Lake Clark Air, Inc., Port Alsworth, AK	4	03–31–2012
10656–M	Conference of Radiation Control Program Directors, Inc., Frankfort, KY	4	03–31–2012
12629–M	TEA Technologies, Inc., Amarillo, TX	4	03–31–2012
11406–M	Conference of Radiation Control Program Directors, Inc., Frankfort, KY	4	03–31–2012
10898–M	Hydac Corporation, Bethlehem, PA	3	03–31–2012
11670–M	Schlumberger Oilfield UK Plc Dyce, Aberdeen Scotland, Ab	3	03–31–2012
14193–M	Honeywell International, Inc., Morristown, NJ	4	03–31–2012
13336–M	Renaissance Industries, Inc., Sharpsville Operations M–1102, Sharpsville, PA	4	03–31–2012
8723–M	Maine Drilling & Blasting, Auburn, NH	4	03–31–2012
14584–M	WavesinSolids LLC, State College, PA	4	03–31–2012
10646–M	Schlumberger Technologies Corporation, Sugar Land, TX	4	03–31–2012
14457–M	Amtrol Alfa Metalomecanica, SA Portugal	4	03–31–2012
12065–M	Rust-Oleum Corp., Pleasant Prairie, WI	4	03–31–2012
15132–M	National Aeronautics and Space Administration (NASA) Washington, DC	4	03–31–2012
9168–M	All-Pak Dangerous Goods, a Division of Berlin Packaging (Former Grantee All-Pak, Inc.), Bridgeville, PA.	4	03–31–2012
8826–M	Phoenix Air Group, Inc., Cartersville, GA	4	03–31–2012
	New Special Permit Applications		
14813–N	Organ Recovery Systems Des, Plaines, IL	4	03–31–2012
14929–N	Alaska Island Air, Inc., Togiak, AK	4	03–31–2012
14951–N	Lincoln Composites, Lincoln, NE	1	03–31–2012
15053–N	Department of Defense Scott, Air Force Base, IL	4	03–31–2012
15080–N	Alaska Airlines, Seattle, WA	1	03–31–2012
15233–N	ExpressJet Airlines, Inc., Houston, TX	4	03–31–2012
15229–N	Linde Gas North America LLC, New Providence, NJ	4	03–31–2012
15283–N	KwikBond Polymers, LLC, Benicia, CA	4	03–31–2012
15334–N	Floating Pipeline Company Incorporated Halifax, Nova Scotia	4	03–31–2012
15322–N	Digital Wave Corporation, Englewood, CO	4	03–31–2012
15317–N	The Dow Chemical Company, Philadelphia, PA	4	03–31–2012
15360–N	FMC Corporation, Tonawanda, NY	4	03–31–2012
15384–N	TEA Technologies, Inc., Amarillo, TX	4	03–31–2012
15393–N	Savannah Acid Plant LLC, Savannah, GA	3	03–31–2012
15510–N	TEMSCO Helicopters, Inc., Ketchikan, AK	4	03–31–2012
14872–N	Arkema, Inc., King of Prussia, PA	4	03–31–2012
	Party to Special Permits Application		
8723–P	Maxam US, LLC, Salt Lake City, UT	4	03–31–2012
12412–P	ChemStation of Kansas City, Grain Valley, MO	4	03–31–2012
10880–P	WESCO, Midvale, UT	4	03–31–2012
8723–P	SLT Express Way Inc., Glendale, AZ	4	03–31–2012
14173–P	Union Carbide Corporation, Hahnville, LA	4	03–31–2012
8445–P	Babcock & Wilcox Technical Services, Pantex, LLC, Amarillo, TX	4	03–31–2012
15161–P	Taylor & Crowe Battery Company, Bonita Springs, FL	4	03–31–2012
8445–P	Amberwick Corp., Long Beach, CA	4	03–31–2012
12325–P	United Oil Recovery D/B/A United Industrial Services, Meriden, CT	4	03–31–2012
12134–P	Riceland Foods, Inc., Stuttgart, AR	4	03–31–2012
	Renewal Special Permits Applications		
8445–R	Environmental Products & Services, Inc., Syracuse, NY	4	03–31–2012
12443–R	Thatcher Company of Nevada, Henderson, NV	4	03–31–2012
14482–R	Classic Helicopters Limited, L.C., Woods Cross, UT	4	03–31–2012
11759–R	E.I. duPont de Neumours & Company, Inc., Wilmington, DE	4	03–31–2012
14550–R	Air Liquide Electronics Materials F–71106, Chalon-sur-Saone Cedex	4	03–31–2012
8723–R	Nelson Brothers Mining Services, LLC, Birmingham, AL	4	03–31–2012
11749–R	Occidental Chemical Corporation, Dallas, TX	4	03–31–2012
7891–R	Aldrich Chemical Company Inc., Milwaukee, WI	4	03–31–2012
12283–R	Interstate Battery of Alaska, Anchorage, AK	4	03–31–2012
4884–R	Airgas, Inc., Cheyenne, WY	4	03–31–2012
7835–R	Airgas, Inc., Cheyenne, WY	4	03–31–2012

Application No.	Applicant	Reason for delay	Estimated date of completion
7835–R	Air Liquide America L.P., Houston, TX	4	03–31–2012
2787–R	Raytheon Company, Andover, MA	4	03–31–2012
7887–R	Republic Environmental Systems (Pennsylvania), LLC, Hatfield, PA	4	03–31–2012
10709–R	Schlumberger Technologies Corporation, Sugar Land, TX	4	03–31–2012
9623–R	Orica USA Inc., Watkins, CO	4	03–31–2012
11227–R	Schlumberger Well Services a Division of Schlumberger Technology Corporation, Sugar Land, TX.	4	03–31–2012
9929–R	Alliant Techsystems Inc., Propulsion & Controls (Former Grantee ATK Elkton), Elkton, MD	4	03–31–2012
11903–R	Comptank Corporation, Bothwell, ON	4	03–31–2012
11043–R	A & D Environmental Services, Inc., Archdale, NC	4	03–31–2012
4850–R	Schlumberger Technology Corporation, Sugar Land, TX	4	03–31–2012
11110–R	United Parcel Services Company, Louisville, KY	4	03–31–2012
3004–R	Air Liquide America L.P., Houston, TX	4	03–31–2012
10985–R	Domtar A.W. Corp., Ashdown, AR	4	03–31–2012
8445–R	AET Environmental, Inc., Denver, CO	4	03–31–2012
13161–R	Honeywell International Inc., Morristown, NJ	4	03–31–2012
11043–R	AET Environmental, Inc., Denver, CO	4	03–31–2012
11296–R	Environmental Waste Services, Inc., Elburn, IL	4	03–31–2012
12283–R	AT&T Alascom, Anchorage, AK	4	03–31–2012
7887–R	21st Century Environmental Management, LLC of RI, Providence, RI	4	03–31–2012
8445–R	Chemical Analytics, Inc., Romulus, MI	4	03–31–2012
12412–R	American Development Corporation, Fayetteville, TN	4	03–31–2012
6805–R	Air Liquide America LP, Houston, TX	4	03–31–2012
5022–R	ATK Launch Systems Inc., Brigham City, UT	4	03–31–2012
10650–R	Loveland Products, Inc., Billings, MT	4	03–31–2012
15073–R	Utility Aviation, Inc., Loveland, CO	4	03–31–2012
11043–R	Republic Environmental Systems, Pa. LLC, Hatfield, PA	4	03–31–2012
11043–R	A & D Environmental Services (SC), LLC, Lexington, SC	4	03–31–2012
11373–R	A & D Environmental Services (SC), LLC, Lexington, SC	4	03–31–2012
13192–R	A & D Environmental Services (SC), LLC, Lexington, SC	4	03–31–2012
8445–R	Advanced Waste Carriers, Inc., West Allis, WI	4	03–31–2012
11215–R	Orbital Sciences Corporation, Mojave, CA	4	03–31–2012
14823–R	FedEx Ground Package System, Inc., Moon Township, PA	4	03–31–2012
12325–R	Air Liquide America L.P., Houston, TX	4	03–31–2012
12412–R	FMC Corporation, Philadelphia, PA	4	03–31–2012
11759–R	3M, Saint Paul, MN	4	03–31–2012
8723–R	Western Explosive Systems Company DBA WESCO, Midvale, UT	4	03–31–2012
14828–R	Croman Corporation, White City, OR	4	03–31–2012
8156–R	Airgas, Inc., Cheyenne, WY	4	03–31–2012
12858–R	Union Carbide, North Seadrift, TX	4	03–31–2012
10043–R	Texas Instruments Incorporated (“TI”), Dallas, TX	4	03–31–2012
12858–R	The Dow Chemical Company, Philadelphia, PA	4	03–31–2012
8445–R	EQ Industrial Services, Inc., Ypsilanti, MI	4	03–31–2012
12325–R	SNF Holding Company, Riceboro, GA	4	03–31–2012
7648–R	American Aviation, Inc., Salt Lake City, UT	4	03–31–2012
8445–R	HazChem Environmental Corporation, Addison, IL	4	03–31–2012
11043–R	HazChem Environmental Corporation, Addison, IL	4	03–31–2012
13192–R	HazChem Environmental Corporation, Addison, IL	4	03–31–2012
14466–R	Alaska Pacific Powder Company, Watkins, CO	4	03–31–2012
7991–R	Evansville Western Railway, Inc., Mt. Vernon, IN	4	03–31–2012
7991–R	Progress Rail Services Corporation, Albertville, AL	4	03–31–2012
12744–R	AFL Network Services, Inc., Duncan, SC	4	03–31–2012
2709–R	ATK Aerospace Systems (Former Grantee: ATK Launch Systems Inc.), Magna, UT	4	03–31–2012
2709–R	Lockheed Martin Missiles and Fire Control, Dallas, TX	4	03–31–2012
12095–R	Univar USA, Portland, OR	4	03–31–2012

[FR Doc. 2012–493 Filed 1–12–12; 8:45 am]

BILLING CODE 4910–60–M

DEPARTMENT OF TRANSPORTATION

Pipeline and Hazardous Materials Safety Administration

[Docket No. PHMSA–2012–0001]

Pipeline Safety: Implementation of the National Registry of Pipeline and Liquefied Natural Gas Operators

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

ACTION: Notice; Issuance of Advisory Bulletin.

SUMMARY: This notice advises owners and operators of pipeline facilities of PHMSA’s plan regarding the implementation of the national registry of pipeline and liquefied natural gas operators.

FOR FURTHER INFORMATION CONTACT: Jamerson Pender, Information Resources Manager, (202) 366–0218 or by email at *Jamerson.Pender@dot.gov*.

SUPPLEMENTARY INFORMATION:

I. Background

PHMSA published a final rule in the **Federal Register** on November 26, 2010, (75 FR 72878), titled: ''Pipeline Safety: Updates to Pipeline and Liquefied Natural Gas Reporting Requirements.'' The final rule added two new sections, 49 CFR 191.22 and 195.64, to the pipeline safety regulations for the establishment of a national pipeline operator registry. The national pipeline operator registry is primarily applicable to operators that file electronic reports. The registry will be used by pipeline operators to obtain an Operator Identification (OPID) Number and notify PHMSA of certain actions. Operators will use the OPID number for electronic submissions such as incident and annual reports. The national pipeline operator registry will also be used to provide PHMSA with operator notifications related to actions such as company name changes, certain construction activities, and project planning.

The national pipeline operator registry became effective on January 1, 2012. In compliance with the Paperwork Reduction Act requirements, PHMSA issued a 60-day **Federal Register** notice on December 13, 2010, (75 FR 77694) and a 30-day **Federal Register** notice on November 10, 2011, (76 FR 70217) to gather and respond to comments on the actual forms used to collect information for the national pipeline operator registry.

PHMSA has issued this advisory bulletin to clarify the implementation of the national pipeline operator registry.

Advisory Bulletin (ADB–2012–01)

To: Owners and Operators of Pipeline Facilities.

Subject: Implementation of the Operator Identification Registry.

Advisory: This notice advises owners and operators of pipeline facilities of the implementation of the national pipeline operator registry.

Implementation of OPID Registry (Program Effective Date: January 1, 2012)

This table identifies the expected submission dates for the various submissions that are related to the national pipeline operator registry.

Action	Submission expected
OPID Assignment Requests: §§ 191.22(a) and 195.64(a)	Begins February 1, 2012 (Operators in need of an OPID prior to February 1, 2012, should contact the operator hotline at (202) 366–8075).
OPID Validation: §§ 191.22(b) and 195.64(b)	As specified in §§ 191.22(b) and 195.64(b), respectively (June 30, 2012).
Notification Submissions: §§ 191.22(c) and 195.64(c)	
—60-day ''before'' notifications for events occurring between January 1, 2012, and March 30, 2012.	January 31, 2012.
—60-day ''before'' notifications for events occurring after March 30, 2012.	As specified in §§ 191.22(c)(1) and 195.64(c)(1), respectively.
—60-day ''after'' notifications for events occurring on and after January 1, 2012.	As specified in §§ 191.22(c)(2) and 195.64(c)(2), respectively.

Here are a few clarifying questions and responses regarding the national pipeline operator registry.

Question 1: Sections 191.22(c)(1) and 195.64(c)(1), require the submission of a notification 60 days prior to ''Construction or any planned * * * that costs $10 million or more * * *.'' Some operators have multiple projects that are consolidated into a program. For example, an operator upgrades 10 meter sites over various systems within one OPID and each upgrade is documented as an individual project, but consolidated into one program to minimize costs, contractors, material, etc. Further, each meter site upgrade is expected to cost $1 million for a grand total of $10 million for the program. For reporting purposes, should the operator consider the 10 individual projects at $1 million each or as a program of $10 million?

Answer 1: The $10 million threshold applies to each project. Therefore, the consolidated projects specified in the example would not hit the $10 million threshold since each project is less than $10 million.

Question 2: Section 195.64(c)(1)(iii) requires operators to notify PHMSA of the construction of a new pipeline facility no later than 60 days before the construction occurs. PHMSA has received questions regarding the use of the term ''pipeline facility'' and whether it includes line pipe.

Answer 2: By definition (§ 195.2) a pipeline facility includes ''*new and existing pipe, right-of-ways, and any equipment, facility, or building used in the transportation of hazardous liquids or carbon dioxide.''* However, for notification purposes of § 195.2(c)(iii), pipe is not included. This clarification also applies to § 195.2(c)(v), which requires notifications for the acquisition and divestitures of existing pipeline facilities.

Further details on how to file submissions are detailed at the following URL: *http://opsweb.phmsa.dot.gov.* Any questions regarding the filing of national pipeline operator registry submissions can be directed to the Office of Pipeline Safety operator helpline at (202) 366–8075.

Issued in Washington, DC, on January 6, 2012.

Jeffrey D. Wiese,

Associate Administrator for Pipeline Safety.

[FR Doc. 2012–618 Filed 1–12–12; 8:45 am]

BILLING CODE 4910–60–P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[Docket No. FD 35578]

Birmingham Terminal Railway, L.L.C.—Acquisition and Operation Exemption—Birmingham Southern Railroad Company

Birmingham Terminal Railway, L.L.C. (BHRR), a noncarrier, has filed a verified notice of exemption under 49 CFR 1150.31 to acquire from Birmingham Southern Railroad Company (BS), and to operate approximately 75.59 miles of rail line, including all sidings and yard tracks as follows: (1) Between milepost 0.0 at 34th Street in Ensley, Ala., and milepost 4.7 at East Thomas, Ala.; (2) between milepost 0.0 at 34th Street in Ensley and milepost 9.8 at Bessemer, Ala.; and (3) between milepost 0.0 at the Port Connection Switch at Crawford Street in Fairfield, Ala., and milepost 18.85 at Birmingport, Ala.[1]

This transaction is related to a concurrently filed verified notice of

[1] BHRR is a new, wholly owned subsidiary of Watco Holdings, Inc.; BS, a subsidiary of Transtar, Inc., is a Class III terminal and switching carrier.

exemption in Docket No. FD 35579, *Watco Holdings, Inc.—Continuance in Control Exemption—Birmingham Terminal Railway, L.L.C.,* wherein Watco Holdings, Inc., seeks Board approval to continue in control of BHRR, upon BHRR's becoming a Class III rail carrier.

The parties intend to consummate the transaction after the effective date of the verified notice of exemption.

BHRR certifies that its projected annual revenues as a result of this transaction will not exceed those that would qualify it as a Class III rail carrier. Because BHRR's projected annual revenues will exceed $5 million, BHRR certified to the Board on December 2, 2011, that it had complied with the requirements of 49 CFR 1150.32(e) on December 1, 2011, by providing notice to employees and their labor unions on the affected line. Under 49 CFR 1150.32(e), this exemption cannot become effective until 60 days after the date notice was provided.

If the verified notice contains false or misleading information, the exemption is void *ab initio.* Petitions to revoke the exemption under 49 U.S.C. 10502(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the effectiveness of the exemption. Petitions to stay must be filed no later than January 23, 2012 (at least 7 days before the exemption becomes effective).

An original and 10 copies of all pleadings, referring to Docket No. FD 35578, must be filed with the Surface Transportation Board, 395 E Street SW., Washington, DC 20423–0001. In addition, a copy of each pleading must be served on Karl Morell, 655 Fifteenth Street NW., Suite 225, Washington, DC 20005.

Board decisions and notices are available on our Web site at *www.stb.dot.gov.*

Decided: January 10, 2012.

By the Board, Rachel D. Campbell, Director, Office of Proceedings.

Raina S. White,

Clearance Clerk.

[FR Doc. 2012–558 Filed 1–12–12; 8:45 am]

BILLING CODE 4915–01–P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[Docket No. FD 35584]

Southwest Pennsylvania Railroad Company—Acquisition Exemption—Laurel Hill Development Corporation

Southwest Pennsylvania Railroad Company (SPRC), a Class III rail carrier, has filed a verified notice of exemption under 49 CFR 1150.41 to acquire a number of rail lines now owned by Laurel Hill Development Corporation (LHDC) (formerly Fay Penn Industrial Development Corporation (Fay Penn)), a non-operating rail carrier.[1] The lines comprise a total distance of 29.09 miles and extend generally between Everson, Pa. and Broadford, Pa. and between Greene Junction, Pa. and Smithfield, Pa., including Bowest Yard and various branch lines.

The lines are described as follows: (a) 21.67 miles of rail line extending between Rail Valuation Station 4+06.3 in Greene Junction and Rail Valuation Station 1148+43.8 in Smithfield, as shown generally on Valuation Maps V.69.1/S–43a, V.69.11/1 to 6, and V.82.1/1 to 6, in Fayette County, Pa.; (b) 3.28 miles of rail line extending between Rail Valuation Station 1+30 in Broadford and Rail Valuation Station 174+56 at Everson, in Fayette County, Pa.; (c) a portion of the Smithfield & Masontown Branch adjacent to the rail line described in (a) above, in Smithfield, as shown generally as Valuation Map 82.1/S 5–6 and 82.4/1; (d) a 2.26-mile portion of the South West Branch extending between Rail Valuation Station 1926+00 and Rail Valuation Station 2045+45 in Uniontown, as shown on Valuation Maps V. 20.01/37 to 39; (e) a 0.27-mile portion of the South West Branch extending between Rail Valuation Station 2271+39 and Rail Valuation Station 2285+55, in Fairchance, as shown generally on Valuation Map V.20.01/44; (f) a 1.61-mile portion of the Fairchance Branch extending between Rail Valuation Station 2+20 and Rail Valuation Station 87+20, in Fairchance, as shown on Valuation Maps V.20.025/1 & 2; (g) all of the tract or parcel of land and rights-of-way referred to as the Bowest Yard lying and being adjacent to the rail line described in (a) above in Dunbar Township, Fayette County; (h) all tracts or parcels of land and rights-of-way comprising or adjacent to the former CSX Transportation, Inc. (CSXT) Smithfield and Masontown Branch Line connecting with the parcels at Smithfield & Mason Junction near Smithfield extending from the northerly property line of the parcel described in (c) above to State Route 119; and (i) the industrial side track easement located in the Fayette Business Park and connecting to the former CSXT Fairmont, Morgantown & Pittsburgh Subdivision in Georges Township, in Fayette County. SPRC currently operates the rail lines that it seeks to acquire and will continue to provide common carrier service on the lines after their acquisition. SPRC also operates and will continue to operate over 4 miles of incidental trackage rights previously granted by CSXT.

SPRC certifies that its projected annual revenues as a result of the transaction will not exceed those that would qualify it as a Class III rail carrier.

The transaction is expected to be consummated after January 27, 2012, the effective date of the exemption.

If the verified notice contains false or misleading information, the exemption is void *ab initio.* Petitions to revoke the exemption under 49 U.S.C. 10502(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the effectiveness of the exemption. Petitions for stay must be filed no later than January 20, 2012 (at least 7 days before the exemption becomes effective).

An original and 10 copies of all pleadings, referring to Docket No. FD 35584, must be filed with the Surface Transportation Board, 395 E Street SW., Washington, DC 20423–0001. In addition, a copy of each pleading must be served on Richard R. Wilson, Esq., 518 N. Center Street, Ste. 1, Ebensburg, PA 15931.

Board decisions and notices are available on our Web site at http://www.stb.dot.gov.

Decided: January 9, 2012.

By the Board, Rachel D. Campbell, Director, Office of Proceedings.

Raina S. White,

Clearance Clerk.

[FR Doc. 2012–550 Filed 1–12–12; 8:45 am]

BILLING CODE 4915–01–P

[1] In *Fay Penn Industrial Development Corporation—Acquisition Exemption—CSXT Transportation, Inc.,* FD 33051 (STB served Oct. 4, 1996), Fay Penn was authorized to acquire certain rail lines extending between specified points in Pennsylvania, and in *Southwest Pennsylvania Railroad Company—Operation Exemption—CSX Transportation, Inc.,* FD 33051 (Sub-No. 1) (STB served Oct. 4, 1996), SPRC was authorized to operate the lines acquired by Fay Penn and also was authorized to acquire 4 miles of incidental trackage rights. In *CSX Transportation, Inc.—Abandonment Exemption—in Fayette and Westmoreland Counties, Pa.,* AB 55 (Sub-No. 420X) (ICC served Nov. 28, 1994), Fay Penn, successor in interest to Fay-Penn Land Trust, acquired authority as the designee of the Commonwealth of Pennsylvania, along with the Westmoreland County Industrial Development Corporation, to acquire a rail line between specified points in Fayette and Westmoreland Counties, Pa. under the agency's offer of financial assistance procedures. In *Southwest Pennsylvania Railroad Company—Lease and Operation Exemption—Lines of Westmoreland County Industrial Development Corporation and Fay-Penn Land Trust,* FD 32737 (ICC served July 21, 1995), SPRC was authorized to lease and operate that rail line.

SPRC states that on August 25, 2011, Fay Penn changed its name to LHDC.

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

Information Collections; Request for Comments

ACTION: 60-day notice and request for comments.

SUMMARY: As part of its continuing effort to reduce paperwork burdens, and as required by the Paperwork Reduction Act of 1995, 44 U.S.C. 3501–3519 (PRA), the Surface Transportation Board (Board) gives notice of its intent to request from the Office of Management and Budget (OMB) approval without change of the seven existing collections described below.

Comments are requested concerning each collection as to (1) whether the particular collection of information is necessary for the proper performance of the functions of the Board, including whether the collection has practical utility; (2) the accuracy of the Board's burden estimates; (3) ways to enhance the quality, utility, and clarity of the information collected; and (4) ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology, when appropriate. Submitted comments will be included and/or summarized in the Board's request for OMB approval.

DATES: Written comments are due on March 13, 2012.

ADDRESSES: Direct all comments to Marilyn Levitt, Surface Transportation Board, Suite 1260, 395 E Street SW., Washington, DC 20423–0001, or to *levittm@stb.dot.gov.* Comments should be identified as ''Paperwork Reduction Act Comments,'' and should refer to the title and control number of the specific collection(s) commented upon.

FOR FURTHER INFORMATION CONTACT: For additional information or copies of the information collection(s) contact Paul Aguiar at (202) 245–0323 or *aguiarp@stb.dot.gov.* Federal Information Relay Service (FIRS) for the hearing impaired: (800) 877–8339.

Subjects: In this notice the Board is requesting comments on the following information collections:

Collection Number 1

Title: Class I Railroad Annual Report.
OMB Control Number: 2140–0009.
Form Number: R1.
Type of Review: Extension without change.
Respondents: Class I railroads.
Number of Respondents: Seven.
Estimated Time per Response: No more than 800 hours, based on information provided by the railroad industry during the 1990s. This estimate includes time spent reviewing instructions; searching existing data sources; gathering and maintaining the data needed; completing and reviewing the collection of information; and converting the data from the carrier's individual accounting system to the Board's Uniform System of Accounts (USOA), which ensures that the information will be presented in a consistent format across all reporting railroads, *See* 49 U.S.C. 11141–43, 11161–64; 49 CFR 1200–1201.
Frequency of Response: Annual.
Total Annual Hour Burden: No more than 5,600 hours annually.
Total Annual ''Non-Hour Burden'' Cost: No ''non-hour cost'' burdens associated with this collection have been identified.
Needs and Uses: Annual reports are required to be filed by Class I railroads under 49 U.S.C. 11145. The reports show operating expenses and operating statistics of the carriers. Operating expenses include costs for right-of-way and structures, equipment, train and yard operations, and general and administrative expenses. Operating statistics include such items as car-miles, revenue-ton-miles, and gross ton-miles. The reports are used by the Board, other Federal agencies, and industry groups to monitor and assess railroad industry growth, financial stability, traffic, and operations, and to identify industry changes that may affect national transportation policy. Information from this report is also entered into the Board's Uniform Rail Costing System (URCS), which is a cost measurement methodology. URCS, which was developed by the Board pursuant to 49 U.S.C. 11161, is used as a tool in rail rate proceedings, in accordance with 49 U.S.C. 10707(d), to calculate the variable costs associated with providing a particular service. The Board also uses this information to carry out more effectively other of its regulatory responsibilities, including: Acting on railroad requests for authority to engage in Board-regulated financial transactions such as mergers, acquisitions of control, and consolidations, *see* 49 U.S.C. 11323–11324; analyzing the information that the Board obtains through the annual railroad industry waybill sample, *see* 49 CFR 1244; measuring off-branch costs in railroad abandonment proceedings, in accordance with 49 CFR 1152.32(n); developing the ''rail cost adjustment factors,'' in accordance with 49 U.S.C. 10708; and conducting investigations and rulemakings.

Information from certain schedules contained in these reports is compiled and published on the Board's Web site, *http://www.stb.dot.gov.http://www.stb.dot.gov./Information* in these reports is not available from any other source.

Collection Number 2

Title: Quarterly Report of Revenues, Expenses, and Income—Railroads (Form RE&I) .
OMB Control Number: 2140–0013.
Form Number: None.
Type of Review: Extension without change.
Respondents: Class I railroads.
Number of Respondents: Seven.
Estimated Time per Response: 6 hours.
Frequency of Response: Quarterly.
Total Annual Hour Burden: 168 hours annually.
Total Annual ''Non-Hour Burden'' Cost: No ''non-hour cost'' burdens associated with this collection have been identified.
Needs and Uses: This collection is a report of railroad operating revenues, operating expenses and income items; it is a profit and loss statement, disclosing net railway operating income on a quarterly and year-to-date basis for the current and prior years. *See* 49 CFR 1243.1. The Board uses the information in this report to ensure competitive, efficient, and safe transportation through general oversight programs that monitor and forecast the financial and operating condition of railroads, and through regulation of railroad rate and service issues and rail restructuring proposals, including railroad mergers, consolidations, acquisitions of control, and abandonments. Information from these reports is used by the Board, other Federal agencies, and industry groups to monitor and assess industry growth and operations, detect changes in carrier financial stability, and identify trends that may affect the national transportation system. Some of the information from these reports is compiled by the Board in our quarterly Selected Earnings Data Report, which is published on the Board's Web site, *http://www.stb.dot.gov. http://www.stb.dot.gov./*The information contained in these reports is not available from any other source.

Collection Number 3

Title: Quarterly Condensed Balance Sheet—Railroads (Form CBS) .
OMB Control Number: 2140–0014.
Form Number: None.
Type of Review: Extension without change.
Respondents: Class I railroads.
Number of Respondents: Seven.

Estimated Time per Response: 6 hours.

Frequency of Response: Quarterly.

Total Annual Hour Burden: 168 hours annually.

Total Annual ''Non-Hour Burden'' Cost: No ''non-hour cost'' burdens associated with this collection have been identified.

Needs and Uses: This collection shows the balance, quarterly and cumulative, for the current and prior year of the carrier's assets and liabilities, gross capital expenditures, and revenue tons carried. *See* 49 CFR 1243.2. The Board uses the information in this report to ensure competitive, efficient, and safe transportation through general oversight programs that monitor and forecast the financial and operating condition of railroads, and through specific regulation of railroad rate and service issues and rail restructuring proposals, including railroad mergers, consolidations, acquisitions of control, and abandonments. Information from these reports is used by the Board, other Federal agencies, and industry groups to assess industry growth and operations, detect changes in carrier financial stability, and identify trends that may affect the national transportation system. Revenue ton-miles, which are reported in these reports, are compiled and published by the Board in its quarterly Selected Earnings Data Report, which is published on the Board's Web site, *http://www.stb.dot.gov.http://www.stb.dot.gov./*The information contained in these reports is not available from any other source.

Collection Number 4

OMB Control Number: 2140–0004.

Title: Report of Railroad Employees, Service and Compensation (Wage Forms A and B).

Form Number: None.

Type of Review: Extension without change.

Respondents: Class I railroads.

Number of Respondents: Seven.

Estimated Time per Response: No more than 30 hours per quarterly report and 40 hours per annual summation, based on information provided by the railroad industry during the 1990s. Again, it is likely that the time required to collect this information is overstated given the advances made in computerized data collection and processing systems.

Frequency of Response: Quarterly, with an annual summation.

Total Annual Hour Burden: No more than 1120 hours annually.

Total Annual ''Non-Hour Burden'' Cost: No ''non-hour cost'' burdens associated with this collection have been identified.

Needs and Uses: This collection shows the number of employees, service hours, and compensation, by employee group (e.g., executive, professional, maintenance-of-way and equipment, and transportation), of the reporting railroads. *See* 49 CFR 1245. The information is used by the Board to forecast labor costs and measure the efficiency of the reporting railroads. The information is also used by the Board to evaluate proposed regulated transactions that may impact rail employees, including mergers and consolidations, acquisitions of control, purchases, and abandonments. Other Federal agencies and industry groups, including the Railroad Retirement Board, Bureau of Labor Statistics, and Association of American Railroads, use the information contained in the reports to monitor railroad operations. Certain information from these reports is compiled and published on the Board's Web site, *http://www.stb.dot.gov.* The information contained in these reports is not available from any other source.

Collection Number 5

Title: Monthly Report of Number of Employees of Class I Railroads (Wage Form C) .

OMB Control Number: 2140–0007.

Form Number: STB Form 350.

Type of Review: Extension without change.

Respondents: Class I railroads.

Number of Respondents: Seven.

Estimated Time per Response: 1.25 hours.

Frequency of Response: Monthly.

Total Annual Hour Burden: 105 hours annually.

Total Annual ''Non-Hour Burden'' Cost: No ''non-hour cost'' burdens associated with this collection have been identified.

Needs and Uses: This collection shows, for each reporting carrier, the average number of employees at mid-month in the six job-classification groups that encompass all railroad employees. *See* 49 CFR 1246. The information is used by the Board to forecast labor costs and measure the efficiency of the reporting railroads. The information is also used by the Board to evaluate the impact on rail employees of proposed regulated transactions, including mergers and consolidations, acquisitions of control, purchases, and abandonments. Other Federal agencies and industry groups, including the Railroad Retirement Board, Bureau of Labor Statistics, and Association of American Railroads, use the information contained in these reports to monitor railroad operations. Certain information from these reports is compiled and published on the Board's Web site, *http://www.stb.dot.gov.* The information contained in these reports is not available from any other source.

Collection Number 6

Title: Annual Report of Cars Loaded and Cars Terminated.

OMB Control Number: 2140–0011.

Form Number: Form STB–54.

Type of Review: Extension without change.

Number of Respondents: Fewer than 10.

Estimated Time per Response: 4 hours.

Frequency of Response: Annual.

Total Annual Hour Burden: 28 hours annually.

Total Annual ''Non Hour Burden'' Cost: No ''non-hour cost'' burdens associated with this collection have been identified.

Needs and Uses: This collection reports the number of cars loaded and cars terminated on the reporting carrier's line. See 49 CFR 1247. Information in this report is entered into the Board's URCS, the uses of which are explained under Collection Number 1. There is no other source for the information contained in this report.

Collection Number 7

OMB Control Number: 2140–000.

Title: Quarterly Report of Freight Commodity Statistics (Form QCS).

Form Number: None.

Type of Review: Extension without change.

Respondents: Class I railroads.

Number of Respondents: Fewer than 10.

Estimated Time per Response: 217 hours .

Frequency of Response: Quarterly, with an annual summation.

Total Annual Hour Burden: 6,076 hours annually.

Total Annual ''Non-Hour Burden'' Cost: No ''non-hour cost'' burdens associated with this collection have been identified.

Needs and Uses: This collection, which is based on information contained in carload waybills used by railroads in the ordinary course of business, reports car loadings and total revenues by commodity code for each commodity that moved on the railroad during the reporting period. *See* 49 CFR 1248. Information in this report is entered into the Board's URCS, the uses of which are explained under Collection Number 1. There is no other source for the information contained in this report.

SUPPLEMENTARY INFORMATION: Under the PRA, a Federal agency conducting or

sponsoring a collection of information must display a currently valid OMB control number. A collection of information, which is defined in 44 U.S.C. 3502(3) and 5 CFR 1320.3(c), includes agency requirements that persons submit reports, keep records, or provide information to the agency, third parties, or the public. Under § 3506(c)(2)(A) of the PRA, Federal agencies are required, prior to submitting a collection to OMB for approval, to provide a 60-day notice and comment period through publication in the **Federal Register** concerning each proposed collection of information, including each proposed extension of an existing collection of information.

Dated: January 10, 2012.

Jeffrey Herzig,

Clearance Clerk.

[FR Doc. 2012–535 Filed 1–12–12; 8:45 am]

BILLING CODE 4915–01–P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[Docket No. FD 35579]

Watco Holdings, Inc.—Continuance in Control Exemption—Birmingham Terminal Railway, L.L.C.

Watco Holdings, Inc. (Watco), a noncarrier, has filed a verified notice of exemption pursuant to 49 CFR 1180.2(d)(2) to continue in control of Birmingham Terminal Railway, L.L.C. (BHRR), upon BHRR's becoming a Class III rail carrier.

This transaction is related to a concurrently filed verified notice of exemption in Docket No. FD 35578, *Birmingham Terminal Railway, L.L.C.—Acquisition and Operation Exemption—Birmingham Southern Railroad Company,* wherein BHRR seeks Board approval to acquire from Birmingham Southern Railroad Company and operate approximately 75.59 miles of rail line, including all sidings and yard tracks, in Ensley, East Thomas, Bessemer, Fairfield, and Birmingham, AL.

The parties intend to consummate the transaction on or shortly after January 31, 2012.

Watco is a Kansas corporation which currently controls, indirectly, 24 Class III railroads and 1 Class II railroad, operating in 18 States. Watco also owns, indirectly, 100 percent of the issued and outstanding stock of BHRR, a Delaware limited liability company.

Watco controls, through stock ownership and management, Class III railroads South Kansas and Oklahoma Railroad, Inc., Palouse River & Coulee City Railroad, L.L.C., Timber Rock Railroad, L.L.C., Stillwater Central Railroad, L.L.C., Eastern Idaho Railroad, L.L.C., Kansas & Oklahoma Railroad, L.L.C., Pennsylvania Southwestern Railroad, L.L.C., Great Northwest Railroad, L.L.C., Kaw River Railroad, L.L.C., Mission Mountain Railroad, L.L.C., Mississippi Southern Railroad, L.L.C., Yellowstone Valley Railroad, L.L.C., Louisiana Southern Railroad, L.L.C., Arkansas Southern Railroad, L.L.C., Alabama Southern Railroad, L.L.C., Vicksburg Southern Railroad, L.L.C., Austin Western Railroad, L.L.C., Baton Rouge Southern Railroad, L.L.C., Pacific Sun Railroad, L.L.C., Grand Elk Railroad, Inc., Alabama Warrior Railway, L.L.C., Boise Valley Railroad, L.L.C., Autauga Northern Railroad, L.L.C., Swan Ranch Railroad, L.L.C., and Class II railroad Wisconsin & Southern Railroad, L.L.C.

Watco represents that: (1) The rail lines to be operated by BHRR do not connect with any other railroads in the corporate family; (2) the transaction is not part of a series of anticipated transactions that would connect the rail lines with any other railroads in the corporate family; and (3) the transaction does not involve a Class I rail carrier. Therefore, the transaction is exempt from the prior approval requirements of 49 U.S.C. 11323. *See* 49 CFR 1180.2(d)(2).

Watco states that the purpose of the proposed transaction is to reduce overhead expenses, coordinate billing, maintenance, mechanical, and personnel policies and practices of its rail carrier subsidiaries, and thereby improve the overall efficiency of rail service provided by the railroads in the corporate family.

Under 49 U.S.C. 10502(g), the Board may not use its exemption authority to relieve a rail carrier of its statutory obligation to protect the interests of its employees. Because the transaction involves the control of one or more Class III rail carriers and one Class II rail carrier, the transaction is subject to the labor protective requirements of 49 U.S.C. 11326(b) and *Wisconsin Central Ltd.—Acquisition Exemption—Lines of Union Pacific Railroad,* 2 S.T.B. 218 (1997).

If the verified notice contains false or misleading information, the exemption is void *ab initio.* Petitions to revoke the exemption under 49 U.S.C. 10502(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the effectiveness of the exemption. Stay petitions must be filed no later than January 20, 2012 (at least 7 days before the exemption becomes effective).

An original and 10 copies of all pleadings, referring to Docket No. FD 35579, must be filed with the Surface Transportation Board, 395 E Street SW., Washington, DC 20423–0001. In addition, one copy of each pleading must be served on Karl Morell, 655 Fifteenth Street NW., Suite 225, Washington, DC 20005.

Board decisions and notices are available on our Web site at ''*WWW.STB.DOT.GOV.*''

Decided: January 10, 2012.

By the Board, Rachel D. Campbell, Director, Office of Proceedings.

Raina S. White,

Clearance Clerk.

[FR Doc. 2012–565 Filed 1–12–12; 8:45 am]

BILLING CODE 4915–01–P

DEPARTMENT OF THE TREASURY

Submission for OMB Review; Comment Request

January 10, 2012.

The Department of the Treasury will submit the following information collection request to the Office of Management and Budget (OMB) for review and clearance in accordance with the Paperwork Reduction Act of 1995, Public Law 104–13, on or after the date of publication of this notice.

DATES: Comments should be received on or before February 13, 2012 to be assured of consideration.

ADDRESSES: Send comments regarding the burden estimate, or any other aspect of the information collection, including suggestion for reducing the burden, to (1) Office of Information and Regulatory Affairs, Office of Management and Budget, Attention: Desk Officer for Treasury, New Executive Office Building, Room 10235, Washington, DC 20503, or email at *OIRA_Submission@OMB.EOP.GOV* and (2) Treasury PRA Clearance Officer, 1750 Pennsylvania Ave. NW., Suite 11020, Washington, DC 20220, or on-line at *www.PRAComment.gov.*

FOR FURTHER INFORMATION CONTACT: Copies of the submission(s) may be obtained by calling (202) 927–5331, email at *PRA@treasury.gov*, or the entire information collection request maybe found at *www.reginfo.gov.*

Internal Revenue Service (IRS)

OMB Number: 1545–0127.

Type of Review: Extension without change of a currently approved collection.

Title: U.S. Income Tax Return for Homeowners Associations.

Form: 1120–H.

Abstract: Homeowners associations file Form 1120–H to report income, deductions, and credits. The form is also used to report the income tax liability of the homeowners association. The IRS uses Form 1120–H to determine if the income, deductions, and credits have been correctly computed. The form is also used for statistical purposes.

Affected Public: Private Sector: Businesses or other for-profits.

Estimated Total Burden Hours: 3,665,832.

OMB Number: 1545–0941.

Type of Review: Extension without change of a currently approved collection.

Title: Report of a Sale or Exchange of Certain Partnership Interests.

Form: 3808.

Abstract: Form 8308 is an information return that gives the IRS the names of the parties involved in a section 751(a) exchange of a partnership interest. It is also used by the partnership as a statement to the transferor or transferee. It alerts the transferor that a portion of the gain on the sale of partnership interest may be ordinary income.

Affected Public: Private Sector: Businesses or other for-profits.

Estimated Total Burden Hours: 1,460,000.

OMB Number: 1545–1414.

Type of Review: Revision of a currently approved collection.

Title: Credit for Employer Social Security and Medicare Taxes Paid on Certain Employee Tips.

Form: 8846.

Abstract: Employers in food or beverage establishments where tipping is customary can claim an income tax credit for the amount of social security and Medicare taxes paid (employer's share) on tips, other than tips used to meet the minimum wage requirement.

Affected Public: Private Sector: Businesses or other for-profits.

Estimated Total Burden Hours: 161,448.

OMB Number: 1545–1487.

Type of Review: Extension without change of a currently approved collection.

Title: TD 8834 (final)—Treatment of Distributions to Foreign Persons Under Sections 367(e)(1) and 367(e)(2).

Abstract: Sections 367(e)(1) and 367(e)(2) provide for gain recognition on certain transfers to foreign persons under sections 355 and 332. Section 6038B(a) requires U.S. persons transferring property to foreign persons in exchanges described in sections 332 and 355 to furnish information regarding such transfers.

Affected Public: Private Sector: Businesses or other for-profits.

Estimated Total Burden Hours: 2,471.

OMB Number: 1545–1657.

Type of Review: Extension without change of a currently approved collection.

Title: Revenue Procedure 99–32—Conforming Adjustments Subsequent to Section 482 Allocations.

Abstract: This revenue procedure prescribes the applicable procedures for the repatriation of cash by a United States taxpayer via an interest-bearing account receivable or payable in an amount corresponding to the amount allocated under section 482 from, or to a related person with respect to a controlled transaction.

Affected Public: Private Sector: Businesses or other for-profits.

Estimated Total Burden Hours: 1,620.

OMB Number: 1545–1799.

Type of Review: Extension without change of a currently approved collection.

Title: Notice 2002–69, Interest Rates and Appropriate Foreign Loss Payment Patterns For Determining the Qualified Insurance Income of Certain Controlled Corporations under Section 954(f).

Abstract: This notice provide guidance on how to determine the foreign loss payment patterns of a foreign insurance company owned by U.S. shareholder for purposes of determining the amount of investment income earned by the insurance company that is not treated as Subpart F income under section 954(i).

Affected Public: Private Sector: Businesses or other for-profits.

Estimated Total Burden Hours: 300.

OMB Number: 1545–1942.

Type of Review: Extension without change of a currently approved collection.

Title: Notice 2005–44, Charitable Contributions of Certain Motor Vehicles, Boats, and Airplanes.

Abstract: The notice provides guidance under new Subsection 170(f)(12) and 6720 regarding how to determine the amount of a charitable contribution for certain vehicles and the related substantiation and information reporting requirements.

Affected Public: Individuals or Households.

Estimated Total Burden Hours: 3,041.

OMB Number: 1545–1950.

Type of Review: Revision of a currently approved collection.

Title: Return by a Shareholder Making Certain Late Elections to End Treatment as a Passive Foreign Investment Company.

Form: 8621–A.

Abstract: Form 8621–A is used by certain taxpayer/investors to request ending of their treatment as investing in a Passive Foreign Investment Company. New regulations are being written in support of the new products. The underlying law is in IRC sections 1297 and 1298.

Affected Pubic: Private Sector: Businesses or other for-profits.

Estimated Total Burden Hours: 785.

OMB Number: 1545–2135.

Type of Review: Revision of a currently approved collection.

Title: REG–133300–07 (TD 9447-final) Automatic Contribution Arrangements.

Abstract: These regulations provide a method by which an automatic contribution arrangement can become a qualified automatic contribution arrangement and automatically satisfy the ADP test of section 401(k)(3)A)(ii). These regulations also describe how an automatic contribution arrangement can become an eligible automatic contribution arrangement and employees can get back mistaken contributions.

Affected Public: Private Sector: Businesses or other for-profits.

Estimated Total Burden Hours: 30,000.

Dawn D. Wolfgang,

Treasury PRA Clearance Officer.

[FR Doc. 2012–536 Filed 1–12–12; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Submission for OMB Review; Comment Request

January 10, 2012.

The Department of the Treasury will submit the following information collection request to the Office of Management and Budget (OMB) for review and clearance in accordance with the Paperwork Reduction Act of 1995, Public Law 104–13, on or after the date of publication of this notice.

DATES: Comments should be received on or before February 13, 2012 to be assured of consideration.

ADDRESSES: Send comments regarding the burden estimate, or any other aspect of the information collection, including suggestion for reducing the burden, to (1) Office of Information and Regulatory Affairs, Office of Management and Budget, Attention: Desk Officer for Treasury, New Executive Office Building, Room 10235, Washington, DC 20503, or email at *OIRA_Submission@*

OMB.EOP.GOV and (2) Treasury PRA Clearance Officer, 1750 Pennsylvania Ave. NW., Suite 11020, Washington, DC 20220, or on-line at *www.PRAComment.gov.*

FOR FURTHER INFORMATION CONTACT: Copies of the submission(s) may be obtained by calling (202) 927–5331, email at *PRA@treasury.gov,* or the entire information collection request maybe found at *www.reginfo.gov.*

Financial Management Service (FMS)

OMB Number: 1510–0057.

Type of Review: Revision of a currently approved collection.

Title: Annual Letters—Certificate of Authority (A) and Admitted Reinsurer (B).

Abstract: Annual letters sent to insurance companies providing surety bonds to protect the U.S. or companies providing reinsurance to the U.S. information needed for renewal of certified companies and their underwriting limitations, and of admitted reinsurers.

Affected Public: Private Sector: Businesses or other for-profits.

Estimated Total Burden Hours: 13,555.

Dawn D. Wolfgang,

Treasury PRA Clearance Officer.

[FR Doc. 2012–579 Filed 1–12–12; 8:45 am]

BILLING CODE 4810–35–P

DEPARTMENT OF THE TREASURY

Debt Management Advisory Committee Meeting

Notice is hereby given, pursuant to 5 U.S.C. App. 2, § 10(a)(2), that a meeting will be held at the Hay-Adams Hotel, 16th Street and Pennsylvania Avenue NW.,Washington, DC, on January 31, 2012 at 11 a.m. of the following debt management advisory committee:

Treasury Borrowing Advisory Committee of the Securities Industry and Financial Markets Association.

The agenda for the meeting provides for a charge by the Secretary of the Treasury or his designate that the Committee discuss particular issues and conduct a working session. Following the working session, the Committee will present a written report of its recommendations. The meeting will be closed to the public, pursuant to 5 U.S.C. App. 2, § 10(d) and Public Law 103–202, § 202(c)(1)(B)(31 U.S.C. 3121 note).

This notice shall constitute my determination, pursuant to the authority placed in heads of agencies by 5 U.S.C. App. 2, § 10(d) and vested in me by Treasury Department Order No. 101–05, that the meeting will consist of discussions and debates of the issues presented to the Committee by the Secretary of the Treasury and the making of recommendations of the Committee to the Secretary, pursuant to Public Law 103–202, § 202(c)(1)(B).

Thus, this information is exempt from disclosure under that provision and 5 U.S.C.552b(c)(3)(B). In addition, the meeting is concerned with information that is exempt from disclosure under 5 U.S.C.552b(c)(9)(A). The public interest requires that such meetings be closed to the public because the Treasury Department requires frank and full advice from representatives of the financial community prior to making its final decisions on major financing operations. Historically, this advice has been offered by debt management advisory committees established by the several major segments of the financial community. When so utilized, such a committee is recognized to be an advisory committee under 5 U.S.C. App. 2, § 3.

Although the Treasury's final announcement of financing plans may not reflect the recommendations provided in reports of the Committee, premature disclosure of the Committee's deliberations and reports would be likely to lead to significant financial speculation in the securities market. Thus, this meeting falls within the exemption covered by 5 U.S.C.552b(c)(9)(A).

Treasury staff will provide a technical briefing to the press on the day before the Committee meeting, following the release of a statement of economic conditions and financing estimates. This briefing will give the press an opportunity to ask questions about financing projections. The day after the Committee meeting, Treasury will release the minutes of the meeting, any charts that were discussed at the meeting, and the Committee's report to the Secretary.

The Office of Debt Management is responsible for maintaining records of debt management advisory committee meetings and for providing annual reports setting forth a summary of Committee activities and such other matters as may be informative to the public consistent with the policy of 5 U.S.C. 552(b). The Designated Federal Officer or other responsible agency official who may be contacted for additional information is Fred Pietrangeli, Deputy Director for Office of Debt Management (202) 622–1876.

Dated: Jan. 6, 2012.

Mary Miller,

Assistant Secretary (Financial Markets).

[FR Doc. 2012–386 Filed 1–12–12; 8:45 am]

BILLING CODE 4810–25–P

U.S.-CHINA ECONOMIC AND SECURITY REVIEW COMMISSION

Notice of Open Public Hearing

AGENCY: U.S.-China Economic and Security Review Commission.

ACTION: Notice of open public hearing—January 26, 2012, Washington, DC.

SUMMARY: Notice is hereby given of the following hearing of the U.S.-China Economic and Security Review Commission.

Name: Dennis Shea, Chairman of the U.S.-China Economic and Security Review Commission.

The Commission is mandated by Congress to investigate, assess, and report to Congress annually on ''the national security implications of the economic relationship between the United States and the People's Republic of China.''

Pursuant to this mandate, the Commission will hold a public hearing in Washington, DC on January 26, 2012, to address ''China's Global Quest for Resources and Implications for the United States.''

Background: This is the first public hearing the Commission will hold during its 2012 report cycle to collect input from leading academic, industry, and government experts on national security implications of the U.S. bilateral trade and economic relationship with China. The January 26 hearing will examine China's Global Quest for Resources and Implications for the United States. The hearing will be co-chaired by Commissioners Richard D'Amato and Daniel Blumenthal.

Any interested party may file a written statement by January 26, 2012, by mailing to the contact below. A portion of each panel will include a question and answer period between the Commissioners and the witnesses.

Transcripts of past Commission public hearings may be obtained from the USCC Web Site *www.uscc.gov.*

Date and Time: Thursday, January 26, 8:30am—3:00pm Eastern Standard Time. A detailed agenda for the hearing and roundtable will be posted to the Commission's Web Site at *www.uscc.gov* as soon as available. Please check the Web site for possible changes to the hearing schedule.

ADDRESSES: The hearing will be held on in Room 562 of the Dirksen Senate Office Building, located at Constitution Avenue and 1st Street NE., in Washington, DC 20002.

FOR FURTHER INFORMATION CONTACT: Any member of the public seeking further information concerning the hearing should contact Michael Danis, Executive Director for the U.S.-China Economic and Security Review Commission, 444 North Capitol Street NW., Suite 602, Washington DC 20001; phone: (202) 624–1407, or via email at *contact@uscc.gov.*

Authority: Congress created the U.S.-China Economic and Security Review Commission in 2000 in the National Defense Authorization Act (Pub. L. 106–398), as amended by Division P of the Consolidated Appropriations Resolution, 2003 (Pub. L. 108–7), as amended by Public Law 109–108 (November 22, 2005).

Dated: January 9, 2012.

Michael Danis,

Executive Director, U.S.-China Economic and Security Review Commission.

[FR Doc. 2012–497 Filed 1–12–12; 8:45 am]

BILLING CODE 1137–00–P

UNITED STATES INSTITUTE OF PEACE

Notice of Meeting

AGENCY: United States Institute of Peace.

Date/Time: Thursday, January 26, 2012 (9 a.m. — 4:30 p.m.).

Location: 2301 Constitution Avenue NW., Washington, DC 20037.

Status: Open Session—Portions may be closed pursuant to Subsection (c) of Section 552(b) of Title 5, United States Code, as provided in subsection 1706(h)(3) of the United States Institute of Peace Act, Public Law 98–525.

Agenda: January 26, 2012 Board Meeting; Approval of Minutes of the One Hundred Forty-First Meeting (September 22, 2011) of the Board of Directors; Chairman's Report; President's Report; Overview of Budget and Congress; Academy Recruitment Strategy; Peace Technology Report; Evaluation Report and Discussion; Board Executive Session; Other General Issues.

Contact: Tessie F. Higgs, Executive Office, Telephone: (202) 429–3836.

Dated: January 6, 2012.

Michael B. Graham,

Senior Vice President for Management and CFO, United States Institute of Peace.

[FR Doc. 2012–414 Filed 1–12–12; 8:45 am]

BILLING CODE 6820–AR–M

FEDERAL REGISTER

Vol. 77 Friday,
No. 9 January 13, 2012

Part II

Commodity Futures Trading Commission

17 CFR Part 45
Swap Data Recordkeeping and Reporting Requirements; Final Rule

COMMODITY FUTURES TRADING COMMISSION

17 CFR Part 45

RIN 3038–AD19

Swap Data Recordkeeping and Reporting Requirements

AGENCY: Commodity Futures Trading Commission.

ACTION: Final rule.

SUMMARY: The Commodity Futures Trading Commission (''Commission'' or ''CFTC'') is adopting rules to implement the Commodity Exchange Act (''CEA'' or ''Act'') relating to swap data recordkeeping and reporting requirements. These sections of the CEA were added by the Dodd-Frank Wall Street Reform and Consumer Protection Act (''Dodd-Frank Act''). The rules being adopted apply to swap data recordkeeping and reporting requirements for swap data repositories, derivatives clearing organizations, designated contract markets, swap execution facilities, swap dealers, major swap participants, and swap counterparties who are neither swap dealers nor major swap participants. The recordkeeping and reporting requirements of this rule further the goals of the Dodd-Frank Act to reduce systemic risk, increase transparency and promote market integrity within the financial system.

DATES: The effective date of this rule is March 13, 2012. *Compliance dates:* (1) Swap execution facilities, designated contract markets, derivatives clearing organizations, swap data repositories, swap dealers, and major swap participants shall commence full compliance with this part with respect to credit swaps and interest rate swaps on the later of: July 16, 2012; or 60 calendar days after the publication in the **Federal Register** of the later of the Commission's final rule defining the term ''swap'' or the Commission's final rule defining the terms ''swap dealer'' and ''major swap participant. '' (2) Swap execution facilities, designated contract markets, derivatives clearing organizations, swap data repositories, swap dealers, and major swap participants shall commence full compliance with this part with respect to equity swaps, foreign exchange swaps, and other commodity swaps on or before 90 days after the compliance date for credit swaps and interest rate swaps. (3) Non-SD/MSP counterparties shall commence full compliance with this part with respect to all swaps on or before 90 days after the compliance date applicable to swap execution facilities, designated contract markets, derivatives clearing organizations, swap data repositories, swap dealers, and major swap participants with respect to equity swaps, foreign exchange swaps, and other commodity swaps.

FOR FURTHER INFORMATION CONTACT: David Taylor, Associate Director, Division of Market Oversight, (202) 418–5488, *dtaylor@cftc.gov,* or Anne Schubert, Economist, Division of Market Oversight, (202) 418–5436, *aschubert@cftc.gov;* Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street NW., Washington, DC 20851.

SUPPLEMENTARY INFORMATION:

Table of Contents

I. Background

A. Introduction

On July 21, 2010, President Obama signed into law the Dodd-Frank Act.[1] Title VII of the Dodd-Frank Act[2] amended the CEA[3] to establish a comprehensive new regulatory framework for swaps and security-based

[1] *See* Dodd-Frank Wall Street Reform and Consumer Protection Act, Pub. L. 111–203, 124 Stat. 1376 (2010). The text of the Dodd-Frank Act may be accessed at *http://www.cftc.gov/LawRegulation/OTCDERIVATIVES/index.htm.*

[2] Pursuant to Section 701 of the Dodd-Frank Act, Title VII may be cited as the ''Wall Street Transparency and Accountability Act of 2010.''

[3] 7 U.S.C. 1, *et seq.*

swaps. The legislation was enacted to reduce systemic risk, increase transparency, and promote market integrity within the financial system by, among other things: Providing for the registration and comprehensive regulation of swap dealers (''SDs'') and major swap participants (''MSPs''); imposing clearing and trade execution requirements on standardized derivative products; creating rigorous recordkeeping and data reporting regimes with respect to swaps, including real time reporting; and enhancing the Commission's rulemaking and enforcement authorities with respect to, among others, all registered entities, intermediaries, and swap counterparties subject to the Commission's oversight.

B. Swap Data Provisions of the Dodd-Frank Act

To enhance transparency, promote standardization, and reduce systemic risk, Section 727 of the Dodd-Frank Act added to the CEA new section 2(a)(13)(G), which requires all swaps, whether cleared or uncleared, to be reported to swap data repositories (''SDRs''),[4] which are new registered entities created by section 728 of the Dodd-Frank Act to collect and maintain data related to swap transactions as prescribed by the Commission, and to make such data electronically available to regulators.[5] New section 21(b) of the CEA, added by section 728 of the Dodd-Frank Act, directs the Commission to prescribe standards for swap data recordkeeping and reporting. Specifically, CEA section 21(b)(1)(A) provides that:

> The Commission shall prescribe standards that specify the data elements for each swap that shall be collected and maintained by each registered swap data repository.

These standards are to apply to both registered entities and counterparties involved with swaps.

CEA section 21(b)(1)(B) provides that:

> In carrying out [the duty to prescribe data element standards], the Commission shall prescribe consistent data element standards applicable to registered entities and reporting counterparties.

CEA section 21 also directs the Commission to prescribe data standards for SDRs. Specifically, CEA section 21(b)(2) provides that:

> The Commission shall prescribe data collection and data maintenance standards for swap data repositories.

These standards are to be comparable to those for clearing organizations. CEA section 21(b)(3) provides that:

> The [data] standards prescribed by the Commission under this subsection shall be comparable to the data standards imposed by the Commission on derivatives clearing organizations in connection with their clearing of swaps.

In addition, CEA section 21(c)(3) provides that, once the data elements prescribed by the Commission are reported to an SDR, the SDR shall:

> Maintain the data [prescribed by the Commission for each swap] in such form, in such manner, and for such period as may be required by the Commission.

Section 727 of the Dodd Frank Act, which added to the CEA new section 2(a)(13), provides that ''Each swap (whether cleared or uncleared) shall be reported to a registered swap data repository.'' [6] Section 729 of the Dodd-Frank Act added to the CEA new section 4r, which addresses reporting and recordkeeping requirements for uncleared swaps. Pursuant to this section, each swap not accepted for clearing by any derivatives clearing organization (''DCO'') must be reported to an SDR (or to the Commission if no repository will accept the swap). In a July 15, 2010 floor statement concerning swap data reporting as well as other aspects of the Dodd-Frank Act, Senator Blanche Lincoln emphasized that these provisions should be interpreted as complementary to one another to assure consistency between them, stating that: ''All swap trades, even those which are not cleared, would still be reported to regulators, a swap data repository, and subject to the public reporting requirements under the legislation.'' [7]

CEA section 4r ensures that at least one counterparty to a swap has an obligation to report data concerning that swap. The determination of this reporting counterparty depends on the status of the counterparties involved. If only one counterparty is an SD, the SD is required to report the swap. If one counterparty is an MSP, and the other counterparty is neither an SD nor an MSP (''non-SD/MSP counterparty''), the MSP must report. Where the counterparties have the same status—two SDs, two MSPs, or two non-SD/MSP counterparties—the counterparties must select a counterparty to report the swap.[8]

In addition, CEA section 4r provides for reporting to the Commission of swaps neither cleared nor accepted by any SDR. Under this provision, counterparties to such swaps must maintain books and records pertaining to their swaps in the manner and for the time required by the Commission, and must make these books and records available for inspection by the Commission or other specified regulators if requested to do so.[9] It also requires counterparties to such swaps to provide reports concerning such swaps to the Commission upon its request, in the form and manner specified by the Commission.[10] Such reports must be as comprehensive as the data required to be collected by SDRs.[11]

C. International Considerations

Section 752 of the Dodd-Frank Act directs the Commission to consult and coordinate with foreign regulatory authorities regarding establishment of consistent international standards for the regulation of swaps and swap entities. The Commission is committed to a cooperative international approach to swap recordkeeping and swap data reporting, and has consulted extensively with various foreign regulatory authorities in the process of promulgating both its proposed and final part 45 rules. During this process, the Commission has served as Co-Chair of the Committee on Payment and Settlement Systems (''CPSS'') and the International Organization of Securities Commissions (''IOSCO'') Task Force that has prepared a Report on OTC Derivatives Data Reporting and Aggregation Requirement for presentation to the Financial Stability Board (''FSB'') in December 2011. The Commission also served as a member of the organizing committee for the FSB Legal Entity Identifier Workshop held in Basel, Switzerland in September 2011. In the course of preparing the proposed and final part 45 rules, Commission staff met with financial regulatory authorities from Argentina, Australia, Brazil, Canada, China, Dubai (United Arab Emirates), France, Germany, Hong Kong, Indonesia, India, Italy, Japan, Korea, Mexico, the Netherlands, Portugal, Russia, Saudi Arabia, Singapore, Spain, Sweden, Switzerland, Turkey, and the United Kingdom. Staff also met with representatives of FSB, IOSCO, CPSS, the International Monetary Fund, the FSB Data Gaps and Systemic Linkages Group, the Bank for International Settlements, the Committee on the Global Financial System, the OTC Derivatives Regulatory Forum, the OTC Derivatives Supervisors Group, the European Central Bank, the European Commission, the European Union, the

[4] *See also* CEA section 1a(40)(E).

[5] Regulations governing core principles and registration requirements for, and the duties of, SDRs are the subject of part 49 of this chapter.

[6] CEA section 2(a)(13)(G).

[7] Senator Blanche Lincoln, ''Wall Street Transparency and Accountability Act,'' Congressional Record, July 15, 2010, at S5905.

[8] *See* CEA section 4r(a)(3).

[9] CEA section 4r(c)(2) requires individuals or entities that enter into a swap transaction that is neither cleared nor accepted by an SDR to make required books and records open to inspection by any representative of the Commission; an appropriate prudential regulator; the Securities and Exchange Commission; the Financial Stability Oversight Council; and the Department of Justice.

[10] CEA sections 4r(a)(1)(B) and 4r(c).

[11] CEA section 4r(d).

Commission of European Securities Regulators, the European Systemic Risk Board, the International Organisation for Standardisation (''ISO''), and the Association of National Numbering Agencies (''ANNA'').

In September 2009, the G–20 [12] leaders made a number of commitments regarding OTC derivatives, including the statement that:

> All standardized OTC derivative contracts should be traded on exchanges or electronic trading platforms, where appropriate, and cleared through central counterparties by end-2012 at the latest. OTC derivative contracts should be reported to trade repositories.[13]

The Commission's part 45 rules, if adopted by the Commission, which requires reporting of swap data to SDRs to begin in mid-2012, may be the first set of regulatory requirements in the world to fulfill this commitment.

D. Consultations With Other U.S. Financial Regulators

In developing the swap data recordkeeping and reporting rule, Commission staff has also engaged in extensive consultations with U.S. domestic financial regulators. The agencies and institutions consulted include the Federal Reserve Board of Governors (''Federal Reserve'') (including the Federal Reserve Bank of New York), the Federal Deposit Insurance Corporation (''FDIC''), the Office of Financial Research (''OFR''), the Office of the Comptroller of Currency (''OCC''), the Securities and Exchange Commission (''SEC''), and the Department of the Treasury.

E. Summary of the Proposed Part 45 Rule

1. Fundamental Goal

The fundamental goal of the part 45 Notice of Proposed Rulemaking (''NOPR'') was to ensure that complete data concerning all swaps subject to the Commission's jurisdiction is maintained in SDRs, where it would be available to the Commission and other financial regulators for fulfillment of their various regulatory mandates, including systemic risk mitigation, market monitoring, and market abuse prevention.

2. Swap Recordkeeping

The NOPR called for registered entities and swap counterparties to keep records relating to swaps throughout the existence of each swap and for five years following final termination or expiration of the swap. These records would be required to be readily accessible during the life of the swap and for two years thereafter, and retrievable from storage within three business days during the remaining three years of the retention period. The NOPR would require that data in SDRs be readily accessible to the Commission throughout the retention period as required by the Dodd-Frank Act.[14]

3. Swap Data Reporting: Creation Data and Continuation Data

In order to ensure that complete data concerning swaps is maintained in SDRs and available to the Commission and other regulators, the NOPR called for reporting of swap data from each of two important stages of the existence of a swap: the creation of the swap, and the continuation of the swap over its existence until its final termination or expiration.

a. *Creation data reporting.* To ensure timeliness, accuracy, and completeness with respect to data, the NOPR required reporting of two types of data relating to the creation of a swap: the primary economic terms of the swap verified or matched by the counterparties at or shortly after the time of execution; and all of the terms of the swap included in the legal confirmation of the swap. To ensure inclusion of primary economic terms necessary for regulatory purposes, the rule specified minimum data elements that must be reported for swaps in each asset class.

b. *Continuation data reporting.* The NOPR provided that continuation data reporting for credit and equity swaps would follow the life cycle approach, and required reporting of all life cycle events affecting the terms of a swap. The NOPR directed reporting of continuation data for interest rate, currency, and other commodity swaps to follow the state or snapshot approach, and required reporting of a daily snapshot of all primary economic terms of a swap including any changes to such terms occurring since the previous snapshot. For all asset classes, the NOPR called for continuation data reporting to include specified valuation data.

4. Unique Identifiers

The NOPR called for use of three unique identifiers in connection with swap data reporting: a unique swap identifier (USI), a unique counterparty identifier (UCI), and a unique product identifier (UPI). The Commission proposed requiring use of these unique identifiers because they would be crucial regulatory tools for linking data together and enabling data aggregation by regulators across counterparties, transactions, and asset classes, to fulfill the systemic risk mitigation, market manipulation prevention, and other important purposes of the Dodd-Frank Act. The Commission also noted that such identifiers would have great benefits for financial transaction processing, internal recordkeeping, compliance, due diligence, and risk management by financial entities.

The NOPR called for the USI to be created at the time a swap is executed, shared with all registered entities and counterparties involved with the swap, and used to track that particular swap over its life. The UCI would identify the legal entity that is a counterparty to a swap. Pursuant to the NOPR, the Commission would require use of UCIs in all swap data reporting, selecting an internationally-developed legal entity identifier system for this purpose if one meeting the Commission's requirements is available prior to the compliance date when swap data reporting begins, or imposing a system created by the Commission if that were needed. Confidential reference data concerning the corporate or company affiliations of the legal entity involved would allow regulators to monitor swap exposures. The UPI would categorize or describe swaps with respect to the underlying products referenced in them, allowing regulators to aggregate, analyze, and report swap transactions by product type, and also enhancing position limit enforcement and real time reporting.

5. Who Reports

In general, the NOPR called for reporting by the registered entity or counterparty having the easiest, fastest, and cheapest access to the data in question, and most likely to have automated systems suitable for reporting. Swap execution facilities (''SEFs'') or designated contract markets (''DCMs'') would report primary economic terms data (''PET data'') for swaps executed on a trading facility, and DCOs would report confirmation data for cleared swaps. Counterparty reporting would follow the hierarchy outlined in the statute, giving SDs or MSPs the duty to report when possible,

[12] The G–20 include leaders and representatives of the core members of the G–20 major economies, which comprises 19 countries and the European Union which is represented by its two governing bodies, the European Council and the European Commission.

[13] *Leaders' Statement,* Pittsburgh Summit, September 25, 2009, at 9; available at *http://www.g20.org/Documents/pittsburgh_summit_leaders_statement_250909.pdf.*

[14] The proposed rule also cross-referenced the detailed recordkeeping requirements specific to DCMs, SEFs, DCOs, SDs, and MSPs included in rulemakings specific to those entities and counterparties.

and limiting reporting by non-SD/MSP counterparties to situations where there is no SD or MSP counterparty. Where both counterparties have the same hierarchical status, the proposed rule would require them to agree as one term of their swap which of them is to report, in order to avoid reporting delays.

6. Third-Party Facilitation of Reporting

The NOPR would explicitly permit third-party facilitation of data reporting, without removing the reporting responsibility from the appropriate registered entity or counterparty.

7. Reporting a Swap to a Single SDR

To avoid fragmentation of data for a given swap across multiple SDRs, the NOPR would require that all data for a particular swap must be reported to the same SDR.

8. Reporting Swaps in an Asset Class Not Accepted by Any SDR

As required by the section 729 of the Dodd-Frank Act, the NOPR provided that if there were an asset class for which no SDR currently accepted data, registered entities or counterparties required to report concerning swaps in such an asset class would be required to report the same data to the Commission at a time and in a form and manner determined by the Commission.

9. Data Standards

The NOPR would require SDRs to maintain data and transmit it to the Commission in the format required by the Commission. It would permit an SDR to allow those reporting data to it to use any data standard acceptable to the SDR, so long as the SDR remains able to provide data to the Commission in the Commission's required format.

10. Reporting Errors and Omissions in Previously Reported Data

Finally, the NOPR provided that registered entities and counterparties required to report swap data must also report to the SDR any errors or omissions in data previously reported, using the same format used in the previous report. Non-reporting counterparties discovering an error or omission would be required to notify the reporting counterparty, for reporting to the SDR by the reporting counterparty.

F. Overview of Comments Received

The comment period for the NOPR closed on February 7, 2011, but was reopened pursuant to the Commission's Order *Reopening and Extension of Comment Periods for Rulemakings Implementing the Dodd-Frank Wall Street Reform and Consumer Protection Act,* dated May 4, 2011. The reopened comment period closed on June 3, 2011. Seventy-five comment letters submitted to the Commission addressed the proposed part 45 swap data recordkeeping and reporting rule.[15] Comments were provided by a broad range of interested persons, including: Existing trade repositories, DCMs, and DCOs; providers of various third party services related to swaps; financial data and data management services and providers of various types of identifiers; both buy side and sell side swap counterparties of various types and sizes; trade associations involving securities, futures, and foreign exchange markets and firms; banks and mortgage lenders; managed funds and investment advisors; swap dealers; swap ''end users''; energy producers; and non-profit

[15] All comment letters are available on the Commission Web site at *http://comments.cftc.gov/PublicComments/CommentList.aspx?id=920*. Specific comment letters are identified by CL and the submitter. Comments addressing the NOPR were received from: (1) ACM Capital Management (''ACM'') June 15, 2011 (''CL–ACM''); (2) Alice Corporation (''Alice'') June 1, 2011 (''CL–Alice''); (3) American Bankers Association and the ABA Securities Association (''ABA/ABASA'') June 3, 2011 (''CL–ABA/ABASA''); (4) American Benefits Council (''ABC'') February 7, 2011 (''CL–ABC''); (5) American Benefits Council (''ABC'') and Committee on Investment of Employee Benefit Assets (''CIEBA'') February 7, 2011 (''CL–ABC/CIEBA I''); (6) ABC and CIEBA March 25, 2011 (''CL–ABC/CIEBA II''); (7) American Gas Association (''AGA'') February 3, 2011 (''CL–AGA I''); (8) AGA June 3, 2011 (''CL–AGA II''); (9) Asset Management Group (''AMG'') and Securities Industry and Financial Markets Association (''SIFMA'') February 7, 2011 (''CL–AMG/SIFMA''); (10) Japanese Banking Organizations—Bank of Tokyo-Mitsubishi UFJ, Ltd. (''BTMU''), Mizuho Corporate Bank (''MHCB''), and Sumitomo Mitsui Banking Corporation (''SMBC'') May 5, 2011 (''CL–Japanese Banks''); (11) Better Markets, Inc. (''Better Markets'') February 7, 2011 (''CL–Better Markets I''); (12) Better Markets June 3, 2011 (''CL–Better Markets II''); (13) BlackRock, Inc. (''BlackRock'') June 3, 2011 (''CL–BlackRock I''); (14) BlackRock June 3, 2011 (''CL–BlackRock II''); (15) Bloomberg, LP (''Bloomberg'') June 3, 2011 (''CL–Bloomberg''); (16) Chatham Financial Corporation (''Chatham Financial'') February 7, 2011 (''CL–Chatham Financial''); (17) Chris Barnard (''Barnard'') May 17, 2011 (''CL–Barnard''); (18) Citadel, LLC (''Citadel'') June 3, 2011 (''CL–Citadel''); (19) CME Group, Inc. (''CME'') February 7, 2011 (''CL–CME I''); (20) CME June 3, 2011 (''CL–CME II''); (21) Coalition of Derivatives End-Users (''CDEU'') February 25, 2011 (''CL–CDEU''); (22) Coalition of Physical Energy Companies (''COPE'') February 7, 2011 (''CL–COPE I''); (23) COPE June 3, 2011 (''CL–COPE II''); (24) Committee on Capital Markets Regulation June 13, 2011 (''CL–Committee on Capital Markets Regulation I''); (25) Committee on Capital Markets Regulation June 24, 2011 (''CL–Committee on Capital Markets Regulation II''); (26) Committee on Futures and Derivatives Regulation, Bar Association of the City of New York June 13, 2011 (''CL–Committee on Futures and Derivatives Regulation''); (27) Committee on the Investment of Employee Benefit Assets (''CIEBA'') June 3, 2011 (''CL–CIEBA''); (28) Commodity Markets Council (''CMC'') February 6, 2011 (''CL–CMC I''); (29) Commodity Markets Council (''CMC'') February 7, 2011 (''CL–CMC II''); (30) Congressman James Renacci (''Renacci'') June 10, 2011 (''CL–Renacci''); (31) CUSIP Global Services (''CUSIP'') February 7, 2011 (''CL–CUSIP''); (32) Customer Data Management Group (''CDMG'') April 1, 2011 (''CL–CDMG''); (33) DC Energy, LLC (''DC Energy'') June 3, 2011 (''CL–DC Energy''); (34) Dominion Resources, Inc. (''Dominion Resources'') February 7, 2011 (''CL–Dominion Resources''); (35) The Depository Trust & Clearing Corporation (''DTCC'') February 7, 2011 (''CL–DTCC I''); (36) DTCCC June 3, 2011 (''CL–DTCC II''); (37) Edison Electric Institute (''EEI'') June 3, 2011 (''CL–EEI''); (38) Edison Electric Institute Electric Power Supply Association (''EPSA'') February 7, 2011 (''CL–EPSA''); (39) Encana Marketing (USA), Inc. (''Encana'') February 7, 2011 (''CL–Encana''); (40) Eris Exchange, LLC (''Eris Exchange'') June 3, 2011 (''CL–Eris''); (41) Futures Industry Association (''FIA''), The Financial Services Roundtable (''FSR''), Institute of International Bankers (''IIB''), Insured Retirement Institute (''IRI''), International Swaps and Derivatives Association (''ISDA''), Securities Industry and Financial Markets Association (''SIFMA''), and U.S. Chamber of Commerce, (''Chamber of Commerce'') June 1, 2011 (''CL–Chamber of Commerce''); (42) Foreign Banking Organizations—Barclays, BNP Paribas, Deutsche Bank, Royal Bank of Canada, The Royal Bank of Scotland Group, Societe Generale, Credit Suisse, HSBC, UBS, Nomura Securities International, Inc., Rabobank Nederland (''Foreign Banks'') January 11, 2011 (''CL–Foreign Banks I''); (43) Foreign Banks February 17, 2011 (''CL–Foreign Banks II''); (44) Freddie Mac February 7, 2011 (''CL–Freddie Mac''); (45) The Federal Home Loan Banks (''FHLB'') February 7, 2011 (''CL–FHLB''); (46) Global Foreign Exchange Division (''Global Forex'') February 7, 2011 (''CL–Global Forex''); (47) Green Exchange, LLC (''GreenEx'') June 3, 2011 (''CL–GreenEx''); (48) GS1 US (''GS1'') February 7, 2011 (''CL–GS1''); (49) Intercontinental Exchange, Inc. (''ICE'') February 7, 2011 (''CL–ICE''); (50) International Energy Credit Association (''IECA'') February 7, 2011 (''CL–IECA''); (51) International Swaps and Derivatives Association, Inc. (''ISDA'') June 2, 2011 (''CL–ISDA''); (52) ISDA SIFMA February 7, 2011 (''CL–ISDA SIFMA''); (53) Kansas City Board of Trade Clearing Corporation (''KCBT'') February 7, 2011 (''CL–KCBT''); (54) Managed Funds Association (''MFA'') February 7, 2011 (''CL–MFA''); (55) Markit June 3, 2011 (''CL–Markit''); (56) MarkitSERV June 3, 2011 (''CL–MarkitSERV I); (57) MarkitSERV June 3, 2011 (''CL–MarkitSERV II''); (58) Minneapolis Grain Exchange (''MGEX'') June 3, 2011 (''CL–MGEX''); (59) Not-For-Profit Electric End User Coalition consisting of the National Rural Electric Cooperative Association, American Public Power Association, Large Public Power Council, Edison Electric Institute Electric Power Supply Association, (''Electric Coalition'') February 7, 2011 (''CL–Electric Coalition I''); (60) Electric Coalition June 3, 2011 (''CL–Electric Coalition II''); (61) Noble Energy, Inc. (''Noble Energy'') July 7, 2011 (''CL–Noble Energy''); (62) Office of the Comptroller of the Currency July 1, 2011 (''CL–Office of the Comptroller of the Currency''); (63) REGIS–TR February 7, 2011 (''CL–REGIS–TR''); (64) Reval.com, Inc. (''Reval'') January 24, 2011 (''CL–Reval''); (65) Shell Energy North America (US), L.P. (''Shell Energy'') June 3, 2011 (''CL–Shell Energy I''); (66) Shell Energy June 21, 2011 (''CL–Shell Energy II''); (67) Society for Worldwide Interbank Financial Telecommunication SCRL (''SWIFT'') February 14, 2011 (''CL–SWIFT''); (68) SunGard Energy & Commodities (''SunGard'') February 7, 2011 (''CL–Sungard''); (69) Thomson Reuters February 7, 2011 (''CL–Thomson Reuters''); (70) TradeWeb Markets, LLC (''TradeWeb'') June 3, 2011 (''CL–TradeWeb''); (71) TriOptima February 7, 2011 (''CL–TriOptima''); (72) Senator Sherrod Brown (''Brown'') June 13, 2011 (''CL–Brown''); (73) Vanguard February 7, 2011 (''CL–Vanguard''); (74) Working Group of Commercial Energy Firms (''WGCEF'') February 7, 2011 (''CL–WGCEF I''); (75) WGCEF June 3, 2011 (''CL–WGCEF II'').

associations. Commission staff also held three public roundtables relating to swap data reporting, on September 14, 2010, January 28, 2011, and June 6, 2011, which provided input from a broad cross-section of industry and private sector experts concerning the issues addressed in the NOPR. While many commenters expressed support for the proposed part 45 rules, many also offered suggestions regarding swap data recordkeeping and reporting, as well as recommendations for clarification or modification of specific provisions of the proposed rule. Comments are addressed as appropriate in connection with the discussion below of the final rule provision or provisions to which they relate. Some comments received by the Commission requested further clarification relating to definitions provided in the NOPR, or regarding the application of NOPR provisions in various contexts. Definitions included in the final rule are provided for clarification and do not impose new substantive obligations.

II. Part 45 of the Commission's Regulations: The Final Rules

New part 45 contains provisions governing swap data recordkeeping and reporting. Definitions are set forth in § 45.1. Section 45.2 establishes swap recordkeeping requirements for registered entities and swap counterparties. Sections 45.3 and 45.4 establish swap data reporting requirements. Reporting of required swap creation data (the data association with the creation or execution of a swap) is addressed in § 45.3, while reporting of required swap continuation data (the data associated with the continued existence of a swap until its final termination) is addressed in § 45.4. Required use of unique identifiers in swap data recordkeeping and reporting is addressed in § 45.5, which sets forth requirements regarding unique swap identifiers (''USIs''); § 45.6, which sets forth requirements regarding legal entity identifiers (''LEIs''); and 45.7, which sets forth requirements regarding unique product identifiers (''UPIs''). Determination of which counterparty must report swap data for each swap is established by § 45.8. Third-party facilitation of swap data reporting is addressed by § 45.9. Section 45.11 establishes requirements for reporting all data concerning a swap to a single SDR. Section 45.11 addresses data reporting for swaps in a swap asset class not accepted by any SDR. Section 45.12 sets forth requirements concerning voluntary supplemental reporting of swap data to SDRs. Section 45.13 establishes required data standards for swap data reporting. Finally, § 45.14 sets forth requirements for reporting concerning errors and omissions in previously reported swap data.

A. Recordkeeping Requirements—§ 45.2

1. Proposed Rule

The NOPR provided that all SEFS, DCMs, DCOs, SDs, and MSPs must keep full, complete, and systematic records, together with all pertinent data and memoranda, of all activities relating to the business of such entities or persons with respect to swaps, including, without limitation, records of all data required to be reported in connection with any swap. All such records would be required to be kept throughout the existence of the swap and for five years following final termination of the swap. Records would be required to be readily accessible by the registered entity or counterparty in question via real time electronic access throughout the life of the swap and for two years following the final termination of the swap, and retrievable within three business days through the remainder of the required retention period.

The NOPR proposed lesser recordkeeping requirements for non-SD/MSP counterparties, calling for them to keep full, complete, and systematic records, including all pertinent data and memoranda, with respect to each swap in which they are a counterparty (as opposed to all activities relating to the business of such entities with respect to swaps), in a way that makes the records retrievable by the counterparty within three business days during the required retention period.

The NOPR provided that all records required to be kept by SDRs must be kept by the SDR both: (a) throughout the existence of the swap and for five years following final termination or expiration of the swap, during which time the records must be readily accessible by the SDR and available to the Commission via real time electronic access; and (b) thereafter, for a period determined by the Commission, in archival storage from which they are retrievable by the SDR within three business days. This provision was intended to make effective the statutory mandate that SDRs must ''provide direct electronic access to the Commission (or any designee of the Commission including another registered entity).'' [16]

As proposed, part 45 would also require that all records required to be kept pursuant to the regulations must be open to inspection upon request by any representative of the Commission, the Department of Justice, or the SEC, or by any representative of a prudential regulator as authorized by the Commission.

2. Comments Received

The Commission received comments concerning the proposed recordkeeping provisions from both market participants who anticipated that they could be SDs and MSPs and market participants who anticipated that they could be non-SD/MSP counterparties. Many commenters asked that non-SD/MSP counterparties be allowed to keep fewer records and to keep records in paper form. Commenters suggested that required record retention periods should be shortened, and that retrievability requirements should be somewhat relaxed. Other commenters suggested that recordkeeping requirements for non-SD/MSP counterparties should be phased in.

a. *Records required.* American Gas Association (''AGA'') and Edison Electric Institute (''EEI'') asked the Commission to specify more precisely the information that non-SD/MSP counterparties will be required to retain, defining in particular the meaning of ''all pertinent data and memoranda,'' with examples. Arguing that non-SD/MSP counterparties should not be required to keep records of swap terms other than the final terms of the swap, EEI suggested that non-SD/MSP counterparties be required to retain only ''master or bespoke agreements, long or short-form confirmations, amendments and associated swap transaction data stored in an end-user's trade capture system.'' The Committee on the Investment of Employee Benefit Assets (''CIEBA'') suggested that a non-SD/MSP counterparty should only be required to retain the final confirmation of any swap where the other counterparty is an SD or MSP, and (presumably where no SD or MSP is involved) should only be required to retain swap creation or continuation data that the non-SD/MSP is required to report. The Working Group of Commercial Energy Firms (''WGCEF'') asked that non-SD/MSP counterparties to physical commodity swaps (or at least energy swaps) be excused from recordkeeping requirements altogether, arguing that the final rule should recognize ''the unique operational characteristics and abilities of different participants in swap markets for physical commodities,'' since such counterparties may not presently have the necessary technology, and the benefits of implementing it would not justify the costs imposed. The Not-for-Profit Electric End User Coalition (''Electric Coalition'') contended that the

[16] CEA section 21(c)(4)(A).

rule should allow non-SD/MSP counterparties to keep records in paper form.

b. *Record retention periods.* The International Swap Dealers Association (''ISDA'') and the Securities Industry and Financial Markets Association (''SIFMA'') suggested that the Commission should analyze this requirement further before it is implemented. AGA argued that record retention for the life of the swap plus five years would impose substantial costs on non-SD/MSP counterparties such as gas utilities, and asked that the record retention period for non-SD/MSP counterparties be reduced to the life of the swap plus three years. WGCEF commented that there would be no benefit to record retention beyond five years following termination of a swap. Taking an opposite view, Chris Barnard recommended that all registered entities and swap counterparties should be required to keep records indefinitely.

c. *Record retrievability.* ISDA and SIFMA commented that current recordkeeping practice for their members would normally mean accessibility within a reasonable period of time, such as two working days, and argued that instant access is impracticable to achieve.[17] The Global Foreign Exchange Division of SIFMA (''Global Forex'') suggested that after termination of the swap, real time access should only be required for an additional 30 days. With respect to retrieval by non-SD/MSP counterparties, AGA argued that the three-business-day retrievability requirement is too onerous, and would preclude off-site storage of business records, forcing end users to maintain on-site record storage. The Electric Coalition suggested that the retrieval period for non-SD/MSP counterparties be extended to 20 business days.

d. *Phasing in recordkeeping requirements for non-SD/MSP counterparties.* The Electric Coalition suggested that recordkeeping requirements for non-SD/MSP counterparties be phased in. The Electric Coalition also suggested that the Commission define two sub-categories of non-SD/MSPs, namely financial and non-financial non-SD/MSPs, and that it delay the beginning of compliance with recordkeeping requirements even further for non-financial non-SD/MSP counterparties. Dominion Resources commented that recordkeeping should focus first on swaps involving platform execution or clearing, or involving SDs and MSPs.

3. Final Rule: § 45.2

a. *Records required.* The Commission believes that the final rule should largely maintain the NOPR provisions regarding required records. Those provisions call for recordkeeping with respect to swaps that parallels the Commission's existing recordkeeping requirements with respect to futures and options.[18] Under those existing requirements, all DCMs, DCOs, futures commission merchants (''FCMs''), introducing brokers (''IBs''), and members of contract markets are generally required to keep full and complete records, together with all pertinent data and memoranda, of all activities relating to the business of the entity or person that is subject to the Commission's authority. The Commission believes that the rationale for requiring futures registrants and counterparties subject to its jurisdiction to keep full and complete records must also govern recordkeeping with respect to swaps. Such records are essential to carrying out the regulatory functions of not only the Commission but all other financial regulators, and for appropriate risk management by registered entities and swap counterparties themselves.[19]

The Commission notes that the NOPR placed narrower recordkeeping obligations on non-SD/MSP counterparties subject to the Commission's jurisdiction, requiring them to keep full, complete, and systematic records, including all pertinent data and memoranda, with respect to each swap to which they are a counterparty, rather than with respect to their entire business relating to swaps. This narrower requirement was designed to effectuate a policy choice made by the Commission to place lesser burdens on non-SD/MSP counterparties to swaps, where this can be done without damage to the fundamental systemic risk mitigation, transparency, standardization, and market integrity purposes of the legislation.

The Commission does not believe that it should further define or reduce the records required to be kept. The Commission's existing recordkeeping regulations in the futures context call for maintenance of ''full and complete records.'' Complete records regarding each swap should be required from all counterparties, including non-SD/MSP counterparties to physical commodity swaps and other swaps, because such records are essential for effective market oversight and prosecution of violations by the Commission and other regulators. Experience with recordkeeping requirements in the context of futures suggests that all market participants are able to retain such records. The Commission also does not believe that it should specifically delineate the meaning of ''all pertinent data and memoranda.'' This phrase is not further defined in the Commission's existing futures regulations.

With respect to paper recordkeeping, the Commission agrees with the comment suggesting that non-SD/MSP counterparties should be permitted to keep required records in paper form, since this could serve to reduce burdens on some such counterparties while still ensuring that essential records are available.[20] The final rule provides that non-SD/MSP counterparties may keep records in either electronic or paper form, so long as they are retrievable, and information in them is reportable, as required by part 45. Because SEFS, DCMs, DCOs, SDs, and MSPs are more likely to have automated systems suitable for electronic recordkeeping, and because electronic production of records is important to the Commission's enforcement functions, the final rule will permit such registrants to keep records in paper form only if they are originally created and exclusively maintained in paper form.

b. *Record retention periods.* The Commission has determined that the final rule should maintain the NOPR provision calling for required records to be retained for the life of the swap plus five years. A swap can continue to exist for a substantial period of time prior to its final termination or expiration. During this time, which in some cases can extend for many years, the key economic terms of the swap can change. Thus, recordkeeping requirements with

[17] WGCEF asked the Commission to confirm that real time accessibility refers to access by the counterparty, not the Commission, and asked that the requirement be changed to require record retrieval by the close of business the day following a request.

[18] Recordkeeping requirements relating to futures and options are found in CEA sections 5(b) and 5(d); §§ 1.31 and 1.35 of this chapter; Appendix B to Part 38 of the Commission's Regulations, Core Principle 17, *Recordkeeping;* and Appendix A to Part 39 of the Commission's Regulations, Core Principle K, *Recordkeeping.*

[19] The need for such records is also recognized internationally. As CPSS has noted: ''it should be clear that the data recorded in a TR [trade repository] cannot be a substitute for the records of transactions at original counterparties. Therefore, it is important that even where TRs have been established and used, market participants maintain their own records of the transactions that they are a counterparty to and reconcile them with their counterparties or TRs on an ongoing basis (including for their own risk management purposes).'' Committee on Payment and Settlement Systems, *Considerations for Trade Repositories in OTC Derivatives Markets,* May 2010, at 1.

[20] Although the final rule requires data reporting in electronic form, a non-SD/MSP counterparty could achieve this by entering information from paper records into a web interface provided by an SDR.

respect to a swap must necessarily cover the entire period of time during which the swap exists, as well as an appropriate period following final termination or expiration of the swap. A five-year retention period following termination of the swap will ensure document retention consistent with the information that the Commission and other regulators need to carry out their oversight and enforcement responsibilities. It will also parallel the Commission's existing five-year record retention requirement in the context of futures. Finally, this five-year period is consistent with the Commission's final part 49 rules regarding SDR registration.

With respect to record retention by SDRs, the Commission has determined that SDRs must retain all required records both: (a) Throughout the existence of the swap and for five years following final termination or expiration of the swap, during which time the records must be readily accessible by the SDR and available to the Commission via real time electronic access, as provided in the NOPR; and (b) thereafter, for an archival storage period of ten additional years, during which they must be retrievable by the SDR within three business days. The Commission believes that extended retention of SDR records will assist regulators in discharging their systemic risk and market monitoring responsibilities, and aid market analysis. However, after a substantial period of time has passed following final termination of a swap, the data storage burden of retaining SDR records concerning the swap could outweigh the remaining benefit involved, and accordingly the Commission does not agree with the comment suggesting indefinite record retention. The Commission may review the ten-year archival storage requirement for SDRs at a future time, after experience with its operation is available.

c. *Record retrievability.* The Commission does not believe that it should reduce record retrievability requirements for SEFS, DCMs, DCOs, SDs, and MSPs. The requirement that records be readily accessible for the life of the swap plus two years parallels the Commission's retrievability requirement during the first two years of the five-year retention period for futures-related records.[21] The Commission has routinely interpreted ''readily accessible'' to mean retrievable in real time or at least on the same day as the records are requested. Moreover, Commission Regulation 1.31 requires records maintained electronically to be produced immediately upon request. FCMs routinely comply with this requirement, and the Commission does not believe that SDs and MSPs should be unable to do so as well.

With respect to record retrievability for non-SD/MSP counterparties, the Commission accepts the comments suggesting that retrieval from off-site storage within three business days could possibly involve additional costs or limit off-site storage options for some smaller non-SD/MSP counterparties. In order to lessen any burden on non-SD/MSP counterparties while maintaining necessary accessibility of pertinent records, the final rule will only require retrievability of non-SD/MSP counterparty records within five business days throughout the record retention period. The Commission believes that this will not unduly compromise its ability to conduct investigations and carry out its enforcement responsibilities.

d. *Phasing in recordkeeping requirements for non-SD/MSP counterparties.* The Commission does not believe that it is necessary to provide any phasing treatment with respect to recordkeeping requirements for non-SD/MSP counterparties beyond the phasing by counterparty type provided in the final rule with respect to compliance dates. As noted above, the final rule provides less onerous recordkeeping requirements and less onerous retrievability requirements for non-SD/MSP counterparties, in order to ameliorate recordkeeping burdens for them. Excusing non-SD/MSP counterparties from all recordkeeping for an extended period could interfere with the ability of the Commission and other regulators to carry out their oversight and enforcement responsibilities. As previously noted, experience with recordkeeping requirements in the context of futures suggests that all market participants do retain records and that such recordkeeping is essential for effective oversight and prosecution of violations.

B. Swap Data Reporting: Creation Data—§ 45.3

1. Proposed Rule

a. *What creation data should be reported.* In order to ensure timeliness, accuracy, and completeness with respect to the swap data available to regulators, the proposed rule called for reporting of swap data from each of two important stages of the existence of a swap: the creation of the swap, and the continuation of the swap over its existence until its final termination or expiration. The NOPR required reporting of two sets of data generated in connection with the swap's creation: primary economic terms data, and confirmation data.

The NOPR defined primary economic terms as including all of the terms of the swap verified or matched by the counterparties at or shortly after the execution of the swap. In order to ensure that the array of primary economic terms reported to an SDR for a swap is sufficient in each case for regulatory purposes and is comparable enough to permit data aggregation, the NOPR required that the primary economic terms reported for each swap must include, at a minimum, all of the data elements listed by the Commission in the asset class-specific tables of minimum data elements appended to the NOPR. The tables were designed to include data elements reflecting the basic nature and essential economic terms of the product involved.

The NOPR defined confirmation as the full, signed, legal confirmation by the counterparties of all of the terms of a swap, and defined confirmation data as all of the terms of a swap matched and agreed upon by the counterparties in confirming the swap. The NOPR required reporting of confirmation data, in addition to the earlier reporting of primary economic terms data, in order to help ensure the completeness and accuracy of the data maintained in an SDR with respect to a swap. Reporting of the terms of the confirmation, which has the assent of both counterparties, also provides a means of fulfilling the statutory directive that an SDR ''shall confirm with both counterparties to the swap the accuracy of the data that was submitted.'' [22]

b. *Who should report creation data.* The NOPR's swap data reporting provisions were designed to streamline and simplify the data reporting approach, by calling for reporting by the registered entity or counterparty that the Commission believes has the easiest, fastest, and cheapest access to the data in question. As recognized in the NOPR, such entities and counterparties are also the most likely to have automated systems suitable for reporting.

Because the Commission anticipated that swap contract certification process for swaps listed by SEFs and DCMs would define all or most of the primary economic terms of a swap, the NOPR called for SEFs or DCMs to report PET data for swaps executed on a trading platform, as soon as technologically practicable after execution, with reporting counterparties reporting only PET data that for any reason was not

[21] *See* § 1.31 of this chapter.

[22] CEA section 21(c)(2).

available to the SEF or DCM. For off-facility swaps, where PET data is created by the counterparties' verification of the primary economic terms of the swap, the NOPR provided for the reporting counterparty (as defined) to report the required PET data for the swap. The NOPR called for this report to be made promptly, but in no event later than: 15 minutes after execution of a swap for which execution and verification of primary economic terms occur electronically; 30 minutes after execution of a swap which is not executed electronically but for which verification of primary economic terms occurs electronically; or, in the case of a swap for which neither execution nor verification of primary economic terms occurs electronically, within a time after execution to be determined by the Commission.

For cleared swaps, where confirmation data will be generated by DCOs in the course of the normal clearing process, the NOPR called for DCOs to report confirmation data, doing so as soon as technologically practicable following clearing. For non-cleared swaps, where confirmation will be done by the counterparties, the NOPR required the reporting counterparty to report confirmation data, making this report promptly following confirmation, but in no event later than: 15 minutes after confirmation of a swap for which confirmation occurs electronically; or, in the case of a swap for which confirmation was done manually rather than electronically, within a time after confirmation to be determined by the Commission.

The NOPR did not explicitly assign the right to select the SDR to which a swap is reported, but it effectively determined who will make this choice, through the interaction of two key aspects of the rule. First, in order to prevent fragmentation of data for a single swap across multiple SDRs, which would seriously impair the ability of the Commission and other regulators to view or aggregate all of the data concerning the swap, the proposed rule provided that, once an initial data report concerning a swap is made to an SDR, all data reported for that swap thereafter must be reported to that same SDR.[23] Second, in order to ensure that PET data concerning the swap is reported as soon as technologically practicable following execution—in part to facilitate real time reporting—the proposed rule required the SEF or DCM to make the initial PET data report for swap executed on such a facility, and required the reporting counterparty (in the majority of cases, an SD or MSP) to make the initial report for an off-facility swap. Because subsequent reports must go to the SDR that received the initial report, in practice this meant that the SEF or DCM would select the SDR for platform-executed swaps, and the reporting counterparty would choose the SDR for off-facility swaps.

c. *Deadlines for creation data reporting.* The NOPR established reporting deadlines for creation data reporting, including both PET data reporting and confirmation data reporting, determined by whether the swap is platform-executed and/or cleared, whether verification (matching) of primary economic terms by the counterparties occurs electronically, and whether the reporting counterparty is an SD or MSP on the one hand or a non-SD/MSP counterparty on the other. The resulting deadlines were as shown in the following tables.

PROPOSED RULE—REPORTING COUNTERPARTY: SD OR MSP

Execution and clearing	Report	Reporter	Reporting time
SEF or DCM, DCO	PET data	SEF or DCM	As soon as technologically practicable following execution.
	Any PET data not reported by SEF or DCM.	SD or MSP	After execution: * 15 minutes if execution and verification electronic. * 30 minutes if execution non-electronic but verification electronic. * 24 hours if neither execution nor verification electronic.
	Confirmation data	DCO	As soon as technologically practicable following clearing.
SEF, Not cleared	PET data	SEF	As soon as technologically practicable following execution.
	Any PET data not reported by SEF	SD or MSP	After execution: * 15 minutes if execution and verification electronic. * 30 minutes if execution non-electronic but verification electronic. * 24 hours if neither execution nor verification electronic.
	Confirmation data	SD or MSP	After confirmation: * 15 minutes if confirmation electronic. * 24 hours if confirmation non-electronic.
No platform, DCO	PET data	SD or MSP	After execution: * 30 minutes if verification electronic. * 24 hours if verification non-electronic.
	Confirmation data	DCO	As soon as technologically practicable following clearing.
No platform, Not cleared.	PET data	SD or MSP	After execution: * 30 minutes if verification electronic. * 24 hours if verification non-electronic.
	Confirmation data	SD or MSP	After confirmation: * 15 minutes if confirmation electronic. * 24 hours if confirmation non-electronic.

PROPOSED RULE—REPORTING COUNTERPARTY: NON-SD/MSP

Execution and clearing	Report	Reporter	Reporting time
SEF or DCM, DCO	PET data	SEF or DCM	As soon as technologically practicable following execution.

[23] This requirement received universal approbation in both comments and roundtables as appropriate and necessary.

PROPOSED RULE—REPORTING COUNTERPARTY: NON-SD/MSP—Continued

Execution and clearing	Report	Reporter	Reporting time
	Any PET data not reported by SEF or DCM.	Non-SD/MSP ..	After execution: * 15 minutes if execution and verification electronic. * 30 minutes if execution non-electronic but verification electronic. * 24 hours if neither execution nor verification electronic.
	Confirmation data	DCO	As soon as technologically practicable following clearing.
SEF, Not cleared	PET data	SEF	As soon as technologically practicable following execution.
	Any PET data not reported by SEF	SD or MSP	After execution: * 15 minutes if execution and verification electronic. * 30 minutes if execution non-electronic but verification electronic. * 24 hours if neither execution nor verification electronic.
	Confirmation data	Non-SD/MSP ..	After confirmation: * To be determined by the Commission prior to final rule.
No platform, DCO	PET data	Non-SD/MSP ..	After execution: * 30 minutes if verification electronic. * 24 hours if verification non-electronic.
	Confirmation data	DCO	As soon as technologically practicable following clearing.
No platform, Not cleared.	PET data	Non-SD/MSP ..	After execution: * 30 minutes if verification electronic. * 24 hours if verification non-electronic.
	Confirmation data	Non-SD/MSP ..	After confirmation: * To be determined by the Commission prior to final rule.

d. *Reporting for multi-asset swaps and mixed swaps.* As noted in the NOPR, a mixed swap is in part a security-based swap subject to SEC jurisdiction, and in part a swap subject to CFTC jurisdiction.[24] Multi-asset swaps are those that do not have one easily identifiable primary underlying asset, but instead involve multiple underlying assets belonging to different asset classes that are all within CFTC's jurisdiction. One way of stating the distinction between these two types of swaps is that SEC and CFTC will each have jurisdiction over part of a mixed swap, but only CFTC will have jurisdiction over the different parts of a multi-asset swap. The NOPR requested comment on how multi-asset and mixed swaps should be reported.

2. Comments Received

The Commission received numerous comments from a variety of commenters concerning the proposed rule's provisions addressing creation data reporting. The broad themes of these comments addressed what should be included in required primary economic terms data, who should make the initial creation data report, what deadlines should be set for making creation data reports, and how creation data should be reported with respect to multi-asset swaps, mixed swaps, and international swaps.

a. *What should be included in required PET data.* Comments concerning various aspects of required minimum PET data are discussed below.

Clarification of the catch-all PET data category. The tables of minimum PET data for each asset class appended to the NOPR included a field for reporting ''any other primary economic terms of the swap matched by the counterparties in verifying the swap.'' ISDA and SIFMA commented that the Commission should clarify or provide examples of what this requirement means.

Clarification of particular PET data terms for other commodity swaps. Electric energy providers including EEI, the Electric Power Supply Association (''EPSA''), the Coalition of Physical Energy Companies (''COPE''), and Dominion Resources suggested that the terms ''timestamp,'' ''settlement method,'' ''grade,'' and ''total quantity'' should be clarified or else should not be included in the minimum PET data for other commodity swaps. They asserted that timestamps are not typically recorded under current energy market practice. They argued that the settlement method field implies a swap potentially involving physical delivery, whereas they believe that swaps are not agreements intended to be physically settled. They also argued that the ''total quantity'' of a commodity in a swap is not a term typically captured by swap counterparties, who instead typically express the size of a swap in terms of the quantity aligned with a settlement period.

Elimination or clarification of calculation and reporting of futures equivalents. The NOPR called for minimum PET data reporting to include futures contract equivalents and futures contract equivalent units of measure. Better Markets expressed support for required reporting of futures equivalents. However, the Depository Trust & Clearing Corporation (''DTCC'') commented that OTC derivatives cannot be mapped readily to futures contracts, and thus this data will not necessarily be able to be aggregated in a meaningful fashion. Global Forex asked the Commission to provide guidance on how to report futures equivalents for swaps whose tenor sits between two futures contracts dates; guidance on the case where multiple futures contracts exist for the same underlying product; and guidance on products for which no corresponding futures contracts exist.

Clarification of creation data reporting in the context of structured transactions. ISDA and SIFMA commented that ''execution,'' ''affirmation,'' and ''confirmation'' may have somewhat different meanings in different asset classes, and requested clarification of the application of these terms with respect to creation data

[24] The Dodd-Frank Act defines ''mixed swap'' as follows: ''The term 'security-based swap' includes any agreement, contract, or transaction that is as described in section 3(a)(68)(A) of the Securities Exchange Act of 1934 (15 U.S.C. 78c(a)(68)(A)) and is also based on the value of 1 [sic] or more interest or other rates, currencies, commodities, instruments of indebtedness, indices, quantitative measures, other financial or economic interest or property of any kind (other than a single security or a narrow-based security index), or the occurrence, non-occurrence, or the extent of the occurrence of an event or contingency associated with a potential financial, economic, or commercial consequence (other than an event described in subparagraph (A)(iii).'' Dodd-Frank § 721(21), CEA section 1a(47)(D).

reporting. More specifically, Global Forex requested clarification of creation data in the context of structured transactions, noting that the meaning given these terms under prevalent foreign exchange market conventions, which frequently involve structured transactions, may differ from their application in other contexts.

Clarifications regarding foreign exchange transactions. Contending that cross-currency swaps should be classified as interest rate swaps rather than foreign exchange swaps, Global Forex argues that cross-currency swaps in fact are interest rate products with multi-payment schedules, that they are most often traded by interest rate desks with interest rate participants, and that they are captured and managed in interest rate systems and infrastructure using interest rate conventions. Global Forex notes that foreign exchange swaps are products traded by distinct foreign exchange desks with market participants and internal and external systems infrastructure that are different from the participants and infrastructure involved in cross-currency swaps. Existing trade repositories including TriOptima and DTCC also suggest that the Commission classify cross-currency swaps as interest rate swaps.

Global Forex notes that foreign exchange swaps consist of a near and a far leg, and that the foreign exchange swap market currently lacks market conventions that suggest how to select a reporting counterparty responsible for reporting both legs, in situations where both parties have the same hierarchical level (e.g., two SDs). Global Forex also notes that current trade capture systems differ in how they handle foreign exchange swaps, and that some may book a foreign exchange swap as a single trade, but split it in back-office systems into two trades with separate trade identifiers. Global Forex does not advocate reporting both legs separately; it simply points out this potential issue in light of current, differing market practices.

Combining all PET data and confirmation data reporting in a single report. Several comments suggest consolidating the requirements to report both PET data and confirmation data. Dominion Resources and Global Forex suggest a single report providing PET data plus confirmation status (rather than all terms confirmed). ISDA and SIFMA suggest replacing all creation data reporting with end-of-day snapshot reporting (including the first-day report). The Kansas City Board of Trade (''KCBT'') suggests that for swaps that are platform-executed and cleared, the DCO's clearing report should replace confirmation reporting.[25] DTCC suggests creation data reporting for fully-electronic trades should be limited to confirmation reporting, in the belief that fully electronic trades can be confirmed within 15 minutes. Thomson Reuters believes that creation data reporting should be limited to confirmation reporting for all swaps whether platform executed or voice executed. The Managed Funds Association (''MFA'') suggests defining ''time of execution'' to mean 24 hours after manual confirmation of the swap, arguing that the benefits of data reporting within minutes of execution as presently defined do not outweigh either the infrastructure costs or error risks involved.

Harmonizing the data fields require for real time and regulatory reporting. ISDA, SIFMA, WGCEF, and Dominion Resources recommended harmonizing the Commission's required PET data fields and real time reporting data fields. The Electric Coalition suggested a need to coordinate these two types of reporting with respect to reporting triggers and the words used to define them (e.g. verification or confirmation), and requested clarification concerning the data elements required by the real time reporting rule and the swap data reporting rule.

Allowing non-SD/MSP counterparties to report less data. The NOPR requires the same minimum PET data fields to be reported for each swap in an asset class, regardless of the nature of the reporting entity or counterparty. Various energy producers commented concerning potential burdens for non-SD/MSP counterparties in this regard. AGA suggested the rule should minimize the burdens of reporting for non-SD/MSP counterparties, and EEI supported the principle that responsibility for reporting should rest with those having the best technology, such as SEFs, DCMs, SDs and MSPs.[26] EEI, EPSA, and COPE suggested limiting data reporting for non-SD/MSP counterparties in physical energy to data they already maintain under current data capture practices, limiting their reporting of confirmation data to the confirmation information currently captured in their systems, rather than requiring them to report all confirmation terms. The International Energy Credit Association (''IECA'') suggested exempting physical energy counterparties from reporting requirements entirely, or at least imposing ''lesser'' reporting requirements for them. The Electric Coalition suggested that non-SD/MSP counterparties be subject only to a ''CFTC Lite'' reporting regime.

Miscellaneous aspects of PET data. The NOPR specifies minimum PET data fields for each asset class. The SEC's proposed data reporting rule for swaps under the SEC's jurisdiction, i.e., security-based swaps in the credit and equity asset classes, sets out categories of required data rather than specific data fields. ISDA and SIFMA suggested that the Commission should adopt the SEC's approach, and expressed concern that the Commission's approach could negatively affect FpML development and result in some products not being adequately described. Eris Exchange suggested that the Commission determine where prescriptive rules are absolutely necessary to address systemic risk, and the Commodity Markets Council suggested that the Commission avoid a prescriptive regulatory model which would create detailed reporting requirements and thus require different reporting methods.

SunGard Energy & Commodities (''SunGard'') suggested that for swaps executed on SEFs and DCMs, having the SEF or DCM report position changes to each account, instead of reporting individual swap transactions, would be more efficient and more advantageous for monitoring of positions and of risk.[27]

b. *Who makes the initial creation data report and selects the SDR.* The NOPR did not explicitly assign the right to select the SDR to which a swap is reported, but it effectively determined who will make this choice, through the interaction of two key aspects of the proposed rule. First, in order to prevent fragmentation of data for a single swap across multiple SDRs, which would seriously impair regulators' ability to view or aggregate all of the data concerning the swap, the NOPR provided that, once an initial data report concerning a swap is made to an SDR, all data reported for that swap thereafter must be reported to that same SDR.[28] Second, in order to ensure that PET data concerning the swap is reported as soon as practicable following execution—in part to facilitate real time reporting—the NOPR required the SEF or DCM to make the initial PET data report for swap

[25] KCBT also suggests that DCOs should be allowed to report a day's cleared swaps in a single daily data file, rather than individually.

[26] The NOPR takes this approach, calling for SEFs and DCMs to report all creation data in their possession for on-facility swaps, and making SDs and MSPs the reporting counterparties when they are involved.

[27] SunGard suggested that such position reports could be accompanied by a reference to the primary economic terms of the contract, rather than by data reflecting all primary economic terms.

[28] This requirement received universal approbation in both comments and roundtables as appropriate and necessary.

executed on such a facility, and required the reporting counterparty (in the majority of cases, an SD or MSP) to make the initial report for an off-facility swap. Because subsequent reports must go to the SDR that received the initial report, in practice this meant that the SEF or DCM would select the SDR for platform-executed swaps, and the reporting counterparty would choose the SDR for off-facility swaps.

The Commission received a number of comments concerning who should select the SDR to which a swap is reported. WGCEF, COPE, EEI, and EPSA supported the NOPR approach of giving reporting obligations to SEFs, DCMs, and DCOs, arguing that this approach simplifies reporting and eases burdens on counterparties, which is especially important in the case of non-SD/MSP counterparties. EEI and EPSA emphasized that the rules should ensure that SDR selection by a SEF, DCM, SD, or MSP does not result in costs or burdens for non-SD/MSP counterparties. WGCEF also suggested that DCOs should make the initial report for cleared swaps executed off-platform, since (in WGCEF's view) execution technically will not occur until such a swap is accepted for clearing. Global Forex observed that if a platform makes the initial report and thus selects the SDR, other entities or counterparties with reporting obligations during the life of the swap would need to ensure that they can connect to the chosen SDR. ABC and CIEBA suggested that for swaps involving a benefit plan as a counterparty, the SDR selection should always be made by the plan. ISDA and SIFMA suggested that the reporting counterparty should always select the SDR, arguing that this would permit the market to determine and follow the most efficient manner of reporting. REGIS–TR opposed having reporting obligations assigned based on platform execution or clearing.

DTCC and ICE recommended that the reporting counterparty—an SD or MSP in the majority of cases—should always select the SDR, even for platform-executed swaps. ICE also suggested that if a SEF or DCM makes the first report and thus selects the SDR for a swap that is to be cleared, the SEF or DCM should be permitted to select a DCO that is also registered as an SDR as both the DCO that will clear the swap and the SDR to which the swap is reported. Going further in this direction, CME contended that the final rule should require the initial report for each cleared swap to be made to a DCO that is also registered as an SDR or an SDR chosen by such a DCO. CME argued that the structure and wording of the Dodd-Frank Act demonstrate that this was Congress's intent, and that limiting reporting for cleared swaps to DCOs that are dually registered as SDRs or to SDRs chosen by a DCO would involve the lowest cost and least burden. The Commodity Markets Council echoed CME's cost-benefit argument, asserting that DCOs are the ''natural choice'' to act as SDRs for cleared trades, and that it would be costly, inefficient and unnecessary to require industry to establish a redundant set of expensive connections with non-DCO SDRs for the purpose of making regulatory reports for cleared trades.

c. *Creation data reporting deadlines and deadline phasing.*

Extended creation data reporting deadlines. The Commission received a number of comments recommending extended deadlines for both PET data reporting and confirmation data reporting. The Electric Coalition commented that the NOPR reporting deadlines are far too short if the reporting party is a non-financial entity, because such an entity would need to manually extract reportable data elements from a customized swap.

Several commenters urged the Commission to extend deadlines for PET data reporting, particularly in the case of non-SD/MSP counterparties. EEI suggested a PET data report deadline of T+1 (i.e., by the close of business on the business day following the day of execution) in the case of either electronic or manual verification. CIEBA asked that the 24-hour deadline for PET data reporting where both execution and verification are non-electronic include only business days. COPE concurred that the 24-hour deadline where verification is non-electronic is too short for non-SD/MSP counterparties, and asked the Commission not to set a deadline in the final rule, but to determine the deadline through ongoing consultations with industry following issuance of the final rule.

Commenters also urged extension of the deadlines for confirmation data reporting. AGA asked that the confirmation data reporting deadline for non-SD/MSP counterparties be set at T+1 for swaps electronically confirmed, and at T+2 (i.e., by the close of business on the second business day following the day of execution) for swaps not electronically confirmed. The Federal Home Loan Banks (''FHLB'') suggested a deadline of 24 hours following confirmation for reporting confirmation of a swap electronically confirmed, and a deadline of five business days following confirmation for a swap manually confirmed. DTCC suggested that a 15-minute deadline for reporting confirmation of an electronically executed swap would require a level of straight-through processing not yet available, and that for similar reasons a somewhat longer deadline would be needed where the swap was not electronically executed but electronically cleared. DTCC recommended setting the initial deadline for confirmation data reporting for electronically executed swaps at 30 minutes, setting the deadline for swaps not electronically executed but electronically cleared at two hours, and phasing in confirmation data reporting deadlines. For manually confirmed swaps, DTCC advocated a confirmation data reporting deadline of five days after execution.

Streamlined regulatory and real time reporting. The Commission also received comments from DTCC and from roundtable participants suggesting that it consider minimizing the number of swap creation data reports to be required of any given registered entity or swap counterparty, either by combining PET data reporting and confirmation data reporting in a single report, or by allowing a single PET data report to fulfill both regulatory reporting requirements under part 45 and real time reporting requirements under part 43.

Phasing in reporting deadlines. DTCC suggested that the Commission consider phasing in creation data reporting deadlines where possible.

d. *Reporting of multi-asset swaps and mixed swaps.* As noted in the preamble of the NOPR, generally, a mixed swap is in part a security-based swap subject to SEC jurisdiction, and in part a swap belonging to an asset class subject to CFTC jurisdiction.[29] Multi-asset swaps are those that do not have one easily identifiable primary underlying notional item, but instead involve multiple underlying notional items belonging to different asset classes that are all within CFTC's jurisdiction. One way of stating the distinction between these two types of swaps is that SEC and CFTC will each have jurisdiction over part of a mixed

[29] The Dodd-Frank Act defines ''mixed swap'' as follows: ''The term 'security-based swap' includes any agreement, contract, or transaction that is as described in section 3(a)(68)(A) of the Securities Exchange Act of 1934 (15 U.S.C. 78c(a)(68)(A)) and is also based on the value of 1 [sic] or more interest or other rates, currencies, commodities, instruments of indebtedness, indices, quantitative measures, other financial or economic interest or property of any kind (other than a single security or a narrow-based security index), or the occurrence, non-occurrence, or the extent of the occurrence of an event or contingency associated with a potential financial, economic, or commercial consequence (other than an event described in subparagraph (A)(iii).'' Dodd-Frank § 721(21), CEA section 1a(47)(D).

swap, but only CFTC will have jurisdiction over the different parts of a multi-asset swap. The NOPR requested comment on how multi-asset and mixed swaps should be reported, but did not directly address such reporting in the text of the proposed rule.

Commenters provided differing views concerning reporting of mixed swaps and multi-asset swaps. Better Markets suggested that the different legs of mixed swaps and multi-asset swaps should be reported separately. ISDA and SIFMA suggested that multi-asset swaps should not be decomposed into their underlying asset classes but should be reported to an SDR that accepts swaps in the most significant asset class component of the swap, as determined by the reporting counterparty (in practice, usually the asset class of the desk that trades the swap). DTCC suggested that swaps in asset classes subject to joint SEC–CFTC regulation could be reported to an SDR registered with both Commissions (except in cases where no such SDR is available), or that a practicable reporting regime for mixed swaps and multi-asset swaps may be to have the reporting counterparty for a mixed swap or multi-asset swap report the swap to an SDR serving each asset class, including the USI assigned in the context of the report to the first SDR in the report made to the second SDR.

i. *Reporting of international swaps.* As noted above, the Dodd-Frank Act directs the Commission to consult and coordinate with foreign regulatory authorities regarding establishment of consistent international standards for the regulation of swaps and swap entities. The Commission is committed to a cooperative international approach to swap recordkeeping and swap data reporting, and has consulted extensively with various foreign regulatory authorities in the process of preparing this final rule. International regulators consulted by the Commission have urged the Commission to include provisions in its final swap data reporting rules concerning ''international swaps,'' i.e., those swaps that may be required by U.S. law and the law of another jurisdiction to be reported both to an SDR registered with the Commission and to a different trade repository registered with the other jurisdiction.

3. Final Rule: § 45.3

a. *What should be included in required PET data.*

Clarification of the catch-all PET data category. The Commission's purpose in including in the tables of minimum PET data a field for reporting ''any other primary economic terms of the swap matched by the counterparties in verifying the swap'' is to provide a ''catch all'' category necessary to (1) ensure reporting of all price-forming terms agreed on at the time of swap verification, including any such terms not listed in the minimum PET data tables for the asset class in question, and (2) keep pace with market innovation and new varieties of swaps for which the Commission has not enumerated all relevant data fields. To clarify that this field is intended to include all terms agreed on at the time of swap verification, the final rule eliminates the words ''primary economic'' from the field description, specifies reporting of ''any other terms of the swap matched by the counterparties in verifying the swap,'' and adds some possible examples of such terms. This aligns the field description with the NOPR and final rule definition of ''primary economic terms'' as meaning ''all of the terms of a swap matched or affirmed by the counterparties in verifying the swap.''

Clarification of particular PET data terms for other commodity swaps.

The Commission disagrees with comments suggesting that execution date and time should not be required to be reported for certain types of other commodity swaps. The Commission believes that the date and time of the execution of a swap constitute a basic primary economic term and a fundamental audit trail component for all swaps. This information is essential to the ability of the Commission and other regulators to fulfill their obligations to supervise swap markets and prosecute abuses. For swaps executed on a SEF or DCM, and for off-facility swaps executed via an automated system, a timestamp will be created automatically by the system involved. For off-facility swaps executed manually, counterparties can and must manually record and report the date and time of execution. Where current market practice does not include recording the date and time of execution of a swap, adjustment will be necessary.

While the Commission notes that the parameters of what constitutes a swap will be provided by the final definition of ''swap'' issued jointly by the Commission and the SEC, the Commission believes that ''settlement method'' should be retained as a PET data field. The definition of a swap in CEA section 1a(47) could include options that potentially could require physical delivery of a commodity. Thus, while certain transactions that require delivery of a commodity, e.g., forward contracts or spot transactions that are excluded from the definition of a swap, may not constitute swaps (as commenters argue), other derivative transactions involving delivery would be required to be reported as swaps.

The Commission believes that ''grade'' should also be retained as a PET data field for other commodity swaps. ''Grade'' would typically be applicable as a defining characteristic of the swap for both physically delivered and cash settled transactions, in that this term is intended to identify the quality and other characteristics of the commodity that underlies the swap. For a cash settled swap, the Commission believes that separately accounting for grade in the terms reported is also necessary as a means of classifying and identifying the quality characteristics of the commodity underlying the swap. The Commission recognizes that in certain cases—electricity being one example—a grade may not exist. The final rule will indicate that where a particular PET data field does not apply to a given swap, the reporting entity or counterparty should report ''Not applicable'' for that field.

As noted in the comments, some commodity swap counterparties use the convention of identifying the notional amount of a swap by specifying the quantity in terms of dollars or units of the commodity, whichever is used to calculate settlement period payment obligations. However, other counterparties account for the size of a swap by referring to the total quantity involved in a swap over its entire existence. Because a single convention does not apply in all cases, the final minimum PET data tables will retain the terms ''Quantity'' and ''Total quantity, '' but will also add the terms ''Quantity units'' and ''Notional quantity.'' Notional quantity will be defined as the amount of the underlying commodity that is used to calculate periodic settlement payments during the life of the swap. Quantity units will be defined as the units in which the notional quantity is expressed, e.g., bushels, gallons, barrels, pounds, or tons.

Elimination or clarification of calculation and reporting of futures equivalents. The NOPR provision for reporting of futures contract equivalents was intended to assist the Commission in monitoring the positions of traders for the purpose of enforcing position limits mandated by the Dodd-Frank Act. However, in July 2011, subsequent to publication of the NOPR, the Commission adopted new reporting requirements for physical commodity swaps and swaptions. Part 150 of this chapter now requires routine position reports from clearing organizations, clearing members and swap dealers, and

also applies to reportable swap trader positions. It also provides guidelines on how swaps should be converted into futures equivalents. The new regulations were issued in part to cover the period between the present, when the date by which SDRs registered with the Commission will be operational in all asset classes is not yet certain, and a future time when the Commission may be able to obtain swap position data by aggregating data across SDRs.[30] Accordingly, the final part 45 rule will drop ''futures contract equivalent'' and ''futures contract equivalent unit of measure'' from its minimum PET data tables. The Commission may revisit possible reporting of futures equivalents at a later time, after Commission staff has had an opportunity to evaluate the Commission's experience in collecting futures equivalent data under the new part 150 regulations.

Clarification of creation data reporting in the context of structured transactions. In response to comments requesting clarification of creation data reporting in the context of structured transactions, the Commission provides the following explanation.

As discussed below in the context of who reports creation data, for swaps executed on a SEF or DCM, the final rule requires the SEF or DCM to report all required swap creation data, as soon as technologically practicable after execution, in a single report that includes all primary economic terms data and all confirmation data for the swap. This will address some of the concerns raised in these comments for swaps executed on a SEF or DCM.

For off-facility swaps, the final rule requires the reporting counterparty to report both (1) all primary economic terms data, within specified times following execution, and (2) all confirmation data, within specified times following confirmation by the counterparties.[31] The final rule requires both a PET data report and a confirmation data report in recognition that the elapsed time between execution and verification of primary economic terms on the one hand, and confirmation of all terms of the swap on the other, may differ for a given swap depending on context.

The Commission understands that a major concern underlying these comments reflects uncertainty as to what reporting the final rule requires (a) in situations where give-up arrangements or block trade details may not be entirely finalized as of the time the counterparties verify primary economic terms, or (b) in the case of structured transactions, where the counterparties may negotiate primary economic terms in stages over a period of time before reaching agreement on their entire deal. The Commission therefore wishes to clarify that for off-facility swaps where execution and confirmation are not simultaneous, the final rule requires PET data reporting when execution has occurred and verification of primary economic terms is completed, even though details such as give-ups may still be in process. It also wishes to clarify that PET data reporting is to follow agreement on all primary economic terms of the complete transaction, and is not required or desired after each stage of negotiating a structured transaction or after agreement on some but not all of the primary economic terms of the swap.

Clarifications regarding foreign exchange transactions. The Commission has considered and agrees with comments suggesting that cross-currency swaps should be classified and reported as interest rate swaps, in line with prevailing market practice concerning the trading of such swaps. The final rule provides for reporting of cross-currency swaps as interest rate swaps. The Commission has also considered comments noting differences in current foreign exchange market practice concerning the booking of the near and far legs of some foreign exchange transactions. The Commission understands that a firm's financial statements will address both legs of a foreign exchange swap, and that confirmation is performed with respect to the whole swap rather than separately for each leg. The final rule provides for reporting of foreign exchange swaps as a single transaction by a single reporting counterparty selected as provided in § 45.8. The Commission notes that foreign exchange market conventions may need to adjust to this requirement.[32]

Combining all PET data and confirmation data reporting in a single report. The Commission has considered the numerous comments suggesting that the final rule should provide for PET data and confirmation data reporting to be combined in a single report. The Commission agrees with these comments with respect to swaps executed on a SEF or DCM. As noted above, the final rule provides that for swaps executed on a SEF or DCM, a single report by the SEF or DCM, made as soon as technologically practicable after execution, will fulfill all creation data reporting that would otherwise be required of reporting counterparties.

The Commission disagrees with these comments as they apply to off-facility swaps. The NOPR requirements for both PET data reporting and confirmation data reporting are designed to ensure both (a) timeliness of reporting, served by the initial PET data report, and (b) data accuracy and completeness, served by confirmation data reporting.[33] In addition, as noted above, the NOPR requirement for both a PET data report and a confirmation data report recognizes that the elapsed time between verification of primary economic terms and confirmation of all terms may differ in different contexts, and in some cases may be substantial. In a number of cases, delaying the initial data report for a swap until confirmation has occurred could prevent regulators from seeing a current picture of the entire swap market in the data present in SDRs. As provided in the NOPR and the final rule, reporting counterparties for off-facility swaps will be free to contract with third-party services providers to fulfill either or both of these reporting obligations, which could reduce costs associated with making these reports. The Commission notes that, for off-facility swaps not accepted for clearing within the applicable deadline for the reporting counterparty to report PET data, the reporting counterparty can avoid the

[30] An SDR would be able to report position data to the Commission only if it were the single SDR for an entire asset class.

[31] The final rule will further provide that if an off-facility swap is accepted for clearing within the applicable deadline for PET data reporting by the reporting counterparty, and before the reporting counterparty reports any primary economic terms data, then the reporting counterparty will be excused from reporting creation data, and the DCO will report all required creation data in a single report that includes both confirmation data and PET data. The final rule will also define ''confirmation'' as the consummation of legally binding documentation memorializing the agreement of the parties to all terms of the swap.

[32] The Commission also notes that the final rule addresses the reporting of ''foreign exchange instruments,'' defined as instruments that are both defined as a swap in part 1 of this chapter and included in the foreign exchange asset class. The definition specifies that instruments in the foreign exchange asset class include: any currency option, foreign currency option, foreign exchange option, or foreign exchange rate option; any foreign exchange forward as defined in CEA section 1a(24); any foreign exchange swap as defined in CEA section 1a(25); and any non-deliverable forward involving foreign exchange. This definition and this approach to reporting are required by the fact that the Dodd-Frank Act defines the term ''foreign exchange swap,'' and the fact that foreign exchange swaps as so defined are only a subset of the foreign exchange instruments that will be defined as swaps.

[33] The Commission notes that it is working to align the timeframes for regulatory swap data reporting pursuant to this part and the dissemination delays for real time swap data reporting pursuant to part 43, in order to permit a reporting entity or counterparty to fulfill both obligations by making a single report, should the reporting entity or counterparty choose to do so.

need for a separate confirmation data reporting by confirming the swap within the applicable deadline for PET data reporting, and reporting both PET data and confirmation data in a single report.

Harmonizing the data fields required for real time and regulatory reporting. The Commission agrees in principle with comments suggesting harmonization of the data fields required for real time reporting pursuant to part 43 and those required for regulatory reporting pursuant to this part. While registered entities and reporting counterparties subject to the Commission's jurisdiction will remain responsible for complying with both part 43 and part 45, the Commission is working to substantially align the minimum PET data fields required by this part and the real time reporting data fields required by part 43, in order to reduce reporting burdens to the extent possible.

Allowing non-SD/MSP counterparties to report less data. The Commission disagrees with comments suggesting that it should require less data to be reported for a swap with respect to which a non-SD/MSP counterparty is the reporting counterparty. The Commission believes that fulfilling the purposes of the Dodd-Frank Act requires that regulators have access to the same information for all swaps reported to SDRs. To address commenters' concerns to the extent possible, the final rule will lessen burdens on non-SD/MSP counterparties by phasing in their reporting—which will begin as of a compliance date later than the compliance dates for other registered entities and counterparties—and by providing extended deadlines for their reporting once it begins.

Miscellaneous aspects of PET data. The Commission disagrees with comments suggesting that the final rule should only provide categories of data to be reported, rather than minimum PET data fields. The Commission believes the approach taken by the NOPR in this respect is appropriate. It is designed to ensure uniformity of essential data concerning swaps across all of the asset classes over which the Commission has jurisdiction, and across different SDRs, and to ensure that the Commission has the necessary information to characterize and understand the nature of reported swaps. Commission staff have consulted with SEC staff regarding data reporting for swaps in the credit and equity asset classes where the Commission and the SEC share jurisdiction, and the Commission has substantially aligned its data requirements in those asset classes with the data sought by the SEC. As a result, the Commission does not believe that SDRs and security-based SDRs will have difficulty in collecting the data needed by the two Commissions. The inclusion in minimum PET data of all terms of the swap matched by the counterparties in verifying the swap provides an avenue for reporting for newly-developed swap products. The Commission will also have the ability to amend its tables of required minimum PET data at futures times when this is desirable.

The Commission disagrees with the comment suggesting that SEFs and DCMs should report positions rather than swap transactions. The Dodd-Frank Act requires ''each swap'' to be reported to an SDR, and does not address position reporting to an SDR. In addition, unlike most current futures exchanges, SEFs and DCMs will not necessarily have access to all of the transactions of a given counterparty in a particular product, and thus would be unable to report positions.

b. *Who makes the initial creation data report and selects the SDR.* The Commission has considered the various comments received concerning who should make the initial creation data report for a swap, and by operation of the various parts of the rule thus select the SDR to which the swap is reported. The Commission has determined that the final rule should maintain the NOPR's approach, calling for initial creation data reporting by the registered entity or reporting counterparty that the Commission believes has the easiest and fastest access to the data required, and requiring that, once an initial data report concerning a swap is made to an SDR, all data reported for that swap thereafter must be reported to that same SDR. Cumulatively, these provisions prevent fragmentation of swap data that would impair the ability of the Commission and other regulators to use the swap data in SDRs for the purposes of the Dodd-Frank Act. Under this approach, competition may lead SEFs and DCMs to establish connections to multiple SDRs, and result in lower SDR fees charged, not only to SEFs and DCMs for swaps executed on such facilities, but also to reporting counterparties for off-facility swaps. The Commission believes that requiring that all cleared swaps be reported only to DCOs registered as SDRs or to SDRs chosen by a DCO would create a non-level playing field for competition between DCO–SDRs and non-DCO SDRs. The Commission also believes that it would make DCOs collectively, and could in time make a single DCO–SDR, the sole recipient of data reported concerning cleared swaps. On the other hand, the Commission believes that giving the choice of the SDR to the reporting counterparty in all cases could in practice give an SDR substantially owned by SDs a dominant market position with respect to swap data reporting within an asset class or even with respect to all swaps. The Commission believes that the rule as proposed favors market competition, avoids injecting the Commission into a market decision, and leaves the choice of SDR to be influenced by market forces and possible market innovations. The rule as proposed also addresses the major substance of the concerns expressed by non-SD/MSP counterparties, since it calls for the initial data report to be made by a non-SD/MSP counterparty only in the case of an off-facility swap between two non-SD/MSP counterparties.

c. *Creation data reporting deadlines and deadline phasing.*

Extended creation data reporting deadlines. The Commission continues to believe, as it stated in the NOPR, that in order to fulfill the purposes of the Dodd-Frank Act while minimizing burdens for registered entities and swap counterparties, particularly including non-SD/MSP counterparties, the final rule should establish a swap data reporting regime calling for reporting by the registered entity or counterparty that has the easiest, fastest, and cheapest access to the set of data in question. The Commission has also considered and evaluated the comments it has received regarding ways that reporting burdens could be reduced, either by allowing a single report to serve different required functions or by extending and phasing in reporting deadlines. The Commission has determined that the reporting regime established by the final rule should maintain many fundamental aspects of the reporting called for in the NOPR, while adjusting other aspects of that regime to streamline reporting and minimize reporting burdens where possible, while continuing to ensure that swap data for all swaps is reported to SDRs in a manner that ensures the ability of the Commission and other regulators to fulfill the systemic risk mitigation, market transparency, position limit monitoring and market surveillance objectives of the Dodd-Frank Act.

Streamlined regulatory and real time reporting. The Commission agrees with comments suggesting that, where possible, the number of swap creation data reports should be minimized and streamlined by combining PET data reporting and confirmation data reporting in a single report.

The Dodd-Frank Act does not specify the timeframes for reporting of swap data to SDRs for regulatory purposes. However, to further the objectives of the Dodd-Frank Act, the Commission believes it is important that swap data be reported to SDRs either immediately following execution of the swap or within a short but reasonable time following execution. The Commission does not believe that PET data reporting can wait until it is possible to report confirmation data in all cases, because in an appreciable number of instances confirmation of a swap can occur days, weeks, or even months after execution.

Where execution and confirmation are simultaneous or nearly so, however, the Commission agrees with commenters' suggestion that reporting both PET data and confirmation data in a single report would reduce reporting burdens without impairing regulatory purposes. The Commission is working to adopt final rules for SEFs and DCMs, and final rules with respect to straight-through processing, providing that execution of a swap on a SEF or DCM will constitute confirmation of all of the terms of the swap. This final part 45 rule requires that the terms of such contracts must include all of the minimum PET data required by part 45 for a swap in the asset class in question. The final rule therefore provides for a single creation data report, including both PET data and confirmation data, in the case of swaps executed on or pursuant to the rules of a SEF or DCM. Accordingly, no counterparty will be required to report creation data for a swap executed on or pursuant to the rules of a SEF or DCM.

The Commission agrees with commenters that a reporting regime that, to the extent possible and practicable, permits reporting entities and counterparties to comply with the regulatory data reporting requirements of part 45 and the real time reporting requirements of part 43 by making a single report can reduce reporting burdens while still ensuring fulfillment of the purposes for which the Dodd-Frank Act requires such reporting. The Commission is working to align the reporting deadlines in this final rule with the public dissemination delays provided in the final part 43 real time reporting rule, to the extent possible and practicable, in order to achieve this goal.

The Commission's final clearing rules in part 39 of this chapter provide that acceptance of the swap for clearing by a DCO constitutes confirmation of all of the terms of the swap. This final part 45 rule provides that the terms of such contracts must include all of the minimum PET data required by part 45 for a swap in the asset class in question. Because acceptance for clearing constitutes confirmation, the final rule provides that if an off-facility swap is accepted for clearing within the reporting deadlines applicable to the reporting counterparty, the reporting counterparty shall be excused for creation data reporting for the swap, and the DCO shall report all creation data report, including both PET data and confirmation data, in a single report made as technologically practicable after clearing. In such cases, reporting will be further streamlined, and burdens for counterparties will be further reduced.

Phasing in and extending reporting deadlines. As noted above, counterparties will not be required to report creation data for swaps executed on a SEF or DCM, or for swaps accepted for clearing by a DCO within the applicable reporting deadlines. After considering comments advocating the extension and phasing in of counterparty reporting deadlines, the Commission has decided to extend and phase in such deadlines in the final rule with respect to off-facility swaps not accepted for clearing within such deadlines.

- PET data reporting deadlines for SD or MSP reporting counterparties will be phased in over two years.
- PET data reporting deadlines for non-SD/MSP reporting counterparties will be extended and phased in over three years, and will exclude weekend days and legal holidays. For example, while the NOPR set the non-SD/MSP reporting counterparty PET data reporting deadline for an uncleared swap at 24 hours, the final rule calls for reporting no later than 48 business hours after execution (during the first year of reporting), 36 business hours after execution (during the second year of reporting), or 24 business hours after execution (thereafter).
- To reduce possible burdens on small non-SD/MSP counterparties entering into a swap with an SD or MSP, if the non-reporting counterparty is a non-SD/MSP counterparty that is not a financial entity, and if primary economic terms are not verified electronically, PET data reporting deadlines for the SD or MSP reporting counterparty will be further extended and phased in over three years, and will exclude weekend days and legal holidays.
- Confirmation data reporting deadlines for SD or MSP reporting counterparties where confirmation is non-electronic will be extended, and will exclude weekend days and legal holidays.
- Confirmation data reporting deadlines for non-SD/MSP reporting counterparties will be extended and phased in over three years, and will exclude weekend days and legal holidays. The final rule calls for such counterparties to report confirmation data no later than 48 business hours after confirmation (during the first year of reporting), 36 business hours after confirmation (during the second year of reporting), or 24 business hours after confirmation (thereafter).
- For off-facility, uncleared swaps, during the first six months following the applicable compliance date, while PET data will have to be reported electronically with data normalized in data fields, reporting counterparties for whom reporting confirmation data normalized in data fields is not yet technologically practicable may report required confirmation data by transmitting an image of all documents recording the confirmation. This will allow needed additional time for development of schemas for data reporting and implementation by non-SD/MSP counterparties. Electronic reporting of all confirmation data normalized in data fields will be required after this six month period.

Charts showing the final rule reporting requirements with respect to both creation data reporting and continuation data reporting can be seen below at pages 70 and71.

Reporting burden reductions for non-SD/MSP reporting counterparties. As a result of the streamlined reporting regime and extended, phased-in reporting deadlines noted above, the final rule eliminates all reporting obligations for non-SD/MSP reporting counterparties in many cases, and phases in or reduces them in virtually all other cases. Non-SD/MSP reporting counterparties must report data only for the small minority of swaps in which both counterparties are non-SD/MSP counterparties. Even within this small minority of swaps, a non-SD/MSP reporting counterparty will have no reporting obligations for on-facility, cleared swaps, or for off-facility swaps accepted for clearing within the applicable deadline for PET data reporting. If an off-facility swap is accepted for clearing after the PET data reporting deadline, the non-SD/MSP reporting counterparty is excused from reporting confirmation data and continuation data, which instead will be reported by the DCO. For on-facility, uncleared swaps, a non-SD/MSP reporting counterparty's reporting obligations are limited to reporting continuation data during the existence of the swap. For off-facility, uncleared

swaps, creation data reporting deadlines for a non-SD/MSP reporting counterparty have been extended and phased in as noted above, and no longer include weekend days or holidays. The deadline for a non-SD/MSP reporting counterparty to report changes to primary economic terms over the life of the swap has been lengthened from reporting on the day such a change occurs to reporting by the end of the second business day following the date of such a change; and a non-SD/MSP reporting counterparty will be required to report valuation data on only a quarterly rather than a daily basis.

d. *Allocations.* As set forth more fully below in the discussion of USIs, the Commission received and has considered comments and industry requests for clarification concerning USI creation and swap creation data reporting in the case of swaps involving allocation by an agent to its clients who are the actual counterparties on one side of the swap. In response to these requests, the final rule will address both USI creation and creation data reporting for swaps involving allocation, as set forth in the discussion of USIs below.

e. *Reporting of multi-asset swaps and mixed swaps.* After considering comments concerning how multi-asset swaps and mixed swaps should be reported, the Commission has determined that the final rule should provide for mixed swaps to be reported to both an SDR registered with CFTC and an SDR registered with SEC.[34] Reporting to a dual-registered SDR would satisfy this requirement, but would not be required. To ensure regulatory ability to track mixed swaps and aggregate data concerning them, the final rule will add a ''mixed swap'' checkbox field to the tables of minimum primary economic terms. To avoid double-counting of mixed swaps, the final rule requires the reporting entity or counterparty to obtain a USI for the swap from the first SDR to which the swap is reported, and to include that USI in the data concerning the swap reported to the second SDR to which the swap is reported.

For multi-asset swaps, the final rule requires reporting to a single SDR accepting swaps in the asset class determined by the registered entity or counterparty reporting the swap to be the first or primary asset class involved in the swap. To ensure regulatory ability to track the swap in all asset classes involved, the final rule will add two data fields to the tables of minimum primary economic terms, one for indication of the first or primary asset class involved in the swap (which must be an asset class accepted by the SDR), and the second for indication of the other asset class or classes involved in the swap.

f. *Reporting of international swaps.* The Commission agrees with international regulators with whom the Commission has consulted who have suggested that it is important for the final rule to include a mechanism that enables the Commission and other regulators to identify international swaps reported to multiple repositories, so that such swaps are not double-counted by regulators. The Commission is mindful of the fact that the Dodd-Frank Act directs the Commission to consult and coordinate with foreign regulatory authorities regarding establishment of consistent international standards for the regulation of swaps and swap entities. The Commission also believes that providing an accurate picture of the swap market to regulators is one of the fundamental purposes of the Dodd-Frank Act. For these reasons, and in order to clarify its intent concerning swap data reporting in this context, the Commission has determined that the final rule will address the reporting of ''international swaps,'' defined for clarity as those swaps that may be required by U.S. law and the law of another jurisdiction to be reported both to an SDR registered with the Commission and to a different trade repository registered with the other jurisdiction.[35] In order to help provide for international swaps the consistent international standards sought by the Dodd-Frank Act, the final rule provides that for each international swap that is reported to both a U.S.-registered SDR and a foreign trade repository, the reporting counterparty shall report to the U.S.-registered SDR, as soon as practicable, the identity of the foreign trade repository, and the swap identifier used by that foreign trade repository to identify that swap.[36] If necessary, the reporting counterparty shall obtain this information from the non-reporting counterparty. The Commission believes that these provisions are a logical outgrowth of the swap data reporting provisions of the NOPR and of the statutory call for international consultation and consistent international standards.

C. Swap Data Reporting: Continuation Data—§ 45.4

1. Proposed Rule

As noted above, in order to ensure timeliness, accuracy, and completeness with respect to the swap data available to regulators, the proposed rule called for reporting of swap data from each of two important stages of the existence of a swap: The creation of the swap, and the continuation of the swap over its existence until its final termination or expiration. During the continued existence of the swap, the NOPR required reporting of three types of continuation data: (a) Either life cycle event data or state data (depending on the reporting method involved) that reflects all changes to the swap; (b) contract-intrinsic data, meaning scheduled, anticipated events that do not change the contractual terms of the swap, such as an anticipated rate adjustment; and (c) valuation data that reflects the current value of the swap, such as the daily mark-to-market.

As proposed, the rule specified the reporting method to be used in each asset class for reporting all changes to the swap. For credit swaps and equity swaps, the NOPR called for reporting life-cycle events—meaning any event resulting in a change to data previously reported in connection with the swap, such as an assignment or novation, a partial or full termination of the swap, or a change in the cash flows originally reported—on the day that such an event occurs. For foreign exchange transactions, interest rate swaps, and other commodity swaps, the NOPR called for a daily report of state data—meaning all data necessary to provide a daily snapshot view of the primary economic terms of the swap, including any changes since the last snapshot.

For cleared swaps, the NOPR required daily valuation data reporting by the DCO, daily valuation data reporting by SD or MSP reporting counterparties, and valuation data reporting by non-SD/MSP reporting counterparties at intervals to be determined prior to issuance of the final rule.

2. Comments Received

The Commission received several comments from a variety of commenters concerning the proposed rule's continuation data reporting provisions. These comments addressed reporting with respect to changes to the terms of the swap, contract intrinsic events,

[34] Such dual reporting would avoid any need for an SDR accepting swaps only in a CFTC-regulated asset class to dual-register with the SEC merely because it might receive a report for a mixed swap in part subject to SEC jurisdiction.

[35] This definition does not add a new requirement for the reporting of swaps not otherwise required to be reported.

[36] Under the final rule provisions in § 45.6 of this part concerning unique swap identifiers, the non-reporting counterparty will receive the USI for the swap from the SDR, and thus will be able to provide it to the non-U.S. trade repository on request.

valuation, and master agreements and collateral.

a. *Reporting changes to a swap.* The broad themes of the comments received concerning reporting changes to a swap addressed the reporting method—life cycle or snapshot—to be used, the timing and frequency of reports, and the choice of who should make the required reports.

Reporting method. As noted above, the NOPR prescribed the data reporting method to be used in each asset class to report changes to the primary economic terms of the swap. TriOptima and the Electric Coalition agreed that the rule should specify the method used in each asset class, and supported the NOPR's choices in that respect. ICE recommended adopting the lifecycle method rather than the snapshot method for the other commodity asset class. ISDA, SIFMA, REGIS–TR, and DTCC recommended having the rule not make the choice between the lifecycle and the snapshot reporting method for each asset class, but rather allowing SDRs to decide whether to accept data by either or both methods. SunGard recommended that the Commission delegate the choice to a self-regulatory organization or standards board.

Timing for reporting changes. Various non-SD/MSPs involved in energy markets, including AGA, COPE, EEI, EPSA, and the Electric Coalition, argued that daily snapshot reporting would be unduly burdensome for non-SD/MSP reporting counterparties. COPE, EEI, and EPSA advocated requiring a snapshot only when a change to primary economic terms has occurred. AGA suggested reporting a monthly snapshot, while the Electric Coalition advocated a quarterly snapshot.

Change reporting for cleared swaps. ICE, a number of non-SD/MSPs involved in energy markets including WGCEF, EEI, EPSA, and Chris Barnard recommended having continuation data reporting for cleared swaps done solely by DCOs. WGCEF noted that counterparties to swaps that are both platform-executed and cleared, the counterparties may not know each other's identity, which could make determination of the reporting counterparty difficult.

Reporting of contract-intrinsic events. ISDA and SIFMA suggested that the Commission should not require reporting of contract-intrinsic events, i.e., events that do not result in any change to the contractual terms of the swap. These commenters noted that the SEC's proposed data reporting rule for security-based swaps does not include such a requirement, and argued that reporting of such events is unnecessary if they are in the public domain. At a minimum, ISDA and SIFMA suggested limiting reporting of such events to reporting along with the next required life cycle event report.

Reporting corporate events of the non-reporting counterparty. For non-cleared swaps, ISDA and SIFMA requested that the final rule allow additional time for the reporting counterparty to report corporate events of the non-reporting counterparty, arguing that the reporting counterparty may not know of such events on the same day that they happen.

b. *Valuation data reporting.* The themes of the comments received regarding valuation data reporting included: Who should report valuation data for cleared swaps; valuation data reporting by non-SD/MSP reporting counterparties; what valuation data should be reported; requiring independent valuations; and acceptable valuation methods.

Who should report valuation data for cleared swaps. A number of commenters, including ICE, WGCEF, EEI, EPSA, and Chris Barnard, recommended that all valuation data reporting for cleared swaps should be done by the DCO. COPE, EEI, EPSA, and the Electric Coalition suggested that non-SD/MSP reporting counterparties should not have to report valuation data for either cleared or uncleared swaps.

Valuation data reporting by non-SD/MSP reporting counterparties. The NOPR required non-SD/MSP reporting counterparties to report valuation data for both cleared and non-cleared swaps, at intervals to be determined by the Commission prior to issuance of the final rule. FHLB and a number of commenters in the energy sector suggested that valuation reporting requirements for non-SD/MSP counterparties be either loosened or eliminated. FHLB recommended *weekly* valuation reporting by non-SD/MSP reporting counterparties, arguing that this should be sufficient for regulatory purposes and would avoid forcing end users to implement the costly infrastructure needed to generate daily valuation reports. AGA suggested *monthly* valuation reporting by non-SDs/MSPs, since daily reporting would be unduly burdensome for them. The Electric Coalition recommended *quarterly* reporting. Chatham Financial supported valuation reporting *only when swap portfolios are reconciled,* since (in their view) non-SD/MSP counterparties will lack the systems and staff necessary to produce valuations and thus would have to pay third-party service providers for them. As noted above, COPE, EEI, EPSA, and the Electric Coalition urged that non-SD/MSP reporting counterparties should not have to report valuation data at all.[37]

What valuation data should be reported. ISDA and SIFMA asked the Commission to note that valuation data for uncleared swaps will not be ''same day,'' but will refer to portfolio valuation on the close of the preceding day, since these valuations are typically performed overnight. Reval urged required reporting of all data elements necessary to determine the market value of the swap, and suggested that independent valuation calculations by third parties such as SDRs should be required. Reval also suggested requiring that valuation data be reported on a portfolio basis rather than a transaction basis. ICE suggested that DCO valuation data reports should consist solely of daily price marks, and that SDRs should be required to calculate valuation amounts for each open trade. SunGard asked the Commission to provide guidance on acceptable methods of valuation for uncleared swaps, either in the final rule or by industry consensus.

c. *Possible reporting of master agreements or collateral.* The NOPR required registered entities and swap counterparties to keep full and complete records concerning swaps, which would include records of master agreements. The NOPR did not require reporting the terms of such agreements to SDRs, but requested comment on whether a separate master agreement library system should be established as part of an SDR.

Should a master agreement library system be established? Commenters disagreed on whether master agreement reporting should be required. Chatham Financial and the Coalition of Derivatives End-Users (''CDEU'') recommended that the Commission carefully consider the costs and benefits of master agreement reporting prior to instituting such a requirement. They noted that if such reporting went beyond submission of PDF copies of master agreements, market participants (especially end users) would find it labor intensive and tedious to extract legal terms from the documents. The Electric Coalition, American Benefits Council (''ABC''), and CIEBA also emphasized the need to minimize

[37] These commenters argued that valuation of swaps between non-SD/MSP counterparties did not cause the financial crisis and was not the target of the Dodd Frank Act, and contended that the Dodd-Frank Act does not authorize requiring non-SD/MSP counterparties (especially those that are not financial entities) to report valuation data. They also contended that the value of standardized swaps is transparent from market data, while the value of illiquid, non-standard swaps is merely based on a business judgment.

burdens involved in any required master agreement reporting. ISDA and SIFMA recommended against a master agreement library, stating that a centralized effort to capture documentation would need to be much wider than master agreements; would be duplicative of existing industry investments; would not provide regulators with particularly meaningful data given the slow rate of change of these documents; and would not provide information above and beyond that which would be readily obtained from regulated firms. Reval suggested establishment of a separate SDR for master agreements and related credit support agreements, in order to enhance regulators' ability to measure systemic risk. ABC and CIEBA suggested that master agreements be reported once to a separate library at an SDR, with amendments reported to the same SDR. The Electric Coalition recommended limiting master agreement-related reporting to the reporting of master agreement identifiers rather than of agreements themselves, in order to lessen reporting burdens.

Should a collateral warehouse system be established? The NOPR required registered entities and swap counterparties to keep full and complete records concerning swaps, which would include records concerning collateral. It did not require reporting concerning collateral, but requested comment on whether a separate collateral warehouse system should be established as part of an SDR, to enable prudential regulators to monitor collateral management and gross exposure on a portfolio level. SunGard, ISDA, SIFMA, DTCC, and TriOptima recommended establishing a separate collateral repository, noting that collateral information is important for systemic risk management, but not possible in transaction-based reporting since collateral is dealt with at a portfolio level. They suggested that this would also provide a superior form of valuation information. Chatham Financial suggested that the benefits of a collateral warehouse and reporting concerning collateral may not outweigh the costs involved, due to the potential for highly customized terms and the complexity and difficulty of representing the terms of relevant agreements electronically.

3. Final Rule: § 45.4

The Commission has considered and evaluated these comments, and has made a number of changes in the final rule. Accordingly, the continuation data provisions of the final rule will include the following changes from the NOPR.

a. *Reporting changes to a swap.*

Reporting method. The Commission believes the general principle applicable to continuation data reporting should be that current information concerning all swaps must be available to regulators in SDRs in order to fulfill the purposes of the Dodd-Frank Act. Based on comments, meetings with market participants, roundtable discussions, and consultation with other regulators, the Commission has determined that the final rule can serve this principle without mandating one particular reporting method, whether life cycle or snapshot, for continuation data reporting. Accordingly, the final rule requires registered entities and reporting counterparties to report continuation data in a manner sufficient to ensure that the information in the SDR concerning the swap is current and accurate, and includes all changes to any of the primary economic terms of the swap. The final rule will leave to the SDR and registered entity and reporting counterparty marketplace the choice of the method, whether life cycle or snapshot, for reporting continuation data that is sufficient to meet this requirement. This approach could also help to address reporting time concerns raised by commenters, since reporting counterparties would not be required to report on a daily basis if the SDR in question accepts life cycle reporting.[38]

Timing for reporting changes. Given the regulatory importance of ensuring that information in SDRs is current, and, in the Commission's view, the availability of automated systems and staff to DCOs, SDs, and MSPs, the Commission believes it is necessary to require DCOs and SD or MSP reporting counterparties to make continuation data reports, by either reporting method, no later than the same day a relevant change occurs. The Commission has considered comments suggesting that same-day reporting could impose greater burdens on non-SD/MSP reporting counterparties than on SDs or MSPs, due to comparative differences in automated systems and staff, and the Commission is aware that swaps between non-SD/MSP counterparties are likely to constitute only a minority of all swaps. Accordingly, the final rule will call for non-SD/MSP reporting counterparties to report continuation data no later than the end of the second business day following the date of a relevant change during the first year of reporting, and no later than the end of the first business day following the date of a relevant change thereafter. The Commission has determined that this approach will lighten burdens on non-SD/MSP reporting counterparties without unduly degrading the currency of the information available to regulators in SDRs.

Change reporting for cleared swaps. The Commission has considered, and agrees with, commenters' suggestion that continuation data reporting will be best done by DCOs. For cleared swaps in all asset classes, the final rule will make DCOs the sole reporters of continuation data other than valuation data.

Reporting of contract-intrinsic events. The Commission has considered the comments addressing reporting of contract-intrinsic events. In light of the fact that contract-intrinsic events do not involve changes to the primary economic terms of a swap, and that most such events are in the public domain, and in order to reduce reporting burdens to the extent this can be done without impairing the purposes for which the Dodd-Frank Act requires swap data reporting, the Commission has determined that the final rule will not require reporting of contract-intrinsic events.

Reporting corporate events of the non-reporting counterparty. The Commission has considered the comments relating to the time when corporate events of the non-reporting counterparty must be reported, and has made a number of changes in the final rule. As noted above, the final rule requires reporting of changes to primary economic terms by SDs or MSPs on the day they occur, and (after a one-year phase in period) by non-SDs/MSPs by the end of the business day after they occur. With respect to reporting corporate events of the non-reporting counterparty, the final rule provides that SD and MSP reporting counterparties must report their own corporate events on the day they occur, and must report corporate events of the non-reporting counterparty by the end of the business day following the date when they occur. In order to further reduce related burdens for non-SD/MSP reporting counterparties, the rule requires non-SD/MSP reporting counterparties to report their own corporate events by the end of the business day after the date on which they occur, and to report corporate events of the non-reporting counterparty by the end of the second business day following the date on which they occur. In complying with the final rule, reporting counterparties should use due

[38] The flexibility of this approach should also ensure harmonization of the final rule with SEC rules in this respect: even if the SEC rules specify a reporting method for reporting to security-based swap data repositories, SDRs that accept mixed swaps will be free to accept reporting by any reporting method mandated by the SEC.

diligence to ensure that the non-reporting counterparty notifies the reporting counterparty promptly of the non-reporting counterparty's corporate events affecting any primary economic term of the swap.[39]

b. *Valuation data reporting for cleared swaps.*

Who should report valuation data for cleared swaps. After considering comments received, the Commission has determined that for cleared swaps where the reporting counterparty is a non-SD/MSP, a DCO's valuation is sufficient for regulatory purposes. The final rule therefore will not require non-SD/MSP reporting counterparties to report valuation data for cleared swaps. Because prudential regulators have informed the Commission that counterparty valuations are useful for systemic risk monitoring even where valuations differ, the final rule requires SD and MSP reporting counterparties to report the daily mark for each of their swaps, on a daily basis.[40] The Commission notes that SDs and MSPs may choose, though they are not required, to provide to SDRs and to counterparties, in addition to the daily mark, methodologies and assumptions sufficient to independently validate the output from a model generating the daily mark, collectively referred to as the ''reference model. Provision of a ''reference model'' does not require an SD or MSP to disclose proprietary information.

Valuation data reporting by non-SD/MSP reporting counterparties. The Commission has considered the comments concerning valuation data reporting by non-SD/MSP counterparties. As noted above, the final rule will lessen valuation data reporting burdens for non-SD/MSP counterparties by eliminating the requirement that they report valuation data for cleared swaps. With respect to uncleared swaps between non-SD/MSP counterparties, the Commission has determined that the final rule should lessen valuation data reporting burdens for the non-SD/MSP reporting counterparty by requiring such reports less frequently than proposed, but should not eliminate such reporting entirely. While this category represents a minority of all swaps, the Commission believes that some valuation information should be present in SDRs for all swaps for regulatory purposes. The final rule requires non-SD/MSP reporting counterparties to report valuation data consisting of the current daily mark of the transaction as of the last day of each fiscal quarter, transmitting this report to the SDR within 30 calendar days of the end of each fiscal quarter. The Commission notes that non-SD/MSP reporting counterparties may choose, though they are not required, to provide to SDRs and to counterparties, in addition to the daily mark, methodologies and assumptions sufficient to independently validate the output from a model generating the daily mark, collectively referred to as the ''reference model. Provision of a ''reference model'' does not require a non-SD/MSP reporting counterparty to disclose proprietary information. The final rule will further provide that if a daily mark of the transaction is not available, the reporting counterparty satisfies the valuation data reporting requirement by reporting the current valuation of the swap recorded on its books in accordance with applicable accounting standards. The Commission believes that requiring valuation data reporting by non-SD/MSP reporting counterparties on a quarterly basis, when applicable law and accounting standards may require them to value their swaps for purposes of their own accounting, will minimize reporting burdens for such counterparties to the greatest extent commensurable with ensuring that valuation data essential for regulatory purposes is reported for such swaps.

What valuation data should be reported. The Commission is aware, as comments noted, that valuations of swaps are typically performed overnight. Accordingly, the final rule provides that the appropriate daily mark to report when a valuation data report is required is the most current daily mark available. The Commission disagrees with comments suggesting required reporting of all data necessary for an independent valuation of each swap and required performance of such valuations by SDRs or other third parties, calling for portfolio-level valuation data reporting, or suggesting that the final swap data reporting rule should determine the acceptable methods for valuing uncleared swaps. The Commission believes valuation is fundamentally in the purview of the market. Prudential regulators have informed the Commission that counterparty valuations are useful for systemic risk monitoring even where such valuations represent the view of one party, and even where such valuations may differ. The Commission believes that daily mark to market, the valuation required by the final rule, is the valuation appropriate for reporting on a transaction basis.

c. *Possible reporting of master agreements or collateral.*

Should a master agreement library system be established? After considering relevant comments, the Commission has determined that it should not require master agreement reporting in its first swap data reporting final rule. As noted in the *Joint Study on the Feasibility of Mandating Algorithmic Descriptions for Derivatives* released by the CFTC and SEC in April 2011, at present the terms of such agreements are not readily reportable in an electronic format, as the industry has not developed electronic fields representing terms of a master agreement.[41] The Commission also understands that reporting of master agreements could be initiated by the other regulators pursuant to separate and different regulatory authority. The Commission may choose to revisit this issue at some point in the future, if and when industry and SDRs develop ways to represent the terms of such agreements electronically.

Should a collateral warehouse system be established? After considering relevant comments, the Commission has determined that it should not require establishment of a collateral warehouse or reporting concerning collateral in its first swap data reporting final rule. As is the case with respect to the terms of master agreements, the industry has not yet developed electronic fields suitable for representing the terms required to report collateral. The Commission also understands that reporting with respect to collateral could be initiated by other regulators pursuant to separate and different regulatory authority. The Commission may choose to revisit this issue at some point in the future, if and when industry and SDRs develop ways to represent electronically the terms required for reporting concerning collateral.

[39] Such due diligence could consist of requiring as one term of the swap agreement that the non-reporting counterparty notify the reporting counterparty promptly of corporate events of the non-reporting counterparty.

[40] The Commission notes that SDs and MSPs may choose, though they are not required, to provide to SDRs and to counterparties, in addition to the daily mark, methodologies and assumptions suffcient to validate the output from a model used to generate the daily mark, collectively referred to as the ''reference model.'' Non-SD/MSP counterparties may also choose, thought they are not required, to provide a ''reference model'' in connection with valuation data reporting. Provision of a ''reference model'' does not require an SD, MSP, or non-SD/MSP counterparty to disclose proprietary information.

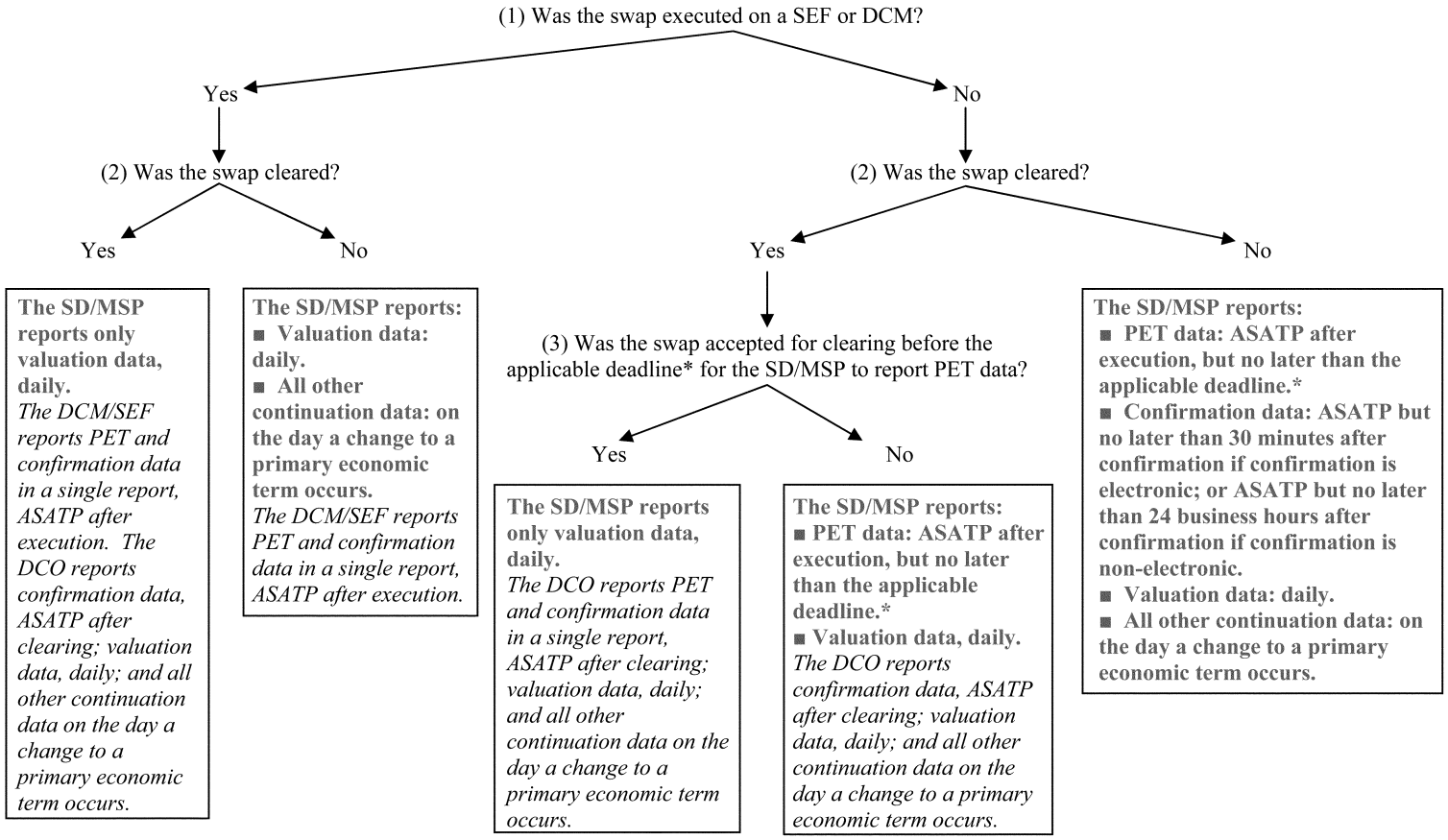
[41] Commodity Futures Trading Commission and Securities and Exchange Commission, *Joint Study on the Feasibility of Mandating Algorithmic Descriptions for Derivatives,* April 7, 2011, available at *http://www.sec.gov/news/studies/2011/719b-study.pdf.*

D. Summary of Creation Data and Continuation Data Reporting—§§ 45.3 and 45.4

As discussed above, the Commission is responding to comments concerning creation data reporting by creating a streamlined reporting regime that requires reporting by the registered entities or swap counterparties that the Commission believes have the easiest, fastest, and cheapest data access and those most likely to have the necessary automated systems; that minimizes burdens and costs for counterparties to the extent possible; and that provides certainty to the market. The final rule provisions regarding creation data reporting obligations and deadlines for SD or MSP reporting counterparties, and for non-SD/MSP reporting counterparties, are summarized in the charts on the following two pages, respectively.

BILLING CODE 6351–01–P

Reporting Obligations Flowchart When an SD or MSP is the Reporting Counterparty

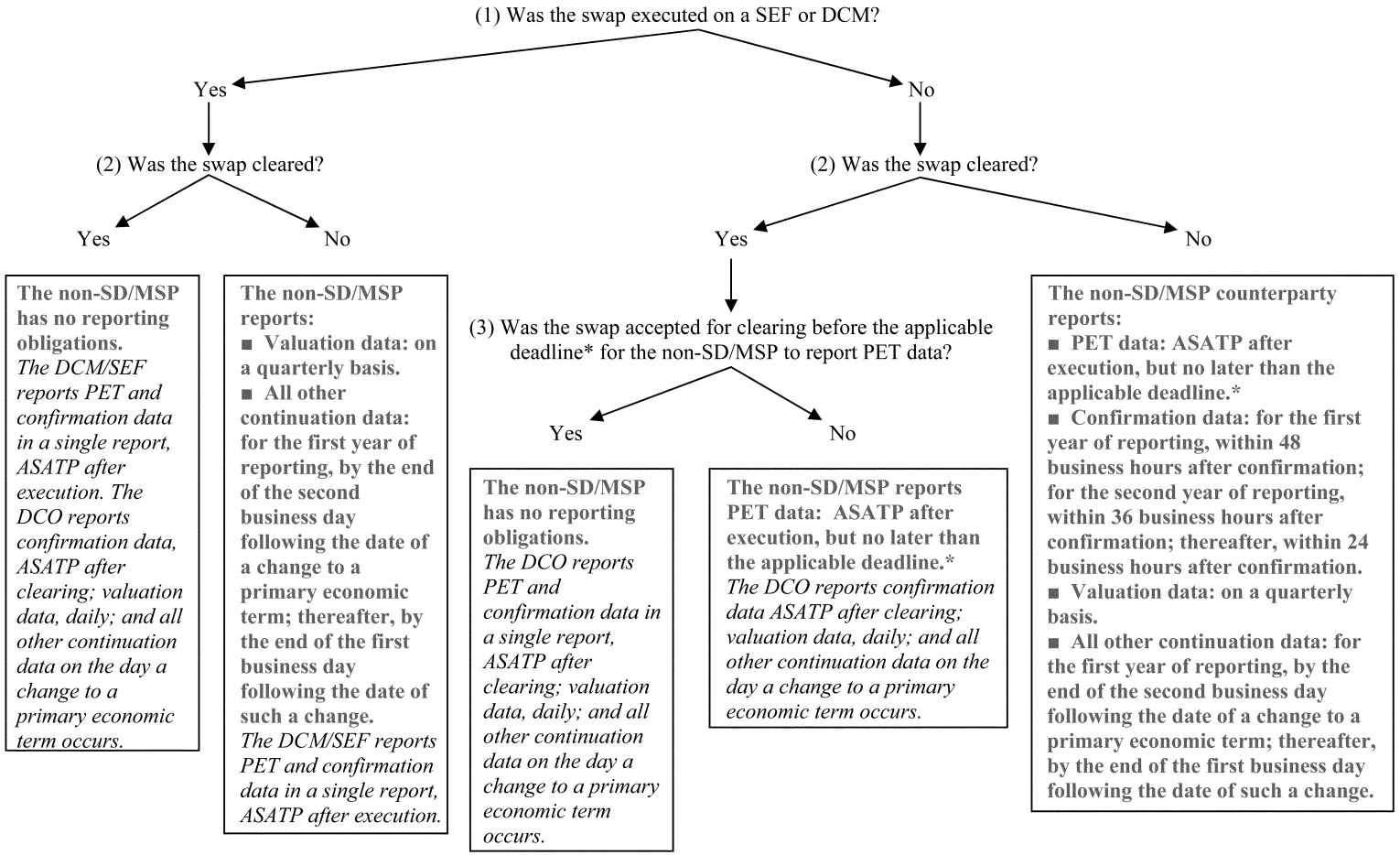


* Swap subject to mandatory clearing: 30 minutes after execution (year 1), 15 minutes after execution (thereafter).

Swap not subject to mandatory clearing (credit, equity, FX, rates): 1 hour after execution (year 1), 30 minutes after execution (thereafter). But if the non-RCP is not a financial entity, and verification is not electronic: 24 business hours after execution (year 1), 12 business hours after execution (year 2), 30 minutes after execution (thereafter).

Swap not subject to mandatory clearing (other commodities): 4 hours after execution (year 1), 2 hours after execution (thereafter). But if the non-RCP is not a financial entity, and verification is not electronic: 24 business hours after execution (year 1), 12 business hours after execution (year 2), 30 minutes after execution (thereafter).

Reporting Obligations Flowchart When a Non-SD/MSP Counterparty is the Reporting Counterparty



* Swap subject to mandatory clearing: 4 hours after execution (year 1), 2 hours after execution (year 2), 1 hour after execution (thereafter)

Swap not subject to mandatory clearing: 48 business hours after execution (year 1), 36 business hours after execution (year 2), 24 business hours after execution (thereafter)

BILLING CODE 6351–01–C

F. Unique Swap Identifiers—§ 45.5

1. Proposed Rule

The NOPR required that each swap subject to the Commission's jurisdiction be identified in all swap recordkeeping and data reporting by a unique swap identifier (''USI''). The NOPR provided for a ''first-touch'' approach to USI creation, with the USI created by SEFs and DCMs for facility-executed swaps, by SDs and MSPs for off-facility swaps in which they are the reporting counterparty, and by SDRs for off-facility swaps between non-SD/MSP counterparties (who may lack the requisite systems for USI creation).

2. Comments Received

a. *First-touch creation of USIs.* Most comments concerning the USI received by the Commission via comment letters, roundtables, and meetings with industry and other regulators supported use of a USI that will enable regulators to track and aggregate all information concerning a single swap throughout its existence, and supported the NOPR's first-touch approach to USI creation. DTCC supported the first-touch approach, while noting that SDRs could also create USIs and transmit them to the counterparties to the swap (as the NOPR provides for swaps between non-SD/MSP counterparties). WGCEF approved having USIs assigned when a swap is executed. Global Forex supported USI creation at the time the swap is executed, while pointing out that in the foreign exchange context, where some pre-trade allocation occurs and some firms book the trade upon receipt of a message that their price has been hit, it could be necessary in some cases to append the USI to an already-created record in a firm's automated systems.[42] CME suggested that USIs should not be created and issued by a single coordinating registry, but should be created by market participants as provided in the NOPR, using common standards that can be applied free of charge. TriOptima indicated a preference for having SDRs create the USI, with reporting entities or counterparties using their own local trade identifiers in reporting to the SDR, which can map the local identifiers to the USI. ISDA, SIFMA, and CME asked the Commission to clarify further the purpose and intended use of USIs. Some roundtable participants suggested that one way to ensure the uniqueness of USI codes created by different registered entities would be for the registered entity creating a USI to use an appropriate random number generator.

b. *Impact of allocation on USIs.* TriOptima suggested that the Commission should clarify the creation and use of USIs in the context of allocation, observing that where allocation follows execution, it may not be obvious whether or not a new USI should be assigned. TriOptima suggested that rules addressing this issue are needed. Other market participants also requested clarification concerning USI creation and swap creation data reporting in the context of allocation.

c. *Impact of post-execution events on USIs.* Thomson Reuters, TriOptima, and the WGCEF requested clarification regarding the impact on USI codes of events such as compression, assignments, partial terminations, changes to counterparty names, purchases, acquisitions, or deactivation. Thomson Reuters suggested that when multiple swaps are combined during their existence, the unique swap identifier should have alternative tracking numbers externally linked to the original USI.

d. *USIs for historical swaps.* Although this issue pertains to part 46 rather than part 45, TriOptima suggested in its part 45 comment that USIs should be assigned to historical swaps when they are first reported to an SDR. TriOptima noted that giving USIs only to swaps entered into after the applicable compliance date would create a long transition period during which there are live contracts with and without USIs, which TriOptima believed would be technologically problematic. TriOptima recognized that introducing USIs for existing transactions would be a large undertaking. It suggested that reporting entities create USIs for historical swaps using the name-space method (combining a code for the assigning entity and a USI code unique within that entity).

3. Final Rule: § 45.5

a. *First-touch creation of USIs.* After considering the comments received, the Commission has determined that, as provided in the NOPR, the final rule requires each swap subject to the Commission's jurisdiction to be identified in all recordkeeping and swap data reporting pursuant to this part by a USI, created through a first-touch approach. The Commission believes that USIs will benefit both regulators and counterparties, by facilitating aggregation of all data concerning a given swap (including creation data, continuation data, and error corrections, reported by execution platforms, clearing houses, and counterparties) into a single, accurate data record that tracks the swap over its duration. USIs are essential to giving regulators the ability to track swap transactions throughout their lives. In addition, USIs provide an efficient means of assuring that transactions are not double counted when producing summary reports. This is particularly important where transactions may be reported to multiple SDRs, for example where a counterparty may be required to report a transaction to a foreign SDR.

Having the USI created when the swap is executed, i.e., at the earliest possible point, will best ensure that all market participants involved with the swap, from counterparties to platforms to clearinghouses to SDRS, will have the same USI for the swap, and have it as soon as possible. This will avoid confusion and potential errors.[43] It will avoid delays in submitting an executed swap for clearing while waiting for receipt of a USI from creation at a later time, and will minimize to the extent possible the need to alter pre-existing records concerning the swap in various automated systems to add the USI. As the sole exception to first-touch USI creation, designed to reduce burdens on non-SD/MSP reporting counterparties who may lack the technical sophistication or automated systems needed for USI creation, the final rule will maintain the NOPR provision calling for the USI for each swap between non-SD/MSP counterparties to be created by the SDR to which the swap is reported.

To ensure the uniqueness of USIs created by registered entities as provided in the final rule, the final rule will follow the NOPR in prescribing USI creation through what is known as the ''name space'' method. Under this method, the first characters of each USI will consist of a unique code that identifies the registered entity creating the USI, given to the registered entity by the Commission during the registration process.[44] The remaining characters of the USI will consist of a code created by the registered entity that must be unique with respect to all other USIs created by that registered entity. While the

[42] Global Forex still preferred USI creation at the time of execution over creation at the point of order submission, since the latter would create a risk of cancelled and non-sequential USIs in the event a trade is cancelled.

[43] The Commission disagrees with TriOptima's suggestion that reporting entities should always use their own identifiers in reporting to SDRs during the life of a swap. This would require the SDR to match the entity's internal ID with the USI every time data is submitted, and is not the more efficient approach.

[44] The registration paperwork established pursuant to the SEF, DCM, SD, MSP, and SDR registration rules will include provision of such a code to the registrant.

Commission will not prescribe the means for ensuring the uniqueness of each USI created by a registered entity, Commission staff may work with registered entities to identify random number generators sufficiently capable for this purpose.

b. *Impact of allocation on USIs.* The Commission has considered the comments and industry requests for clarification it received concerning USI creation and swap creation data reporting in the case of swaps involving allocation by an agent to its clients who are the actual counterparties on one side of the swap. In response to these requests, the final rule will address both USI creation and creation data reporting for swaps involving allocation.

The Commission understands that in the allocation context, a firm acting as an agent enters into a swap, typically with an SD (or possibly an MSP), and then allocates its side of the swap to its clients on whose behalf it arranged the swap. The clients of the agent, who are the actual counterparties to the SD, must have pre-existing ISDA agreements or similar agreements with the SD in order for the transaction to take place. At the time of execution, the SD knows that the firm acting as agent as only an agent and is not the SD's actual counterparty for the swap, and it knows that the agent's clients are its actual counterparties; but it does not yet know for this particular swap the identity of the agent's clients that are its counterparties. The agent firm allocates its side of the swap within a relatively short time after execution, and the agent (or a third party service provider acting on its behalf) then informs the SD of the identities of its counterparties.[45] Market participants have informed the Commission that allocation is not algorithmic, due to particular requirements of the agent's clients, and that it typically requires two or more hours but is always completed by the end of the business day on which the swap was executed. The result of allocation is that a single swap transaction created at the moment of execution is replaced by several swaps, for each of which the counterparties are the SD and one of the agent's clients.[46]

To provide the clarification requested by commenters as noted above, the Commission has determined that the final rule should specifically address the creation of USIs and the reporting of required swap creation data in the context of allocation.[47] Because real time reporting must occur as soon as technologically practicable after execution of a swap, and because it is important for the exposure of the reporting counterparty to be available to regulators in an SDR as soon as technologically practicable after execution, the Commission believes it is necessary for the original transaction between the SD and the agent to be reported. However, because the SD's actual counterparties are the clients of the agent and not the agent, the Commission believes it is also necessary for each individual swap between the SD and one of the agent's clients to also be reported. To avoid double-counting of swaps in the allocation context, it is necessary to be able to map together the original transaction and the post-allocation swaps.

Accordingly, the final rule provides that, in the context of allocation, the reporting counterparty must create a USI for the swap arranged between it and the agent, and report that swap to an SDR as soon as technologically practicable after execution. The PET data for such a swap will include an indication that the swap will be allocated, and include the LEI (or substitute identifier) of the agent, but not the LEIs of the clients who are the non-reporting counterparties, since they will not yet be known to the reporting counterparty.

The final rule will also allow the agent to inform the reporting counterparty of the identities of its actual counterparties as soon as technologically practicable after execution, but not later than eight business hours after execution. The Commission understands that major firms acting as agents in the allocation context can allocate in a shorter time, but that smaller firms acting as agents typically allocate by the end of the business day. The Commission believes that a deadline of eight business hours will appropriately take into account the needs of such smaller firms.

Finally, the final rule requires the reporting counterparty to create a USI for each of the individual swaps resulting from allocation, and to report each such swap as soon as technologically practicable after it is informed by the agent of the identities of its actual counterparties, the clients of the agent (which must occur as soon as technologically practicable after execution or at least within eight business hours of execution, as provided above). To prevent confusion or errors with respect to the data reported, and to avoid double-counting, the final rule requires that the report to the SDR for each post-allocation swap must include: An indication that the swap is a post-allocation swap; the USI of the original transaction; the USI of the post-allocation swap; the LEI of the actual counterparty; and the LEI of the agent. The final rule will also require the SDR to which the swaps are reported—which must be the same SDR to which the original transaction is reported—to map together the USIs of the original swap and of each of the post-allocation swaps.

The Commission is adopting these USI and creation data reporting requirements in the context of allocation in response to comments seeking clarification on reporting in this context, as noted above, and in order to ensure that the Commission and other regulators can track the entire history of swaps in the context of allocation.

c. *Impact of post-execution events on USIs.* The Commission has noted comments requesting that the final address the impact of post-execution events on USIs. In response to these comments, the final rule provides that USI codes created at the time of execution using the first-touch approach will only be replaced where a new swap takes the place of an old swap, such as where a compression or full novation has occurred. Under the final rule, in such cases a new USI will be assigned to the new swap, and the SDR to which the swap has been reported will be required to map the new USI back to the USIs of the swaps from which the new swap originated, in a manner sufficient to allow the Commission and other regulators to follow the entire history and audit trail of each affected swap. In the case of events that do not result in the creation of a new swap, such as partial terminations or changes to counterparty names, the swap in question will retain the USI code originally assigned to it.

d. *USIs for historical swaps.* The Commission agrees with the comment suggesting that it would undesirable and possibly technologically problematic to have live swaps both with and without USIs recorded in SDRs for an extended period. The Commission believes that for historical swaps, SDRs will be the best creators of USIs. The Commission will address this issue in its final part 46 rule for historical swaps.

[45] In the case of cleared swaps, allocation precedes submission to the DCO for clearing.

[46] This situation is distinct from cases where, for example, a hedge fund enters into a swap as a principal, and later enters into separate swaps with its own clients (who often are funds) to offset its risk from the first swap in which it was a principal.

[47] The allocation provisions of the final rule do not create reporting requirements additional to those included in the NOPR, since the NOPR required, as mandated by CEA section 2(a)(13)(G), that all swaps must be reported.

G. Legal Entity Identifiers—§ 45.6

1. Proposed Rule

The NOPR required that each counterparty to any swap subject to the Commission's jurisdiction be identified in all swap recordkeeping and data reporting by a legal entity identifier (''LEI'') (referred to in the NOPR as a unique counterparty identifier or ''UCI'') approved by the Commission. The NOPR established principles that an LEI must follow for it to be designated by the Commission as the LEI to be used in swap data recordkeeping and reporting pursuant to the Commission's Regulations.[48] These principles included:

- *Uniqueness* (one LEI per legal entity, never re-used).
- *Neutrality* (a single-field identifier format containing no embedded intelligence).
- *Verifiability* (a reliable method of verifying the identity of holders of LEIs, avoiding assignment of duplicate identifiers, and maintaining accurate reference data).
- *Reliability* (data protection and system safeguards).
- *Open source* (an open data standard and format capable of broad use, that enables data aggregation by regulators).
- *Extensibility* (capability of becoming the single international standard for unique identification of legal entities in the financial sector on a global basis).
- *Persistence* (each LEI remains permanently in the record, regardless of corporate events, while a new entity resulting from a corporate event receives a new LEI).
- *Development and issuance acceptable to the Commission* (development via an international voluntary consensus standards body such as the International Organisation for Standardisation, and issuance through such a body and an associated registration authority).
- *Governance and funding acceptable to the Commission* (ensuring LEI availability to all, on a royalty-free or reasonable royalty basis, through an LEI issuance system operated on a non-profit basis).

The NOPR also called for establishment of a confidential, non-public LEI reference database, to which each swap counterparty receiving an LEI would be required to report reference data that would be associated with its LEI. Such reference data would include information sufficient to verify the identity of the counterparty receiving an LEI, both initially and at appropriate intervals thereafter (commonly called validation data or level one reference data).[49] It would also include information concerning the corporate affiliations of the counterparty, in order to enable the Commission and other financial regulators to aggregate data concerning all swap transactions within the same ownership group (commonly called hierarchy data or level two reference data). As provided in the NOPR, data in the reference database would be available only to the Commission, and to other regulators via the same data access procedures applicable to data in SDRs.

The NOPR stated the Commission's belief that optimum effectiveness of LEIs for achieving the systemic risk protection and transparency goals of the Dodd-Frank Act—goals shared by financial regulators world-wide, and repeatedly endorsed by the G–20 Leaders—would come from a global LEI created on an international basis through an international voluntary-consensus standards body such as ISO. The NOPR also announced the Commission's intention to have the final part 45 rule prescribe use of such an international LEI in complying with the final rule, if an LEI meeting the principles established in the NOPR is available sufficiently prior to the compliance date on which swap data reporting will first begin pursuant to the final rule.

Accordingly, the NOPR provided that the Commission would determine, prior to the initial compliance date, whether such an LEI is available. If it were, the NOPR called for the Commission to designate that LEI as the LEI approved by the Commission for use in complying with the final rule, and to publish notice of that designation to inform registered entities and swap counterparties where they can obtain LEIs for use pursuant to the final rule.[50]

In the event that the Commission were to find when it makes this determination that an LEI meeting the criteria set forth in the NOPR is not then available, the NOPR provided that until such time as the Commission determines that such an LEI is available, registered entities and swap counterparties should comply with the final rule by using a unique counterparty identifier created and assigned by an SDR as described in the NOPR.

2. Comments Received

a. *Endorsement of the LEI.* The great majority of comments concerning the LEI received by the Commission via comment letters, roundtables, and meetings with both industry and other regulators strongly supported establishing an LEI to identify derivatives transaction counterparties and other financial firms involved in the world financial sector. Commenters supporting the LEI in comment letters included ISDA, SIFMA, Global Forex, GS1, Thomson Reuters, CME, ABC, Customer Data Management Group, CIEBA, and the Committee on Capital Markets Regulation.

The Commission also received input from both U.S. and international financial regulators, international regulatory organizations, and world leaders endorsing creation of the LEI addressed in the NOPR. The CPSS–IOSCO *Report on OTC Derivatives Data Reporting and Aggregation Requirements* recommends expeditious development of a global LEI, stating that:

> [A] standard system of LEIs is an essential tool for aggregation of OTC derivatives data. An LEI would contribute to the ability of authorities to fulfill the systemic risk mitigation, transparency, and market abuse protection goals established by the G20 commitments related to OTC derivatives, and would benefit efficiency and transparency in many other areas. As a universally available system for uniquely identifying legal entities in multiple financial data applications, LEIs would constitute a global public good. The Task Force recommends the expeditious development and implementation of a standard LEI that is capable of achieving the data aggregation purposes discussed in this report, suitable for aggregation of OTC derivatives data in and across TRs [trade repositories] on a global basis, and capable of eventual extension to identification of legal entities involved in various other aspects of the financial system across the world financial sector.[51]

[48] In this summary of the principles that were discussed in the NOPR preamble concerning Unique Counterparty Identifiers and set forth in § 45.4(b) of the NOPR, paragraph headings that have come into common use in international discussions of principles for the LEI, but that do not change the substance of the principles stated in the NOPR, have been added for clarity.

[49] As noted, the NOPR called for reference data including both (1) information sufficient to verify the identity of the counterparty receiving an LEI, both initially and on an ongoing basis, as set forth in section 45.4(b)(3)(iv) of the NOPR, and (2) information concerning the corporate affiliations and ownership group of the counterparty, as set forth in section 45.4(b)(2) of the NOPR. For clarity, the final rule uses the terms ''level one'' and ''level two'' reference data, which have come into common international use in discussions of the LEI and LEI reference data, to refer to these two types of reference information addressed in the NOPR. These terms do not represent new data requirements beyond those proposed in the NOPR, but instead provide a succinct way to refer to the two types of reference data required in the NOPR.

[50] The NOPR called for the Commission to make this determination at least 100 days prior to the initial compliance date, and to publish notice no later than 90 days prior to the initial compliance date, in order to give registered entities and swap counterparties subject to the final rule reasonable time in which to obtain LEIs for use as prescribed by the final rule.

[51] Committee on Payment and Settlement Systems and Technical Committee of the International Organization of Securities Commissions, *Report on OTC Derivatives Data Reporting and Aggregation Requirements.* Issuance

The LEI technical principles recommended in the Report, and the Report's statements concerning governance and funding for the LEI issuance system, closely parallel the LEI principles set forth in the NOPR, as do the principles set forth by the OFR in its Statement of Policy concerning the LEI,[52] and those discussed in the SEC's proposed rule on data reporting for security-based swaps.[53] Both the FSB Plenary and the G–20 Finance Ministers and Central Bank Governors have endorsed and supported creation and implementation of a global LEI.[54] At the conclusion of their November 2011 meeting in Cannes, France, the G20 Leaders announced their strong support for the LEI, stating in the Cannes Summit Final Declaration that: ''We support the creation of a global legal entity identifier (LEI) which uniquely identifies parties to financial transactions.'' [55] Following the meeting, the White House underscored President Obama's support for the LEI, stating that:

> The Legal Entity Identifier (LEI) initiative will support better understanding of true exposures and interconnectedness among and across financial institutions. We need such understanding to assess and reduce risks to the financial system.[56]

b. *LEI suggestions.* Several comment letters received by the Commission also made specific suggestions and requests for clarification relating to the LEI. ISDA and SIFMA, Thomson Reuters, and AMG suggested that the unique counterparty identifier required by the final rule should be the same identifier as the legal entity identifier being developed under principles stated in the OFR policy statement concerning LEIs. Roundtable participants also suggested referring to the identifier as the LEI rather than the UCI, to avoid confusion. CME, Thomson Reuters, and most roundtable participants supported the NOPR principle calling for a neutral LEI with no embedded intelligence. WGCEF and TriOptima asked for guidance on how the LEI would relate to corporate events such as mergers and acquisitions. The Asset Management Group advocated assigning LEIs at the individual fund or account level rather than the legal entity level. ISDA, SIFMA and CME suggested that the LEI should be administered by a not-for-profit industry utility, and that an international directory of LEI holders should be available at no cost. CUSIP and GS1 suggested that they might be potential providers of a future LEI.

c. *LEI reference data.* With respect to level two or hierarchical reference data for the LEI, CME suggested clarifying whether the LEI is intended to simply identify a specific counterparty or to establish a counterparty's relationship with other entities. Global Forex noted that data confidentiality law in different jurisdictions could raise issues regarding access to level two reference data. The Asset Management Group recommended that the definition of control for purposes of reporting level two reference data should require at least majority ownership. DTCC recommended that SDRs should have access to the non-public LEI reference database for use in the construction of reports to regulators, such as reports based on net or aggregated positions.

d. *Progress toward a global LEI.* Since the Commission issued the proposed rule requiring use of LEIs in swap data reporting under CFTC jurisdiction, both international financial regulators and industry have made significant progress toward creation of the global LEI called for in the NOPR.

Voluntary consensus body standard. In response to the Commission's preference, set forth in the NOPR as noted above, to have swap counterparties identified by a universally-available LEI created on an international basis through an international ''voluntary consensus standards body,'' the International Organisation for Standardisation has developed a new international technical standard for the LEI, *ISO 17442 Legal Entity Identifier (LEI).* ISO is the world's principal voluntary consensus standards body, which includes 162 member countries. Through its Technical Committee 68 (''TC 68''), the expert committee for standardization in the field of banking, securities, and other financial services, ISO has published 48 key standards for the financial sector, ranging the international securities identification numbering (''ISIN'') code for securities, and the business identification code (''BIC'') for banking telecommunication messages to the codes for exchange and market identification (''MIC''), and for classification of financial instruments (''CFI'').[57] The ISO 17442 LEI standard received unanimous approval from TC 68 in June 2011, and it received unanimous support in the second round of voting by member countries in the ISO approval process that concluded on December 14, 2011.[58]

Industry recommendations. Also in response to the NOPR's call for an international, universally-adopted LEI, in January 2011 a global coalition of financial sector trade associations and organizations came together to develop an industry consensus on requirements and standards for the LEI, and make a recommendation concerning formation of an LEI utility to issue LEIs and validate the identity of their holders.[59]

---

of this report by CPSS and IOSCO is anticipated during December 2012.

[52] Department of the Treasury, Office of Financial Research, *Statement on Legal Entity Identification for Financial Contracts,* November 23, 2010, available at *http://www.treasury.gov/initiatives/Documents/OFR_LEI_Policy_Statement-FINAL.PDF.*

[53] *See* Securities and Exchange Commission, Proposed Regulation SBSR—Reporting and Dissemination of Security-Based Swap Information, 17 CFT part 240 (November 19, 2010).

[54] At its July 2011 meeting, the FSB Plenary ''welcomed the progress of financial regulators and industry to establish a single global system for uniquely identifying parties to financial transactions.'' FSB Press Release, July 18, 2011, available at *https://www.financialstabilityboard.org/press/pr_110718.pdf.* In their Communiqué at the conclusion of their October 2011 meeting, the Finance Ministers and Central Bank Governors of the G–20 said, ''We underscored our support for a global legal entity identifier system which uniquely identifies parties to financial transactions with an appropriate governance structure representing public interest.'' Communiqué of Finance Ministers and Central Bank Governors of the G–20, Paris, France, October 14–15, 2011, available at *http://www.g20.org/Documents2011/10/G20%20communiqué%2014-15%20October%202011-EN.pdf.*

[55] Cannes Summit Final Declaration, November 4, 2011, at 7, paragraph 31, available at *http://www.g20.org/Documents2011/11/Cannes%20Declaration%204%20November%202011.pdf.*

[56] The White House, *G–20: Fact Sheet on U.S. Financial Reform and the G–20 Leaders' Agenda,* November 4, 2011, available at *http://www.whitehouse.gov/the-press-office/2011/11/04/g-20-fact-sheet-us-financial-reform-and-g-20-leaders-agenda.*

[57] During the process of developing ISO 17442, ISO determined that existing codes for other financial sector purposes, such as BIC codes and ISIN codes, were not suited by design to provide unique identification of legal entities across the world financial sector, and that a new standard was needed for this purpose.

[58] TC 68 will address comments received during the approval process in January 2012.

[59] The global coalition included twelve trade association who endorsed the industry's *Requirements for a Global Legal Entity Identifier (LEI) Solution,* available at *http://www.sifma.org/LEI-Industry-Requirements/.* The included trade associations were the Association for Financial Markets in Europe, Asia Securities Industry and Financial Markets Association, British Bankers Association, Customer Data Management Group, The Clearing House Association L.L.C., Enterprise Data Management Council, Financial Services Roundtable, Futures Industry Association, Global Regulatory Identifier Steering Group, International Swaps and Derivatives Association, Investment Company Institute, and Securities Industry and Financial Markets Association. In addition, the following firms were party to the discussions leading to creation of *Requirements for a Global Legal Entity Identifier (LEI) Solution:* AllianceBernstein, Bank of America Merrill Lynch, Bank of New York Mellon-Pershing, Barclays Capital, Branch Banking & Trust Company, BlackRock, BNP Paribas, CIBC Wholesale Banking, Citi, Credit Suisse, Deutsche Bank, E*Trade Financial, Edward Jones, Federated Investments, Fidelity, GE Asset Management, GE Capital, Goldman Sachs, HSBC, Janney Montgomery Scott LLC, Jefferies, JP Morgan Chase, JWG, KeyBank, Loomis Sayles, Morgan Stanley, New York Life,

Continued

After extended discussions involving a broad cross-section of financial trade associations and both buy-side and sell-side firms from a wide range of countries, during the spring and summer of 2011 the global coalition issued a comprehensive set of requirements for a viable, international LEI; initiated a Solicitation of Interest process to identify one or more solution providers able to build, manage, and run an LEI utility to issue LEIs; evaluated formal responses from more than 10 potential providers; and issued three recommendations concerning implementation of the global LEI system. First, the global coalition recommended that the international technical standard for the LEI code itself be the new international standard developed by ISO, *ISO 17442 Legal Entity Identifier (LEI).* Second, the coalition recommended that the LEI utility that conducts LEI reference data collection and maintenance, LEI assignment, and quality assurance be operated as a joint venture including SWIFT (the Registration Authority selected by ISO for the ISO 17442 standard) and DTCC and its subsidiary AVOX Limited (to be the facilities manager for the LEI utility). Finally, the coalition recommended that the Association of National Numbering Agencies (''ANNA''), through its global network of national numbering agencies, be a partner in federated LEI issuance in the home countries of legal entities receiving LEIs. At the FSB LEI Workshop (discussed below) and elsewhere, the global coalition has stated its willingness to have the structure of the joint venture created to serve as the LEI utility include a governing board controlled by international financial regulators including the Commission, with authority over the operations of the joint venture sufficient to ensure that the LEI utility maintains compliance with the principles established for the LEI by international financial regulators, including the principles established by the Commission.

The Commission understands that, in order to ensure as far as possible that LEIs can in fact be issued to swap counterparties subject to the Commission's jurisdiction prior to the initial compliance date for swap data reporting pursuant to this final rule, SWIFT, DTCC, AVOX, and ANNA are moving forward to cleanse already-available data sufficient to validate the identity of legal entities to receive an LEI; to collect and cleanse such validation data for other swap counterparties; and to issue temporary identifiers readily convertible into LEIs if their joint venture is designated by the Commission as the provider of LEIs to be used pursuant to this rule. They have also informed Commission staff that they anticipate being able to provide LEIs to swap counterparties by the summer of 2012 if they are so designated.

International developments. In September 2011, the FSB convened an international LEI Workshop including over 50 private sector experts and over 60 representatives from the international financial regulatory community, including the Commission, to further educate participants and elicit their input concerning the LEI, and to guide preparation of a roadmap leading to recommendations concerning implementation of a global LEI system. Workshop participants discussed possible technical and governance principles for the LEI drawn from the CPSS–IOSCO *Report on OTC Derivatives Data Reporting and Aggregation Requirements,* which as noted above closely parallel those included in the NOPR. The Workshop revealed strong support for the LEI initiative from both private sector and official sector participants. Industry representatives emphasized the vital importance of support and leadership from the global regulatory community, and the many potential benefits of a global LEI that would only be realized if regulators support the LEI initiative. Presenters at the Workshop also supported the timely phasing of LEI implementation, likely to begin with use of the LEI in reporting OTC derivatives data to trade repositories.

When the G–20 Leaders endorsed the LEI initiative following the Workshop, they stated that:

> We call on the FSB to take the lead in helping coordinate work among the regulatory community to prepare recommendations for the appropriate governance framework, representing the public interest, for such a global LEI by our next Summit.[60]

Following the request from the G20, the FSB decided in December to create a time-limited, ad-hoc expert group of authorities, including the Commission, to carry forward work on key outstanding issues relevant to implementation of a global LEI, in order to fulfill the G–20 mandate. The group held its first meeting on December 13 and 14, 2011. The issues to be addressed by the expert group include: (1) The governance framework for the global LEI; (2) the operational model for the LEI system; (3) the scope of LEI reference data; (4) reference data access and confidentiality; (5) the funding model for the LEI system; and (6) global implementation and phasing of the LEI. It is anticipated that the expert group will deliver clear recommendations with respect to implementation of a global LEI system to the FSB Plenary for endorsement in April or May 2012. This process is designed to allow first-phase implementation of the LEI in OTC derivatives data reporting to trade repositories, including swap data reporting to SDRs pursuant to this final rule, to proceed, if possible, on the basis of globally agreed principles concerning governance, funding, and access to reference data.

3. Final Rule: § 45.6

a. *Important factors in the Commission's decision.* The Commission has considered and evaluated the comments and international input it has received concerning the LEI and the principles which should govern the LEI system, and has taken such comments and input into account in the LEI provisions of the final rule. It has also considered the progress made by the international financial regulatory community and industry toward creation of a global LEI, created on an international basis through an international voluntary consensus standards body, that meets the requirements provided in the NOPR, and is suitable for designation by the Commission for use in recordkeeping and swap data reporting pursuant to this final rule as set forth in the NOPR.

Broad endorsement of the LEI. The Commission agrees with the recommendation of commenters, roundtable participants, industry, U.S. and international financial regulators, international regulatory organizations, and world leaders calling for creation of a global LEI. It also believes, as recommended by roundtable participants, the CPSS–IOSCO *Report on OTC Derivatives Data Reporting and Aggregation Requirements,* and many FSB LEI Workshop participants, that the LEI should first be used for identification of swap counterparties in data reported to SDRs.

LEI suggestions by commenters. The Commission accepts the suggestion of various commenters and roundtable participants that the unique

Nomura, Northern Trust, Prudential, Royal Bank of Canada, Royal Bank of Scotland, R-Cube, Renaissance Technologies, Société Générale, State Street, T Rowe Price, Tradeweb, UBS, and Wells Fargo.

[60] Cannes Summit Final Declaration, November 4, 2011, at 7, paragraph 31, available at *http://www.g20.org/Documents2011/11/Cannes%20Declaration%204%20November%202011.pdf.*

counterparty identifier required by the final rule should be the same identifier as the legal entity identifier (''LEI'') being developed by industry and international regulators as described above, and should be referred to as the LEI (rather than the UCI as in the NOPR) in order to avoid confusion. The Commission agrees with commenters that the neutrality principle set forth in the NOPR and elsewhere, calling for a neutral LEI with no embedded intelligence should be maintained. The persistence principle in the final rule addresses commenters' requests for guidance on how the LEI will relate to corporate events such as mergers and acquisitions.[61] The Commission disagrees with the suggestion of one commenter that LEIs should be assigned at the individual fund or account level rather than the legal entity level, since LEIs by nature are legal entity identifiers. The Commission agrees with comments calling for the LEI to be administered by a not-for-profit industry utility, and for an international directory of LEI holders to publicly available free of charge. The criteria for the Commission's designation of the LEI utility that will provide LEIs to be used in compliance with the rule are discussed below.

LEI reference data considerations. The Commission believes that level one LEI reference data is essential to the ability of the issuer of LEIs to validate the identity of a legal entity receiving an LEI. As recognized by the participants in the FSB LEI Workshop, the Commission understands that such data by its nature is public, and presents no confidentiality or access issues. The Commission also believes, as also recognized by participants in the Workshop and in the CPSS–IOSCO *Report on OTC Derivatives Data Reporting and Aggregation Requirements,* that level two LEI reference data concerning the hierarchical relationships or company affiliations of legal entities is needed by regulators for use of the LEI as a tool to aggregate the data in trade repositories in order to enhance systemic risk mitigation and market supervision. The Commission understands, as recognized by Workshop participants, that some level two reference data is public and does not pose confidentiality concerns. However, the Commission is also aware, as pointed out by commenters and Workshop participants, that financial data confidentiality law in different jurisdictions could raise issues regarding access by regulators outside those jurisdictions, or by the public, to some level two reference data.[62]

LEI standard. The Commission recognizes that ISO, the international voluntary consensus standards body cited in the NOPR, has developed an international standard for a global LEI, *ISO 17442 Legal Entity Identifier (LEI).*

Industry recommendations. The Commission also recognizes that a global coalition of financial sector trade associations and organizations has developed a broad-based industry consensus on requirements and standards for the LEI, and has recommended that (1) the international standard for the LEI code itself should be ISO standard 17442; and (2) the LEI utility for LEI issuance, reference data collection and maintenance, and quality assurance should be operated as a joint venture including SWIFT, DTCC, AVOX, and ANNA. The Commission notes that the coalition has publicly stated its willingness for this joint venture to include a governing board controlled by international financial regulators including the Commission, with power to ensure that the LEI utility maintains compliance with the principles established for the LEI by international financial regulators, including the principles established by the Commission in this final rule.

Timely availability of LEIs. The Commission understands that the recommended joint venture partners are moving forward to obtain and process the reference data necessary to validate the identity of legal entities to be identified by LEIs, so that if the joint venture is designated by the Commission as the issuer of LEIs to be used in swap data reporting, it can in fact be able to issue LEIs to swap counterparties subject to the Commission's jurisdiction prior to the commencement of swap data reporting pursuant to this final rule. At this time, the Commission is not aware of any other candidate to be the LEI utility designated to provide LEIs for use in compliance with this final rule that would in fact be able to provide the required LEIs on a timely basis.

The Commission is aware that the ability of any LEI utility designated by the Commission to provide the LEIs to be used in compliance with this final rule to provide such LEIs when swap data reporting commences pursuant to this rule will depend in part on the Commission making such a designation, as called for in the NOPR, sufficiently prior to the commencement of swap data reporting to enable the LEI utility to issue the LEIs needed for compliance with this rule on a timely basis.

Need for an internationally-established LEI. As stated in the NOPR, the Commission recognizes that optimum effectiveness of LEIs as a tool for achieving the systemic risk mitigation, transparency, and market protection goals of the Dodd-Frank Act—goals shared by financial regulators world-wide—would come from creation of a global LEI, on an international basis, that is capable of becoming the single international standard for unique identification of legal entities across the world financial sector. The Commission has participated in all of the work of the global financial regulatory community to date concerning implementation of a global LEI, and has carefully considered the results of this work. One reason the Commission has done so is that it recognizes the importance of having first-phase implementation of a global LEI follow principles that are forward-compatible with later phases of LEI implementation.[63] The Commission welcomes, and is participating in, the work of the FSB-coordinated, ad-hoc expert group of authorities working to deliver clear recommendations on implementation of a global LEI system to the FSB Plenary for endorsement in April or May 2012. The Commission understands that an important purpose of FSB endorsement of these recommendations would be to allow first-phase implementation of the LEI, including its use in swap data reporting to SDRs pursuant to this final rule, to proceed, if possible, on the basis of globally agreed principles concerning governance and funding of the LEI and access to LEI reference data.

b. *Final rule LEI provisions.* In light of these considerations, the Commission has determined that § 45.6 will include the following provisions.

Standard for the LEI code. The LEI to be used in all recordkeeping and all swap data reporting required by this part, once the Commission has

[61] In determining whether a new entity requiring a new LEI has resulted from a corporate event, the LEI utility may consider whether the primary regulator (if any) of the entity or entities involved in the corporate event considers the result to be a new entity; whether market data vendors consider the result to be a new entity; or whether ownership has changed as a result of the corporate event.

[62] The Commission has considered comments concerning the definition of control it should employ in connection with level two reference data, and concerning SDR access to level two reference data for the purpose of constructing reports for regulators.

[63] This is particularly true in light of the fact that, once industry builds or adapts automated systems for use in swap data reporting to include the LEI, it could be inadvisable to require registered entities and swap counterparties to incur the additional burden and cost that could come from changing the LEI system in ways that were not compatible with first-phase implementation of the LEI.

designated the LEI utility that will provide the LEI to be used in complying with this part, as set forth below, must be issued under, and conform to, *ISO Standard 17442, Legal Entity Identifier (LEI).* This standard is the sole existing LEI standard created by a voluntary consensus standards body, and is the standard created by ISO, the voluntary consensus standards body cited in the NOPR as the optimum source for the LEI standard.

LEI principles. The final rule includes both technical and governance principles that must be followed by the LEI used for compliance with the rule. These principles are based on those set forth in the NOPR, as complemented by the closely-parallel principles and governance considerations recommended in the CPSS–IOSCO *Report on OTC Derivatives Data Reporting and Aggregation Requirements* and the principles discussed at the FSB LEI Workshop.[64] The final rule principles, set forth in detail in the text of section 45.6, are summarized below.

Technical Principles

- *Uniqueness* (one LEI per legal entity, never re-used).
- *Neutrality* (a single-field identifier format containing no embedded intelligence).
- *Reliability* (a reliable method of verifying the identity of holders of LEIs, based on reference data necessary for this purpose; as well as robust quality assurance practices and system safeguards, including the system safeguards applicable to SDRs under part 49 of this chapter).
- *Open source* (an open data standard and format capable of broad use, that enables data aggregation by regulators).
- *Extensibility* (capability of becoming the single international standard for unique identification of legal entities in the financial sector on a global basis).
- *Persistence* (each LEI remains permanently in the record, regardless of corporate events, while a new entity resulting from a corporate event receives a new LEI).

Governance Principles

- *International governance* (for operations, a governance structure for the LEI utility giving the Commission and other financial regulators requiring use of the LEI power to ensure that the LEI system adheres to these principles) (for compliance with ISO 17442, governance by ISO).
- *Reference data access* (access to LEI reference data must enable use of the LEI as a public good, while respecting applicable law regarding data confidentiality).
- *Non-profit operation and funding* (funding and operation on a non-profit, reasonable cost-recovery basis, subject to international governance).
- *Unbundling and non-restricted use* (LEI issuance not tied to other services; no restrictions on use of the LEI; intellectual property consistent with open source principles).
- *Commercial advantage prohibition* (no commercial use by the utility of LEI reference data that is not available to the public free of charge).

Designation of the LEI utility. As called for in the NOPR, the final rule provides for the Commission to designate the LEI utility that will provide the LEI to be used in complying with this rule, once the Commission determines that an LEI system satisfying the requirements of the rule is available, making this designation in a Commission order. In determining whether an LEI system satisfying the Commission's requirements is available, the Commission will consider, without limitation, the following factors:

- Whether the LEI provided by the utility is issued under, and conforms to, *ISO Standard 17442, Legal Entity Identifier (LEI).*
- Whether the LEI provided by the utility complies with all of the technical principles set forth in this rule.
- Whether the LEI utility complies with all of the governance principles set forth in this rule.
- Whether the LEI utility has demonstrated that it in fact can provide LEIs for identification of swap counterparties in swap data reporting commencing as of the compliance dates set forth in this rule.
- The acceptability of the LEI utility to industry participants required to use the LEI in complying with the rule.

In making its determination, the Commission will consider all candidates meeting these criteria, but it will not consider any candidate that does not demonstrate that it in fact can provide LEIs for identification of swap counterparties in swap data reporting pursuant to this rule as of the compliance dates set forth in this rule.

The Commission will make this determination and designate the LEI utility at a time sufficiently prior to the commencement of swap data reporting to enable the designated utility to issue LEIs far enough in advance of the compliance dates set forth in the rule to enable compliance with the rule.

Reference data reporting. When an LEI utility has been designated by the Commission, the final rule requires reporting of both level one and level two reference data concerning the legal entity identified by an LEI. Level one reference data means the minimum information needed to identify, on a verifiable basis, the legal entity to which an LEI is assigned. Level two reference data means information concerning the corporate affiliations or company hierarchy relationships of the legal entity receiving an LEI. As provided in the NOPR, the final rule requires reporting of both types of reference data for each counterparty to any swap subject to the Commission's jurisdiction.

The rule provides that level one reference data must be reported into a publicly-available level one reference database maintained by the issuer of the LEI designated by the Commission, at a time sufficient to ensure that the counterparty's legal entity identifier is available for inclusion in recordkeeping and swap data reporting as required by the rule. Such reference data is essential to verifying the identity of the legal entity receiving an LEI. Level one reference data can be reported into the database by the entity itself (self-registration), or by another entity or organization such as a swap dealer reporting on behalf of its counterparties or a national number agency or data service provider reporting on behalf of its clients (third-party registration). Subsequent changes and corrections to level one reference data must also be reported.

While the NOPR required reporting of level two reference data concerning all of a counterparty's corporate or company affiliation relationships, the Commission has determined that the final rule will reduce this requirement, and call for reporting of only a single piece of level two reference data, the identity of the counterparty's ''ultimate parent'' as defined in the final rule. In making this determination, the Commission has taken into account comments suggesting that the Commission should coordinate with the SEC and international regulators to ensure where possible against material, substantive difference in reporting requirements, as well as comments suggesting that it should establish an ownership threshold for affiliations required to be reported, in order to reduce burdens for counterparties. The definitions of ''control,'' ''parent,'' and ''ultimate parent'' adopted in the final rule are closely aligned with the SEC's definitions, including a 25% ownership threshold.[65] These definitions are provided both to reduce burdens for counterparties, in relation to the full affiliation reporting proposed in the NOPR, and to provide clarity as to the

[64] As noted above, all of these principles closely parallel those set forth by the OFR in its Statement of Policy concerning the LEI, see footnote 52 above, and those discussed in the SEC's proposed rule on data reporting for security-based swaps, see footnote 53 above.

[65] The Commission disagrees with the 50% ownership threshold suggested by one commenter. The Commission believes that a 50% threshold would result in no ultimate parent being reported in a notable number of cases, and believes that the 25% threshold used by the SEC is more appropriate.

single affiliation required to be reported. The Commission believes that reporting of level two reference data consisting of the identity of a counterparty's ultimate parent is essential to the ability of the Commission and other regulators to aggregate swap data in order to fulfill the purposes of the Dodd-Frank Act. The Commission may revisit the issue of what additional level two reference data should be reported at a later time, when an international consensus concerning the reporting of additional level two reference data has had time to be developed.

Accordingly, the final rule also requires reporting of level two reference data, consisting of the identity of the counterparty's ultimate parent. Level two reference data must be reported to a level two reference database. All non-public level two reference data reported to the level two reference database will be available only to the Commission and other financial regulators in any jurisdiction requiring LEI use. Where applicable law forbids such reporting, the rule requires reporting that fact, and the citation of the law in question, in place of the data to which such law applies. The rule provides that the location of the level two database will be determined at a future time by a Commission order, and that the obligation to report level two reference data will not apply until that order is issued. The rule also provides that, once the order is issued, level two reference data must be reported at a time sufficient to ensure that it is included in the database when the counterparty's LEI is included in recordkeeping and swap data reporting as required by the rule. Level two reference data may also be reported via either self-registration or third-party registration. Changes and corrections must also be reported.

Use of the LEI by registered entities and swap counterparties. The final rule provides that, when an LEI utility has been designated by the Commission, each registered entity and swap counterparty subject to the Commission's jurisdiction must use the LEI provided by the designated LEI utility in all recordkeeping and swap data reporting pursuant to this part.[66]

Swap counterparty identification prior to LEI availability. Finally, the final rule provides that, before the LEI utility has been designated by the Commission, registered entities and swap counterparties subject to the Commission's jurisdiction shall use a substitute counterparty identifier created and assigned by an SDR, as provided in the final rule.

c. *Incorporation of international principles and recommendations.* Because this final rule is being issued prior to completion of the work of the FSB-coordinated, ad-hoc expert group of authorities that will make recommendations to the FSB Plenary in April 2012 concerning LEI governance, funding, and reference data, it has been written, of necessity, to provide the principles and requirements that will apply to the LEI, when its use pursuant to this rule begins, in the absence of globally agreed principles for these aspects of the LEI system. As noted above, the Commission shares the goal of a global LEI capable of becoming the single international standard for unique identification of legal entities across the world financial sector. Therefore, if LEI principles that the Commission determines are forward-compatible with the principles set forth in this rule, or recommendations concerning LEI governance and funding and access to LEI reference data that are acceptable to the Commission, are endorsed by the FSB in April or May 2012, the Commission may issue an interim final rule addressing LEI governance, funding, and reference data, that includes such principles and recommendations. Such an interim final rule, if issued, would replace affected provisions of this final rule, pending notice and comment and possible later adoption of the interim final rule by the Commission as a final rule.[67]

H. Unique Product Identifiers—§ 45.7

1. Proposed Rule

The NOPR required that each swap subject to CFTC jurisdiction be identified in all swap recordkeeping and data reporting by a unique product identifier (''UPI'') and a product classification system, as determined by the Commission, for the purpose of categorizing swaps with respect to the underlying products referenced in them. The NOPR called for the UPI and product classification system to identify both the swap asset class and the subtype within that asset class to which the swap belongs, with sufficient specificity and distinctiveness (as determined separately for each asset class) to enable regulators to fulfill their regulatory responsibilities and to enhance real time reporting. As provided in the NOPR, UPIs would be assigned to swaps at a particular, asset class-specific level of the robust swap taxonomy used by the product classification system, and the use of UPIs and the classification system would enable regulators to aggregate and report swap activity at a variety of product type levels, and to prepare reports required by the Dodd-Frank Act regarding swap market activity.

2. Comments Received

The majority of comments concerning the UPI received via comment letters, roundtables, and meetings with both industry and other regulators supported creation of a product classification system that provides a universally-accepted means of describing all swaps, whether standardized or bespoke, and permits creation of UPIs for sufficiently standardized swaps. As noted in the CPSS–IOSCO *Report on OTC Derivatives Data Reporting and Aggregation Requirements,* development of a standard product classification system is needed as a first step toward both a system of product identifiers for standardized derivatives products and an internationally-accepted semantic for describing non-standardized instruments. DTCC and Thomson Reuters pointed out that creation of a product taxonomy is a significant undertaking, and Thomson Reuters suggested that a pilot program for developing UPIs could be useful.

An industry initiative to create a product classification system is being led by the creators of FpML, in cooperation with experts in FIX. The data subcommittee of the CFTC Technology Advisory Committee (''TAC'') has taken up this subject as well. Industry experts involved in the industry initiative and the TAC data subcommittee anticipate that it may be possible, once a product classification system is developed, to assign a UPI to approximately 80 to 95 percent of swaps (depending on the asset class involved), while approximately 5 to 20 percent of swaps may be sufficiently bespoke that they can only be described rather than identified by a UPI. The CPSS–IOSCO *Report on OTC Derivatives Data Reporting and Aggregation Requirements* recommends CPSS–IOSCO and FSB support for timely development of a standard product classification system that can be used as a common basis for classifying and describing OTC derivatives products, and recommends that the FSB direct further international consultation and

[66] The final rule provides a grace period until October 15, 2012, for reporting counterparties whose systems are not yet prepared to include LEIs.

[67] The Commission believes that the provisions of such an interim final rule must not impair the availability of LEIs for use in swap data reporting when such reporting commences pursuant to this rule. Accordingly, the Commission does not intend that such an interim final rule would alter the requirement for the LEI to be issued pursuant to ISO Standard 17442, or would alter the Commission's designation of the LEI utility once that designation has been made.

coordination by financial and data experts from both regulators and industry concerning this work.

3. Final Rule: § 45.7

After considering the comments and input received concerning the UPI and product classification system, the Commission has determined that, as called for in the NOPR, the final rule provides that each swap subject to the Commission's jurisdiction must be identified in recordkeeping and swap data reporting pursuant to this part by means of a unique product identifier and product classification system acceptable to the Commission, when such an identifier and classification system are designated by the Commission for this purpose. The unique product identifier and product classification system will be required to identify and describe the swap asset class and the sub-type within that asset class to which the swap belongs, and the underlying product for the swap, with sufficient distinctiveness and specificity to enable the Commission and other financial regulators to fulfill their regulatory responsibilities.

The final rule provides that the Commission will determine when a unique product identifier and product classification acceptable to the Commission and satisfying these requirements is available, and when it so determines will designate the unique product identifier and product classification system for use in compliance with this part, making this designation in a Commission order. The final rule requires registered entities and swap counterparties subject to the Commission's jurisdiction to use the unique product identifier and product classification system in compliance with this part when this designation is made. Prior to this designation, each registered entity and swap counterparty must use the internal product identifier or product description used by the SDR in all recordkeeping and swap data reporting pursuant to this part.

I. Determination of Which Counterparty Must Report—§ 45.8

1. Proposed Rule

The NOPR followed the reporting counterparty hierarchy outlined in § 4r(a)(3) of the CEA, which provides that where only one counterparty is an SD or MSP, the SD or MSP is the reporting counterparty, and where one counterparty is an SD and the other is an MSP, the SD is the reporting counterparty.[68] The effect of this provision is to establish a hierarchy of counterparty types for reporting obligation purposes, in which SDs outrank MSPs, who outrank non-SD/MSP counterparties. Where both counterparties are at the same hierarchical level, the NOPR followed the statute in calling for them to select the counterparty obligated to report. In order to prevent confusion and delay concerning this choice, the NOPR provided a mechanism for counterparties to use in making this selection, by requiring counterparties at the same hierarchical level to agree as one term of their swap which counterparty will fulfill reporting obligations for that swap. In cases where only one counterparty is a U.S. person, the NOPR requires the U.S. person to be the reporting counterparty, in order to ensure compliance with reporting obligations in such situations.

2. Comments Received

The Commission received several comments concerning determination of the reporting counterparty. The two themes addressed in these comments were the need for a selection mechanism or deciding factor for cases where both counterparties are at the same hierarchical level, and who should be the reporting counterparty when only one counterparty is a U.S. person.

a. *Deciding factor between two counterparties at the same hierarchical level.* Commenters asked the Commission to provide in the final rule a mechanism for determining which counterparty is the reporting counterparty in cases where both counterparties are at the same hierarchical level, and suggested various deciding factors for use in such cases. The Electric Coalition recommended that for swaps between two non-SD/MSP counterparties where only one counterparty is a ''financial entity,'' the final rule should make the financial entity the reporting counterparty. AGA suggested that, between counterparties at the same hierarchical level, the entity that is the ''calculation agent'' under the applicable ISDA documentation should be the reporting counterparty, unless the parties agree otherwise. ICE suggested that the seller of the swap should be the reporting counterparty in such situations, arguing that there is too much uncertainty when parties are required to select the reporting counterparty, particularly for platform-executed swaps where counterparties are unknown to each other at the time of execution. WGCEF raised the issue of whether entities designated as SDs or MSPs for some but not all swaps should be treated as non-SDs/MSPs with respect to reporting counterparty determinations regarding swaps for which they are not designated as SDs or MSPs. WGCEF suggested that a ''limited'' SD or ''limited'' MSP should only be required to be the reporting counterparty for swaps within the particular asset class for which it is designated an SD or MSP. FHLB recommended that when an SD is transacting with a limited SD, the SD should be designated the reporting counterparty, because it would be burdensome for a limited SD to comply with requirements meant for entities for which swap dealing is a primary business. Where a limited SD is the reporting counterparty, FHLB asked that it be treated as a non-SD/MSP with respect to reporting deadlines.

b. *Non-U.S. counterparties.* The Commission received a number of comments on which counterparty should be the reporting counterparty when only one counterparty is a U.S. person. The Foreign Banks, ISDA, SIFMA, DTCC, MarkitServ, Freddie Mac, Vanguard, EEI, Chatham Financial, ABC, CIEBA, and the Electric Coalition recommended requiring non-U.S. SDs or MSPs to be the reporting counterparty for swaps with U.S. non-SD/MSP counterparties.[69] The commenters pointed to the superior technology and technical expertise of SDs and MSPs, the benefits of a consistent approach to reporting, and concerns regarding whether U.S. non-SD/MSP counterparties would be discouraged from transacting with foreign SDs and MSPs if they were required to bear the burden of reporting. EEI and Vanguard suggested allowing the counterparties in this situation to agree on which of them will be the reporting counterparty, and MarkitServ suggested allowing non-SD/MSP counterparties to delegate the

[68] As stated in the NOPR, the Commission believes that, while CEA section 4r(a) applies explicitly to swaps not accepted for clearing by a DCO, the duty to report should be borne by the same counterparty regardless of whether the swap is cleared or uncleared, for the sake of uniformity and ease of applicability. This approach also effectuates a policy choice made by Congress in the Dodd-Frank Act to place lesser burdens on non-SD/MSP counterparties to swaps, where this can be done without damage to the fundamental systemic risk mitigation, transparency, standardization, and market integrity purposes of the legislation. The Commission believes it is appropriate for SDs and MSPs to have the responsibility of reporting with respect to the majority of swaps, because they are more likely than non-SD/MSP counterparties to have automated systems in place that can facilitate reporting. The Commission notes that the SEC followed the same approach in its proposed regulations for security-based swap data reporting.

[69] ABC and CIEBA argued that making a U.S. non-SD/MSP counterparty the reporting counterparty where the other counterparty is a foreign SD or MSP is contrary to § 729 of the Dodd-Frank Act.

reporting obligation to the non-U.S. SD counterparty.

3. Final Rule: § 45.8

a. *Deciding factor between two counterparties at the same hierarchical level.* The Commission has considered comments calling for the final rule to provide a mechanism for determining which counterparty is the reporting counterparty in cases where both counterparties are at the same hierarchical level, and agrees that this would be beneficial where a deciding factor can be applicable for all swaps. The Commission has determined that the final rule provides that for swaps between non-SD/MSP counterparties where only one counterparty is a ''financial entity'' as defined in CEA section 2(h)(7)(C), the financial entity shall be the reporting counterparty. The Commission believes it is appropriate for financial entities, as defined by the Dodd-Frank Act, to have the responsibility of reporting in such cases, because, in the Commission's view, they are more likely than non-SD/MSP counterparties who are not financial entities to have automated systems in place that can facilitate reporting. The Commission has not found any other factor usable for automatic choice of the reporting counterparty between two counterparties at the same hierarchical level that applies across all markets and all asset classes.

For off-platform swaps, the final rule retains the NOPR requirement that counterparties at the same hierarchical level agree, as one term of the swap, which of them is the reporting counterparty.

For swaps executed on a SEF or DCM, determination of the reporting counterparty is necessary for purposes of continuation data reporting, despite the fact that the SEF or DCM will report all creation data for the swap under the streamlined reporting schema adopted in the final rule as discussed above. For on-facility swaps where counterparties at the same hierarchical level know the identity of the other counterparty, the final rule adopts the NOPR requirement that the counterparties agree as one term of the swap which of them is the reporting counterparty. For on-facility swaps where counterparties at the same hierarchical level do not know the identity of the other counterparty, the final rule provides that: (a) the SEF or DCM must transmit to each counterparty the LEI (or substitute identifier as provided in § 45.6) of the other counterparty that is at the same hierarchical level;[70] (b) the counterparties must agree which counterparty will be the reporting counterparty, after receiving such notice from the SEF or the DCM and before the end of the next business day following the date of execution of the swap; and (c) the reporting counterparty must report to the SDR to which the SEF or DCM has reported the swap that it is the reporting counterparty.

b. *Non-U.S. counterparties.* The Commission has considered the large number of comments recommending that a non-U.S. SD or MSP in a swap with a U.S. counterparty at a lower hierarchical level should be the reporting counterparty despite its status as a non-U.S. person. The Commission has determined that, because non-U.S. SDs and MSPs will be required to register with the Commission in this connection, the Commission will have sufficient oversight and enforcement authority with respect to such counterparties. The Commission understands that the SEC has made a similar determination in the context of security-based swap data reporting. Accordingly, the final rule provides that, with a single exception, the determination of the reporting counterparty in situations where only one counterparty is a U.S. person must be made by applying the normal counterparty determination procedure set forth in § 45.8. The Commission believes this is appropriate because it places the burden of reporting on the counterparty that in the Commission's view is more likely to have automated systems suitable for reporting. In cases where both counterparties are non-SD/MSP counterparties and only one counterparty is a U.S. person, the final rule will adopt the NOPR provision requiring the U.S. person to be the reporting counterparty. This is necessary in such situations because the non-U.S. non-SD/MSP counterparty will not be required to register with the Commission. Where neither counterparty to a swap executed on a SEF or DCM, otherwise executed in the U.S., or cleared on a DCO is a U.S. person, the final rule applies the same hierarchical selection criteria as for other swaps.

c. *Reporting counterparty determination after a change of counterparty.* In light of the various comments calling for clear direction from the Commission regarding determination of the reporting counterparty, and calling for the statutory preference for SD or MSP reporting counterparties where this is possible, the Commission has determined that the final rule provides for determination of the reporting counterparty in cases where, during the life of a swap, the reporting counterparty ceases to be a counterparty due to an assignment or novation. In such cases, the final rule provides for the reporting counterparty to be selected from the two current counterparties to the swap, as follows: If only one counterparty is an SD, the SD is the reporting counterparty; if neither counterparty is an SD and only one is an MSP, the MSP is the reporting counterparty; if both counterparties are non-SD/MSP counterparties and only one is a U.S. person, the U.S. person is the reporting counterparty; and in all other cases, the counterparty replacing the previous reporting counterparty is the reporting counterparty, unless otherwise agreed by the counterparties.

J. Third-Party Facilitation of Swap Data Reporting—§ 45.9

1. *Proposed Rule.* The NOPR provided that registered entities and counterparties required to report pursuant to this part may contract with third-party service providers to facilitate reporting, but, nonetheless, remain fully responsible for reporting as required.

2. *Comments Received.* Roundtable participants generally endorsed the NOPR provision permitting third-party facilitation of swap data reporting, and no comment letters suggested any changes to this provision.

3. *Final Rule: § 45.9.* The Commission recognizes, as stated in the NOPR, that while the various reporting obligations established in the final rule fall explicitly on registered entities and swap counterparties, efficiencies and decreased cost may in some circumstances be gained by engaging third parties to facilitate the actual reporting of information. The Commission believes that the use of such third-party facilitators, however, should not allow the registered entity or counterparty with the obligation to report to avoid its responsibility to report swap data in a timely and accurate manner. Accordingly, the Commission has adopted the regulation on third-party facilitation of swap data reporting as proposed.

[70] The SEF or DCM will know that both counterparties are at the same hierarchical level because the final rule requires the terms of the contract on the SEF or DCM to include all minimum PET data, and the tables of minimum PET data include an indication of whether a counterparty is an SD, an MSP, or a non-SD/MSP counterparty.

K. Reporting to a Single Swap Data Repository—§ 45.10

1. *Proposed Rule.* The NOPR required that all swap data for a given swap must be reported to a single SDR, which must be the SDR to which required primary economic terms data for that swap is first reported.

2. *Comments Received.* Roundtable participants generally endorsed the NOPR provision requiring that all swap data for a given swap must be reported to a single SDR, and no comment letters suggested changing this requirement. Comments addressing who should make the first swap data report for a swap, and thus in effect choose the SDR, are discussed above in the section concerning creation data reporting.

3. *Final Rule: § 45.10.* The Commission believes that important regulatory purposes of the Dodd-Frank Act would be frustrated, and that regulators' ability to see necessary information concerning swaps could be impeded, if data concerning a given swap was spread over multiple SDRs. Accordingly, the final rule adopts the NOPR provision requiring that all swap data for a given swap must be reported to a single SDR, which shall be the SDR to which creation data for that swap is first reported.

As discussed above, the Commission is responding to comments concerning creation data reporting by adopting in the final rule a streamlined reporting regime that requires reporting by the registered entities or swap counterparties with the easiest, fastest, and cheapest data access and those most likely to have the necessary automated systems; that minimizes burdens and costs for counterparties to the extent possible; and that provides certainty to the market. To effectuate this streamlined reporting regime, § 45.3 and § 45.10 of the final rule provides that the initial report of creation data for a swap will be made as follows:

- For swaps executed on a SEF or DCM, the SEF or DCM reports all creation data to a single SDR, as soon as technologically practicable after execution.
- For off-facility swaps, the reporting counterparty reports all PET data to a single SDR, within the deadlines provided in the final rule.
- For off-facility swaps, if the reporting counterparty is excused from reporting, as provided in the final rule, because the swap is accepted for clearing before the reporting deadline and before any report made by the reporting counterparty, the DCO reports all creation data to a single SDR, as soon as technologically practicable after execution.

L. Data Reporting for Swaps in a Swap Asset Class Not Accepted by Any Swap Data Repository—§ 45.11

1. *Proposed Rule.* As noted in the NOPR, CEA section 4r(a)(1)(B) recognizes that in some circumstances there may be no SDR that will accept swap data for certain swap transactions. This category of swaps should be limited, since the Commission's final part 49 regulations require an SDR that accepts swap data for any swap in an asset class to accept data for all swaps in that asset class. However, situations could arise where a novel product does not fit into any existing asset class, or where no SDR yet accepts swap data for any swap in an existing asset class. The NOPR provided that in such cases, the reporting counterparty must report to the Commission all swap data concerning that swap required by this part to be reported to an SDR, making this report at a time and in a form determined by the Commission.

2. *Comments Received.* The Commission received no comments concerning this provision.

3. *Final Rule: § 45.11.* The Commission has determined to adopt the NOPR provision requiring that, should there be a swap asset class for which no SDR currently accepts swap data, each registered entity or swap counterparty required to report swap data for such a swap must report to the Commission all swap data required by this part to be reported to an SDR, making this report at times announced by the Commission and in an electronic file in a format acceptable to the Commission. The Commission has recently reorganized its divisional structure to facilitate discharge of its responsibilities under the Dodd Frank Act, and as part of that reorganization, the Commission's Chief Information Officer is responsible for all matters concerning data received by the Commission. Accordingly, the Commission has determined that the final rule will delegate to the Chief Information Officer the authority to determine the format, data standards, and electronic transmission standards and procedures acceptable to the Commission for such reporting, and the dates and times at which data for such swaps shall be reported to the Commission. The determinations made by the Commission through the Chief Information Officer in these respects will be published in the **Federal Register** and on the Commission's Web site.

M. Voluntary Supplemental Reporting—§ 45.12

1. *Proposed Rule.* As discussed above, the Dodd-Frank Act provides for designation of one counterparty to a swap as the reporting counterparty for that swap. Neither the Dodd-Frank act nor the NOPR addresses additional, voluntary reporting of swap data to an SDR by the other counterparty to the swap. Nothing in the Dodd-Frank Act prohibits such additional, voluntary reporting.

2. *Comments Received.* The Commission received several comments recommending that the final rule should confirm that voluntary data reporting by market participants not required to report is permitted, and should provide for such voluntary supplemental reporting. WGCEF asked the Commission to clarify that a market participant has the option to report any and all transaction data even where it is not required to report by Commission rules. REGIS–TR recommended that both counterparties be allowed to report a swap and confirm their PET data and confirmation data, via SDR systems that allow regulators to see which counterparty entered the information, and argued this would lower overall compliance costs. DTCC stated that voluntary reporting by participants not required to report is technologically feasible and would ensure greater data accuracy. ISDA and SIFMA observed that reporting by both counterparties is not essential to the accuracy of data in SDRs, since confirmations require the consent of both counterparties and the NOPR required confirmation data reporting. TriOptima suggested that both parties should be required to report some types of transaction data, such as that relating to systemic risk monitoring, arguing that one-party reporting can raise risks of inaccurate data. Most of the international regulators consulted by the Commission concerning the final rule have informed the Commission that they believe reporting by both counterparties is desirable, and that reporting regimes outside the U.S. are likely to require such dual reporting. Roundtable participants noted that some counterparties may prefer to report whether or not they are the reporting counterparty, in order to simplify their business processes, and have data concerning all their swaps present in a single SDR.

3. *Final Rule: § 45.12.* The Commission has considered these comments, and agrees that voluntary supplemental reporting by counterparties not designated as the reporting counterparty is

technologically feasible and may have benefits for both data accuracy and counterparty business processes. While the Dodd-Frank Act requires swap data reporting by only one counterparty and establishes a hierarchy for choosing the reporting counterparty, it does not prohibit voluntary swap data reporting to an SDR that supplements required reporting. The Commission also notes that its final part 49 rules permit counterparties to access to information in SDRs concerning their own swaps, and notes that nothing forbids swap counterparties to use an SDR as a provider of third-party services going beyond acceptance of required swap data reports for regulatory purposes. For these reasons, the Commission has determined that the final rule provides for voluntary supplemental reporting to any SDR by either counterparty of swap data that this part does not require that counterparty to report.

The Commission has also determined that, to avoid double-counting of the same swap due to voluntary supplemental reports, and to ensure that data reported via a voluntary supplemental report (''VSR'') to the same SDR to which required data is reported is integrated into that SDR's record for the swap, each VSR must include minimum VSR information that ensures achievement of these purposes. This required VSR information includes: an indication that the report is a VSR; the USI for the swap that has been created as required by this part; the identity of the SDR to which all required creation data and continuation data is reported for the swap, if the VSR is made to a different SDR; the LEI (or substitute identifier) of the counterparty making the VSR; and if applicable, an indication that the VSR is made pursuant to the law of a jurisdiction outside the U.S. To avoid confusion and double-counting, and to ensure that each VSR includes the USI for the swap, the rule will also provide that a VSR may not be made until after the USI for the swap has been created as provided in § 45.5 and transmitted to the counterparty making the VSR.

N. Required Data Standards—§ 45.13

1. *Proposed Rule.* CEA section 21(b)(2) directs the Commission to prescribe data collection and data maintenance standards for swap data repositories. The CEA also provides that SDRs shall maintain swap data reported to them ''in such form, in such manner, and for such period as may be required by the Commission,'' and directs SDRs to ''provide direct electronic access to the Commission.'' [71] These requirements are designed to effectuate the fundamental purpose for the legislation's swap data reporting requirements: making swap data available to the Commission and other financial regulators so as to enable them to better fulfill their market oversight and other regulatory functions, increase market transparency, and mitigate systemic risk. Pursuant to these provisions, the NOPR required SDRs to be able to transmit data to the Commission using the data standards and formats required by Commission. The NOPR did not mandate use of a specific data standard for reporting to SDRs, but left SDRs free to make their own business decisions in this regard, so long as they remain able to transmit data to the Commission as required.

2. *Comments Received.* DTCC and WGCEF both suggested that using existing standards and formats would facilitate implementation of Dodd-Frank. DTCC also noted that SDRs will need to adapt to a changing marketplace, and therefore will need the flexibility to specify acceptable data formats, connectivity, and protocols for reporting to them. DTCC recommended that SDRs make their data formats publicly available, and develop application programming interfaces (''APIs'') to enable direct submission of data by participants. WGCEF argued that SDRs should be required to develop and use a common standard for data reporting, suggesting that this will reduce costs and opportunities for inaccuracy.

3. *Final Rule: § 45.13.* The Commission considered whether it would be preferable, as suggested by one commenter, to require that all swap data reporting to SDRs use a uniform reporting format or single data standard, but has decided not to impose such a requirement. Doing so would be likely to require changes to the existing automated systems of some entities and counterparties, which in some cases could impose additional burdens and costs. The Commission agrees with the comment suggesting that SDRs will need flexibility with respect to data standards used by them in receiving data. The Commission has been advised by existing trade repositories that they are able to accept data in multiple formats or data standards from different counterparties, and to map the data they receive into a common data standard within the repository, without undue difficulty, delay, or cost. The Commission notes that automated systems and data standards evolve over time, and that it may be desirable for regulations concerning data standards to avoid locking reporting entities, reporting counterparties, and SDRs into particular data standards that could become less appropriate in the future.[72] In addition, the Commission anticipates that the degree of flexibility offered by SDRs concerning data standards for swap data reporting could become an element of marketplace competition with respect to SDRs. Accordingly, the final rule gives SDRs flexibility to use a variety of data standards to receive data reported to them, provided that they are able to transmit data to the Commission in a manner that meets the Commission's needs. This flexibility is designed to allow the most cost-effective application of both existing and evolving data standards.

The Commission also agrees with the comment suggesting that it would be beneficial for the data formats used by SDRs to be publicly available. The Commission encourages SDRs to make public the documentation of their data formats and any APIs or service interfaces they develop for reporting data.

For the reasons discussed above, the Commission has determined to adopt the NOPR provisions regarding data standards in the final rule. The final rule requires an SDR to maintain all swap data reported to it in a format acceptable to the Commission, and to transmit all swap data requested by the Commission to the Commission in an electronic file in a format acceptable to the Commission. It requires reporting entities and counterparties to use the facilities, methods, or data standards provided or required by an SDR to which they report data, but also allows an SDR to permit reporting via various facilities, methods, or data standards, provided that its requirements in this regard enable it to maintain swap data and transmit it to the Commission as the Commission requires.

As noted above, the Commission has recently reorganized its divisional structure to facilitate discharge of its responsibilities under the Dodd-Frank Act, and as part of that reorganization, the Commission's Chief Information Officer is responsible for all matters concerning data received by the Commission. Accordingly, the Commission has determined that the final rule will delegate to the Chief Information Officer (a) the authority to determine the format, data standards,

[71] CEA section 21(c)(3) and (4).

[72] CEA section 21(f)(4)(B) explicitly permits the Commission to ''take into consideration any evolving standard of the United States or the international community.''

and electronic transmission standards and procedures acceptable to the Commission for provision of data to the Commission by SDRs; and (b) the authority to determine whether the Commission may permit or require use of one or more particular data standards by SDRs or reporting entities and counterparties in order to ensure that SDRs can provide data to the Commission as required. The determinations made by the Commission through the Chief Information Officer in these respects will be published in the **Federal Register** and on the Commission's Web site.

O. Reporting of Errors and Omissions in Previously Reported Data—§ 45.14

1. *Proposed Rule*

The NOPR directed all entities and counterparties required to report data to SDRs to report any errors and omissions in the data so reported, as soon as technologically practicable after discovery of any such error or omission. It also required non-reporting counterparties discovering a data error or omission to notify the reporting counterparty promptly, and required the reporting counterparty to then report it. The NOPR required reports of errors and omissions to be made using the same format used to report the erroneous or omitted data.

2. *Comments Received*

a. *Error reporting.* WGCEF and MFA suggested that the final rule should permit (but not require) non-reporting counterparties to report errors they discover to the SDR. MFA argued this is needed in the event of a dispute between the reporting and non-reporting counterparties. ISDA and SIFMA recommended the reasons for an error correction should not be reported, on the basis that recording the reason for an adjustment is not current market practice. Encana requested clarification of the interaction of error reporting under this section and the part 49 provisions requiring an SDR to confirm with the counterparties the accuracy of the data submitted.

b. *Liability for errors.* WGCEF, AGA, ISDA, and SIFMA suggested that safe harbors should be created for good-faith mistakes made by either counterparty in reporting swap data, and for errors of which the counterparties are not aware. AGA asked the Commission to state explicitly that it will not penalize parties for inadvertent errors in reporting, and that good faith efforts to comply with new requirements will not result in exposure to enforcement actions. ISDA and SIFMA asked the Commission to clarify that a party has no obligation to correct errors of which it is not aware, and suggested having the final rule provide that reporting parties are not responsible for data errors that occur after submission to an SDR.

3. *Final Rule: § 45.14*

The Commission has considered the above comments, and has determined to adopt the NOPR provisions concerning error reporting substantially as proposed. Accurate swap data is essential to effective fulfillment of the various regulatory functions of financial regulators, and the final rule provisions are designed to ensure data accuracy to the extent possible.

a. *Error reporting.* As noted above, the Commission agrees that voluntary supplemental reporting may have benefits for data accuracy, and has added § 45.12 to the final rule expressly permitting voluntary supplemental reporting, which is not limited in scope and can include error reporting. The Commission believes that it is a business decision of an SDR whether it should require reporting the reasons for an error correction, and has decided not to address that issue by rule. Records required to be kept pursuant to this part should provide sufficient information when necessary regarding the reasons for an error correction.[73] The Commission intends § 45.14 to work together in a complementary fashion with the provisions of part 49 directing SDRs to obtain acknowledgment from counterparties of the accuracy of reported data within a short time after it is submitted. Both provisions are intended to protect the integrity and accuracy of the data in SDRs.

To help ensure data accuracy, the final rule requires registered entities and swap counterparties that report swap data to an SDR or to any other registered entity or swap counterparty to report any errors or omissions in the data they report, as soon as technologically practicable after discovery of any error or omission.[74] The final rule requires a non-reporting swap counterparty that discovers any error or omission with respect to any swap data reported to an SDR for its swaps to notify the reporting counterparty promptly of each such error or omission, and requires the reporting counterparty, upon receiving such notice, to report a correction of each such error or omission to the SDR, as soon as technologically practicable after receiving notice of it from the non-reporting counterparty. The Commission believes that this provision is an appropriate measure to ensure data accuracy.

To ensure consistency of data within an SDR with respect to error corrections, the final rule requires an entity or counterparty correcting an error or omission to do so in the same data format it used in making the erroneous report. To similarly ensure consistency of data transmitted to the Commission with respect to error corrections, the final rule imposes the same requirement on SDRs with respect to transmission of error corrections.

b. *Liability for errors.* The Commission has determined that the final rule should not provide a safe harbor for good-faith mistakes made in reporting data. It is the reporting party's responsibility to report data accurately and develop processes to achieve this goal. The Commission will continue to carry out its oversight and enforcement responsibilities in a reasonable and appropriate manner. The final rule does not require swap counterparties to monitor data in an SDR, but does require them to report all data errors of which they become aware. As noted above, the Commission believes this is an appropriate measure to ensure data accuracy.

III. Related Matters

A. Regulatory Flexibility Act

The Regulatory Flexibility Act (''RFA''), 5 U.S.C. 601 *et seq.,* requires that agencies consider the impact of their rules on ''small entities.'' As provided in the NOPR, this part will have a direct effect on SDRs, DCOs, SEFs, DCMs, SDs, MSPs, and non-SD/MSP counterparties who are counterparties to one or more swaps and subject to the Commission's jurisdiction.

As stated in the NOPR, the Commission has previously established that DCMs are not small entities for purposes of the RFA. The Commission also proposed that certain entities for which the Commission had not previously made a determination for RFA purposes—namely SDRs, DCOs, SEFs, SDs, and MSPs—should not be considered to be small entities, for reasons set forth in the NOPR.

[73] The Commission does not believe it is necessary or appropriate for the final rule to further address potential disputes between reporting and non-reporting counterparties, which could involve legal disputes between counterparties affecting the validity or terms of a swap.

[74] Because daily snapshot reports of state data by reporting counterparties by their nature can correct errors or omissions in previous snapshot reports, the final rule provides that for swaps reported via the snapshot reporting method, reporting counterparties fulfill the requirement to report errors or omissions in state data previously reported by making corrections in their next daily report of state data.

As noted in the NOPR, this part requires swap data reporting by a non-SD/MSP counterparty only with respect to swaps in which neither counterparty is an SD or MSP. With respect to such swaps, which represent a minority of swap transactions, only one of the swap non-SD/MSP counterparties will be required to report—the counterparty designated as the reporting counterparty. In addition, the Commission has determined that the final rule provides that for swaps between non-SD/MSP counterparties where only one counterparty is a ''financial entity'' as defined in CEA section 2(h)(7)(C), the financial entity shall be the reporting counterparty. The Commission believes these provisions of the final rule reduce the economic impact on any non-SD/MSP counterparties that may be considered to be small entities under the RFA.

Due to the operation of certain provisions of the CEA and the final rule, non-SD/MSP counterparties who may be considered small entities for RFA purposes are never required to report any swap creation data. Under the CEA, a non-SD/MSP counterparty is required to transact on a SEF or DCM unless that non-SD/MSP is an Eligible Contract Participant (''ECP'').[75] The Commission has previously determined that ECPs are not ''small entities'' for RFA purposes.[76] For all swaps executed on a SEF or DCM, the final rule requires the SEF or DCM to report all required swap creation data. Therefore, no ''small entities'' for RFA purposes are required to report any swap creation data under the final rule.

With respect to reporting of swap continuation data, the Commission has attempted to minimize the burden on non-SD/MSP counterparties who may be considered small entities for purposes of the RFA. As noted above, in the final rule the Commission is responding to comments concerning swap data reporting by creating a streamlined reporting regime that requires reporting by the registered entities or swap counterparties that the Commission believes will have the easiest, fastest, and cheapest data access and will be most likely to have the necessary automated systems, in order to minimize burdens and costs, to the extent possible, for swap counterparties and particularly for non-SD/MSP counterparties. Under the final rule reporting regime, non-SD/MSP reporting counterparties will not have to report either creation data or continuation data for any swap executed on a SEF or DCM and cleared on a DCO. In addition, non-SD/MSP counterparties will not have to report either creation data or continuation data for any off-facility swap accepted by a DCO for clearing within the deadline for the initial data report for the swap, as the DCO is then required to report all swap data for the swap. The Commission believes that these provisions of the final rule further reduce the economic impact on any non-SD/MSP counterparties that may be considered to be small entities under the RFA.

In the NOPR, the Chairman, on behalf of the Commission, certified that the rulemaking would not have a significant economic effect on a substantial number of small entities. Nonetheless, the Commission specifically requested comment on the impact these proposed rules may have on small entities. The Commission received one comment on its RFA statement, from the Electric Coalition, stating that the vast majority of members of the National Rural Electric Cooperative Association and the American Public Power Association are considered small entities for purposes of the RFA. The Electric Coalition suggested that the Commission should consider the overall impact of its Dodd-Frank Act rules on nonfinancial entities, including small entities, and conduct a comprehensive analysis under the RFA.

In response to this comment, and to other comments by non-SD/MSP counterparties, the Commission has adjusted the final reporting regime to reduce burdens and costs for non-SD/MSP counterparties in a variety of ways, as set forth in detail in the discussion above concerning §§ 45.3 and 45.4 of the final rule. The Commission notes that the commenter did not dispute the reasons for the Commission's conclusion that this part does not have a significant impact on a substantial number of small entities. For these reasons, and for the reasons stated above and in the NOPR, the Commission continues to believe that this part will not have a significant impact on a substantial number of small entities. Therefore, the Chairman, on behalf of the Commission, hereby certifies, pursuant to 5 U.S.C. 605(b), that this part as finally adopted will not have a significant economic impact on a substantial number of small entities.

B. Paperwork Reduction Act

1. Introduction

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 control number issued by the Office of Management and Budget (''OMB''). Provisions of Commission Regulations 45.2, 45.3, 45.4, 45.5, 45.6, 45.7, and 45.14 result in information collection requirements within the meaning of the Paperwork Reduction Act (''PRA'').[77] The Commission submitted the NOPR and supporting documentation to OMB for review in accordance with 44 U.S.C. 3507(d) and 5 CFR 1320.11. The Commission requested that OMB approve, and assign a new control number for, the collections of information covered by the NOPR.

The title for the proposed collection of information under part 45 is ''Swap Data Recordkeeping and Reporting Requirements.'' To the extent that the recordkeeping and reporting requirements in this rulemaking overlap with the requirements of other rulemakings for which the Commission prepared and submitted an information collection request to OMB, the burdens associated with the requirements are not being accounted for in the information collection request for this rulemaking, to avoid unnecessary duplication of information collection burdens.

2. Proposed Information Collection

In its proposed rulemaking, the Commission provided burden estimates for the new collections of information contained in proposed §§ 45.2, 45.3, and 45.4.

In the NOPR, it was estimated that 30,384 SDRs, SEFs, DCMs, DCOs, SDs, MSPs, and non-SD/MSP counterparties[78] would be required to

[75] CEA section 2(e) provides that ''It shall be unlawful for any person, other than an eligible contract participant, to enter into a swap unless the swap is entered into on, or subject to the rules of, a [SEF or DCM].'' Congress created the ECP category in the Commodity Futures Modernization Act in 2000, to include individuals and entities that Congress determined to be sufficiently sophisticated in financial matters that they should be permitted to trade over-the-counter swaps without the protection of federal regulation. *See, e.g.,* ''Report of the President's Working Group on Financial Markets'' (Nov. 1999) at 16 (recommending that ''sophisticated counterparties that use OTC derivatives simply do not require the same protections under the CEA as those required by retail investors''). In the Dodd-Frank Act, Congress made two changes to the statutory ECP definition, both of which increased the thresholds to qualify as an ECP, making it harder for some entities and individuals to qualify. *Compare* CEA section 1a(12), 7 U.S.C. 1a(12) (2009), with §§ 721(a)(1) and (9) of the Dodd-Frank Act, respectively redesignating section 1a(12) as section 1a(18) and increasing thresholds for certain categories of ECP.

[76] 66 FR 20740, 20743, Apr. 25, 2001.

[77] 44 U.S.C. 3301 *et seq.*

[78] Because SDRs, MSPs, SDs, DCOs, and SEFs are new entities, the following estimates were made in the NOPR: 15 SDRs, 50 MSPs, 250 SDs, 12 DCOs, and 40 SEFs. The number of DCMs was estimated to be 17 DCMs based on the current (as of October 18, 2010) number of designated DCMs. Additionally, for purposes of the Paperwork Reduction Act, the Commission estimated that there

Continued

keep records of all activities relating to swaps. Specifically, the NOPR required SDRs, SEFs, DCMs, DCOs, SDs, and MSPs to keep complete records of all activities relating to their business with respect to swaps. The NOPR required non-SD/MSP counterparties to keep complete records with respect to each swap in which they would be a counterparty. For SDs and MSPs, the Commission determined that the proposed recordkeeping requirements would not impose any new recordkeeping or information collection requirements, or other collections of information, as requirements for maintaining and recording swap transaction data by SDs and MSPs would be addressed in related rulemakings associated with business conduct standards for SDs and MSPs. For SDRs, SEFs, DCMs, DCOs (an estimated 84 entities or persons), which were anticipated to have higher levels of swap recording activity [79] than non-SD/MSP counterparties, the Commission estimates that there may be approximately 40 annual burden hours per entity, excluding customary and usual business practices. And for non-SD/MSP reporting counterparties (an estimated 30,000 entities or persons), who were anticipated to have lower levels of swap recording activity, the Commission estimated that there would be approximately 10 annual burden hours per entity, excluding customary and usual business practices. Accordingly, 303,360 estimated aggregate annual burden hours were estimated.

Under the NOPR's swap data reporting provisions, SEFs, DCMs, DCOs, MSPs, SDs, and non-SD/MSP counterparties were required to provide reports to SDRs regarding swap transactions. SEFs and DCMs were required to report certain information once at the time of swap execution. DCOs, SDs, MSPs, and non-SD/MSP counterparties were required to report certain information once, as well as other information on a daily basis. With respect to proposed reporting by SDs, MSPs, and non-SD/MSP counterparties, only one counterparty was required to report, typically an SD or an MSP. The Commission anticipated that the reporting would to a significant extent be automatically completed by electronic computer systems, and calculated burden hours based on the annual burden hours necessary to oversee and maintain the reporting functionality.[80] SEFs, DCMs, DCOs, MSPs, and SDs (an estimated 369 entities or persons) were anticipated to have high levels of reporting activity, with the Commission estimating that the average annual burden would be approximately 2,080 hours.[81] Non-SD/MSP counterparties required to report under the proposed rules—estimated at 1,500 entities [82]—were anticipated to have lower levels of activity with respect to reporting. For such entities, the Commission estimated that the annual burden would be approximately 75 hours. In sum, the Commission estimated 880,020 aggregate annual burden hours for proposed regulation 45.3.

Under the NOPR's unique identifier provisions, SDRs, SEFs, DCMs, SDs, and MSPs were required to report a unique swap identifier to other registered entities and swap participants. SEFs and DCMs were expected to have higher levels of activity than SDRs, SDs, and MSPs with respect to unique swap identifier reporting. The Commission anticipated that the reporting of the unique swap identifier would be automatically completed by electronic computer systems. Accordingly, the burden hours estimates in the proposal were based on the estimated burden hours necessary to oversee and maintain the electronic functionality of unique swap ID reporting.[83] In accord, the Commission estimated that SEFs and DCMs (an estimated 57 entities or persons) would expend approximately 22 annual burden hours per entity. The Commission estimated that SDRs, SDs, and MSPs (an estimated 315 entities or persons) would expend approximately 6 annual burden hours per entity. Therefore, 3,144 estimated aggregated annual burden hours were estimated.

The NOPR's unique identifier provisions also required SDs, MSPs, and non-SD/MSP counterparties (an estimated 30,300 entities and persons) to report into a confidential database their ownership and affiliations information (as well as changes to ownership and affiliations). The report would be made once at the time of the first swap reported to an SDR, and would be made anytime thereafter that the entity's legal affiliations change. The burden hours per report were estimated to be approximately two hours per entity, excluding customary and usual business practices. The number of reports required to be made per year was estimated to vary between zero and four, depending on the number of changes an entity would have in its legal affiliations in that year. The estimated annual burden per entity therefore was estimated to vary between zero and eight burden hours, with aggregate annual burden hours estimated to be between 0 and 242,400 hours.

3. Comments on Proposed Information Collection

Swap data reporting is required by the CEA as amended by Title VII of the Dodd-Frank Act. The Commission received numerous comments supporting the overall goals of swap data reporting, including systemic risk protection, market integrity, and transparency goals. The Commission also received general comments and suggestions regarding the information collections set forth in the NOPR. The comments concerned, among other things, the type of information that should be collected; the entity or entities that should be responsible for reporting the information; the manner in which the data should be required to be reported (snapshot or lifecycle method of reporting); and the timeframe in which such data should be required to be reported. The comments received by the Commission are set forth in detail above in the discussions of each section of the final rule as well as the discussion below on the consideration of the costs and benefits of the final rule.

In response, the Commission amended the information collection requirements set forth in the NOPR in a variety of ways in order to address concerns of the commenters and reduce the burden of the information collections on registered entities and counterparties. The Commission amended the information collection

would be 30,000 non-SD/MSP counterparties who would be subject annually to the recordkeeping requirements of proposed Regulation 45.1.

[79] The Commission estimated that ''high activity'' entities or persons would be those persons who would process or enter into hundreds or thousands of swaps per week that would be subject to the jurisdiction of the Commission. Low activity users were estimated to be those who would process or enter into substantially fewer than the high activity users.

[80] Estimated burden hours were obtained through consultation with the Commission's information technology staff.

[81] The Commission estimated 2,080 hours by assuming that a significant number of SEFs, DCMs, DCOs, MSPs, and SDs would dedicate the equivalent of at least one full-time employee to ensuring compliance with the reporting obligations of Regulation 45.3 (2,080 hours = 52 weeks × 5 days × 8 hours). The Commission believed that this was a reasonable assumption due to the volume of swap transactions that would be processed by these entities, the varied nature of the information required to be reported by Regulation 45.3, and the frequency (daily) with which some reports would be required to be made.

[82] This is the estimated number of non-SD/MSP counterparties who would be required to report in a given year. Only one counterparty to a swap would be required to report, most frequently anticipated to be an SD or a MSP.

[83] Estimated burden hours were obtained through consultation with the Commission's information technology staff.

requirements of the NOPR by, among other things, reducing the types of information to be collected (e.g., the final rule does not require reporting of contract intrinsic data, master agreements, certain collateral information, or certain valuation information); streamlining the entity or entities responsible for reporting the information in order to assign reporting responsibilities to the entity or entities with the easiest, fastest, and cheapest access to the data in question (e.g., the final rule does not require non-SD/MSP counterparties to report any additional swap data for swaps that are both executed on a platform and cleared, as the SEF/DCM reports all creation data and the DCO reports all continuation data); providing greater flexibility in the manner in which information is to be reported (the final rule permits either the snapshot or lifecycle method of reporting may be used for any asset class); and modifying the timeframe in which information is to be collected (e.g., the final rule requires non-SD/MSP counterparties to report valuation data for uncleared swaps only on a quarterly basis, and provides phasing to all SDs, MSPs, and non-SD/MSP counterparties with respect to the timeframe in which information must be reported).

The Commission is also clarifying in the final rule that non-SD/MSP counterparties are permitted to fulfill their part 45 recordkeeping responsibilities by keeping records in paper, rather than electronic, form. The final rule also provides that other counterparties and registered entities are also permitted to keep paper, rather than electronic, records, if such records were originally created and exclusively maintained in paper form. These provisions concerning the recordkeeping information collection provisions are intended to address concerns raised by several commenters

4. Revised Information Collection Estimates

Under the final rules, reporting entities and persons will provide information under sections 45.2, 45.3, 45.4, 45.5, 45.6, 45.7, and 45.14 of this part. The information provided under each regulation is set forth below, together with burden estimates that were calculated, through research and through consultation with the Commission's technology staff, using wage rate estimates based on salary information for the securities industry compiled by the Securities Industry and Financial Markets Association (''SIFMA'').[84]

a. *Section 45.2.* Under § 45.2, SDRs, SEFs, DCMs, DCOs, SDs, MSPs, and non-SD/MSP counterparties—which presently would include an estimated 30,210 entities or persons [85]—are required to keep records of all activities relating to swaps. Specifically, § 45.2 requires SDRs, SEFs, DCMs, DCOs, SDs, and MSPs to keep complete records of all activities relating to their business with respect to swaps. The rule requires non-SD/MSP counterparties to keep complete records with respect to each swap in which they are a counterparty.

With respect to SDs and MSPs, the Commission has determined that § 45.2 will not impose any new recordkeeping or information collection requirements, or other collections of information that require approval of the Office of Management and Budget under the Paperwork Reduction Act. The burden associated with the requirements for maintaining and recording swap transaction data by SDs and MSPs are also contained in separate rulemakings proposed by the Commission concerning business conduct standards for SDs and MSPs, for which the Commission has prepared an information collection request for review and approval by OMB.

The Commission believes that some percentage of the estimated 30,000 non-SD/MSP counterparties who would be subject to the recordkeeping requirements of section 45.2 would contract with third-party service providers to fulfill these requirements, and would therefore pay some fee to such providers in lieu of incurring the Commission's estimated costs of reporting. The identity of such third parties, the composition of the marketplace for third party services, and the costs to third parties to provide recordkeeping services given the economies of scale and scope they may realize in providing those services are all presently unknowable. Therefore, the Commission does not believe it is feasible to quantify the fees charged by third parties to non-SD/MSPs at the present time, but believes that they will likely vary with the volume of records to be retained. The remaining non-SD/MSP counterparties would elect to perform these functions themselves and incur the costs enumerated below. The Commission notes that this final rule allows non-SD/MSP counterparties to retain records in either an electronic or paper form, which could facilitate recordkeeping for less technologically resourced counterparties, and thus encourage a greater percentage of non-SD/MSP counterparties to retain records themselves.

For purposes of calculating recordkeeping burdens with respect to the PRA, the Commission is assuming that all 30,000 non-SD/MSP counterparties required to keep records will incur the cost of doing so themselves. The Commission estimates that this requirement would impose an initial non-recurring burden of 480 hours per reporting counterparty at a cost of $32,820, and investments in technological infrastructure of $50,000, and a recurring annual burden of 165 hours per reporting counterparty at a cost of $12,125 and a technological infrastructure maintenance cost of $25,000. This would present an aggregate non-recurring burden of $2,484,600,000 for all non-SD/MSP counterparties, and an aggregate recurring annual burden of $1,113,750,000 for all non-SD/MSP counterparties.

[84] These wage estimates are derived from an industry-wide survey of participants and thus reflect an average across entities; the Commission notes that the actual costs for any individual company or sector may vary from the average. The Commission estimated the dollar costs of hourly burdens for each type of professional using the following calculations:

(1) [(2009 salary + bonus) * (salary growth per professional type, 2009–2010)] = Estimated 2010 total annual compensation. The most recent data provided by the SIFMA report describe the 2009 total compensation (salary + bonus) by professional type, the growth in base salary from 2009 to 2010 for each professional type, and the 2010 base salary for each professional type; thus, the Commission estimated the 2010 total compensation for each professional type, but, in the absence of similarly granular data on salary growth or compensation from 2010 to 2011 and beyond, did not estimate dollar costs beyond 2010.

(2) [(Estimated 2010 total annual compensation)/(1,800 annual work hours)] = Hourly wage per professional type.]

(3) [Hourly wage) * (Adjustment factor for overhead and other benefits, which the Commission has estimated to be 1.3)] = Adjusted hourly wage per professional type.]

(4) [(Adjusted hourly wage) * (Estimated hour burden for compliance)] = Dollar cost of compliance for each hour burden estimate per professional type.]

The sum of each of these calculations for all professional types involved in compliance with a given element of the final rule represents the total cost for each counterparty, reporting counterparty, SD, MSP, SEF, DCM, or SDR, as applicable to that element of the final rule.

[85] Because SDRs, MSPs, SDs, DCOs, and SEFs are new entities, estimates were made by the Commission: 15 SDRs, 50 MSPs, 250 SDs, 12 DCOs, and 40 SEFs. The number of DCMs was estimated to be 17 DCMs based on the current (as of October 18, 2010) number of designated DCMs. Additionally, for purposes of the Paperwork Reduction Act, the Commission estimates that there would be 30,000 non-SD/MSP counterparties who would annually be subject to the recordkeeping requirements of proposed Regulation 45.1. The Commission is revising its estimate of SDs and MSPs from a total of 300 in the proposed rule to 125 for this final rule, and is revising its DCM estimate from 17 to 18 to account for the designation of a new DCM.

With respect to SEFs, DCMs, DCOs, SDs, and MSPs (an estimated 195 entities or persons), which will have higher levels of swap recording activity [86] than non-SD/MSP counterparties, the Commission estimates that this requirement would impose an initial non-recurring burden of 1,560 hours per SEF, DCO, or DCM at a cost of $111,917, and investments in technological infrastructure of $100,000, and a recurring annual burden of 700 hours per SEF, DCO, DCM, SD, or MSP at a cost of $49,798, and a technological infrastructure maintenance cost of $50,000.

The Commission also estimates that § 45.2 will result in retrieval costs for registered entities and swap counterparties that do not currently have the ability to retrieve records within the required timeframe. The Commission expects that this requirement will present costs to registered entities and swap counterparties in the form of non-recurring investments in technological systems and personnel associated with establishing data retrieval processes, and recurring expenses associated with the actual retrieval of swap data records.

With respect to non-SD/MSP reporting counterparties that do not contract with a third party, the Commission estimates that this requirement would impose an initial non-recurring burden of 310 hours per reporting counterparty at a cost of $25,534 and a recurring annual burden of 115 hours per reporting counterparty at a cost of $9,510. With respect to SEFs, DCOs, DCMs, SDs, and MSPs, the Commission estimates that this requirement would impose an initial non-recurring burden of 350 hours per SEF, DCO, DCM, SD, or MSP at a cost of $28,745, and a recurring annual burden of 175 hours per SEF, DCO, DCM, SD, or MSP at a cost of $14,373.

b. *Sections 45.3 and 45.4.* Pursuant to §§ 45.3 and 45.4, SEFs, DCMs, DCOs, MSPs, SDs, and non-SD/MSP counterparties are required to provide reports to SDRs regarding swap transactions. SEFs and DCMs are required to report certain information (swap creation data) once at the time of swap execution. DCOs, SDs, MSPs, and non-SD/MSP counterparties are required to report certain information (swap creation data) once, as well as other information (swap continuation data) throughout the life of a swap—whenever a reportable event or a reportable change occurs. With respect to reporting by SDs, MSPs, and non-SD/MSP counterparties, only one counterparty to a swap is required to report information concerning that swap, typically an SD or an MSP, as determined by § 45.8.

The Commission anticipates that the reporting required by §§ 45.3 and 45.4 will to a significant extent be automatically completed by electronic computer systems; the following burden hours are calculated based on the annual burden hours necessary to oversee, maintain, and utilize the reporting functionality. SEFs, DCMs, DCOs, MSPs, and SDs (an estimated 195 entities or persons) are anticipated to have high levels of reporting activity; the Commission estimates that their average annual burden may be approximately 2,080 hours per SEF, DCO, DCM, MSP, or SD.[87] The Commission estimated 2,080 hours by assuming that a significant number of SEFs, DCMs, DCOs, MSPs, and SDs will dedicate the equivalent of least one full-time employee to ensuring compliance with the reporting obligations of §§ 45.3 and 45.4 (2,080 hours = 52 weeks × 5 days × 8 hours). The Commission believes that this is a reasonable assumption due to the volume of swap transactions that will be processed or entered into by these entities, the varied nature of the information required to be reported, and the frequency with which information may be required to be reported.[88] The Commission notes, however, that these burdens should not be considered additional to the costs of compliance with Part 43, because the basic data reporting technology, processes, and personnel hours and expertise necessary to fulfill the requirements of Part 43 encompass both the data stream necessary for real-time public reporting and the creation data stream necessary for regulatory reporting.[89]

Non-SD/MSP counterparties who would be required to report—which presently would include an estimated 1,000 entities [90]—are anticipated to have lower levels of activity with respect to reporting. Of those 1,000 non-SD/MSPs, the Commission believes that a majority, estimated now at 75%, or 750 entities, will contract with third parties to satisfy their reporting obligations. The identity of such third parties, the composition of the marketplace for third party services, and the costs to third parties to provide reporting services given the economies of scale and scope they may realize in providing those services are all presently unknowable. Therefore, the Commission does not believe it is feasibly to quantify the fees charged by third parties to non-SD/MSPs at the present time, but believes that they will likely vary with the volume of reports to be made. For those non-SDs/non-MSPs who are required to report swap transaction and pricing data to an SDR and contract with a third party, the Commission estimates that such non-SD/MSP counterparties will incur a recurring burden for reporting errors and omissions should errors or omissions be noticed by the counterparty or the SDR; however, the Commission has already considered these burdens in Part 43, and thus has not reapplied them to this rule. The costs of reporting to the remaining 250 non-SD/MSP counterparties that do not contract with a third party are addressed below.

The Commission estimates that costs applicable to reporting counterparties will include maintenance of an internal order management system (''OMS'') and the personnel hours needed to maintain a compliance program in support of that system. With respect to all reporting counterparties, including SEFs, DCOs, DCMs, SDs, MSPs, and non-SD/MSP counterparties that do not contract with a third party for reporting, the Commission estimates that the additional implementation of the OMS and the associated compliance and support program for the reporting of swap continuation data would impose an initial non-recurring burden of 350 hours per reporting counterparty at a cost of $28,745, and a recurring annual burden of 175 hours per reporting counterparty at a cost of $14,373.

In addition to the burden estimates presented here, reporting counterparties will incur costs associates with establishing and maintaining connectivity to an SDR for the purposes of effecting reporting. Connectivity costs have been accounted for in the

[86] For purposes of this Paperwork Reduction Act analysis, the Commission estimates that ''high activity'' entities or persons are those who process or enter into hundreds or thousands of swaps per week that are subject to the jurisdiction of the Commission. Low activity users would be those who process or enter into substantially fewer than the high activity users.

[87] The Commission obtained this estimate in consultation with the Commission's information technology staff.

[88] The estimated burden hours were obtained in consultation with the Commission's information technology staff.

[89] The Commission notes that DCOs are not dicussed in Part 43. The costs to DCOs for compliance with this final rule are thus unique to this rule, but identical to the costs addressed in Part 43.

[90] This is the estimated number of non-SD/MSP counterparties who will be required to report in a given year. Only one counterparty to a swap is required to report, typically an SD or a MSP as determined by § 45.8. Therefore, a non-SD/MSP counterparty that is in a swap with an SD or MSP counterparty will not be subject to the reporting obligations of §§ 45.3 and 45.4.

information collection prepared by the Commission with respect to its proposed part 43 rules, in which the information collection costs applicable to SDRs also have been estimated.[91] To avoid creating duplicative PRA estimates, the Commission is not accounting again for those costs with respect to this rulemaking. And in the event that there is a swap asset class for which no SDR accepts swap data, swap data for a swap in that class must be reported to the Commission. With respect to all reporting counterparties, including SEFs, DCOs, DCMs, SDs, MSPs, and non-SD/MSP reporting counterparties that do not contract with a third party for reporting, the Commission estimates that the annual cost to maintain connectivity to the Commission would be approximately $100,000 for each reporting counterparty or registered entity that transacts in swap asset classes that are not accepted by any registered SDR.[92]

c. *Section 45.5.* Pursuant to § 45.5, SDRs, SEFs, DCMs, SDs, and MSPs will be required to report a unique swap identifier to other registered entities and swap participants. SEFs and DCMs are anticipated to have higher levels of activity than SDRs, SDs, and MSPs with respect to unique swap identifier reporting. The Commission anticipates that the reporting of the unique swap identifier will be automatically completed by electronic computer systems. The following burden hours are based on the estimated burden hours necessary to oversee, maintain, and utilize the electronic functionality of unique swap ID reporting.[93]

The Commission estimates that USI-related costs will be highest for SEFs, DCOs, and DCMs, because they will have to create the greatest number of USIs. The Commission estimates the requirement for SEFs, DCOs, and DCMs to create and transmit USIs to counterparties and other registered entities to present a total marginal non-recurring burden of 1,000 personnel hours at a total cost of $81,869 per entity, and a recurring annual burden of 470 personnel hours at a total cost of $37,741 per entity.

For off-facility swaps with an SD or MSP reporting counterparty, the Commission estimates the requirement for SDs and MSPs to create and transmit USIs to counterparties and other registered entities to present a total marginal non-recurring burden of 750 personnel hours at a cost of $61,402 per entity, and a recurring annual burden of 353 hours of annual personnel hours at a total cost of $28,386 per entity.

For off-facility swaps between non-SD/MSP counterparties, the Commission estimates the requirement for SDRs to create and transmit USIs to counterparties and other registered entities to present a total marginal non-recurring burden of 500 annual personnel hours at a cost of $40,935 per entity, and a recurring annual burden of 235 annual personnel hours for a total cost of $18,871 per entity.

d. *Section 45.6.* Pursuant to § 45.6, each SD, MSP, and non-SD/MSP counterparty (an estimated 30,125 entities and persons), will be required to report both level one and level two reference data concerning itself to a public level one reference database and a confidential level two reference database, respectively. The report will be made once at the time of the first swap data report to an SDR involving the SD, MSP, or non-SD/MSP counterparty. A similar report will be required whenever an update or correction to the previously reported reference data is required. For any such report, the estimated number of burden hours is approximately two hours per entity, excluding customary and usual business practices. The number of reports required to be made per year is estimated to vary between zero and four, depending on when the SD, MSP or non-SD/MSP counterparty is required to make either the initial report or a report of an update or correction.[94] Thus, the estimated annual burden per entity varies between zero and eight burden hours. Therefore, there are between 0 and 241,000 estimated aggregate annual burden hours.

Additionally, the Commission anticipates that an LEI meeting the requirement of the final rule will be available before the commencement of swap data reporting. However, the Commission has also considered the potential burden that will be imposed on SDRs for creating, assigning and transmitting substitute identifiers if they should be required. The Commission estimates the cost to SDRs to create, assign and transmit substitute identifiers to counterparties and other registered entities to present a total marginal non-recurring burden of 500 annual personnel hours at a cost of $40,935 and a recurring annual burden of 235 annual personnel hours for a total cost of $18,871.

e. *Section 45.7.* Pursuant to § 45.7, each swap subject to the Commission's jurisdiction will need to be identified in all recordkeeping and swap data reporting by means of a unique product identifier and product classification system, which shall be designated at a later date by the Commission. The Commission expects that this will result in a one-time retrieval burden for each SEF and DCM for each swap product traded on its platform, either at the time the Commission designates the system for currently listed products or at the time a product is listed for trading. SDs, MSPs, and non-SD/MSP reporting counterparties also will be subject to a one-time retrieval burden for each swap product that they are required to report to an SDR or the Commission. As with unique swap identifiers, the Commission anticipates that the reporting of the unique swap identifier will be automatically completed by

[91] The Commission estimated the annual recurring technology-related burden of maintaining connectivity to an SDR at approximately $100,000 per reporting entity. The Commission also estimated the non-recurring personnel hour burden of establishing connectivity to an SDR from the perspective of a non-financial end-user counterparty with no initial infrastructure or personnel training to leverage to be approximately 172 burden hours at a cost of approximately $12,824 for each non-financial end-user. This estimate represents the costs of developing information capture and transmission systems, correspondence testing and operational support. The Commission notes that with respect to both part 43 and part 45, the cost to a non-financial end-user with no initial infrastructure or personnel training represents a high-end estimate, and that the costs of establishing and maintaining connectivity to an SDR will likely be considerably lower for SEFs, DCMs, SDs, and MSPs that likely have greater levels of technological sophistication and existing personnel training to leverage.

[92] This estimate is calculated as follows: [($100,000 in hardware- and software-related expenses, including necessary back-up and redundancy, per SDR connection) × (1 SDR connections per reporting counterparty)] = $100,000 per non-financial end-user. The Commission notes that there are circumstances under which a non-financial end-user serving as a reporting counterparty would be required to incur additional costs to maintain connectivity to both the Commission and one or more SDRs. Specifically, if a reporting counterparty engages in swap transactions in multiple asset classes, and an SDR exists that accepts data for at least one of those asset classes, but no SDR exists that accepts data for one or more of these asset classes, the reporting counterparty would then incur the costs of establishing and maintaining connectivity to both an SDR and the Commission. The Commission believes that the costs of establishing and maintaining connectivity to a second data repository would be some percentage of, but not equal to, the costs of establishing and maintaining connectivity to the first data repository, because the reporting counterparty would likely be able to leverage existing technology and expertise in the process. The Commission does not believe that the percentage of the initial costs that this additional cost represents is readily quantifiable, because it will likely vary with the volume of swaps, and thus the volume of data to be reported, that the reporting counterparty transacts in the secondary asset classes.

[93] The estimated burden hours were obtained in consultation with the Commission's information technology staff.

[94] The estimated burden hours and the estimated number of reports were obtained in consultation with the Commission's information technology staff.

electronic computer systems. Until such time as a system is designated, however, the Commission cannot estimate the aggregate annual burden hours associated with the retrieval necessary to populate the records and reports. The Commission therefore will establish a burden estimate associated with the collection of information resulting from § 45.7 on the designation of a system.

f. *§ 45.14.* Pursuant to § 45.14, a registered SDR is required to develop protocols regarding the reporting and correction of erroneous information. The Commission anticipates that this requirement will result in costs to SDRs associated with the reporting of both creation and continuation data in the form of non-recurring investments in technological systems and personnel during the development of the formatting procedure, and recurring expenses associated with data processing, systems maintenance, and personnel hours to format new data. However, the burden associated with § 45.14 are contained in the real time public reporting rules proposed by the Commission, for which the Commission has prepared an information collection request for review and approval by OMB. To avoid duplication of PRA burdens, those costs are not being accounted for in the information collection request associated with this rulemaking.

C. Consideration of Costs and Benefits

1. Introduction

The swap markets, which have grown exponentially in recent years, are now an integral part of the nation's financial system. As the financial crisis of 2008 demonstrated, the absence of transparency in the swap markets can pose significant risk to this system.[95] The Dodd-Frank Act seeks in part to promote the financial stability of the United States by improving financial system accountability and transparency. More specifically, Title VII of the Dodd-Frank Act directs the Commission to oversee the swap markets and to develop and promulgate regulations to increase swap market transparency and thereby reduce the potential for counterparty and systemic risk.[96]

Transaction reporting is a fundamental component of the legislation's objective to reduce risk, increase transparency, and promote market integrity within the financial system generally, and the swap market in particular. Specifically, the Dodd-Frank Act requires that ''each swap (whether cleared or uncleared) * * * be reported to a registered swap data repository.'' [97] The Dodd-Frank Act also requires SDRs to collect and maintain swap transaction data as prescribed by the Commission, and to make such data electronically available to regulators.[98]

CEA section 21(b)(1)(A), added by section 728 of the Dodd-Frank Act, addresses the content of the swap transaction data that registered entities and reporting counterparties must report to a registered SDR and directs the Commission to ''prescribe standards that specify the data elements for each swap that shall be collected and maintained by each registered swap data repository.'' In fulfilling this statutory mandate, CEA section 21(b)(1)(B) also directs the Commission to ''prescribe consistent data element standards applicable to registered entities and reporting counterparties.'' In promulgating this part 45, the Commission implements Congress's mandate that swap transaction and pricing data is reported to registered SDRs. Part 45 achieves the statutory objectives of transparency by, inter alia, requiring that market participants report swap transaction data to an SDR, possibly through intermediaries.[99]

As discussed in more detail below, the Commission anticipates that the requirements of part 45 will generate several overarching, if presently unquantifiable, benefits to swap market participants and the general public. These include (a) Increased transparency; (b) improved regulatory understanding of concentrations of risk within the market; (c) more effective monitoring of risk profiles by regulators and by regulated entities themselves through the use of unique identifiers; (d) improved regulatory oversight, and (e) more robust data management systems.

The Commission believes these benefits, made possible by the timely reporting of comprehensive swap transaction data, consistent data standards for recordkeeping, and identification of products, entities and transactions through unique identifiers, will accrue to market participants in a number of ways:

- Increased transparency of derivatives markets.
- Improved risk management: a transfer of the costs associated with systemic risk from the public to private entities, particularly to those that are better positioned to realize economies of scale and scope in assuming those costs.
- More robust risk monitoring and management capabilities for market participants as a result of the systems required under part 45. This will improve the monitoring of the participant's current swap market position.
- New tools to process transactions at a lower expense per transaction given the systems required under part 45. These tools will enable participants to handle the same or an increased volume of swaps at a lower marginal expense.
- More robust standards for the financial services industry, such as utilizing UTC and unique identifiers.
- Swap transaction reporting under the final rules provides a means for the Commission to gain a better understanding of the swap markets—including aggregate positions both in specific swap instruments and positions taken by individual entities or groups—by requiring transaction data for currently opaque markets, and then aggregating that data in useful ways. For example, having such data would help Commission staff monitor and analyze the swap market in a more comprehensive manner. In this way, the final rule would support Congress' mandate that the Commission supervise the swap markets; in addition, transaction reporting aids the Commission in the development of the mandated semiannual reports on swap trading activity.

In the NOPR, the Commission requested comment on whether a phase-in approach should be used for the time of reporting of confirmation by non-SD/MSP counterparties. The Commission also requested comment on whether

[95] As the U.S. Senate Committee on Banking, Housing, and Urban Affairs explained concerning the 2008 financial crisis:

Information on prices and quantities [in ''over-the-counter'', or ''OTC'', derivatives contracts] is opaque. This can lead to inefficient pricing and risk assessment for derivatives users and leave regulators ill-informed about risks building up throughout the financial system. Lack of transparency in the massive OTC market intensified systemic fears during the crisis about interrelated derivatives exposures from counterparty risk. These counterparty risk concerns played an important role in freezing up credit markets around the failures of Bear Stearns, AIG, and Lehman Brothers.

S. Rep. No. 111–176, at 30 (2010). More specifically with respect to credit default swaps (''CDSs''), the Government Accountability Office found that ''comprehensive and consistent data on the overall market have not been readily available,'' that ''authoritative information about the actual size of the CDS market is generally not available,'' and that regulators currently are unable ''to monitor activities across the market.'' Government Accountability Office, ''Systemic Risk: Regulatory Oversight and Recent Initiatives to Address Risk Posed by Credit Default Swaps,'' GAO–09–397T (March 2009), at 2, 5, 27.

[96] *See* Mark Jickling and Kathleen Ann Ruane, Cong. Research Serv., The Dodd-Frank Wall Street Reform and Consumer Protection Act: Title VII, Derivatives 1 (2010); Financial Regulatory Reform—A New Foundation: Rebuilding Financial Supervision and Regulation, U.S. Department of the Treasury, at 47–48 (June 17, 2009).

[97] CEA section 2(a)(13)(G).

[98] Regulations governing core principles, registration requirements, and duties of SDRs are contained in part 49 of this chapter.

[99] CEA section 4r(a)(1)(B), added by section 729 of the Dodd-Frank Act, requires that each swap not accepted for clearing by any DCO must be reported to a registered SDR or, in the case in which there is no SDR that would accept the swap, to the Commission.

there was sufficient infrastructure to support lifecycle or alternative approaches for data reporting. The Commission received a number of comments on the implementation of the proposed rules that included cost-benefit considerations.

Global Forex commented that the phase-in period should take into account the work needed for FX market participants to establish connectivity to the SDR and for the SDR to develop unique identifiers and become established. Similarly, CME added that the compliance date must take into account the scope of implementation, which could take in its view several years. The Electric Coalition recommended that the Commission clarify its regulatory needs before setting forth specific reporting rules. Thomson Reuters recommended that the Commission implement rules consistent with proposals by the European Commission in their Markets in Financial Instruments Directive (MiFID). DTCC recommended a nearly year-long phase-in with products with the greatest automation being required first. ISDA recommended that legal entity identifiers and unique product identifiers be implemented prior to reporting.

The Electric Coalition presented a detailed three-step implementation proposal that it stated would reduce burdens for commercial energy firms. The Electric Coalition recommended that reporting be implemented in three phases: first for on-facility, cleared swaps; second for standardized but off-facility and uncleared swaps; and third for bespoke off-facility and uncleared swaps. Similarly, Chatham Financial presented a detailed implementation schedule in four stages by counterparty. Under Chatham Financial's approach, DCMs, SEFs and DCOs would be required to report in the first stage; financial SDs would begin reporting in the second stage; non-financial SDs and MSPs would commence reporting in the third stage; and non-SD/MSP reporting counterparties would begin reporting in the fourth stage. CDEU agreed with Chatham Financial's approach. Dominion Resources recommended a phase-in approach for non-SD/MSP counterparties.

As discussed above, the Commission agrees with comments recommending phasing in reporting by asset class and by counterparty type, and has determined that the final rule provides for such a phase-in approach. The Commission anticipates that this approach will result in cost reductions for reporting counterparties relative to an immediate implementation of all of the reporting provisions of the rule. In particular, as discussed above, the phase-in approach adopted in the final rule will reduce costs for non-SD/MSP reporting counterparties by giving them six additional months to prepare for reporting. In response to comments, the Commission has also set forth a mechanism for voluntary supplemental reporting in § 45.12. As discussed in more detail above, the Commission believes § 45.12 may have benefits for both data accuracy and business processes.

In the sections that follow, the Commission considers the costs and benefits of part 45 as required by CEA section 15(a).

a. Background

Pursuant to CEA section 15(a), before promulgating a regulation under the CEA the Commission generally must consider the costs and benefits of its actions in the context of five broad areas of market and public concern: (1) Protection of market participants and the public; (2) efficiency, competitiveness, and financial integrity of markets; (3) price discovery; (4) sound risk management practices; and (5) other public interest considerations. The Commission, in its discretion, may give greater weight to any one of the five enumerated factors and may determine that, notwithstanding costs, a particular rule protects the public interest.[100]

In the NOPR, the Commission stated that the proposed reporting and recordkeeping requirements could impose significant compliance costs on some SDRs, SEFs, DCMs, DCOs, SDs, MSPs, and non-SD/MSP counterparties. In particular, the Commission noted that the proposed recordkeeping and reporting requirements could require capital expenditures for some such entities that could affect their ability to compete in the global marketplace because of reductions in available resources. The Commission solicited comment on its consideration of costs and benefits and specifically invited commenters to submit any data or other information that they may have quantifying or qualifying the costs and benefits of the proposed requirements. The Commission also requested comments on the overall costs and benefits of the proposed rules implementing the Dodd-Frank Act.

In considering the costs and benefits of this final rule as well as its other final rules implementing the Dodd-Frank Act, the Commission has, wherever feasible, endeavored to estimate or quantify the costs and benefits of the final rules. Where this is not feasible, the Commission provides a qualitative assessment of such costs and benefits. In this respect, the Commission notes that public comment letters did not provide quantitative data regarding the costs and benefits associated with the Proposed Rules.

In the following discussion, the Commission addresses the costs and benefits of the final rule, considers comments regarding the costs and benefits of the final rule, and subsequently considers the five broad areas of market and public concern as required by section 15(a) of the CEA. Moreover, as this rulemaking contains numerous reporting and recordkeeping requirements, many of the costs of the rulemaking are associated with collections of information. The Commission is obligated to estimate the burden of and provide supporting statements for any collections of information it seeks to establish under considerations contained in the PRA, 44 U.S.C. 3501 *et seq.,* and to seek approval of those requirements from the OMB. Therefore, the estimated burden for the collections of information in this rulemaking, as well as the consideration of comments thereto, are discussed in the PRA section of this rulemaking and the information collection request filed with OMB as required by that statute. Otherwise, the costs and benefits of the Commission's determinations are considered in light of the five factors set forth in CEA section 15(a).

In this final rulemaking, the Commission is adopting regulations mandated by section 21(b) to specify ''consistent data element standards'' for reporting swaps to registered SDRs.

b. Cost-Estimation Methodology

The Commission has chosen to use as the reference point for its cost estimates a non-SD/MSP counterparty that is not a financial entity as defined in CEA section (2)(h)(7)(C), and does not have the technical capability and other infrastructure to comply with the part 45 requirements—in other words, a new market entrant with no prior swap market participation or infrastructure.

However, the Commission expects that the actual costs to established market participants will often be lower than this reference point—perhaps significantly so, depending on the type,

[100] *See, e.g., Fisherman's Doc Co-op., Inc.* v. *Brown,* 75 F.3d 164 (4th Cir. 1996); *Center for Auto Safety* v. *Peck,* 751 F.2d 1336 (DC Cir. 1985) (noting that an agency has discretion to weigh factors in undertaking cost-benefit analysis).

flexibility, and scalability of systems already in place.[101]

The Commission recognizes that the costs of complying with part 45 are largely attributable to the reporting and recordkeeping requirements of this rule. As discussed above, the Commission has determined that the final rule will adopt a streamlined reporting regime that requires reporting by the registered entities or swap counterparties with the easiest, fastest, and cheapest data access and those most likely to have the necessary automated systems. Under this reporting regime, reporting obligations for non-SD/MSP counterparties are entirely eliminated in many cases, and are phased in or reduced in all other cases.

Non-SD/MSP counterparties can be required to report data only for the small minority of swaps in which both counterparties are non-SD/MSP counterparties.

Even within this small minority of swaps, the non-SD/MSP reporting counterparty will have no reporting obligations for swaps executed on a SEF or DCM and cleared by a DCO, or for off-facility swaps accepted for clearing by a DCO within the extended deadline for PET data reporting by the non-SD/MSP reporting counterparty.[102]

For swaps executed on a SEF or DCM but not cleared, the non-SD/MSP reporting counterparty's reporting obligations are limited to reporting required swap continuation data during the existence of the swap. Here the final rule provides reporting deadlines for non-SD/MSP reporting counterparties that are extended and phased in: a change to the primary economic terms of the swap must be reported by the end of the second business day following the date of the change during the first year of reporting, and by the end of the first business day following the date of the change thereafter; and valuation data is only required to be reported on a quarterly basis.

A non-SD/MSP counterparty will be required to report both swap creation data and swap continuation data only for off-facility, uncleared swaps between non-SD/MSP counterparties; and this obligation can apply only if the non-SD/MSP counterparty is an ECP, since CEA section 2(e) restricts swap trading by non-ECP counterparties to on-facility swaps. For the small number of off-facility, uncleared swaps for which a non-SD/MSP that is an ECP is the reporting counterparty, the final rule also provides reporting deadlines that are extended and phased in.[103]

Furthermore, costs for non-SD/MSP counterparties that are not a ''financial entity'' as defined in CEA section 2(h)(7)(C) will be further reduced by the fact that the final rule provides that for swaps between non-SD/MSP counterparties where only one counterparty is a financial entity, the financial entity will be the reporting counterparty. Because financial non-SD/MSP counterparties are more likely than non-SD/MSP counterparties that are not financial entities to have in place some or all of the personnel and technological infrastructure necessary to serve as the reporting counterparty, and to be able to realize economies of scale with respect to reporting, placing the burden of reporting in this context on the counterparty that is a financial entity is likely to provide a more cost-effective overall reporting process.

These provisions of the final rule either eliminate or substantially reduce the cost and burden of reporting for non-SD/MSP counterparties.

To address costs specific to SDRs, the Commission has estimated the incremental costs SDRs would incur to comply with the reporting and recordkeeping requirements of this rulemaking above the base operating costs for SDRs reflected in a separate rulemaking.[104] These incremental costs include the creation and transmission of unique identifiers.

2. General Cost-Benefit Comments Received

This rulemaking has generated an extensive record, which is discussed at length throughout this notice as it relates to the substantive provisions in the final rules. A number of commenters suggested that implementing and complying with the proposed rules would incur significant costs. Because of its concern about the potential level of costs, the Minneapolis Grain Exchange (''MGEX'') requested an extensive and realistic cost-benefit analysis of each regulation before adoption. The Commission also received general comments from Chatham Financial, Vanguard, ABC, EEI, WGCEF, Dominion Resources, FHLB, DTCC, the Electric Coalition, and CDEU, recommending that the Commission consider the costs and burdens of the proposed rules on non-registered, small entities. The Foreign Banks, Global Forex, CME, ISDA and SIFMA requested that the Commission consider the cost implications of the proposed regulations on all applicable entities and in some instances, recommended alternative approaches. The Commission has carefully considered alternatives suggested by commenters, and in a number of instances, has adopted alternatives or modifications to the proposed rules where, in the Commission's judgment, the alternative or modified standard accomplishes the same regulatory objective in a more cost-effective manner.

In response to the Commission's invitation in the NOPR for comments on the overall costs and benefits of the proposed rules, Better Markets stated that the Commission's cost-benefit analyses in the notices of proposed rulemaking may have understated the benefits of the proposed rules. Better Markets argued that adequate assessment of the costs and benefits of any single proposed rule or element of such a rule would be difficult or impossible without considering the integrated regulatory system of the Dodd-Frank Act as a whole. According to Better Markets:

It is undeniable that the Proposed Rules are intended and designed to work as a system. Costing-out individual components of the Proposed Rules inevitably double counts

[101] ''The submission of information to trade repositories is an activity that takes place in many OTC markets today and will not unduly burden those who must comply with the requirement.'' CL–WMBAA at 6. In contrast, as commenters highlighted, the costs of complying with part 43 can be expected to be higher for non-financial end-users and others currently lacking the resources and systems of large financial institutions that transact swaps more frequently. *See, e.g.,* CL–COPE. ''Swap Dealers have books of business that typically are much larger because they encompass a much broader universe of types of swaps and because it is the core of their regular business * * * of necessity, swap dealers have and will continue to develop sophisticated and highly complex computer systems powered by highly customized software to enable them to keep track of and manage their books of business. * * * End-users simply do not have these systems and capabilities.'' CL–Coalition of Energy End-Users at 4.

[102] If an off-facility swap is accepted for clearing after the deadline for PET data reporting by the non-SD/MSP reporting counterparty, the non-SD/MSP counterparty is excused from reporting confirmation data, which will instead be reported by the DCO.

[103] In such cases, PET data must be reported within 48 hours after execution during the first year of reporting, within 36 business hours after execution during the second year of reporting, and within 24 business hours after execution thereafter. Confirmation data must be reported within 48 hours after confirmation during the first year of reporting, within 36 business hours after confirmation during the second year of reporting, and within 24 business hours after confirmation thereafter. During the existence of the swap, changes to primary economic terms must be reported by the end of the second business day following the date of the change during the first year of reporting, and by the end of the first business day following the date of the change thereafter; and valuation data is only required to be reported on a quarterly basis.

[104] *See* Commission, Swap Data Repositories: Registration Standards, Duties and Core Principles: Final Rule. 76 FR 54538 (Sep. 1, 2011) at 54572 (SDR Final Rule).

costs which are applicable to multiple individual rules. It also prevents the consideration of the full range of benefits that arise from the system as a whole that provides for greater stability, reduces systemic risk and protects taxpayers and the public treasury from future bailouts.[105]

Better Markets also stated that an accurate cost benefit assessment must include the avoided risk of a new financial crisis. One measure of this is the still accumulating cost of the 2008 financial crisis. The comment letter cited a statement by Andrew G. Haldane, Executive Director for Financial Stability at the Bank of England, who estimated the worldwide cost of the crisis in terms of lost output at between $60 trillion and $200 trillion, depending primarily on the long term persistence of the effects.

Notwithstanding that it must (and does) conduct a cost-benefit analysis with respect to this rulemaking, the Commission agrees with Better Markets that the proposed rules should operate in a coordinated manner to improve and protect financial markets. In that regard, the costs and benefits associated with this final rule are in some instances not readily separable from the costs and benefits associated with other Commission rulemakings implementing the Dodd-Frank Act, most notably those governing real-time public reporting of swap transaction and pricing data (part 43) and registration and regulation of swap data repositories (part 49). Swap data recordkeeping and reporting, will, for instance, provide information to enable regulatory agencies to more fully understand the mechanisms and risks of the swap market. Access to previously unavailable data will allow these agencies to better model and analyze swap markets to mitigate systemic risk, detect potential market manipulation, and expand their capabilities in efficient market oversight. Acknowledging this, the Commission must conduct a cost-benefit analysis with respect to specific rulemaking.

In a broad sense, the costs presented to market participants by the requirements of this rule represent the internalization by financial market participants of a negative externality—the costs generated by systemically risky behavior on the part of market participants, which had previously been internalized by the taxpaying public in the form of government bailouts of failed financial firms that were brought down in part by this risky behavior.

In analyzing the costs and benefits of this rulemaking, it is important to note that many elements of the rule are mandated by Dodd-Frank Act and are thus outside the Commission's discretion. For example:

- Information about all swaps, cleared or uncleared, must be reported to a registered SDR (or, in the event that a swap is not is not accepted by an SDR, to the Commission).
- The Commission must prescribe consistent data element standards for SDRs, registered entities, and reporting counterparties.
- The Commission must determine the hierarchy of reporting responsibility for uncleared swaps.

3. Recordkeeping

As discussed throughout this release, the CEA as amended by the Dodd-Frank Act establishes recordkeeping requirements for registered entities.

a. Benefits of Recordkeeping

The recordkeeping requirements of part 45 will allow the Commission and other regulatory agencies to develop an accurate picture of swap markets in a timely fashion. This serves the public interest. From an enforcement perspective, the recordkeeping requirements of part 45 enable investigators and attorneys to reconstruct a comprehensive, sequenced record of swap transactions that will be an essential tool in ensuring the fairness of swap markets. The recordkeeping requirements of part 45 will also facilitate examinations and investigations by the Commission and other regulators to ensure that registered entities are in compliance with core principles.

The requirement to retain records for the life of the swap plus five years provides be of substantial benefit to the economists employed by the Commission and to other regulators. In general, economic analysis benefits from a broader body of data; in particular, time-series analysis (a fundamental element of economic and statistical analysis in which the value of a variable is charted over time) may benefit from a body of data that represents a longer time horizon.

b. Costs of Recordkeeping

The Commission received several comments related to the costs of swap recordkeeping. With respect to recordkeeping by non-SD/MSP counterparties, the Electric Coalition recommended that the Commission reduce recordkeeping requirements to the minimum necessary and phase requirements relative to the cost of implementation. Shell Energy requested clarification that non-SD/MSP counterparties are not subject to the recordkeeping requirements. WGCEF requested that the Commission consider participants who transact in non-financial markets when adopting its recordkeeping proposals, and further evaluate the actual costs, availability of technology, and ability of market participants to deploy the technology required to comply with such requirements.

With respect to record retention, AGA contended that requiring records to be kept through the life of a swap plus five years would impose substantive costs on end-users such as gas utilities. AGA also stated that the proposed three-day accessibility requirement effectively would require an off-site storage provider, which if available at all, could be cost-prohibitive. Reasoning that transactions between non-SD/MSP counterparties would represent only a small portion of regulated activity, AGA recommended that the Commission reduce its recordkeeping requirements for non-SD/MSPs so that they would only have to maintain such records for three years following expiration of the swap. CIEBA and WGCEF supported the proposed five-year post-expiration retention period, but also recommended not extending it further. ISDA and SIFMA requested clarification that the phrase ''via real-time electronic access'' does not mean ''instantly accessible'' which it characterized as impracticable given the volume of day to day reporting.

As discussed above, the Commission has determined that the final rule requires SEFS, DCMs, DCOs, SDs, and MSPs to keep full, complete, and systematic records, together with all pertinent data and memoranda, of all activities relating to the business of such entities or persons with respect to swaps. Such records must be kept in electronic rather than paper form unless they are originally created and exclusively maintained in paper form. The final rule limits the parallel requirement for non-SD/MSP counterparties to full, complete, and systematic records, together with all pertinent data and memoranda, with respect to each swap in which they are a counterparty. In response to comments, the Commission has determined that non-SD/MSP counterparties may keep records in either electronic or paper form.

With respect to record retention, the final rule provides that all records required to be kept by SEFS, DCMs, DCOs, SDs, and MSPs must be kept with respect to each swap throughout the life of the swap and for at least five years following final termination of the swap, or for at least ten years following the date of creation of the swap, whichever is greater. Non-SD/MSP counterparties

[105] CL–Better Markets II, at 3.

must keep required records throughout the existence of the swap and for five years following final termination of the swap.

With respect to record retrieval, the final rule provides that required records maintained by SEFs, DCMs, DCOs, SDs, and MSPs must be readily accessible by the registered entity in question via real time electronic access throughout the life of the swap and for two years following the final termination of the swap, and must be retrievable within three business days throughout the remainder of the required retention period. Record retrieval requirements are lower in the case of non-SD/MSP counterparties: in response to comments, the Commission has determined that non-SD/MSP counterparties need only be able to retrieve records within five business days throughout the required retention period.

As discussed above, the Commission has determined that the compliance date for non-SD/MSP counterparties will be six months after the compliance date for other registered entities and counterparties. The Commission has determined that compliance with the requirement to begin recordkeeping should not be further phased in for non-SD/MSP counterparties. As noted, the final rule provides lesser recordkeeping requirements and lesser retrieval requirements for non-SD/MSP counterparties, in order to reduce recordkeeping costs and burdens for them. The Commission believes that delaying the requirement to comply with recordkeeping requirements could interfere with the ability of the Commission and other regulators to carry out their oversight and enforcement responsibilities. As noted above, the Commission's experience with recordkeeping requirements in the context of futures suggests that all market participants do retain records, and that such recordkeeping is essential for effective oversight and prosecution of violations.

The Commission anticipates that the recordkeeping requirements in § 45.2 will present additional costs to registered entities and swap counterparties that currently do not retain swap records for the required period of time. Costs for recordkeeping costs will include non-recurring investments in technological systems and personnel associated with establishing data capture and storage systems, and recurring expenses associated with personnel, data storage and maintenance of data storage systems. The Commission has not identified any quantifiable costs of recordkeeping that are not associated with an information collection subject to the PRA. Quantifiable costs associated with the same are reflected in the PRA. The Commission believes that this cost will be substantially reduced or effectively eliminated for registered entities and swap counterparties that already engage in the recordkeeping as required by the final rule.

The Commission anticipates that the retrieval requirements set forth in part 45.2 will result in additional costs to registered entities and swap counterparties that do not currently have the ability to retrieve records within the required timeframe. The Commission expects that this requirement will present costs to registered entities and swap counterparties in the form of non-recurring investments in technological systems and personnel associated with establishing data retrieval processes, and recurring expenses associated with the actual retrieval of swap data records. Quantifiable costs associated with the same are reflected in the PRA. The Commission believes that these costs will be substantially reduced or effectively eliminated for registered entities and swap counterparties with an existing infrastructure capable of record retrieval within the timeframe set forth in this requirement.

The Commission also believes that its determination to allow non-SD/MSP counterparties to keep records in either electronic or paper form will generally reduce the cost and burden of recordkeeping for such counterparties. While many non-SD/MSP counterparties may choose to keep records in electronic form, some such counterparties that currently do not have electronic recordkeeping systems may prefer, as suggested by comments, to avoid the cost of acquiring such systems by continuing to maintain paper records. The Commission believes that the final rule provision lengthening the record retrieval period for non-SD/MSP counterparties to five business days will give such counterparties adequate time to retrieve such paper records in the event that the records are requested by the Commission or another regulator in the course of an investigation. The Commission generally believes that the pre-Dodd-Frank rationale for requiring Commission registrants to keep all records relating to their business similarly applies to swaps by registered entities and swap counterparties. The Commission requires these records to perform its regulatory function. Retaining readily accessible records may also improve the risk management practices of complying entities that wish to consult or analyze swap transactions as part of their proprietary risk management strategies.

c. Recordkeeping Requirements in Light of CEA Section 15(a)

The Commission has evaluated the benefits of the recordkeeping provisions of § 45.2 in light of the specific considerations identified in section 15(a) of the CEA as follows:

Protection of market participants and the public. As discussed above, the Commission has endeavored to limit the costs attributable to discretionary implementation decisions to the maximum degree consistent with statutory requirements and their intended benefits. The Commission has endeavored to match the costs of the post-implementation marketplace with the sizes, levels of sophistication, and levels of systemic importance of the affected participants, so that the associated benefits may be realized by the public.

With respect to recordkeeping, the Commission believes the benefits include the protection of market participants and the public. The Commission believes that the recordkeeping requirements in the final rule will enable the Commission and other regulatory agencies to fulfill their oversight and enforcement responsibilities. The record retention periods in the final rule are consistent with both the Commission's existing retention requirement in the context of futures, pursuant to Commission Regulation 1.31, and with applicable statutes of limitation. Such record retention will give the Commission ready access to data essential to its mission to protect market participants and the public from violations of the CEA and Commission regulations. The build-up of systemic risk in the largely opaque swap market played a significant role in the financial crisis of 2007–2008; accordingly, the Commission believes that the introduction of transparency to these markets will be critical to regulators' efforts to inform and protect market participants and the public in the future.

Efficiency, competiveness, and financial integrity. As discussed above, the Commission has endeavored to limit the costs attributable to discretionary implementation decisions to the maximum degree consistent with statutory requirements and their intended benefits. The Commission has endeavored to match the costs of the post-implementation marketplace with the sizes, levels of sophistication, and

levels of systemic importance of the affected participants, so that the associated benefits may be realized by the public.

The Commission believes that the recordkeeping requirements provided in the final rule will serve to protect the financial integrity of swap markets, through increased transparency. This transparency will provide the Commission and other regulators enhanced enforcement abilities, aiding the prosecution and deterrence of market abuses. The Commission acknowledges the costs associated with the recordkeeping requirement (discussed above), and has attempted to minimize costs to the extent consistent with fulfillment of the purposes of the Dodd-Frank Act. The final rule adopts the NOPR provision for lesser recordkeeping requirements for non-SD/MSP counterparties. While other registered entities and counterparties must keep records of all activities relating to their businesses with respect to swaps, non-SD/MSP counterparties are only required to keep records with respect to each swap in which they are a counterparty. Recordkeeping by all swap counterparties, including non-SD/MSP counterparties, is essential to the Commission's enforcement and market supervision functions. The Commission also notes that current lapses in recordkeeping by institutions may generate implicit integrity costs to financial transactions and the wider public; the final rule attempts to mitigate these current costs through various recordkeeping requirements (including universal identifiers), aiding financial integrity.

The Commission believes that, by improving the integrity of the U.S. swap markets in the manner described above, this final rule may make participation in the U.S. swap markets more appealing to entities that currently do not participate, and thus could enhance demand for access to the U.S. swap market and its participants both domestically and internationally. This potential increase in swap market participation may improve the competitiveness of the swap marketplace as more parties demand sources of risk transference.

Furthermore, the Commission does not anticipate that the recordkeeping requirements of this final rule present any costs that would impede the efficiency of swap markets. Required recordkeeping may aid internal audits and dispute resolution. Electronic recordkeeping, which will aid required electronic reporting, may improve efficiency and reduce initiation and maintenance costs over the long run.

Price discovery. The Commission does not believe that this requirement has a material effect on the price discovery process.

Sound risk management practices. The Commission believes that the final rule recordkeeping requirements may serve to improve the soundness of the risk management practices of market participants. The Commission is essentially requiring the maintenance of accurate records in a manner such that records are readily available for reproduction to regulators, but the Commission anticipates an ancillary risk management benefit. That is, market participants will now have access to a highly organized and streamlined internal records system when analyzing or otherwise developing their risk management practices. The Commission does not believe that the costs associated with its discretionary implementation decisions are of a magnitude to impede sound risk management. Moreover, the cost of implementation of the recordkeeping rule may be partially compensated by error avoidance and the mitigation of internal risk.

Other public interest considerations. As discussed throughout the preamble, the Commission believes that the greater market transparency, enhanced market monitoring, and increased systemic risk mitigation that will be enabled by the swap recordkeeping required by the final rule are in the public interest.

4. Swap Data Reporting

a. *Benefits of Swap Data Reporting*

The Commission anticipates that the part 45 reporting requirements will generate several overarching, if presently unquantifiable, benefits to swap market participants and the general public. These include(i) Improved risk management; (ii) a transfer of the costs associated with systemic risk from the public to private entities, particularly to those that are better positioned to realize economies of scale and scope in assuming those costs; and (iii) improved regulatory oversight.

The Commission believes these benefits, made possible by the timely reporting of comprehensive swap transaction data, will accrue to market participants in a number of ways:

- More robust risk monitoring and management capabilities for market participants as a result of the systems required under part 45. This will improve the monitoring of the participant's current swap market position.
- New tools to process transactions at a lower expense per transaction given the systems required under part 45. These tools will enable participants to handle the same or an increased volume of swaps at a lower marginal expense both at trade inception and during its life.
- More robust standards for the financial services industry, such as utilizing UTC and unique identifiers for products and legal entities.

Transaction reporting under part 45 also benefits the general public by supporting the Commission's supervision of the swap market, as well as the broader supervisory responsibilities of U.S. financial regulators to protect against financial market systemic risk. The reporting and recordkeeping requirements provide a means for the Commission to gain a better understanding of the swap market—including the pricing patterns of certain commodities. As bespoke swaps move onto more standardized, and in some cases, electronic platforms, more numerous trade participants will likely enter these markets. Timely, comprehensive, and standardized regulatory reporting is especially crucial for successful oversight of these marketplaces.

Transparency facilitated by transaction reporting to SDRs also will help provide a check against a reoccurrence of the type of systemic risk build-up that occurred in 2008, when ''the market permitted enormous exposure to risk to grow out of the sight of regulators and other traders and derivatives exposures that could not be readily quantified exacerbated panic and uncertainty about the true financial condition of other market participants, contributing to the freezing of credit markets.'' [106] The ability to monitor and quantify these levels of risk assumption provides one additional line of defense against another occurrence of crippling financial costs.

Pursuant to this final rule, reporting counterparties will be required to report allocation information when a swap is transacted by an agent on behalf of clients. The Commission believes that this requirement will enable regulators to better understand swaps in the context of allocation, and to more accurately assess their associated systemic risk, by enabling regulators to see the full record of each such swap all the way back to both the original transaction and the actual counterparties.

The Commission believes requiring all data to be reported in the same SDR following the initial report from a SEF or DCM would reduce data fragmentation and improve regulatory

[106] Mark Jickling and Kathleen Ann Ruane, Cong. Research Serv., The Dodd-Frank Wall Street Reform and Consumer Protection Act: Title VII, Derivatives 1 (2010).

oversight. The costs and benefits of the Commission's approach are addressed in more detail below in the discussion of the section 15(a) factors. The Commission is harmonizing its initial PET data reporting with the part 43 real-time public reporting requirements to the extent possible and setting forth identical timeframes so that counterparties and registered entities may be able to, in most cases, submit data for both requirements in a single report.[107]

The Commission notes that there is a cost reduction associated with the improved harmonization between the approach to PET data reporting of this final rule and the part 43 real-time public reporting requirements that were made by the Commission between the issuance of the NOPR and this final rule. These requirements have been harmonized to the extent possible, including the imposition of identical timeframes, so that counterparties and registered entities will be able to make one initial report. The Commission anticipates that this harmonization will result in a significant reduction in cost to counterparties and registered entities.

The Commission believes that part 45 will yield significant benefits to the public and swap market participants. As discussed more fully below, however, the Commission is mindful of the costs of its rules and has carefully considered comments concerning the potential costs of its proposed recordkeeping and reporting rules. To the extent possible and consistent with the statutory and regulatory objectives of this rulemaking, the Commission has adopted cost-mitigating alternatives presented by commenters. In the following paragraphs, the Commission first estimates the costs of reporting and next considers those costs and the aforementioned benefits in light of the five public interest factors of CEA section 15(a).

b. *Costs of Swap Data Reporting*

As discussed in detail above, the Commission received a number of comments supporting the proposed reporting rules, and others suggesting alternatives or refinements. Commenters did not provide any quantitative data regarding the costs to registered entities, reporting counterparties and the public. The Commission addressed those comments above and, where deemed appropriate, the final rules reflect commenters' suggestions.

[107] The phase-in and implementation of these requirements may differ.

Costs of Reporting Requirements

The Commission anticipates that the direct, quantifiable costs of complying with the requirement for SEFs, DCMs, DCOs, and reporting counterparties to report creation data will take the forms of (i) nonrecurring expenditures in technology and personnel; and (ii) recurring expenses associated with systems maintenance, support, and compliance. Each of these quantifiable costs of swap data reporting is associated with an information collection subject to the PRA. These costs therefore have been accounted for in the information collection requests filed with OMB as required by the PRA.

The Commission estimates that the initial costs for its reference point, a non-SD/MSP reporting counterparty that is not a ''financial entity'' as defined in CEA section 2(h)(7)(C), and does not contract with a third party to report swap data, will likely consist of (i) Developing an internal OMS capable of capturing all relevant swap data in real-time; (ii) establishing connectivity with an SDR that accepts data; (iii) developing written policies and procedures to ensure compliance with part 45; and (iv) compliance with error correction procedures.[108]

The Commission anticipates, however, that the costs of creation data reporting for the reporting entities and counterparties listed above are already largely addressed by the costs of reporting the real-time data stream for compliance with part 43. Accordingly, the costs of creation data reporting presented by part 45 should not be considered incremental to the costs of capturing and transmitting the real-time data stream pursuant to part 43 except in certain instances, which are addressed below. In general, the Commission estimates that the processes necessary for capturing and transmitting the real-time data stream pursuant to part 43 will encompass the costs of capturing and transmitting creation data pursuant to part 45. The Commission anticipates that a reporting entity or counterparty will use its OMS to capture all of the information that pertains to a given swap. This body of information will be used to produce the fields necessary for compliance with both part 43 and part 45. Therefore, the Commission believes that, in general, the costs of developing and maintaining an OMS necessary for compliance with part 45 should not be considered to be incremental to the costs of developing and maintaining an OMS for compliance with part 43.

Similarly, under both part 43 and part 45 the reporting entity will be required to establish and maintain connectivity with an SDR for the transmission of data. The Commission anticipates that, in order to streamline the data reporting process, reporting entities will transmit both the real-time data stream and the regulatory data stream simultaneously to the same SDR via the same connection.[109] The Commission has aligned the reporting deadlines provided in part 45 and the public dissemination delays set forth in part 43 in order to reduce costs and burdens by permitting registered entities and reporting counterparties to fulfill their swap data reporting obligations with respect to both part 45 and part 43 by transmitting a single report.[110] Given simultaneous transmission of the data streams necessary for compliance with parts 43 and 45, the Commission believes that, in general, the costs of establishing and maintaining connectivity to an SDR in order to comply with part 45 should not be considered to be additional to the costs of establishing and maintaining connectivity to an SDR in order to comply with part 43.

The Commission anticipates that the same logic may be applied to the costs of developing written compliance policies and procedures, as well as the costs of developing and implementing error correction procedures. Because the data streams necessary for compliance with parts 43 and 45 for a given swap

[108] As noted above, most data reporting pursuant to Part 45 will be performed by SDs, MSPs, SEFs, DCMs, or DCOs. However, when estimating costs to market participants for this final rule, the Commission anticipates that the technological infrastructure and personnel costs will likely be highest for an unsophisticated non-SD/MSP reporting counterparty that is not a financial entity, has no existing infrastructure for reporting, and does not contract with a third-party service provider to facilitate reporting. Accordingly the Commission considered costs from this perspective. The Commission anticipates that these costs will be lower, and in many cases significantly reduced or completely eliminated, for larger or more sophisticated entities that already have technological and personnel systems developed and operational.

[109] Should a reporting entity elect to transmit these streams separately, its cost to transmit data to an SDR would likely increase; however, it is for precisely this reason that the Commission anticipates that reporting entities would, in fact, eliminate duplicative reporting of data streams for a given swap by transmitting both streams simultaneously.

[110] For off-facility swaps that are not accepted for clearing within the applicable deadline for the reporting counterparty to report PET data, the reporting counterparty can combine required PET data reporting and required real time reporting in a single report, but would still have to report confirmation data separately if it is not reported along with PET data. Reporting counterparties can avoid the need for a separate confirmation data report by confirming their swaps within the applicable deadline for PET data reporting.

originate from the same set of information, the Commission anticipates that reporting entities will likely consider the management of both streams when developing compliance and error correction procedures. The Commission therefore believes that in general, the costs of developing and implementing compliance and error correction procedures presented by part 45 should not be considered additional to the costs of developing and implementing compliance and error correction procedures presented by part 43.

The Commission acknowledges that part 43 does not address the costs of reporting by DCOs. The Commission estimates that the incremental costs to DCOs of compliance with this final rule would be comparable to the costs either (a) a SEF or DCM, if the DCO makes the creation data report for an off-facility, cleared swap,[111] or (b) an SDR, if the DCO registers as such. In the event that a DCO registers as an SDR, it will also incur the costs of registering as such pursuant to part 49.

Costs of Reporting Timelines

The reporting timelines and requirements established in this part were designed to accommodate the needs of reporting counterparties and registered entities of varying size and sophistication. The Commission believes that these reporting timelines and requirements have been tailored appropriately to the sizes and levels of technological and personnel sophistication of the affected entities, and will not impose any additional costs to reporting counterparties or registered entities above the costs associated with their reporting obligations. Costs associated with reporting obligations are discussed below in the sections addressing the costs of creation data reporting and continuation data reporting.

Several commenters addressed the timeframes allotted for reporting creation and continuation data. The AGA requested at least 24 hours for PET data reports by non-SD/MSP reporting counterparties, both initially and when required to supplement an incomplete SEF or DCM report. AGA also requested more than the 24 hour timeframe allotted for PET data reporting for swaps that are neither electronically executed nor verified, because in certain instances the reports could be required outside normal business hours, which would increase reporting costs. Similarly, ABC asked the Commission to clarify that the 24 hour timeframe did not include non-business days, such as a national or state holiday or a national or state period of emergency.

MFA commented generally that it believed that the policy benefits of providing swap data within minutes of execution do not outweigh the costs in terms of the high likelihood of errors, or the infrastructure costs to establish a mechanism to report swaps information in these short timeframes. Specifically, MFA recommended that the Commission define ''execution'' as being coterminous with ''confirmation'' for on-facility swaps. It also urged that, for swaps not executed or confirmed electronically, the 24-hour timeframe in the NOPR should commence following manual confirmation. Similarly, COPE, EEI, and IECA commented that the 24 hour timeframe was too short for non-SD/MSP counterparties. Specifically, IECA recommended weekly reports for all required creation data and weekly or biweekly for continuation data.

Chatham Financial and CDEU recommended a timeline of the next business day following execution for electronically executed non-SD/MSP reportable swaps and second business day following execution for non-electronically executed and confirmed non-SD/MSP reportable swaps.

The Electric Coalition recommended that non-SD/MSP reporting counterparties be required to report no more than quarterly, and generally commented that the timelines were too short for non-financial entities. Similarly, CDEU commented that, for valuation data (a subset of continuation data reporting), non-SD/MSP end-users should not be required no more frequently than they are required to reconcile their portfolios.

As discussed above, after considering these comments, the Commission has determined that the final rule will adopt a streamlined reporting regime that requires reporting by the registered entities or swap counterparties with the easiest, fastest, and cheapest data access and those most likely to have the necessary automated systems.

Under this reporting regime, in the case of swaps executed on a SEF or DCM and cleared on a DCO, and in the case of off-facility swaps accepted for clearing by a DCO within the deadlines for reporting counterparties to report PET data, reporting obligations for non-SD/MSP reporting counterparties are entirely eliminated, and the only reporting obligation for SD or MSP reporting counterparties is the requirement to report valuation data during the existence of the swap.

For on-facility swaps that are not cleared, reporting counterparties must report only required swap continuation data, including reports of changes to primary economic terms of the swap made after occurrence of such a change, and reports of valuation data. As noted above, the deadlines for such reports by non-SD/MSP reporting counterparties have been substantially extended.

For off-facility swaps not accepted for clearing within the applicable counterparty reporting deadline, but eventually cleared, SD or MSP reporting counterparties are required to report only PET data and valuation data, and non-SD/MSP reporting counterparties are required to report only PET data.

A non-SD/MSP counterparty will be required to report both swap creation data and swap continuation data only for off-facility, uncleared swaps between non-SD/MSP counterparties; and this obligation can apply only if the non-SD/MSP counterparty is an ECP, since CEA section 2(e) restricts swap trading by non-ECP counterparties to on-facility swaps. For the extremely small number of off-facility, uncleared swaps for which a non-SD/MSP that is an ECP is the reporting counterparty, the final rule also provides reporting deadlines that are extended and phased in. In such cases, PET data must be reported by the non-SD/MSP reporting counterparty within 48 hours after execution during the first year of reporting, within 36 business hours after execution during the second year of reporting, and within 24 business hours after execution thereafter. Confirmation data must be reported within 48 hours after confirmation during the first year of reporting, within 36 business hours after confirmation during the second year of reporting, and within 24 business hours after confirmation thereafter. During the existence of the swap, changes to primary economic terms must be reported by the end of the second business day following the date of the change during the first year of reporting, and by the end of the first business day following the date of the change thereafter; and valuation data is only required to be reported on a quarterly basis.

Finally, for off-facility, uncleared swaps, SD or MSP reporting counterparties must report both required swap creation data and required swap confirmation data. However, the reporting timeframes for these reports have been coordinated with the dissemination delays for real

[111] The costs to a DCO will be similar to those of a SEF or DCM in this instance because the initial report to the Commission by the registered entity will include the same data fields reported in the same timeframe; thus, the non-recurring and recurring costs to a DCO of processing and reporting those data should be similar, if not identical, to those incurred by a SEF or DCM.

time reporting, in order to permit counterparties to fulfill both real time and regulatory reporting obligations by making a single creation data report.[112] Confirmation data reporting deadlines in this context have also been extended to 24 business hours in cases where confirmation occurs manually rather than through use of automated systems, due to the presence of a non-SD/MSP counterparty that lacks such systems.

These provisions of the final rule either eliminate or substantially reduce the costs and burdens of swap data reporting for all reporting counterparties, and particularly for non-SD/MSP reporting counterparties, who are those least likely to have existing technological and personnel infrastructure for swap data reporting.

Costs of Reporting Cleared Swaps

The Commission notes that the final rule swap data reporting requirements could present costs to reporting counterparties and registered entities to the extent that a SEF, DCM, or reporting counterparty reports regulatory data to an SDR with which it does not have a presently existing connection, rather than to a DCO registered as an SDR, with which registered entity or reporting counterparty has a presently existing connection for clearing purposes.[113] However, the Commission enumerated the costs of establishing connectivity to an SDR for swap data reporting in its final part 43 rules governing real-time reporting of swap transaction and pricing information. The costs of connectivity presented by this final rule are not additional to those costs considered in connection with part 43, and thus are not appropriate for evaluating costs relative to benefits in this rulemaking. Moreover, the Commission has not identified any quantifiable costs with respect to connectivity not associated with the part 43 information collection request, for which the Commission must account under the PRA.

Two commenters addressed cost-benefit considerations in regard to the reporting of cleared swaps to SDRs. CMC recommended that the Commission leverage existing DCOs for reporting cleared swaps, adding that requiring the industry to establish a redundant set of expensive connections with non-DCO SDRs for the purpose of making regulatory reports for cleared trades would be costly, inefficient and unnecessary. Similarly, CME recommended that the initial regulatory report for a cleared swap be reported to a DCO or an SDR chosen by the DCO, adding that this approach is the lowest cost and least burdensome method for implementing the regulatory reporting requirements.

The Commission has determined to adopt the rules as they relate to reporting swap data for cleared trades to SDRs largely as proposed. While the Commission is cognizant of the cost-benefit considerations, section 2(a) of the CEA requires each ''swap (whether *cleared or uncleared*) * * * be reported to a registered swap data repository'' (emphasis added). The Commission notes that section 21(a)(1)(B) allows DCOs to register as SDRs, and that the final rules do not preclude counterparties or registered entities from reporting swap data to existing DCOs registered as SDRs, or to SDRs chosen by DCOs, if they so choose for business or cost-benefit reasons.

Costs Affected by Permitted Use of Third-Party Service Providers to Facilitate Reporting

The Commission anticipates that the final rule reporting requirements for reporting counterparties and registered entities may result in costs to such counterparties and entities in the form of (i) personnel hours dedicated to the development and maintenance of reporting systems and connectivity to data repositories; and (ii) the development and ongoing administration of a compliance program. Such costs could include standardizing data or hiring new personnel to upgrade technology infrastructure. However, such costs could be affected or reduced where the reporting counterparty or registered entity required to report chooses to have a third-party service provider facilitate reporting.

The Commission requested comment on the merits of allowing third-party facilitation of swap data reporting and on how it should be structured. Several commenters responded with comments regarding cost-benefit considerations. Global Forex, DTCC and WGCEF supported the NOPR provision allowing third-party facilitation of reporting because they believe it will reduce costs, particularly for non-SD/MSPs.

As noted above, the Commission has considered these comments, and has determined to adopt in the final rule the NOPR provision permitting third-party facilitation of data reporting. The use of third-party service providers in the reporting phase of the regulatory data reporting process may also represent a likely cost reduction. Reporting counterparties and registered entities that elect to contract with third-party service providers can realize the cost savings associated with the comparative advantages of third-party providers specializing in swap data reporting services.

Costs of Creation Data Reporting

i. Costs to Counterparties and Registered Entities

As discussed in more detail above, the NOPR called for two types of creation data reporting, namely PET data reporting and confirmation data reporting. The Commission anticipates that creation data reporting will represent costs to reporting counterparties and registered entities in the form of (a) significant non-recurring investments in technological systems and personnel; and (b) recurring expenses associated with systems usage and maintenance and personnel hours required for data reporting.

The Commission estimates that the initial costs for its reference point, a non-SD/MSP reporting counterparty that is not a financial entity as defined in the Dodd-Frank Act and does not contract with a third party to report swap data, will likely consist of (i) Developing an internal OMS capable of capturing all relevant swap data in real-time; (ii) establishing connectivity with an SDR that accepts data; (iii) developing written policies and procedures to ensure compliance with part 43; and (iv) compliance with error correction procedures.

The Commission estimates that the recurring costs for its reference point, a non-SD/MSP reporting counterparty that is not a financial entity and does not contract with a third party to report swap data, will likely consist of (i) Operational support for its OMS, including adaptation to new products, systems upgrades and ongoing maintenance; (ii) maintaining connectivity with an SDR that accepts data, including the demands on technological systems and the burden associated with the personnel hours necessary to facilitate transmission of data; and (iii) compliance with error correction procedures, including the burden associated with the personnel hours necessary to monitor and report errors.

The Commission notes, however, these costs should not be added to the costs of reporting data for real-time public reporting enumerated in the Commission's final rules in part 43

[112] The phase-in and implementation of these requirements may differ.

[113] Should a DCO register as an SDR, counterparties that transacted through the DCO previously would have already established connectivity for processing those transactions, and would thus not have to incur new connectivity costs once the DCO began functioning as an SDR.

concerning real time reporting, insofar as they refer to PET data for regulatory reporting.

Pursuant to the final rule, counterparties will be required to report allocation information when a swap is transacted by an agent on behalf of clients. The Commission does not believe that this requirement is likely to present a significant incremental burden to counterparties. Based on conversations with industry participants, the Commission believes that allocation reports are already transmitted from one counterparty to the other following a swap; therefore, transmitting that report to an SDR would present a negligible additional burden.

The final rule provides that, should there be a swap asset class for which no SDR accepts swap data, swap data for a swap in that asset class must be reported to the Commission. This provision was set forth in the NOPR, and is required by CEA section 4r(b) and (c). The Commission anticipates that this requirement is unlikely to impose additional costs on registered entities and swap counterparties required to report swap data, since SDRs covering all existing swap asset classes have already applied for designation by the Commission. The Commission also notes that the requirements for such reporting differ from those for reporting to an SDR. The final rule calls for data for such swaps to be reported to the Commission at times announced by the Commission and in an electronic file in a format acceptable to the Commission, as determined by the Commission's Chief Information Officer.

The Commission has nonetheless considered possible costs associated with such reporting, which would apply only in the event that there is an asset class for which no SDR accepts data. In such circumstances, reporting counterparties and registered entities required to report swap data would be required to incur an initial one-time cost to establish and test connectivity to the Commission. The Commission notes, however, that because reporting counterparties will already be required to develop and test technological systems for establishing connectivity to an SDR pursuant to this final rule, there will not be an incremental non-recurring cost presented by this requirement. Rather, because this cost will only be incurred by a reporting counterparty in the absence of an SDR that accepts data for any asset class, this cost should be considered to exist in the absence of, rather than together with, the cost of establishing connectivity to an SDR.

In the event that a new asset class comes into existence for which no SDR immediately accepts regulatory swap data reports, the Commission will be required to receive data reports concerning swaps in that asset class until an SDR elects to receive swap data in that asset class. The Commission has accounted in the PRA for the cost of maintaining connectivity to the Commission which would be incurred by registered entities and reporting counterparties transacting in such an asset. The Commission does not believe it is feasible to estimate the likelihood that such an asset class will arise or the length of time for which the Commission will be required to receive the associated regulatory data.

The Commission believes that this recurring burden of transmitting data to the Commission will represent a small percentage of the burden of transmitting data to a registered SDR or third-party service provider as required for real time reporting pursuant to part 43 and regulatory reporting to SDRs as required by this part. The Commission has determined that this percentage is not readily quantifiable, because the asset classes for which reporting to the Commission would be required, and thus the amount of data that would be required to be reported to the Commission, are currently unknown.

The NOPR sought to mitigate the fragmentation of data for a single swap across multiple SDRs by requiring that once an initial data report concerning a swap is made to an SDR, all data reported for that swap thereafter must be reported to that same SDR.[114] Roundtable participants agreed that the NOPR provision calling for all data for a given swap to be reported to a single SDR was essential to preventing fragmentation of data across multiple SDRs, something that would seriously impair both regulators' ability to view or aggregate all of the data concerning a swap and the ability of reporting entities and counterparties to review data reported by them. WGCEF commented that all swap data for a given swap should be reported to the same SDR. The Commission received no comments opposing this requirement.

Global Forex observed that, after the initial swap data report is made for a swap, market participants required to make further reports concerning that swap would need to ensure that they can connect to the chosen SDR. EEI, EPSA, and WGCEF suggested that the rules should ensure that SDR selection by a platform, SD, or MSP is equitable and does not result in unreasonable costs or burdens being imposed on non-SD/MSP counterparties.

WGCEF also suggested that market participants should not be required to report all of their swaps to the same SDR, since SDR competition would tend to lower fees associated with reporting. DTCC, ICE, and WGCEF recommended that the reporting counterparty should always select the SDR. ICE argued that otherwise reporting counterparties could incur significant expenses to build and maintain connections to an SDR with which they are not already connected. ABC and CIEBA suggest that for swaps involving a benefit plan as a counterparty, the SDR selection should always be made by the plan.

The CMC and CME both recommended that the initial regulatory report for a cleared trade be transmitted to either a DCO or an SDR that is affiliated with a DCO. CMC suggested that this would reduce unnecessary expenses and operational difficulties, whereas it would be costly, inefficient and unnecessary to require industry to establish a redundant set of expensive connections with non-DCO SDRs for the purpose of making regulatory reports for cleared trades. CME stated that having cleared swaps reported to a DCO also registered as an SDR or an SDR that is affiliated with a DCO would provide the lowest cost and least operationally burdensome path available to meet regulatory requirements.

The Commission anticipates that, because the final rule does not require each cleared swap to be reported to an SDR affiliated with the DCO that clears the swap, in some circumstances DCOs may incur some increased costs, relative to an environment in which all cleared swaps must be reported to a DCO–SDR.

- For a cleared swap executed on a SEF or DCM, and reported to an SDR by the SEF or DCM as required by the final rule, the DCO could incur incremental costs, if the SEF or DCM chooses to report to an SDR other than the DCO–SDR. In this circumstance, the DCO would be required to report confirmation data and continuation data to the SDR receiving the initial report, and thus to assume the costs necessary to establish connectivity to that SDR and transmit data to it. Such connectivity and transmission costs are addressed below. However, if the DCO chooses to register as an SDR, as explicitly permitted by the statute and anticipated by these commenters, the SEF or DCM would be able to reduce its costs by selecting the DCO–SDR as the SDR receiving the initial report, and thus avoid the need to send data separately to an SDR for regulatory reporting purposes and to a DCO for clearing purposes. In such an event, the DCO would not incur these incremental costs.
- For an off-facility, cleared swap for which the reporting counterparty is excused

[114] The NOPR also called for PET data to be reported promptly following execution of the swap.

by the final rule from reporting creation data, the DCO would not incur incremental costs. In this situation, the DCO would select the SDR to which all data is reported, by making the initial creation data report. The DCO could report to itself in its capacity as an SDR if it chooses to to register as an SDR, as explicitly permitted by the statute and anticipated by these commenters.

• For an off-facility, cleared swap with respect to which the reporting counterparty makes the initial PET data report, the DCO would incur incremental costs if the reporting counterparty chooses to report to an SDR other than the DCO–SDR. In this circumstance the DCO would be required to report confirmation data and continuation data to the SDR receiving the initial report, and thus to assume the costs necessary to establish connectivity to that SDR and transmit data to it. These costs are addressed below. However, if the DCO chooses to register as an SDR, as explicitly permitted by the statute and anticipated by these commenters, the reporting counterparty would be able to reduce its costs by selecting the DCO–SDR as the SDR receiving the initial report, and thus avoid the need to send data separately to an SDR for regulatory reporting purposes and to a DCO for clearing purposes. In such an event, the DCO would not incur these incremental costs.

The Commission also anticipates that, because the final rule does not require each cleared swap to be reported to an SDR affiliated with the DCO that clears the swap, in some circumstances reporting counterparties may incur some increased costs, but also some increased benefits, relative to an environment in which all cleared swaps must be reported to a DCO–SDR.

• For swaps executed on a SEF or DCM, an SD or MSP reporting counterparty would incur the incremental costs if the SEF or DCM chooses to report to an SDR other than the DCO–SDR. In this circumstance, the SD or MSP would be required to report valuation data to the SDR, and thus to assume the costs necessary to establish connectivity to that SDR and transmit data to it. Such costs are addressed below. A non-SD/MSP reporting counterparty would not incur such incremental costs, because all continuation data would be reported by the DCO. However, if the DCO chooses to register as an SDR, as explicitly permitted by the statute and anticipated by these commenters, the SEF or DCM would be able to reduce its costs by selecting the DCO–SDR as the SDR receiving the initial report, and thus avoid the need to send data separately to an SDR for regulatory reporting purposes and to a DCO for clearing purposes. In such an event, the SD or MSP reporting counterparty would not incur these incremental costs.

• For an off-facility, cleared swap with respect to which the reporting counterparty is excused by the final rule from reporting creation data, an SD or MSP reporting counterparty would incur incremental costs only if the DCO chooses not to register as an SDR.[115] In this situation, the DCO would select the SDR to which all data is reported, by making the initial creation data report, and could report to itself in its capacity as an SDR if it chooses to to register as an SDR, as explicitly permitted by the statute and anticipated by these commenters. The incremental costs for the SD or MSP reporting counterparty would be the costs necessary to establish connectivity to, and transmit valuation data to, the SDR to which the initial creation data report was made. A non-SD/MSP reporting counterparty would not incur such incremental costs, because all continuation data would be reported by the DCO.

• For an off-facility, cleared swap with respect to which the reporting counterparty makes the initial PET data report, the reporting counterparty would not incur incremental costs, but would receive the benefit of being able to choose either the DCO–SDR or any other SDR accepting swaps in the asset class in question.

The Commission also anticipates that, because the final rule does not require each cleared swap to be reported to an SDR affiliated with the DCO that clears the swap, SEFs and DCMs would receive benefits relative to an environment in which all cleared swaps must be reported to a DCO–SDR. Specifically, for any swap executed on a SEF or DCM, the facility would be able to choose either the DCO–SDR or any other SDR accepting swaps in the asset class in question.

The Commission notes that DCOs are eligible to register as SDRs and capitalize on these existing connections, and the Commission anticipates that the competitive market for SDR services will dictate such an outcome if it is indeed cost-effective. The Commission believes that a competitive marketplace for SDR services presents the opportunity for significant reductions to the cost of swap data reporting.

WGCEF and Dominion recommended that the Commission harmonize its PET data requirements with the reporting required by the part 43 real-time public reporting regulations to reduce the reporting burdens on counterparties.

After considering these comments, the Commission has determined, as noted above, that the final rule should require that all data for a given swap be reported to the same SDR to which the initial report of swap data is made as provided in the final rule. The wide variety of suggestions by commenters concerning who should choose the SDR suggests that no single approach produces the lowest cost for all market participants in all circumstances, and that this decision is best left to the market. The final rule as adopted avoids injecting the Commission unnecessarily into a market decision, and leaves the choice of SDR to be influenced by market forces and possible market innovations. Requiring that all cleared swaps be reported only to DCOs registered as SDRs would create a non-level playing field for competition between DCO–SDRs and non-DCO–SDRs. Conversely, giving the choice of the SDR to the reporting counterparty in all cases could in practice give an SDR substantially owned by SDs a dominant market position with respect to much swap data reporting. The final rule also addresses the major substance of the concerns expressed by non-SD/MSP counterparties, since it requires the initial data report to be made by a non-SD/MSP counterparty only in the case of a swap executed off-facility between two non-SD/MSP counterparties that are ECPs. Moreover, in this situation, the non-SD/MSP reporting counterparty will, by making the initial data report, be able to select the SDR as recommended by comments.

ii. Costs to SDRs

The Commission anticipates that creation data reporting will present additional costs to SDRs, both in the form of non-recurring investments in technological systems and personnel during the development of the formatting procedure, and in the form of recurring expenses associated with data processing, systems maintenance, and personnel hours. However, these costs should not be considered independent of the costs associated with real time reporting pursuant to part 43, which includes the burden estimate for the data formatting processes that an SDR will need to employ. The Commission anticipates that compliance with this requirement will primarily require SDRs to handle additional swap data required to be reported by this part but not required to be reported by part 43. This part will not require SDRs to fulfill any of the rounding, counterparty masking, or disseminating requirements of real-time public reporting. Therefore, in general, the Commission anticipates that the recurring burden to an SDR presented by creation data reporting will be negligibly incremental to the costs to SDRs associated with real-time public reporting.

Pursuant to the final rule, in the context of allocations, as discussed above, reporting of both the original swap between the reporting counterparty and the agent and reporting of the swaps resulting from allocation will be required. The only additional duty for SDRs in this context

[115] The Commission believes that a DCO registered as an SDR would choose to report to itself in its capacity as an SDR in this circumstance.

is the need to map together these related swaps. SDRs will already be required to have automated systems and personnel capable of mapping together various data reports, such as mapping together different data reports for a single swap using the USI for the swap that is included in each such report. As a result of the requirement for mapping in the context of allocations, the Commission anticipates that SDRs will incur an incremental burden consisting of (a) one-time setup costs to program automated systems to do the required mapping in the allocation context, and (b) low ongoing maintenance costs associated with keeping such programming up to date. The Commission does not believe that this burden is readily quantifiable, both because the percentage of swaps involving allocations is currently unknown, and because the number of client allocations could vary greatly between swaps involving allocation. As noted above, SDRs must have the capacity to map together all data reports associated with any USI, and compliance with this requirement will facilitate the data mapping process in the context of allocations, which will also involve USIs. This should reduce the additional burden of linking allocation reports, or eliminate it in some cases. The Commission was informed by roundtable participants that existing trade repositories are able to accept data in multiple formats or data standards from different counterparties, and to map the data they receive into a common data standard within the repository, without undue difficulty, delay, or cost. Therefore, the Commission anticipates that SDRs will be able to perform the mapping required in the allocation context using existing technologies and processes.

With regard to SDRs, the error reporting requirement of this final rule would require a registered SDR to develop protocols regarding the reporting and correction of erroneous information. This reporting requirement is associated with an information collection for which the Commission is obligated to account under the PRA. Accordingly, the burden estimates have been addressed in the information collection requests that the Commission has prepared and submitted to OMB for approval, as required under that statute

Costs of Continuation Data Reporting

The Commission received several comments on the cost-benefit implications of its proposed approach regarding continuation reporting.

Several comments addressed the NOPR provisions prescribed the data reporting method—life cycle reporting or snapshot reporting—to be used in each asset class to report changes to the primary economic terms of the swap. TriOptima supported the NOPR's approach. ICE commented with respect to the other commodity asset class that the snapshot approach would be inefficient, create burdens, and prove technologically challenging, and that therefore its drawbacks would outweigh its benefits. Reval commented that continuation data reporting by either method would require significant capabilities and investments, and stated that snapshot reporting for interest rate, currency, and other commodity swaps would not lessen the burdens of compliance. As noted above, ISDA, SIFMA, REGIS–TR, and DTCC recommended having the rule not make the choice between the lifecycle and the snapshot reporting method for each asset class, but rather allowing SDRs to decide whether to accept data by either or both methods.

Other comments addressed the impact of required frequency of reporting. EEI, WGCEF, and CDEU contended that daily snapshot reporting would be burdensome and excessive for non-SD/MSP counterparties, and recommended quarterly rather than daily reports. AGA stated that daily continuation data reporting would be unduly burdensome, and recommended monthly reporting instead.

Additional comments addressed costs associated with valuation data reporting. Chatham Financial recommended that the Commission align the timing for valuation data reporting with the timing for the portfolio reconciliation requirements in the Commission's portfolio and reconciliation rulemaking, in order to reduce the burden on non-SD/MSP reporting counterparties. ICE suggested that only DCOs be required to report valuation data for cleared swaps, since requiring both DCOs and counterparties to report this data would drastically increase the number of messages transmitted to SDRs on a daily basis and unnecessarily burden reporting counterparties. EEI and CDEU questioned the Commission's regulatory authority and need for valuation data reporting from non-registered counterparties. ISDA and SIFMA commented that the implementation of any valuation methodology requires significant operational and infrastructure development, and called for further consultation before the Commission requires such a methodology. FHLB recommended weekly valuation reporting by non-SD/MSP reporting counterparties, arguing that this should be sufficient for regulatory purposes and would avoid forcing such counterparties to implement the costly infrastructure needed to generate daily valuation reports. The Electric Coalition recommended quarterly valuation data reporting for the same reason.

The Commission anticipates that the reporting of continuation data will present additional costs beyond the costs of reporting required swap creation data as discussed above, consisting of the additional maintenance of an internal OMS and the additional personnel hours needed to maintain a compliance program in support of the OMS.

The Commission believes that promptly submitting amended transaction and pricing data to the appropriate registered SDR after discovery of an error would impose a burden on reporting counterparties and registered entities. Likewise, the Commission believes that promptly notifying the relevant reporting counterparty or registered entity after discovery of an error would impose a burden on non-reporting counterparties.

The Commission believes that error reporting would impose an initial, non-recurring burden associated with designing and building the reporting parties' reporting system to be capable of submitting amended swap transactions to a registered SDR. In addition, reporting parties will be required to support and maintain the error reporting function and registered SDRs will be required to accept the error reporting.

The Commission believes that designing and building appropriate reporting system functionality would be a component of, and represent an incremental add-on to, the cost of building a reporting system and developing a compliance function as required by § 43.3(a) (real-time reporting rule). With regard to non-reporting counterparties, the Commission believes that the error reporting requirement of this final rule would impose a minimal non-recurring and recurring burdens associated with promptly notifying the relevant reporting party after discovery of an error. The Commission believes, however, that swap counterparties already monitor their swap transactions in the ordinary course of business, and thus the error reporting requirement of this final rule would not result in any significant new burdens for these participants.

Upon consideration of the comments, the Commission is adopting the NOPR continuation data provisions with a number of modifications that the

Commission believes will further reduce costs and burdens for registered entities and reporting counterparties, and in particular for non-SD/MSP reporting counterparties. If a swap is cleared, the DCO will report all continuation data with the exception of valuation reporting by SDs and MSPs. Non-SD/MSP reporting counterparties will not be required to report any continuation data for cleared swaps. For uncleared swaps, the deadlines for non-SD/MSP reporting counterparties to report changes to primary economic terms have been extended and phased in. While the NOPR required the reporting of all of the data elements necessary for a person to determine the current market value of the swap, the final rule requires only the reporting of the data elements necessary to describe the daily mark of the transaction. In addition, non-SD/MSP reporting counterparties will only be required to report valuation data on a quarterly basis. In part to further reduce continuation data reporting costs as discussed in the above comments, the final rule requires that continuation data be reported in a manner sufficient to ensure that the information in the SDR concerning the swap is current and accurate, and includes all changes to any of the primary economic terms of the swap, but will leave to the SDR and registered entity and reporting counterparty marketplace the choice of the reporting method used to meet this requirement. This approach will help to address commenters' concerns about the cost of daily reporting, since reporting counterparties would not be required to report on a daily basis if the SDR in question accepts life cycle reporting.[116] Additionally in order to reduce reporting burdens to the extent this can be done without impairing the purposes for which the Dodd-Frank Act requires swap data reporting, the Commission has determined that the final rule will not require reporting of contract-intrinsic events.

The Commission believes that the swap data reporting requirements of the final rule represent a reduced cost compared to the requirements of the NOPR. The Commission does not mandate which particular approach an SDR chooses, either snapshot approach or lifecycle, in the final rule, so long as the continuation data for a given swap are accurately reported. This approach will allow registered SDRs to select the method of continuation data reporting that is most cost-effective and most logical for the swap business of their reporting customers. As noted, costs have been reduced by elimination of required reporting of contract-intrinsic data. The Commission does not mandate the reporting of contract-intrinsic data in the final rule, a data stream that was required under the proposed rule. The Commission believes that this requirement would have presented a cost burden to reporting counterparties and registered entities and its elimination will present a cost reduction. Furthermore, allowing the clearing of a swap on a DCO to satisfy the continuation data reporting obligations of non-SD/MSP reporting counterparties represents a lowered overall cost. This approach eliminates duplication of the reporting requirement, capitalizes on the transmission pipeline from the DCO to the SDR, and will allow for more cost-effective reporting than a regime in which reporting parties entering into a cleared swap would always be responsible for reporting regulatory data, as the DCO will likely realize economies of scale in the reporting process.

Collateral and Master Agreement Reporting

In the NOPR, the Commission requested comment as to whether separate warehouse and library systems should be developed for collateral and master agreements. Several commenters responded with cost-benefit considerations regarding establishing these separate reporting systems. ABC supported requiring master agreement reporting but recommended that they be reported only once if required. SunGard supported the establishment of a collateral SDR that could hold credit support agreements and related net margin and collateral positions between two counterparties, adding that this would eliminate unnecessary costs. Chatham Financial and CDEU recommended that the Commission not require master agreement or collateral reporting because the costs of reporting would outweigh the benefits. After consideration of these comments, the Commission has determined not to require master agreement or collateral reporting at this time.

c. Reporting Requirements in Light of CEA Section 15(a)

The Commission has evaluated the costs and benefits of the reporting provisions under § 45.3 in light of the specific considerations identified in Section 15(a) of the CEA as follows.

Protection of market participants and the public. As discussed above, the Commission has endeavored to limit the costs attributable to discretionary implementation decisions to the maximum degree consistent with statutory requirements and their intended benefits. The Commission has endeavored to match the costs of the post-implementation marketplace with the sizes, levels of sophistication, and levels of systemic importance of the affected participants, so that the associated benefits may be realized by the public.

With respect to swap data reporting, the Commission believes the benefits include the protection of market participants and the public. The Commission believes that the reporting requirement of § 45.3 will provide regulatory agencies with a wealth of previously unavailable data. This comprehensive data will be available in a unified format, greatly enhancing the ability of regulators in their oversight and enforcement functions. Systemic risk regulators need data that will enable them to monitor gross and net counterparty exposures wherever possible, not just notional volumes for each contract but also market values. Such data would make it possible to calculate the concentration of counterparty risk on both participant and market levels. Market regulators need data that helps them promote market fairness and competitiveness; protect market participants against fraud, manipulation, and abusive trading practices; enforce aggregate speculative position limits as adopted; and ensure the financial integrity of the clearing process.

The Commission believes that important regulatory purposes of Dodd-Frank would be frustrated, and that regulators' ability to see necessary information concerning swaps could be impeded, if data concerning a given swap was spread over multiple SDRs.

Efficiency, competiveness, and financial integrity. As discussed above, the Commission has endeavored to limit the costs attributable to discretionary implementation decisions to the maximum degree consistent with statutory requirements and their intended benefits. The Commission has endeavored to match the costs of the post-implementation marketplace with the sizes, levels of sophistication, and levels of systemic importance of the affected participants, so that the associated benefits may be realized by the public.

[116] The flexibility of this approach should also ensure harmonization of the final rule with SEC rules in this respect: even if the SEC rules specify a reporting method for reporting to security-based swap data repositories, SDRs that accept mixed swaps will be free to accept reporting by any reporting method mandated by the SEC.

With respect to swap data reporting, the Commission believes the benefits include enhancing the financial integrity of swap markets. The Commission believes that final rule's streamlined reporting regime, including the counterparty hierarchy used to select the reporting counterparty, can be considered efficient in that it assigns greater reporting responsibility to more sophisticated entities more likely to be able to realize economies of scale and scope in reporting costs. This reporting regime may also be an incentive for the platform execution of swaps that might have otherwise been executed bilaterally, since platform execution absolves the swap counterparties of the majority of the reporting burden discussed in this Consideration of Costs and Benefits section. The Commission anticipates that this will increase the role of the registered entities in the market that are able to report data to an SDR most efficiently. Similarly, a potential increase in the number of participants using platform execution, due to this efficiency, may aid in market competition.

The Commission believes that, by improving the integrity of the U.S. swap markets in the manner described above, this final rule may make participation in the U.S. swap markets more appealing to entities that currently do not participate; therefore, this final rule presents the potential to enhance the demand for access to the U.S. swap market and its participants both domestically and in the global swap marketplace. This potential increase in swap market participation may improve the competitiveness of the swap marketplace as more parties demand sources of risk transference.

The Commission believes that reporting parties may be able to realize lower costs by means of transmitting reporting and regulatory data through third-party service providers. These providers will likely have a comparative advantage in data processing costs relative to the capabilities of reporting parties; as in the case of the reporting hierarchy, the final rule allows for the use of reporting methods considered more efficient by market participants themselves.

Because the accuracy of swap data is essential for market integrity and regulatory oversight, the final § 45.14 requires the prompt correction of errors. As seen during the most recent financial crisis, market volatility may be such that a delay in error correction, even on the order of a day, may be too late for effective analysis and response. Because of this, the Commission has considered the cost of error correction on market participants with regard to the effects of market turmoil during critical events intensified by market opacity.

The Commission believes that the data standards provisions of the final rule will serve to reduce costs and burdens for registered entities and swap counterparties by (a) allowing reporting entities and counterparties to use whatever facilities, methods, or data standards are provided or required by the SDR to which data is reported; and (b) allowing SDRs to use various facilities, methods, and data standards to receive data, so long as the SDR can provide data to the Commission in the format required by the Commission. The Commission believes this approach is preferable to having the Commission mandate that reporting entities or counterparties adopt a particular format or data standard for reporting swap data, which in some cases could impose the additional burden of acquiring new technological capability different or more extensive that what the entity or counterparty already possesses. The Commission believes that, in light of this provision of the final rule, market competition is likely to lead SDRs to allow reporting entities and counterparties to report using data formats or standards that are easiest and least costly for them. Costs for market participants may also be lowered by the final rule provision authorizing the Commission's Chief Information Officer to require use of a particular data standard in order to accommodate the needs of different communities of users.[117]

Furthermore, the Commission does not anticipate that the recordkeeping requirements of this final rule present any costs that would impede the efficiency of swap markets.

Price Discovery. The Commission does not believe that the data reporting requirements of this final rule have a material effect on the price discovery process. The Commission does not believe that the costs associated with its discretionary implementation decisions are of a magnitude to impede the normal functioning of swap market participants, and thereby disrupt the price discovery process.

Sound risk management practices. The Commission does not believe that the data reporting requirements of this final rule have a material effect on sound risk management practices of market participants or that the costs associated with its discretionary implementation decisions are of a magnitude to impede sound risk management. However, as noted in the section on recordkeeping, data which will be reported may be of use for internal risk management.

Other public interest considerations. The Commission believes that the data reporting requirements of this final rule will allow regulators to readily acquire and analyze market data, thus streamlining the surveillance process.

5. Unique Identifiers

As discussed more fully above, pursuant to its authority in CEA section 21(b) (added by section 728(b) of the Dodd Frank Act), the Commission proposed requiring the use of three unique identifiers, which would serve as critical tools for data aggregation for the purposes of conducting market and financial risk surveillance, enforcing position limits, analyzing market data, enforcing Commission regulations, monitoring systemic risk, and improving market transparency.

The NOPR required that each swap be identified in all swap recordkeeping and data reporting by a Unique Swap Identifier (''USI''). The NOPR took a ''first-touch'' approach to USI creation, with the USI created by SEFs and DCMs for platform-executed swaps, by SDs and MSPs for off-platform swaps in which they are the reporting counterparty, and by SDRs for off-platform swaps between non-SD/MSP counterparties (who may lack the requisite systems for USI creation). This approach was designed to foster efficiency by taking advantage of the technological sophistication and capabilities of SEFs, DCMs, SDs, MSPs, and SDR, while ensuring that a swap is identified by a USI from its inception. The provision calling for SDRs to create USIs for off-facility swaps between non-SD/MSP counterparties was designed to reduce costs and burdens for such counterparties. Non-SD/MSP counterparties may lack the sophistication to assign unique identifiers, whereas SDRs will likely be large, sophisticated entities capable of realizing economies of scope and scale in processing varied swap data streams; thus, SDRs are better suited to assign unique identifiers for off-facility swaps between non-SD/MSP counterparties.

The NOPR required that each swap counterparty be identified in all swap recordkeeping and data reporting by a legal entity identifier (''LEI'') (referred to in the NOPR as a unique counterparty identifier or ''UCI'') approved by the Commission. The NOPR established

[117] This authority could be used, for example, to require SDRs to accept swap data reports using a particular computer language already used by firms in a particular segment of the swap marketplace, so that they are not forced to incur additional cost by acquiring the capability needed to report using a different computer language.

principles that an LEI must follow to be designated by the Commission as the LEI to be used in swap data recordkeeping and reporting pursuant to the Commission's Regulations.

The NOPR also called for establishment of a confidential, non-public LEI reference database, to which each swap counterparty receiving an LEI would be required to report reference data that would be associated with its LEI. The NOPR stated the Commission's belief that optimum effectiveness of LEIs for achieving the systemic risk protection and transparency goals of the Dodd-Frank Act would come from a global LEI created on an international basis through an international voluntary-consensus standards body such as ISO. The NOPR provided that the Commission would determine, prior to the initial compliance date, whether such an LEI is available. If it were, the NOPR called for the Commission to designate that LEI as the LEI approved by the Commission for use in complying with the final rule. During such time as such an LEI is not available, the NOPR called swap counterparties to be identified by a substitute identifier created and assigned by an SDR as described in the NOPR.

The NOPR required that each swap subject to CFTC jurisdiction be identified in all swap recordkeeping and data reporting by a unique product identifier (''UPI'') and a product classification system, as determined by the Commission, for the purpose of categorizing swaps with respect to the underlying products referenced in them. The NOPR called for the UPI and product classification system to identify both the swap asset class and the subtype within that asset class to which the swap belongs, with sufficient specificity and distinctiveness to enable regulators to fulfill their regulatory responsibilities and to facilitate real time reporting. As provided in the NOPR, UPIs would be assigned to swaps at a particular, asset class-specific level of the robust swap taxonomy used by the product classification system, and the use of UPIs and the classification system would enable regulators to aggregate and report swap activity at a variety of product type levels, and to prepare reports required by the Dodd-Frank Act regarding swap market activity.

a. Benefits of the Unique Identifier Requirements

The Commission anticipates that its approach regarding unique identifiers will generate several overarching, if presently unquantifiable, benefits to both swap market participants and the public generally, including both improved risk management and improved regulatory oversight. The Commission believes these benefits will accrue to market participants in a number of ways:

- Improved policy analysis by financial regulators employing legal entity reference data as the basic infrastructure for identifying, describing, classifying, labeling, organizing, and using information about trades, counterparties and market instruments.
- Improved identification and quantification of existing or altered interconnections between firms.
- Improved real time analysis across multiple financial markets to identify systemic risk, market stresses and potential contagion effects across asset classes.
- Improved financial transaction processing, internal recordkeeping, compliance, due diligence, and risk management by financial entities.

Unique identifiers will benefit the general public by supporting the Commission's supervisory function over the swap market, as well as the broader supervisory responsibilities of U.S. financial regulators to protect against financial market systemic risk, enhancing the Commission's ability to detect anomalies in the market.

USIs will assist fulfillment of the systemic risk mitigation, transparency, and market monitoring purposes of the Dodd-Frank Act, by enabling identification of the origins of each swap as well as events that affect the swap during its existence. USIs will be essential for collating various data reports concerning a swap into a single, accurate data record. They will also help to avoid double-counting of a swap reported to different SDRs or to foreign trade repositories, something that will improve data quality and accurate data aggregation. Substantial benefits of LEIs for the public are recognized in the CPSS–IOSCO *Report on OTC Derivatives Data Reporting and Aggregation Requirement,* which recommends expeditious development of a global LEI:

> [A] standard system of LEIs is an essential tool for aggregation of OTC derivatives data. An LEI would contribute to the ability of authorities to fulfill the systemic risk mitigation, transparency, and market abuse protection goals established by the G20 commitments related to OTC derivatives, and would benefit efficiency and transparency in many other areas. As a universally available system for uniquely identifying legal entities in multiple financial data applications, LEIs would constitute a global public good.[118]

LEIs also offer benefits to market participants. The Commission notes that while requiring the use of LEIs will represent a new cost to market participants, LEIs may also reduce the costs of entity identification for market participants. As noted in the CPSS–IOSCO Data Report:

> The data aggregation experience of the private sector in past years suggests * * * that a universal LEI would have the added benefit of improving the operational efficiency of firms that are OTC derivatives counterparties. For financial firms, the current absence of an industry-wide LEI standard makes tracking counterparties and calculating exposures across multiple data systems complicated and expensive, and can lead to costly errors. Maintaining internal identifier databases and reconciling entity identification with counterparties is expensive for large firms and may be disproportionately so for small firms. In the worst case scenario, identification problems can lead to transactions that are broken or fail to settle. Entity identification touches so many aspects of critical business functions that many firms have created their own internal identifiers, sometimes doing so on a department-by-department or function-by function basis. Such stop-gap measures can provide a measure of local relief, but ultimately they further aggravate and complicate the discontinuity, inconsistency, and incompatibility of legal entity identification systems both for identifying OTC derivatives counterparties and across the international financial sector as a whole. This makes useful data aggregation and analysis substantially more difficult or even impracticable. In addition, complete automation of back-office activities and ''straight through processing'' remain elusive, in part, because of the lack of a universal identifier for legal entities.[119]

UPIs may enable better assessment of systemic risk with respect to particular products, more effective monitoring of the positions and exposures of individual market participants, and greater transparency provided by real time reporting as well as by the availability to regulators of a clearer picture of the marketplace. They may also allow aggregation of swap data across multiple SDRs, and comparison of swap data with information concerning cash, equities, and futures markets. As noted in the CPSS–IOSCO Data Report, UPIs may also assist the back office and risk management processes of market participants. Much as LEIs may reduce the costs of entity identification in the fashion described above by the CPSS–IOSCO Data Report, the Commission believes that while requiring the use of UPIs will represent

[118] CPSS–IOSCO *Report on OTC Derivatives Data Reporting and Aggregation Requirement,* August 2011, p. 36. Publicly available at *http://www.bis.org/publ/cpss96.pdf.*

[119] CPSS–IOSCO *Report on OTC Derivatives Data Reporting and Aggregation Requirement,* August 2011, p. 30. Publicly available at *http://www.bis.org/publ/cpss96.pdf.*

a new cost to market participants, UPIs may lower costs for market participants associated with the need to develop and maintain proprietary product data models and systems, which many firms are forced to do because of the absence of a universally-accepted standard for describing, classifying, and identifying swap products.

b. Costs of Unique Identifier Requirements

Costs of USI Requirements

As noted above, for swaps executed on a SEF or DCM, the final rule requires SEFs and DCMs to generate a USI at the time of execution, and transmit it to both counterparties, the DCO (if applicable), and the SDR. For off-facility swaps with an SD or MSP reporting counterparty, the final rule requires the SD or MSP reporting counterparty to create the USI at the time of execution, and to transmit it to its counterparty, the DCO (if applicable) and the SDR. For off-facility swaps between two non-SD/MSP counterparties, the SDR will assign and transmit the USI to both counterparties and to the DCO (if applicable). The Commission anticipates that this requirement will impose additional costs to SEFs, DCMs, SDs, MSPs and SDRs. The Commission has not identified any quantifiable costs of the USI requirements that are not associated with an information collection subject to the PRA. These costs therefore have been accounted for in the information collection requests filed with OMB as required by the PRA.

Thomson Reuters stated that the USI proposal could impose a significant implementation burden on market participants because it requires the linkage of additional information such as tracking numbers. Thomson Reuters recommended a USI with no linked information such as embedded asset class or geographical identifiers.

The Commission believes that, even in the absence of this requirement, the automated systems of SEFs, DCMs, DCOs, SDs, MSPs, and SDRs would in all cases create internal identifiers for swap transactions. Accordingly, for these entities, the cost of creating USIs will not constitute an incremental cost for such entities above costs they would already incur. Additionally, to reduce costs for off-facility bilateral swaps between two non-SD/MSP counterparties, the final rules have maintained the NOPR approach requiring SDRs to create and transmit USIs for such swaps.

Costs of LEI Requirements

The Commission anticipates that required use of LEIs will impose additional costs on market participants.

The Commission received several comments regarding the cost-benefit implications of the NOPR's LEI provisions.

Three commenters presented LEI proposals or alternatives they believed would meet the Commission's requirements in the most cost-effective manner. CME recommended that the Commission use its large trader system for futures, since this would be quicker, easier, less costly, and less risky than attempting to establish a new international method identifying legal entities. CUSIP presented its CABRE system as a viable and cost-effective alternative for LEIs, suggesting that it would help market participants realize significant cost savings much earlier than other options. GS1 presented itself as a potential LEI provider, suggesting that it could implement a LEI system at no additional cost to SDs and SEFs that would minimize the overall cost of the identification system. Two members of Congress asked that the Commission give full and fair consideration to GS1's proposal because it could make implementation less costly and burdensome for a significant segment of the industry.

TriOptima commented that the LEI would require significant adaptation costs and could possibly delay the implementation of SDRs. TriOptima suggested an interim period to allow reporting institutions to submit their own LEI and then map this identifier to the one used by the SDR.

With respect to the NOPR requirement for reporting of level two LEI reference data concerning the affiliations of a counterparty, AMG suggested that the Commission should establish a 50 percent majority ownership threshold, because requiring corporate affiliation information from companies that have less than majority ownership may be burdensome, and in many cases, impracticable.

As discussed above, three commenters presented alternatives to the Commission's proposals regarding LEIs. The Commission has evaluated these proposals and will continue to weigh the cost and benefits of each as it prepares to implement an international industry initiative and designate an LEI for use in swap data reporting as provided in the final rule.

The Commission has determined that costs for market participants are not readily quantifiable. However, the Commission understands that start-up costs for the LEI system may be borne at least in part by data service providers, SDs, and other major market participants that are involved in the international industry initiative now underway to develop LEIs. Because this process is ongoing, the Commission has determined that it cannot readily estimate the remaining costs to market participants that will be imposed by its completion, or what portion of the impetus for the LEI initiative can be attributed to this final rule rather than to a general pre-implementation industry initiative for a better system of legal entity identification.

The final rule calls for the Commission to determine prior to the start of swap data reporting whether an LEI system meeting the requirements of the final rule is available. If the Commission determines that such a system is available, its use will be required in all swap data recordkeeping and reporting. If the Commission determines that such a system is not yet available, until such time as the Commission designates such a system for use in complying with the final rule, swap counterparties will be identified by means of a substitute identifier created by SDRs as specified in the final rule. Although the Commission anticipates that an LEI meeting the requirement of the final rule will be available before the commencement of swap data reporting, the Commission has also considered the potential costs and benefits to SDRs for creating, assigning and transmitting such substitute identifiers if they should be required. The Commission anticipates that if SDRs are required to create substitute identifiers, such requirements will impose additional costs for SDRs.

Pursuant to this final rule, the reporting of Level Two LEI reference data will be limited to the identity of a swap counterparty's ultimate parent. This represents a reduction to the burden presented in the NOPR, which called for the reporting of all affiliations of each swap counterparty identified by an LEI. The Commission believes that this approach is practical and cost-effective, because it reduces the burden on swap counterparties, while capturing the essential level two LEI reference data for a given swap that will allow the Commission and other regulators to aggregate swap data in a way that enables effective monitoring of systemic risk.

Costs of UPI requirements

Thomson Reuters recommended that the Commission establish a pilot program for the development of UPI codes.

The Commission anticipates that this requirement will ultimately impose additional costs to market participants. The final rule provides that when the Commission determines that a UPI and product classification system acceptable to the Commission is available, the Commission will designate that system for use in all swap data recordkeeping and reporting. Until the Commission designates such a system, the final rule calls for swaps to be identified by the internal product identifier or product description used by the SDR to which a swap is reported. As the Commission has not set forth requirements for a UPI system in the final rules, and has not yet designated such a system for use by market participants, the Commission has not identified any quantifiable costs of the LEI requirements that are not associated with an information collection subject to the PRA. These costs therefore have been accounted for in the information collection requests filed with OMB as required by the PRA.

c. Unique Identifiers in Light of CEA Section 15(a)

The Commission has evaluated the benefits of the required use of USIs, LEIs, and UPIs in light of the specific considerations identified in Section 15(a) of the CEA, as follows.

Protection of market participants and the public. As discussed above, the Commission has endeavored to limit the costs attributable to discretionary implementation decisions to the maximum degree consistent with statutory requirements and their intended benefits. The Commission has endeavored to match the costs of the post-implementation marketplace with the sizes, levels of sophistication, and levels of systemic importance of the affected participants, so that the associated benefits may be realized by the public.

With respect to unique identifiers, the Commission believes the benefits include the protection of market participants and the public.

USIs. The Commission believes that USIs will be a vital tool for regulatory agencies in analyzing swap market data for the purposes of identifying the positions of systemically important market participants and the accumulation of systemic risk, thus protecting market participants and the public. USIs will allow for the creation of a clear and unified data stream by allowing for the aggregation of transaction information without double-counting swaps reported to different SDRs or to foreign trade repositories, or reported in VSRs.

LEIs. The Commission believes that requiring the use of LEIs will greatly enhance the ability of the Commission and other regulatory agencies to oversee swap markets by providing necessary clarity and cohesion to the data used for regulatory analyses. Among the benefits to regulators of an LEI regime, the Global Financial Markets Association (''GFMA'') identified more efficient data aggregation; more powerful modeling and risk analysis; facilitation of information sharing and reconciliation between regulators; better supervision of cross-border firms and firms whose business lines are overseen by multiple regulators; and facilitating identification of affiliates and parent companies. GFMA also called the LEI regime ''a powerful tool for regulators in monitoring and managing systemic risks.'' [120] The CPSS–IOSCO *Report on OTC Derivatives Data Reporting and Aggregation Requirement,* which recommends expeditious development of a global LEI, states that:

> [A] standard system of LEIs is an essential tool for aggregation of OTC derivatives data. An LEI would contribute to the ability of authorities to fulfill the systemic risk mitigation, transparency, and market abuse protection goals established by the G20 commitments related to OTC derivatives, and would benefit efficiency and transparency in many other areas. As a universally available system for uniquely identifying legal entities in multiple financial data applications, LEIs would constitute a global public good.[121]

UPIs. The Commission believes that UPIs will work in conjunction with USIs to create an accurate, clear, and unified data record free of double-counting. The use of UPIs will also allow regulatory agencies to compare swap market data with data from the cash, equities, and futures markets for a given product, thus enhancing regulators' understanding of the roles of different financial instruments in the marketplace for that product.

Efficiency, competitiveness, and financial integrity. As discussed above, the Commission has endeavored to limit the costs attributable to discretionary implementation decisions to the maximum degree consistent with statutory requirements and their intended benefits. The Commission has endeavored to match the costs of the post-implementation marketplace with the sizes, levels of sophistication, and levels of systemic importance of the affected participants, so that the associated benefits may be realized by the public. With respect to unique identifiers, the Commission believes the benefits include enhancements to the financial integrity of the swap market.

The Commission believes that, by improving the integrity of the U.S. swap markets in the manner described above, this final rule may make participation in the U.S. swap markets more appealing to entities that currently do not participate. Therefore, this final rule presents the potential to enhance the demand for access to the U.S. swap market and its participants both domestically and in the global swap marketplace. This potential increase in swap market participation may improve the competitiveness of the swap marketplace as more parties demand sources of risk transference.

Furthermore, the Commission does not anticipate that the unique identifier requirements of this final rule present any costs that would impede the efficiency of swap markets.

USIs. The Commission believes that the benefits of USIs include greater transparency, improved data aggregation and cross-border supervision. This will improve regulatory oversight and responsiveness, and promote a more thorough understanding of the exposures of swap counterparties, which will provide more financial integrity for the swap market.

The Commission believes that USIs, as well as LEIs and UPIs, will enable greater automation of back-office processes for reporting counterparties, thereby promoting efficiency and a potential source of cost reduction for swap market participants.

LEIs. As stated above, the Commission believes that LEIs, along with USIs and UPIs, will promote greater automation of back-office processes for reporting counterparties, thereby improving operational efficiency.

UPIs. The Commission believes that UPIs will serve to work in conjunction with USIs in creating an accurate, clear, and unified data record. UPIs will therefore promote the same benefits of greater transparency, data aggregation, and cross-border supervision, and therefore enhance the financial integrity of swap markets.

Price discovery. The Commission does not believe that the unique identifier requirements will have a material impact on price discovery, or that the costs associated with its discretionary implementation decisions are of a magnitude to impede the normal functioning of swap market participants

---

[120] GFMA, *Creating a Global Legal Entity Identifier (LEI) Standard,* September 21, 2001, p. 10. Publicly available at *http://www.sifma.org/uploadedfiles/issues/technology_and_operations/legal_entity_identifier/lei-project-summary-slides.pdf.*

[121] CPSS-IOSCO *Report on OTC Derivatives Data Reporting and Aggregation Requirement,* August 2011, p.36. Publicly available at *http://www.bis.org/publ/cpss96.pdf.*

and thereby disrupt the price discovery process.

Sound risk management practices. The Commission believes that requiring the use of USIs, UPIs, and LEIs will also facilitate risk management for market participants.

USIs. The Commission believes that the use of USIs will likely create a more clearly organized, readily accessible database of swap information for each reporting counterparty, including accurate information related to cross-border transactions, which may facilitate the internal risk management operations of the counterparty.

LEIs. The Commission believes that LEIs will provide a number of benefits in the area of risk management to reporting counterparties. These include the benefits identified by GFMA, which are enumerated below.

GFMA stated that the risk management benefits of LEIs included improved response times for crisis reporting and the potential for improved response times for sanctions monitoring; a holistic view of counterparty and issuer risks; and the facilitation of data aggregation, modeling, and analysis.[122]

GFMA also listed a number of other operational benefits to market participants of implementing LEIs. These include an integrated view of entities across divisions and subsidiaries; support for the development of hierarchy information; processing and settlement efficiency; an improved vendor feed and improved corporate actions management; support for new client on-boarding; and the facilitation of post-merger integrations.[123]

The Commission believes that the benefits of LEIs also include the facilitation of straight-through processing, which will promote risk mitigation for counterparties. As the Counterparty Risk Management Policy Group II (CPRMG II) noted:

> CRMPG II recommends that trade associations and market participants must pursue and develop straight through processing of OTC transactions, a critical risk mitigant in today's high volume markets. As a fundamental matter, disputes over the existence or the terms of a transaction have the potential for enormously increasing risk, since each party to the disputed transaction hedges and risk manages the disputed trade based on certain economic assumptions. [Straight through processing] reduces the number and frequency of trade disputes and maximizes market efficiency, opportunity and access. [Straight through processing] therefore fosters legal, credit, market and operational certainty.[124]

UPIs. The Commission believes that UPIs will serve to work in conjunction with USIs in creating an accurate and unified internal data record for each reporting counterparty. The use of UPIs will allow a reporting counterparty to monitor its swap market exposures and compare them to its positions and to the broader market variables in analogous cash, equities, and futures instruments. The Commission believes that this will greatly enhance the ability of the reporting counterparty to assess the risk associated with its swap market exposures.

Other public interest considerations. The Commission anticipates that unique identifiers will facilitate the efforts of academics and analysts employed by regulatory agencies in the course of their investigations by providing a clear framework for data aggregation and comparison across financial instruments.

IV. Compliance Dates

A. Proposed Rule

Section 754 of the Dodd-Frank Act requires Title VII to be effective within 360 days of enactment (*i.e.,* by July 16, 2011) or, to the extent a provision of Title VII requires rulemaking, not less than 60 days after publication of final rules or regulations implementing such a provision of Title VII. While the final rules become effective sixty (60) days after **Federal Register** publication, the Commission has discretion to set forth dates to begin enforcement of regulatory provisions.[125] In setting forth compliance dates the Commission has taken into consideration comment received and factors such as available resources and the Dodd-Frank Act's goals. In May 2011, the Commission and the SEC held a joint public roundtable to elicit comment concerning what implementation schedule should be set for the Commission's Dodd-Frank Act rules, including comment concerning the amount of time registered entities and counterparties will need, after issuance of the final rule, to prepare for the commencement of swap data reporting pursuant to this part. The NOPR requested comment regarding the nature and length of the implementation and preparation period which the Commission should provide prior to the start of swap data reporting, and concerning how the beginning of such reporting should be phased in.

B. Comments Received

The Commission received numerous comments from comment letters and roundtable participants concerning when swap data reporting should begin, and how the commencement of reporting should be phased in.

1. Initial Compliance Date

A variety of comments addressed the setting of the initial compliance date for reporting.

a. *Definite compliance dates.* Better Markets called on the Commission to provide the industry with clear compliance dates for the start of reporting.

b. *Period for infrastructure development and testing.* Roundtable participants, DTCC, ISDA, SIFMA, Global Forex, MFA, WGCEF, and Dominion Resources emphasized that reporting should not be required to begin until the industry has time to implement or modify and to test automated systems to be used for reporting. In order to allow for such infrastructure development and testing, commenters urged that the initial compliance date for reporting should be set at least six to nine months following issuance of the final rule.

c. *Conditions precedent to reporting.* EEI, the Electric Coalition, and roundtable participants commented that reporting should not be required to begin until after issuance of all the Commission's Dodd-Frank Act rules, or at least of certain key rules including definitions of ''swap,'' ''swap dealer,'' and ''major swap participant.'' ISDA, SIFMA, Global Forex, MFA, and WGCEF argued that reporting should not be required to begin until at least one SDR accepting swaps in the asset class in question is fully functional, and DTCC and WGCEF suggested that reporting should begin only after both unique identifiers and data formats for reporting are finalized. MFA noted that beginning reporting after SDR registration and infrastructure are finalized could avoid giving current service providers an advantage over new entrants.

d. *Other initial reporting suggestions.* ISDA and SIFMA suggested that the CFTC and the SEC should harmonize

---

[122] GFMA, *Creating a Global Legal Entity Identifier (LEI) Standard,* September 21, 2001, p. 11. Publicly available at *http://www.sifma.org/uploadedfiles/issues/technology_and_operations/legal_entity_identifier/lei-project-summary-slides.pdf.*

[123] GFMA, *Creating a Global Legal Entity Identifier (LEI) Standard,* September 21, 2001, p. 11. Publicly available at *http://www.sifma.org/uploadedfiles/issues/technology_and_operations/legal_entity_identifier/lei-project-summary-slides.pdf.*

[124] Counterparty Risk Management Policy Group II, *Toward Greater Financial Stability: A Private Sector Perspective,* July 27, 2005, p. 84. Publicly available at *http://fcic-static.law.stanford.edu/cdn_media/fcic-docs/2005-07-25%20Counterparty%20Risk%20Management%20Policy%20Group-%20Toward%20Greater%20Financial%20Stability.pdf.*

[125] *See Heckler* v. *Chaney,* 470 U.S. 821 (1985).

when reporting will commence. Global Forex, DTCC, and Thomson Reuters suggested consideration of a partially voluntary, benchmark approach to implementation of reporting, similar to the ODSG commitment letter approach used to initiate existing reporting to trade repositories.

2. Phasing in the Start of Reporting

A number of commenters also advocated phasing in the start of reporting.

a. *Phasing by asset class.* DTCC, Global Forex, and roundtable participants urged phasing in the start of reporting by asset class. They noted that that different swap asset classes are at different levels of automation and data normalization, with the credit and interest rate asset classes at a more advanced stage of development than the equity, foreign exchange, and other commodity asset classes.

b. *Phasing by counterparty type.* The Electric Coalition and Chatham Financial advocated phasing in the start of reporting according to the type and sophistication of the counterparty, with end users being phased in last as they have the least technological sophistication. Global Forex suggested that the phase-in design should include a gradual reduction of target reporting times to allow participants to improve their systems over time.

c. *Phasing by product type.* WGCEF and Thomson Reuters suggested that reporting for swaps executed on electronic platforms should be phased in more quickly than reporting for off-platform, bespoke transactions, and that the Commission should focus on the more liquid contracts which represent the bulk of the OTC market.

d. *Other phasing suggestions.* DTCC, Global Forex, and roundtable participants suggested that phasing in reporting of confirmation data to begin several months later than the reporting of PET data would take into account the need for additional time to prepare for reporting of the relative larger amount of data involved in confirmation data reporting, to develop ways to represent confirmation terms in machine-readable form, and to normalize and create data fields for confirmation data. Eris Exchange suggested that voluntary reporting should precede mandatory reporting. MGEX called for a carefully thought out, staggered, and reasonable implementation schedule.

C. Determination of Compliance Dates

The Commission has considered the above comments, and has determined to provide an implementation schedule and compliance dates for swap data reporting incorporating many of commenters' suggestions, as set forth below.

1. Initial Compliance Dates

a. *Clear compliance dates.* The Commission agrees with comments calling for clear compliance dates for the beginning of full compliance with this part. The Commission has determined that each SEF, DCM, DCO, SDR, SD, MSP, and non-SD/MSP counterparty subject to the jurisdiction of the Commission must commence full compliance with this part on the applicable compliance date set forth below.[126]

b. *Period for infrastructure development and testing.* The Commission agrees with commenters and roundtable participants that it is important to provide a period of at least six months following issuance of the final data recordkeeping and reporting rule, in order to allow necessary infrastructure development and testing in light of the requirements of the final rule to occur before reporting is required to begin. The initial compliance date for swap data reporting set by the final rule provides such an infrastructure development and testing period. The Commission believes that a six month period should be sufficient for this purpose, and also believes that timely fulfillment of the important purposes of the Dodd-Frank Act would be frustrated if the start of swap data reporting were further delayed. In order to minimize confusion concerning the commencement of both regulatory reporting and real time reporting, and to reduce burdens on registered entities and swap counterparties required to report under both part 45 and part 43, the Commission has determined to set the same date as the initial compliance date for reporting under both part 45 and part 43.

c. *Conditions precedent to reporting.* The Commission recognizes that adequate preparation by registered entities and swap counterparties for the beginning of swap data reporting would be difficult in the absence of final Commission rules defining ''swap,'' ''swap dealer,'' and ''major swap participant.'' The definition of ''swap'' is relevant to determining what transactions must be reported, while the definitions of SD and MSP are relevant to determining which counterparty is the reporting counterparty pursuant to this part. Accordingly, the Commission has determined that the initial compliance date provided in the final rule will be the later of (1) the date certain listed below, or (2) 60 days following issuance of the later of the Commission's final rules defining swap and defining SD and MSP. The Commission disagrees with comments calling for swap data reporting to be delayed until after all Commission rules under the Dodd-Frank Act are issued, because it believes that important purposes of the Dodd-Frank Act would be frustrated by additional delay.

d. *Other initial reporting suggestions.* The Commission has consulted extensively with the SEC concerning the Commission's swap data reporting rule and the SEC's security-based swap data reporting rule. Both Commissions have worked to coordinate and harmonize those rules to the extent practicable. Since the Dodd-Frank Act provides clear delineation of the jurisdiction of each Commission with respect to swaps, the Commission does not believe that it is necessary to delay the commencement of reporting pursuant to this part until issuance of the SEC's final security-based swap data reporting rule. The Commission disagrees with comments calling for swap data reporting pursuant to this part to follow the voluntary, benchmark approach to implementation of reporting followed previously under the ODSG commitment letter approach used to initiate reporting to trade repositories, or to have voluntary reporting precede mandatory reporting. The Commission has consulted with ODSG and ODRF concerning experience gained from prior voluntary reporting. The Commission believes, however, that a ''benchmark'' approach involving flexible timetables is not appropriate for implementation of reporting under the Dodd-Frank Act. The uncertainty in such a reporting regime could burden the industry, and make effective oversight and enforcement more difficult.

2. Phasing in the Start of Reporting

a. *Phasing by asset class.* The Commission accepts the view of many market participants that differences between asset classes with respect to both existing automation and existing data normalization are significant and should be taken into account in order to ensure that data reporting required by the final rule is practicable to achieve by the applicable compliance dates. The Commission also believes that establishing deadlines for the commencement of reporting in all asset classes will serve as an important

[126] The obligations of swap counterparties with respect to historical swaps, *i.e.,* swaps executed prior to the applicable compliance date and in existence on or after July 15, 2010, the date of enactment of the Dodd-Frank Act, will be as provided in part 46 of this chapter.

incentive for continued progress by the industry in these regards. Accordingly, the Commission has determined that swap data reporting should be phased in by asset class, with reporting for credit swaps and interest rate swaps beginning earlier than reporting for equity swaps, foreign exchange transactions, and other commodity swaps.

b. *Phasing by counterparty type.* The Commission agrees with comments suggesting that the initial compliance date for non-SD/MSP reporting counterparties should take into account the fact that such counterparties are less likely than SEFs, DCMs, DCOs, SDs, and MSPs, to have sophisticated automated systems for reporting, and the possible need of non-SD/MSP reporting counterparties for additional time to prepare for reporting. The Commission has determined that swap data reporting should be phased in by counterparty type, with reporting by non-SD/MSP reporting counterparties in each asset class commencing 180 days after the start of reporting in that asset class by SEFs, DCMs, DCOs, SDs, and MSPs.[127] The Commission does not believe that reporting should be further phased in by registered entity or counterparty type. The Commission believes that SEFs, DCMs, DCOs, SDs, and MSPs have sufficient technological expertise to enable them to meet a compliance date which provides an appropriate, six-month preparation period, without further phase-in.

c. *Phasing by product type.* In light of the phasing by asset class and by counterparty type to be provided in the final rule as noted above, the Commission does not believe that additional phasing by product type is necessary. The Commission does not believe that it is technologically necessary to delay reporting for off-facility, uncleared swaps. Where an SD or MSP is the reporting counterparty for a bespoke swap, reporting systems should be available. In the relatively few instances where a non-SD/MSP counterparty is the reporting counterparty for a bespoke swap, the final rule already provides an additional six-month phase-in period and extended reporting deadlines.

d. *Other phasing suggestions.* As discussed above, the Commission believes that confirmation data is essential to fulfilling the purposes of the Dodd-Frank Act, and should be reported starting with the applicable compliance date. However, the Commission also recognizes that for some swap counterparties, and particularly for non-SD/MSP reporting counterparties, reporting confirmation data normalized in data fields may not yet be technologically practicable when reporting begins. These considerations are less applicable in the case of swaps executed on a SEF or DCM or cleared by a DCO, since in such cases, as discussed above, execution on the SEF or DCM or clearing on the DCO will be required to include all terms of the confirmation of the swap. Therefore, as discussed above in the section addressing creation data reporting, the final rule provides as follows. For off-facility, uncleared swaps, during the first six months following the applicable compliance date, while PET data will have to be reported electronically with data normalized in data fields, reporting counterparties for whom reporting confirmation data normalized in data fields is not yet technologically practicable may report required confirmation data by transmitting an image of all documents recording the confirmation. This will allow needed additional time for development of schemas for data reporting and implementation by non-SD/MSP counterparties. Electronic reporting of all confirmation data normalized in data fields will be required after this six month period.

3. Compliance Dates

For the reasons set forth above, the Commission has determined that each swap execution facility, designated contract market, derivatives clearing organization, swap data repository, swap dealer, major swap participant, and non-SD/MSP counterparty subject to the jurisdiction of the Commission shall commence full compliance with all provisions of this part on the applicable compliance dates set forth below. The obligations of swap counterparties with respect to swaps executed prior to the applicable compliance date as provided in this section and in existence on or after July 21, 2010, the date of enactment of the Dodd-Frank Act, are set forth in part 46 of this chapter.

a. *Compliance Dates for Swap Execution Facilities, Designated Contract Markets, Derivatives Clearing Organizations, Swap Data Repositories, Swap Dealers, and Major Swap Participants.*

Swap execution facilities, designated contract markets, derivatives clearing organizations, swap data repositories, swap dealers, and major swap participants shall commence full compliance with all provisions of this part as follows:

Credit swaps and interest rate swaps. Compliance date 1, the compliance date with respect to credit swaps and interest rate swaps, shall be the later of: July 16, 2012; or 60 calendar days after the publication in the **Federal Register** of the later of the Commission's final rule defining the term ''swap'' or the Commission's final rule defining the terms ''swap dealer'' and ''major swap participant.''

Equity swaps, foreign exchange swaps, and other commodity swaps. Compliance date 2, the compliance date with respect to equity swaps, foreign exchange swaps, and other commodity swaps, shall be 90 calendar days after compliance date 1.

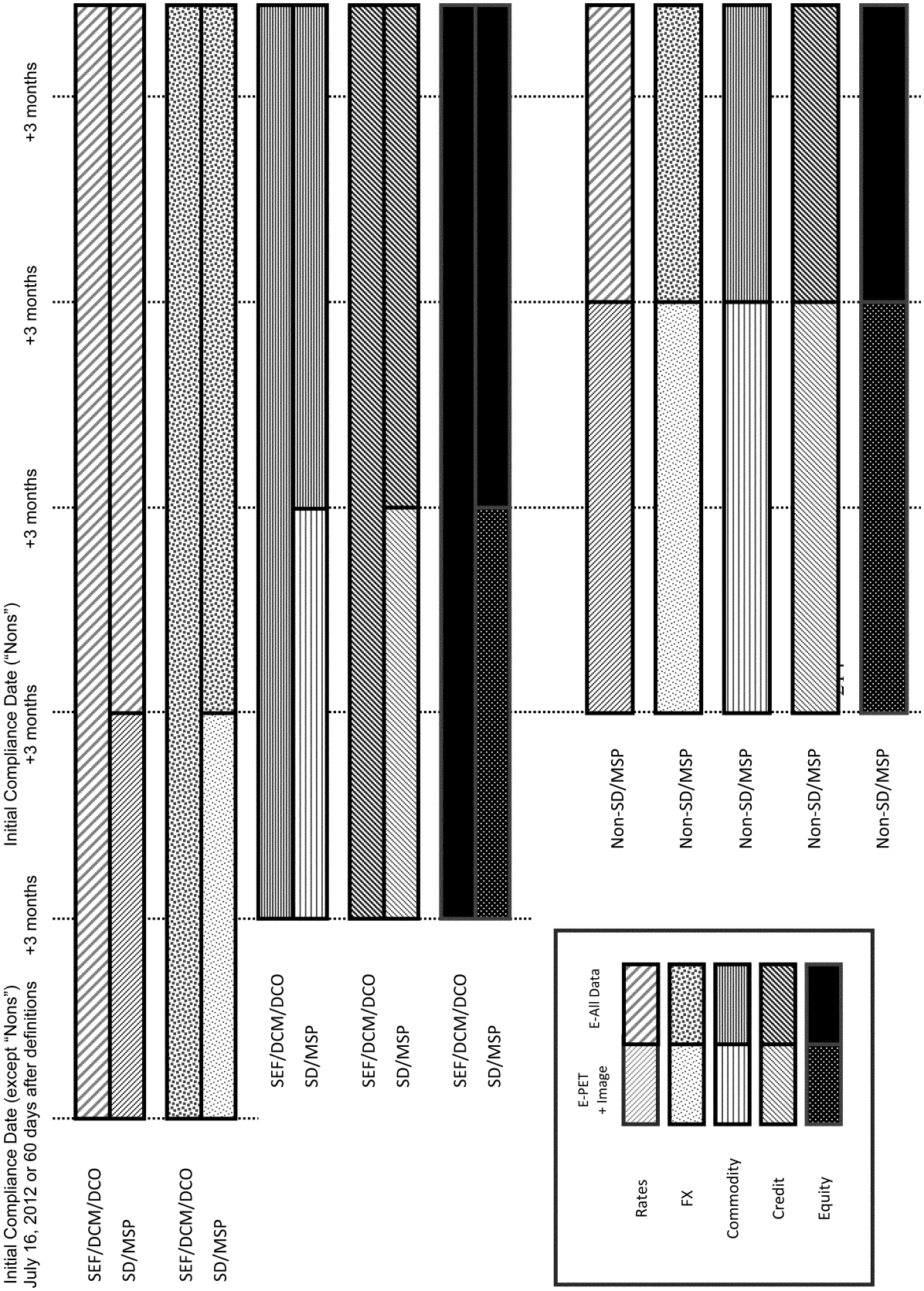
Compliance date for non-SD/MSP counterparties. Non-SD/MSP counterparties shall commence full compliance with all provisions of this part for all swaps on compliance date 3, which shall be 90 calendar days after compliance date 2.

The phasing in of swap data reporting under the final rule is shown graphically in the following table.

BILLING CODE 6351–01–P

[127] The Commission notes that one consequence of this approach is that continuation data reporting by a non-SD/MSP reporting counterparty for an on-facility swap in some cases may begin as much as six months after the creation data report for that swap by the SEF or DCM on which the swap was executed. The Commission believes this is acceptable in light of the burden reduction provided to non-SD/MSP reporting counterparties by phasing in their swap data reporting.

Phasing – Data Reporting



BILLING CODE 6351–01–C

Final Rules

List of Subjects in 17 CFR Part 45

Swaps, Data recordkeeping requirements and data reporting requirements.

■ In consideration of the foregoing, and pursuant to the authority of the Commodity Exchange Act as amended, and in particular sections 8a(5) and 21 of the Act, the Commission hereby adopts an amendment to Chapter 1 of Title 17 of the Code of Federal Regulation by adding a part 45 to read as follows:

PART 45—SWAP DATA RECORDKEEPING AND REPORTING REQUIREMENTS

Sec.

Authority: 7 U.S.C. 6r, 7, 7a–1, 7b–3, 12a and 24, as amended by Title VII of the Wall Street Reform and Consumer Protection Act of 2010, Pub. L. 111–203, 124 Stat. 1376 (2010), unless otherwise noted.

§ 45.1 Definitions.

As used in this part:

Asset class means the broad category of goods, services or commodities, including any ''excluded commodity'' as defined in CEA section 1a(19), with common characteristics underlying a swap. The asset classes include credit, equity, foreign exchange (excluding cross-currency), interest rate (including cross-currency), other commodity, and such other asset classes as may be determined by the Commission.

Business day means the twenty-four hour day, on all days except Saturdays, Sundays, and legal holidays, in the location of the reporting counterparty or registered entity reporting data for the swap.

Business hours means consecutive hours during one or more consecutive business days.

Compliance date means the applicable date on which a registered entity or swap counterparty subject to the jurisdiction of the Commission is required to commence full compliance with all provisions of this part, as set forth in the preamble to this part.

Confirmation (''confirming'') means the consummation (electronically or otherwise) of legally binding documentation (electronic or otherwise) that memorializes the agreement of the parties to all terms of a swap. A confirmation must be in writing (whether electronic or otherwise) and must legally supersede any previous agreement (electronically or otherwise).

Confirmation data means all of the terms of a swap matched and agreed upon by the counterparties in confirming the swap. For cleared swaps, confirmation data also includes the internal identifiers assigned by the automated systems of the derivatives clearing organization to the two transactions resulting from novation to the clearing house.

Credit swap means any swap that is primarily based on instruments of indebtedness, including, without limitation: Any swap primarily based on one or more broad-based indices related to instruments of indebtedness; and any swap that is an index credit swap or total return swap on one or more indices of debt instruments.

Derivatives clearing organization has the meaning set forth in CEA section 1a(9), and any Commission regulation implementing that Section, including, without limitation, § 39.5 of this chapter.

Designated contract market has the meaning set forth in CEA section 5, and any Commission regulation implementing that Section.

Electronic confirmation (confirmation ''occurs electronically'') means confirmation that is done by means of automated electronic systems.

Electronic reporting (''report electronically'') means the reporting of data normalized in data fields as required by the data standard or standards used by the swap data repository to which the data is reported. Except where specifically otherwise provided in this chapter, electronic reporting does not include submission of an image of a document or text file.

Electronic verification (verification ''occurs electronically'') means verification that is done by means of automated electronic systems.

Financial entity has the meaning set forth in CEA section 2(h)(7)(C).

Foreign exchange forward has the meaning set forth in CEA section 1a(24).

Foreign exchange instrument means an instrument that is both defined as a swap in part 1 of this chapter and included in the foreign exchange asset class. Instruments in the foreign exchange asset class include: Any currency option, foreign currency option, foreign exchange option, or foreign exchange rate option; any foreign exchange forward as defined in CEA section 1a(24); any foreign exchange swap as defined in CEA section 1a(25); and any non-deliverable forward involving foreign exchange.

Foreign exchange swap has the meaning set forth in CEA section 1a(25). It does not include swaps primarily based on rates of exchange between different currencies, changes in such rates, or other aspects of such rates (sometimes known as ''cross-currency swaps'').

Interest rate swap means any swap which is primarily based on one or more interest rates, such as swaps of payments determined by fixed and floating interest rates; or any swap which is primarily based on rates of exchange between different currencies, changes in such rates, or other aspects of such rates (sometimes known as ''cross-currency swaps'').

International swap means a swap required by U.S. law and the law of another jurisdiction to be reported both to a swap data repository and to a different trade repository registered with the other jurisdiction.

Life cycle event means any event that would result in either a change to a primary economic term of a swap or to any primary economic terms data previously reported to a swap data repository in connection with a swap. Examples of such events include, without limitation, a counterparty change resulting from an assignment or novation; a partial or full termination of the swap; a change to the end date for the swap; a change in the cash flows or rates originally reported; availability of a legal entity identifier for a swap counterparty previously identified by name or by some other identifier; or a corporate action affecting a security or securities on which the swap is based (e.g., a merger, dividend, stock split, or bankruptcy).

Life cycle event data means all of the data elements necessary to fully report any life cycle event.

Major swap participant has the meaning set forth in CEA section 1a(33) and in part 1 of this chapter.

Mixed swap has the meaning set forth in CEA section 1a(47)(D), and refers to an instrument that is in part a swap

subject to the jurisdiction of the Commission, and in part a security-based swap subject to the jurisdiction of the SEC.

Multi-asset swap means a swap that does not have one easily identifiable primary underlying notional item, but instead involves multiple underlying notional items within the Commission's jurisdiction that belong to different asset classes.

Non-electronic confirmation (confirmation ''does not occur electronically'') means confirmation that is done manually rather than by means of automated electronic systems.

Non-electronic verification (verification ''does not occur electronically'') means verification that is done manually rather than by means of automated electronic systems.

Non-SD/MSP counterparty means a swap counterparty that is neither a swap dealer nor a major swap participant.

Off-facility swap means a swap not executed on or pursuant to the rules of a swap execution facility or designated contract market.

Other commodity swap means any swap not included in the credit, equity, foreign exchange, or interest rate asset classes, including, without limitation, any swap for which the primary underlying item is a physical commodity or the price or any other aspect of a physical commodity.

Primary economic terms means all of the terms of a swap matched or affirmed by the counterparties in verifying the swap, including at a minimum each of the terms included in the most recent **Federal Register** release by the Commission listing minimum primary economic terms for swaps in the swap asset class in question. The Commission's current lists of minimum primary economic terms for swaps in each swap asset class are found in Appendix 1 to Part 45.

Primary economic terms data means all of the data elements necessary to fully report all of the primary economic terms of a swap in the swap asset class of the swap in question.

Quarterly reporting (''reported quarterly'') means reporting four times each fiscal year, following the end of each fiscal year quarter, making each quarterly report within 30 calendar days of the end of the fiscal year quarter.

Reporting counterparty means the counterparty required to report swap data pursuant to this part, selected as provided in § 45.8.

Required swap continuation data means all of the data elements that must be reported during the existence of a swap to ensure that all data concerning the swap in the swap data repository remains current and accurate, and includes all changes to the primary economic terms of the swap occurring during the existence of the swap. For this purpose, required swap continuation data includes:

(1) All life cycle event data for the swap if the swap is reported using the life cycle reporting method, or all state data for the swap if the swap is reported using the snapshot reporting method; and

(2) All valuation data for the swap.

Required swap creation data means all primary economic terms data for a swap in the swap asset class in question, and all confirmation data for the swap.

State data means all of the data elements necessary to provide a snapshot view, on a daily basis, of all of the primary economic terms of a swap in the swap asset class of the swap in question, including any change to any primary economic term or to any previously-reported primary economic terms data since the last snapshot. At a minimum, state data must include each of the terms included in the most recent **Federal Register** release by the Commission listing minimum primary economic terms for swaps in the swap asset class in question. The Commission's current lists of minimum primary economic terms for swaps in each swap asset class are found in Appendix 1 to Part 45.

Swap data repository has the meaning set forth in CEA section 1a(48), and in part 49 of this chapter.

Swap dealer has the meaning set forth in CEA section 1a(49), and in part 1 of this chapter.

Swap execution facility has the meaning set forth in CEA section 1a(50) and in part 37 of this chapter.

Valuation data means all of the data elements necessary to fully describe the daily mark of the transaction, pursuant to CEA section 4s(h)(3)(B)(iii), and to § 23.431 of this chapter if applicable.

Verification (''verify,'' ''verified,'' or ''verifying'') means the matching by the counterparties to a swap of each of the primary economic terms of a swap, at or shortly after the time the swap is executed.

§ 45.2 Swap recordkeeping.

(a) *Recordkeeping by swap execution facilities, designated contract markets, derivatives clearing organizations, swap dealers, and major swap participants.* Each swap execution facility, designated contract market, derivatives clearing organization, swap dealer, and major swap participant subject to the jurisdiction of the Commission shall keep full, complete, and systematic records, together with all pertinent data and memoranda, of all activities relating to the business of such entity or person with respect to swaps, as prescribed by the Commission. Such records shall include, without limitation, the following:

(1) For swap execution facilities, all records required by part 37 of this chapter.

(2) For designated contract markets, all records required by part 38 of this chapter.

(3) For derivatives clearing organizations, all records required by part 39 of this chapter.

(4) For swap dealers and major swap participants, all records required by part 23 of this chapter, and all records demonstrating that they are entitled, with respect to any swap, to elect the clearing requirement exception pursuant to CEA section 2(h)(7).

(b) *Recordkeeping by non-SD/MSP counterparties.* All non-SD/MSP counterparties subject to the jurisdiction of the Commission shall keep full, complete, and systematic records, together with all pertinent data and memoranda, with respect to each swap in which they are a counterparty, including, without limitation, all records demonstrating that they are entitled, with respect to any swap, to elect the clearing requirement exception in CEA section 2(h)(7).

(c) *Record retention.* All records required to be kept pursuant to this section shall be retained with respect to each swap throughout the life of the swap and for a period of at least five years following the final termination of the swap.

(d) *Retention form.* Records required to be kept pursuant to this section must be kept as required by paragraph (d)(1) or (2) of this section, as applicable.

(1) Records required to be kept by swap execution facilities, designated contract markets, derivatives clearing organizations, swap dealers, or major swap participants may be kept in electronic form, or kept in paper form if originally created and exclusively maintained in paper form, so long as they are retrievable, and information in them is reportable, as required by this section.

(2) Records required to be kept by non-SD/MSP counterparties may be kept in either electronic or paper form, so long as they are retrievable, and information in them is reportable, as required by this section.

(e) *Record retrievability.* Records required to be kept by swap execution facilities, designated contract markets, derivatives clearing organizations, or swap counterparties pursuant to this

section shall be retrievable as provided in paragraphs (e)(1) and (2) of this section, as applicable.

(1) Each record required by this section or any other section of the CEA to be kept by a swap execution facility, designated contract market, derivatives clearing organization, swap dealer, or major swap participant shall be readily accessible via real time electronic access by the registrant throughout the life of the swap and for two years following the final termination of the swap, and shall be retrievable by the registrant within three business days through the remainder of the period following final termination of the swap during which it is required to be kept.

(2) Each record required by this section or any other section of the CEA to be kept by a non-SD/MSP counterparty shall be retrievable by that counterparty within five business days throughout the period during which it is required to be kept.

(f) *Recordkeeping by swap data repositories.* Each swap data repository registered with the Commission shall keep full, complete, and systematic records, together with all pertinent data and memoranda, of all activities relating to the business of the swap data repository and all swap data reported to the swap data repository, as prescribed by the Commission. Such records shall include, without limitation, all records required by part 49 of this chapter.

(g) *Record retention and retrievability by swap data repositories.* All records required to be kept by a swap data repository pursuant to this section must be kept by the swap data repository both:

(1) Throughout the existence of the swap and for five years following final termination of the swap, during which time the records must be readily accessible by the swap data repository and available to the Commission via real time electronic access; and

(2) Thereafter, for a period of at least ten additional years in archival storage from which they are retrievable by the swap data repository within three business days.

(h) *Record inspection.* All records required to be kept pursuant to this section by any registrant or its affiliates or by any non-SD/MSP counterparty subject to the jurisdiction of the Commission shall be open to inspection upon request by any representative of the Commission, the United States Department of Justice, or the Securities and Exchange Commission, or by any representative of a prudential regulator as authorized by the Commission. Copies of all such records shall be provided, at the expense of the entity or person required to keep the record, to any representative of the Commission upon request. Copies of records required to be kept by any registrant shall be provided either by electronic means, in hard copy, or both, as requested by the Commission, with the sole exception that copies of records originally created and exclusively maintained in paper form may be provided in hard copy only. Copies of records required to be kept by any non-SD/MSP counterparty subject to the jurisdiction of the Commission that is not a Commission registrant shall be provided in the form, whether electronic or paper, in which the records are kept.

§ 45.3 Swap data reporting: creation data.

Registered entities and swap counterparties must report required swap creation data electronically to a swap data repository as set forth in this Section. This obligation commences on the applicable compliance date set forth in the preamble to this part. The reporting obligations of swap counterparties with respect to swaps executed prior to the applicable compliance date and in existence on or after July 21, 2010, the date of enactment of the Dodd-Frank Act, are set forth in part 46 of this chapter. This section and § 45.4 establish the general swap data reporting obligations of swap dealers, major swap participants, non-SD/MSP counterparties, swap execution facilities, designated contract markets, and derivatives clearing organizations to report swap data to a swap data repository. In addition to the reporting obligations set forth in this section and § 45.4, registered entities and swap counterparties are subject to other reporting obligations set forth in this chapter, including, without limitation, the following: Swap dealers, major swap participants, and non-SD/MSP counterparties are also subject to the reporting obligations with respect to corporate affiliations reporting set forth in § 45.6; swap execution facilities, designated contract markets, swap dealers, major swap participants, and non-SD/MSP counterparties are subject to the reporting obligations with respect to real time reporting of swap data set forth in part 43 of this chapter; counterparties to a swap for which the clearing requirement exception in CEA section 2(h)(7) has been elected are subject to the reporting obligations set forth in part 39 of this chapter; and, where applicable, swap dealers, major swap participants, and non-SD/MSP counterparties are subject to the reporting obligations with respect to large traders set forth in parts 17 and 18 of this chapter.

(a) *Swaps executed on or pursuant to the rules of a swap execution facility or designated contract market.* (1) For each swap executed on or pursuant to the rules of a swap execution facility or designated contract market, the swap execution facility or designated contract market must report all required swap creation data, as soon as technologically practicable after execution of the swap. This report must include all confirmation data for the swap, as defined in part 23 and in § 45.1, and all primary economic terms data for the swap, as defined in § 45.1.

(2) If such a swap is accepted for clearing by a derivatives clearing organization, the derivatives clearing organization must report all confirmation data for the swap, as defined in part 39 and in § 45.1, as soon as technologically practicable after clearing. The derivatives clearing organization shall fulfill this requirement by reporting all confirmation data for the swap, as defined in part 39 and in this § 45.1, which must include all primary economic terms data for the swap as defined in § 45.1, and must include the internal identifiers assigned by the automated systems of the derivatives clearing organization to the two transactions resulting from novation to the clearing house.

(b) *Off-facility swaps subject to mandatory clearing.* For all off-facility swaps subject to the mandatory clearing requirement, except for those off-facility swaps excepted from that requirement pursuant to CEA section 2(h)(7) and those off-facility swaps covered by CEA section 2(a)(13)(C)(iv), required swap creation data must be reported as provided in paragraph (b) of this section.

(1) The reporting counterparty, as determined pursuant to § 45.8, must report all primary economic terms data for the swap, within the applicable reporting deadline set forth in paragraph (b)(1)(i) or (ii) of this section. However, if the swap is voluntarily submitted for clearing and accepted for clearing by a derivatives clearing organization before the applicable reporting deadline set forth in paragraphs (b)(1)(i) or (ii) of this section, and if the swap is accepted for clearing before the reporting counterparty reports any primary economic terms data to a swap data repository, then the reporting counterparty is excused from reporting required swap creation data for the swap.

(i) If the reporting counterparty is a swap dealer or a major swap participant, the reporting counterparty must report all primary economic terms data for the

swap as soon as technologically practicable after execution, but no later than: 30 minutes after execution during the first year following the compliance date; and 15 minutes after execution thereafter.

(ii) If the reporting counterparty is a non-SD/MSP counterparty, the reporting counterparty must report all primary economic terms data for the swap as soon as technologically practicable after execution, but no later than: four business hours after execution during the first year following the compliance date; two business hours after execution during the second year following the compliance date; and one business hour after execution thereafter.

(2) If the swap is accepted for clearing by a derivatives clearing organization, the derivatives clearing organization must report all confirmation data for the swap, as defined in part 39 and in § 45.1, as soon as technologically practicable after clearing. The derivatives clearing organization shall fulfill this requirement by reporting all confirmation data for the swap, as defined in part 39 and in this § 45.1, which must include all primary economic terms data for the swap as defined in § 45.1, and must include the internal identifiers assigned by the automated systems of the derivatives clearing organization to the two transactions resulting from novation to the clearing house.

(3) If the swap is not accepted for clearing, the reporting counterparty must report all confirmation data for the swap, as defined in § 45.1, within the applicable reporting deadline set forth in paragraph (b)(3)(i) or (ii) of this section. During the first 180 calendar days following the compliance date, if reporting confirmation data normalized in data fields is not yet technologically practicable for the reporting counterparty, the reporting counterparty may report confirmation data to the swap data repository by transmitting to the swap data repository an image of the document or documents constituting the confirmation, until such time as electronic reporting of confirmation data is technologically practicable for the reporting counterparty. Beginning 180 days after the compliance date, the reporting counterparty must report all confirmation data to the swap data repository electronically.

(i) If the reporting counterparty is a swap dealer or major swap participant, the reporting counterparty must report all confirmation data as soon as technologically practicable following confirmation, but no later than: 30 minutes after confirmation if confirmation occurs electronically; or 24 business hours after confirmation if confirmation does not occur electronically.

(ii) If the reporting counterparty is a non-SD/MSP counterparty, the reporting counterparty must report all confirmation data as soon as technologically practicable following confirmation, but no later than: the end of the second business day after the date of confirmation during the first year following the compliance date; and the end of the first business day after the date of confirmation thereafter.

(c) *Off-facility swaps not subject to mandatory clearing, with a swap dealer or major swap participant reporting counterparty.* For all off-facility swaps not subject to the mandatory clearing requirement set forth in CEA section 2(h), all off-facility swaps for which the clearing requirement exception in CEA section 2(h)(7) has been elected, and all off-facility swaps covered by CEA section 2(a)(13)(C)(iv), for which a swap dealer or major swap participant is the reporting counterparty, required swap creation data must be reported as provided in paragraph (c) of this section.

(1) *Credit, equity, foreign exchange, and interest rate swaps.* For each such credit swap, equity swap, foreign exchange instrument, or interest rate swap:

(i) The reporting counterparty, as determined pursuant to § 45.8, must report all primary economic terms data for the swap, within the applicable reporting deadline set forth in paragraph (c)(1)(i)(A) or (B) of this section. However, if the swap is voluntarily submitted for clearing and accepted for clearing by a derivatives clearing organization before the applicable reporting deadline set forth in paragraphs (c)(1)(i)(A) or (B) of this section, and if the swap is accepted for clearing before the reporting counterparty reports any primary economic terms data to a swap data repository, then the reporting counterparty is excused from reporting required swap creation data for the swap.

(A) If the non-reporting counterparty is a swap dealer, a major swap participant, or a non-SD/MSP counterparty that is a financial entity as defined in CEA section 2(h)(7)(C), or if the non-reporting counterparty is a non-SD/MSP counterparty *that is not a financial entity as defined in CEA section 2(h)(7)(C)* and verification of primary economic terms occurs electronically, then the reporting counterparty must report all primary economic terms data for the swap as soon as technologically practicable after execution, but no later than: one hour after execution during the first year following the compliance date; and 30 minutes after execution thereafter.

(B) If the non-reporting counterparty is a non-SD/MSP counterparty *that is not a financial entity as defined in CEA section 2(h)(7)(C),* and if verification of primary economic terms does not occur electronically, then the reporting counterparty must report all primary economic terms data for the swap as soon as technologically practicable after execution, but no later than: 24 business hours after execution during the first year following the compliance date; 12 business hours after execution during the second year following the compliance date; and 30 minutes after execution thereafter.

(ii) If the swap is accepted for clearing by a derivatives clearing organization, the derivatives clearing organization must report all confirmation data for the swap, as defined in part 39 and in § 45.1, as soon as technologically practicable after clearing. The derivatives clearing organization shall fulfill this requirement by reporting all confirmation data for the swap, as defined in part 39 and in this § 45.1, which must include all primary economic terms data for the swap as defined in § 45.1, and must include the internal identifiers assigned by the automated systems of the derivatives clearing organization to the two transactions resulting from novation to the clearing house.

(iii) If the swap is not voluntarily submitted for clearing, the reporting counterparty must report all confirmation data for the swap, as defined in § 45.1, as soon as technologically practicable after confirmation, but no later than: 30 minutes after confirmation if confirmation occurs electronically; or 24 business hours after confirmation if confirmation does not occur electronically. During the first 180 calendar days following the compliance date, if reporting confirmation data normalized in data fields is not yet technologically practicable for the reporting counterparty, the reporting counterparty may report confirmation data to the swap data repository by transmitting to the swap data repository an image of the document or documents constituting the confirmation, until such time as electronic reporting of confirmation data is technologically practicable for the reporting counterparty. Beginning 180 days after the compliance date, the reporting counterparty must report all confirmation data to the swap data repository electronically.

(2) *Other commodity swaps.* For each such other commodity swap:

(i) The reporting counterparty, as determined pursuant to § 45.8, must report all primary economic terms data for the swap, within the applicable reporting deadline set forth in paragraph (c)(2)(i)(A) or (B) of this section. However, if the swap is voluntarily submitted for clearing and accepted for clearing by a derivatives clearing organization before the applicable reporting deadline set forth in paragraphs (c)(2)(i)(A) or (B) of this section, and if the swap is accepted for clearing before the reporting counterparty reports any primary economic terms data to a swap data repository, then the reporting counterparty is excused from reporting required swap creation data for the swap.

(A) If the non-reporting counterparty is a swap dealer, a major swap participant, or a non-SD/MSP counterparty that is a financial entity as defined in CEA section 2(h)(7)(C), or if the non-reporting counterparty is a non-SD/MSP counterparty *that is not a financial entity as defined in CEA section 2(h)(7)(C)* and verification of primary economic terms occurs electronically, then the reporting counterparty must report all primary economic terms data for the swap as soon as technologically practicable after execution, but no later than: four hours after execution during the first year following the compliance date; and two hours after execution thereafter.

(B) If the non-reporting counterparty is a non-SD/MSP counterparty *that is not a financial entity as defined in CEA section 2(h)(7)(C),* and if verification of primary economic terms does not occur electronically, then the reporting counterparty must report all primary economic terms data for the swap as soon as technologically practicable after execution, but no later than: 48 business hours after execution during the first year following the compliance date; 24 business hours after execution during the second year following the compliance date; and two hours after execution thereafter.

(ii) If the swap is accepted for clearing by a derivatives clearing organization, the derivatives clearing organization must report all confirmation data for the swap, as defined in part 39 and in § 45.1, as soon as technologically practicable after clearing. The derivatives clearing organization shall fulfill this requirement by reporting all confirmation data for the swap, as defined in part 39 and in this § 45.1, which must include all primary economic terms data for the swap as defined in § 45.1, and must include the internal identifiers assigned by the automated systems of the derivatives clearing organization to the two transactions resulting from novation to the clearing house.

(iii) If the swap is not voluntarily submitted for clearing, the reporting counterparty must report all confirmation data for the swap, as defined in § 45.1, as soon as technologically practicable after confirmation, but no later than: 30 minutes after confirmation if confirmation occurs electronically; or 24 business hours after confirmation if confirmation does not occur electronically. During the first 180 calendar days following the compliance date, if reporting confirmation data normalized in data fields is not yet technologically practicable for the reporting counterparty, the reporting counterparty may report confirmation data to the swap data repository by transmitting to the swap data repository an image of the document or documents constituting the confirmation, until such time as electronic reporting of confirmation data is technologically practicable for the reporting counterparty. Beginning 180 days after the compliance date, the reporting counterparty must report all confirmation data to the swap data repository electronically.

(d) *Off-facility swaps not subject to mandatory clearing, with a non-SD/MSP reporting counterparty.* For all off-facility swaps not subject to the mandatory clearing requirement set forth in CEA section 2(h), all off-facility swaps for which the clearing requirement exception in CEA section 2(h)(7) has been elected, and all off-facility swaps covered by CEA section 2(a)(13)(C)(iv), in all asset classes, for which a non-SD/MSP counterparty is the reporting counterparty, required swap creation data must be reported as provided in this paragraph (d).

(1) The reporting counterparty, as determined pursuant to § 45.8, must report all primary economic terms data for the swap, as soon as technologically practicable after execution, but no later than: 48 business hours after execution during the first year following the compliance date; 36 business hours after execution during the second year following the compliance date; and 24 business hours after execution thereafter. However, if the swap is voluntarily submitted for clearing and accepted for clearing by a derivatives clearing organization before the applicable reporting deadline set forth in this paragraph (d)(1), and if the swap is accepted for clearing before the reporting counterparty reports any primary economic terms data to a swap data repository, then the reporting counterparty is excused from reporting required swap creation data for the swap.

(2) If the swap is accepted for clearing by a derivatives clearing organization, the derivatives clearing organization must report all confirmation data for the swap, as defined in part 39 and in § 45.1, as soon as technologically practicable after clearing. The derivatives clearing organization shall fulfill this requirement by reporting all confirmation data for the swap, as defined in part 39 and in this § 45.1, which must include all primary economic terms data for the swap as defined in § 45.1, and must include the internal identifiers assigned by the automated systems of the derivatives clearing organization to the two transactions resulting from novation to the clearing house.

(3) If the swap is not voluntarily submitted for clearing, the reporting counterparty must report all confirmation data for the swap, as defined in § 45.1, as soon as technologically practicable after confirmation, but no later than: 48 business hours after confirmation during the first year following the compliance date; 36 business hours after confirmation during the second year following the compliance date; and 24 business hours after confirmation thereafter. During the first 180 calendar days following the compliance date, if reporting confirmation data normalized in data fields is not yet technologically practicable for the reporting counterparty, the reporting counterparty may report confirmation data to the swap data repository by transmitting to the swap data repository an image of the document or documents constituting the confirmation, until such time as electronic reporting of confirmation data is technologically practicable for the reporting counterparty. Beginning 180 days after the compliance date, the reporting counterparty must report all confirmation data to the swap data repository electronically.

(e) *Allocations.* For swaps involving allocation, required swap creation data shall be reported to a single swap data repository as follows.

(i) *Initial swap between reporting counterparty and agent.* The initial swap transaction between the reporting counterparty and the agent shall be reported as required by § 45.3(a) through (d) of this part. A unique swap identifier for the initial swap transaction must be created as provided in § 45.5 of this part.

(ii) *Post-allocation swaps.* (A) *Duties of the agent.* In accordance with this section, the agent shall inform the reporting counterparty of the identities of the reporting counterparty's actual counterparties resulting from allocation, as soon as technologically practicable after execution, but not later than eight business hours after execution.

(B) *Duties of the reporting counterparty.* The reporting counterparty must report all required swap creation data for each swap resulting from allocation, to the same swap data repository to which the initial swap transaction is reported, as soon as technologically practicable after it is informed by the agent of the identities of its actual counterparties. The reporting counterparty must create a unique swap identifier for each such swap as required in § 45.5 of this part.

(C) *Duties of the swap data repository.* The swap data repository to which the initial swap transaction and the post-allocation swaps are reported must map together the unique swap identifiers of the original swap transaction and of each of the post-allocation swaps.

(f) *Multi-asset swaps.* For each multi-asset swap, required swap creation data and required swap continuation data shall be reported to a single swap data repository that accepts swaps in the asset class treated as the primary asset class involved in the swap by the swap execution facility, designated contract market, or reporting counterparty making the first report of required swap creation data pursuant to this section. The registered entity or reporting counterparty making the first report of required swap creation data pursuant to this section shall report all primary economic terms for each asset class involved in the swap.

(g) *Mixed swaps.* (1) For each mixed swap, required swap creation data and required swap continuation data shall be reported to a swap data repository registered with the Commission and to a security-based swap data repository registered with the Securities and Exchange Commission. This requirement may be satisfied by reporting the mixed swap to a swap data repository or security-based swap data repository registered with both Commissions.

(2) The registered entity or reporting counterparty making the first report of required swap creation data pursuant to this section shall ensure that the same unique swap identifier is recorded for the swap in both the swap data repository and the security-based swap data repository.

(h) *International swaps.* For each international swap, the reporting counterparty shall report as soon as practicable to the swap data repository the identity of the non-U.S. trade repository not registered with the Commission to which the swap is also reported and the swap identifier used by the non-U.S. trade repository to identify the swap. If necessary, the reporting counterparty shall obtain this information from the non-reporting counterparty.

§ 45.4 Swap data reporting: continuation data.

Registered entities and swap counterparties must report required swap continuation data electronically to a swap data repository as set forth in this section. This obligation commences on the applicable compliance date set forth in the preamble to this part. The reporting obligations of registered entities and swap counterparties with respect to swaps executed prior to the applicable compliance date and in existence on or after July 21, 2010, the date of enactment of the Dodd-Frank Act, are set forth in part 46 of this chapter. This section and § 45.3 establish the general swap data reporting obligations of swap dealers, major swap participants, non-SD/MSP counterparties, swap execution facilities, designated contract markets, and derivatives clearing organizations to report swap data to a swap data repository. In addition to the reporting obligations set forth in this section and § 45.3, registered entities and swap counterparties are subject to other reporting obligations set forth in this chapter, including, without limitation, the following: Swap dealers, major swap participants, and non-SD/MSP counterparties are also subject to the reporting obligations with respect to corporate affiliations reporting set forth in § 45.6; swap execution facilities, designated contract markets, swap dealers, major swap participants, and non-SD/MSP counterparties are subject to the reporting obligations with respect to real time reporting of swap data set forth in part 43 of this chapter; and, where applicable, swap dealers, major swap participants, and non-SD/MSP counterparties are subject to the reporting obligations with respect to large traders set forth in parts 17 and 18 of this chapter.

(a) *Continuation data reporting method.* For each swap, regardless of asset class, reporting counterparties and derivatives clearing organizations required to report swap continuation data must do so in a manner sufficient to ensure that all data in the swap data repository concerning the swap remains current and accurate, and includes all changes to the primary economic terms of the swap occurring during the existence of the swap. Reporting entities and counterparties fulfill this obligation by reporting either life cycle event data or state data for the swap within the applicable deadlines set forth in this section. Reporting counterparties and derivatives clearing organizations required to report swap continuation data for a swap may fulfill their obligation to report either life cycle event data or state data by reporting:

(1) Life cycle event data to a swap data repository that accepts only life cycle event data reporting;

(2) State data to a swap data repository that accepts only state data reporting; or

(3) Either life cycle event data or state data to a swap data repository that accepts both life cycle event data and state data reporting.

(b) *Continuation data reporting for cleared swaps.* For all swaps cleared by a derivatives clearing organization, required continuation data must be reported as provided in this section.

(1) *Life cycle event data or state data reporting.* The derivatives clearing organization must report to the swap data repository either:

(i) All life cycle event data for the swap, reported on the same day that any life cycle event occurs with respect to the swap; or

(ii) All state data for the swap, reported daily.

(2) *Valuation data reporting.* Valuation data for the swap must be reported as follows:

(i) By the derivatives clearing organization, daily; and

(ii) If the reporting counterparty is a swap dealer or major swap participant, by the reporting counterparty, daily. Non-SD/MSP reporting counterparties are not required to report valuation data for cleared swaps.

(c) *Continuation data reporting for uncleared swaps.* For all swaps that are not cleared by a derivatives clearing organization, the reporting counterparty must report all required swap continuation data as provided in this section.

(1) *Life cycle event data or state data reporting.* The reporting counterparty for the swap must report to the swap data repository either all life cycle event data for the swap or all state data for the swap, within the applicable deadline set forth in paragraphs (c)(1)(i) or (ii) of this section.

(i) If the reporting counterparty is a swap dealer or major swap participant:

(A) Life cycle event data must be reported on the same day that any life cycle event occurs, with the sole

exception that life cycle event data relating to a corporate event of the non-reporting counterparty must be reported no later than the second business day after the day on which such event occurs.

(B) State data must be reported daily.

(ii) If the reporting counterparty is a non-SD/MSP counterparty:

(A) Life cycle event data must be reported no later than: the end of the second business day following the date of any life cycle event during the first year after the applicable compliance date; and the end of the first business day following the date of any life cycle event thereafter; with the sole exception that life cycle event data relating to a corporate event of the non-reporting counterparty must be reported no later than the end of the third business day following the date of such event during the first year after the compliance date, and no later than the end of the second business day following such event thereafter.

(B) State data must be reported daily.

(2) *Valuation data reporting.* Valuation data for the swap must be reported by the reporting counterparty for the swap as follows:

(i) If the reporting counterparty is a swap dealer or major swap participant, the reporting counterparty must report all valuation data for the swap, daily.

(ii) If the reporting counterparty is a non-SD/MSP counterparty, the reporting counterparty must report the current daily mark of the transaction as of the last day of each fiscal quarter. This report must be transmitted to the swap data repository within 30 calendar days of the end of each fiscal quarter. If a daily mark of the transaction is not available for the swap, the reporting counterparty satisfies this requirement by reporting the current valuation of the swap recorded on its books in accordance with applicable accounting standards.

§ 45.5 Unique swap identifiers.

Each swap subject to the jurisdiction of the Commission shall be identified in all recordkeeping and all swap data reporting pursuant to this part by the use of a unique swap identifier, which shall be created, transmitted, and used for each swap as provided in paragraphs (a) through (c) of this section.

(a) *Swaps executed on a swap execution facility or designated contract market.* For each swap executed on a swap execution facility or designated contract market, the swap execution facility or designated contract market shall create and transmit a unique swap identifier as provided in paragraphs (a)(1) and (2) of this section.

(1) *Creation.* The swap execution facility or designated contract market shall generate and assign a unique swap identifier at, or as soon as technologically practicable following, the time of execution of the swap, and prior to the reporting of required swap creation data. The unique swap identifier shall consist of a single data field that contains two components:

(i) The unique alphanumeric code assigned to the swap execution facility or designated contract market by the Commission for the purpose of identifying the swap execution facility or designated contract market with respect to unique swap identifier creation; and

(ii) An alphanumeric code generated and assigned to that swap by the automated systems of the swap execution facility or designated contract market, which shall be unique with respect to all such codes generated and assigned by that swap execution facility or designated contract market.

(2) *Transmission.* The swap execution facility or designated contract market shall transmit the unique swap identifier electronically as follows:

(i) To the swap data repository to which the swap execution facility or designated contract market reports required swap creation data for the swap, as part of that report;

(ii) To each counterparty to the swap, as soon as technologically practicable after execution of the swap;

(iii) To the derivatives clearing organization, if any, to which the swap is submitted for clearing, as part of the required swap creation data transmitted to the derivatives clearing organization for clearing purposes.

(b) *Off-facility swaps with a swap dealer or major swap participant reporting counterparty.* For each off-facility swap where the reporting counterparty is a swap dealer or major swap participant, the reporting counterparty shall create and transmit a unique swap identifier as provided in paragraphs (b)(1) and (2) of this section.

(1) *Creation.* The reporting counterparty shall generate and assign a unique swap identifier as soon as technologically practicable after execution of the swap and prior to both the reporting of required swap creation data and the transmission of data to a derivatives clearing organization if the swap is to be cleared. The unique swap identifier shall consist of a single data field that contains two components:

(i) The unique alphanumeric code assigned to the swap dealer or major swap participant by the Commission at the time of its registration as such, for the purpose of identifying the swap dealer or major swap participant with respect to unique swap identifier creation; and

(ii) An alphanumeric code generated and assigned to that swap by the automated systems of the swap dealer or major swap participant, which shall be unique with respect to all such codes generated and assigned by that swap dealer or major swap participant.

(2) *Transmission.* The reporting counterparty shall transmit the unique swap identifier electronically as follows:

(i) To the swap data repository to which the reporting counterparty reports required swap creation data for the swap, as part of that report;

(ii) To the non-reporting counterparty to the swap, as soon as technologically practicable after execution of the swap; and

(iii) To the derivatives clearing organization, if any, to which the swap is submitted for clearing, as part of the required swap creation data transmitted to the derivatives clearing organization for clearing purposes.

(c) *Off-facility swaps with a non-SD/MSP reporting counterparty.* For each off-facility swap for which the reporting counterparty is a non-SD/MSP counterparty, the swap data repository to which primary economic terms data is reported shall create and transmit a unique swap identifier as provided in paragraphs (c)(1) and (2) of this section.

(1) *Creation.* The swap data repository shall generate and assign a unique swap identifier as soon as technologically practicable following receipt of the first report of required swap creation data concerning the swap. The unique swap identifier shall consist of a single data field that contains two components:

(i) The unique alphanumeric code assigned to the swap data repository by the Commission at the time of its registration as such, for the purpose of identifying the swap data repository with respect to unique swap identifier creation; and

(ii) An alphanumeric code generated and assigned to that swap by the automated systems of the swap data repository, which shall be unique with respect to all such codes generated and assigned by that swap data repository.

(2) *Transmission.* The swap data repository shall transmit the unique swap identifier electronically as follows:

(i) To the counterparties to the swap, as soon as technologically practicable following creation of the unique swap identifier; and

(ii) To the derivatives clearing organization, if any, to which the swap is submitted for clearing, as soon as technologically practicable following creation of the unique swap identifier.

(d) *Allocations.* For swaps involving allocation, unique swap identifiers shall be created and transmitted as follows.

(1) *Initial swap between reporting counterparty and agent.* The unique swap identifier for the initial swap transaction between the reporting counterparty and the agent shall be created as required by paragraph (a) through (c) of this section, and shall be transmitted as follows:

(i) If the unique swap identifier is created by a swap execution facility or designated contract market, the swap execution facility or designated contract market must include the unique swap identifier in its swap creation data report to the swap data repository, and must transmit the unique identifier to the reporting counterparty and to the agent.

(ii) If the unique swap identifier is created by the reporting counterparty, the reporting counterparty must include the unique swap identifier in its swap creation data report to the swap data repository, and must transmit the unique identifier to the agent.

(2) *Post-allocation swaps.* The reporting counterparty must create a unique swap identifier for each of the individual swaps resulting from allocation, as soon as technologically practicable after it is informed by the agent of the identities of its actual counterparties, and must transmit each such unique swap identifier to:

(i) The non-reporting counterparty for the swap in question.

(ii) The agent.

(iii) The derivatives clearing organization, if any, to which the swap is submitted for clearing, as part of the required swap creation data transmitted to the derivatives clearing organization for clearing purposes.

(iv) The same swap data repository to which the initial swap transaction is reported, as part of the report of required swap creation data to the swap data repository.

(e) *Use.* Each registered entity or swap counterparty subject to the jurisdiction of the Commission shall include the unique swap identifier for a swap in all of its records and all of its swap data reporting concerning that swap, from the time it creates or receives the unique swap identifier as provided in this section, throughout the existence of the swap and for as long as any records are required by the CEA or Commission regulations to be kept by that registered entity or counterparty concerning the swap, regardless of any life cycle events or any changes to state data concerning the swap, including, without limitation, any changes with respect to the counterparties to or the ownership of the swap. This requirement shall not prohibit the use by a registered entity or swap counterparty in its own records of any additional identifier or identifiers internally generated by the automated systems of the registered entity or swap counterparty, or the reporting to a swap data repository, the Commission, or another regulator of such internally generated identifiers in addition to the reporting of the unique swap identifier.

§ 45.6 Legal entity identifiers

Each counterparty to any swap subject to the jurisdiction of the Commission shall be identified in all recordkeeping and all swap data reporting pursuant to this part by means of a single legal entity identifier as specified in this section.

(a) *Definitions.* As used in this section:

Control (''controlling,'' ''controlled by,'' ''under common control with'') means, for the purposes of § 45.6, the possession, direct or indirect, of the power to direct or cause the direction of the management and policies of a person, whether through the ownership of voting interest, by contract, or otherwise. A person is presumed to control another person if the person: is a director, general partner or officer exercising executive responsibility (or having similar status or functions); directly or indirectly has the right to vote 25 percent or more of a class of voting interest or has the power to sell or direct the sale of 25 percent or more of a class of voting interest; or, in the case of a partnership, has the right to receive upon dissolution, or has contributed, 25 percent or more of the capital.

Legal identifier system means an LEI utility conforming with the requirements of this section that issues or is capable of issuing an LEI conforming with the requirements of this section, and is capable of maintaining LEI reference data as required by this section.

Level one reference data means the minimum information needed to identify, on a verifiable basis, the legal entity to which a legal entity identifier is assigned. Level one reference data shall include, without limitation, all of the data elements included in ISO Standard 17442. Examples of level one reference data include, without limitation, a legal entity's official legal name, its place of incorporation, and the address and contact information of its corporate headquarters.

Level two reference data means information concerning the corporate affiliations or company hierarchy relationships of the legal entity to which a legal entity identifier is assigned. Examples of level two reference data include, without limitation, the identity of the legal entity's ultimate parent.

Parent means, for the purposes of § 45.6, a legal person that controls a counterparty to a swap required to be reported pursuant to this section, or that controls a legal entity identified or to be identified by a legal entity identifier provided by the legal identifier system designated by the Commission pursuant to this section.

Self-registration means submission by a legal entity of its own level one or level two reference data, as applicable.

Third-party registration means submission of level one or level two reference data, as applicable, for a legal entity that is or may become a swap counterparty, made by an entity or organization other than the legal entity identified by the submitted reference data. Examples of third-party registration include, without limitation, submission by a swap dealer or major swap participant of level one or level two reference data for its swap counterparties, and submission by a national numbering agency, national registration agency, or data service provider of level one or level two reference data concerning legal entities with respect to which the agency or service provider maintains information.

Ultimate parent means, for the purposes of § 45.6, a legal person that controls a counterparty to a swap required to be reported pursuant to this section, or that controls a legal entity identified or to be identified by a legal entity identifier provided by the legal identifier system designated by the Commission pursuant to this section, and that itself has no parent.

(b) *International standard for the legal entity identifier.* The legal entity identifier used in all recordkeeping and all swap data reporting required by this part, following designation of the legal entity identifier system as provided in paragraph (c)(2) of this section, shall be issued under, and shall conform to, ISO Standard 17442, Legal Entity Identifier (LEI), issued by the International Organisation for Standardisation.

(b) *Technical principles for the legal entity identifier.* The legal entity identifier used in all recordkeeping and all swap data reporting required by this part shall conform to the technical principles set forth in paragraphs (b)(1) through (6) of this section.

(1) *Uniqueness.* Only one legal entity identifier shall be assigned to any legal entity, and no legal entity identifier shall ever be reused. Each entity within a corporate organization or group structure that acts as a counterparty in

any swap shall have its own legal entity identifier.

(2) *Neutrality.* To ensure the persistence of the legal entity identifier, it shall have a format consisting of a single data field, and shall contain either no embedded intelligence or as little embedded intelligence as practicable. Entity characteristics of swap counterparties identified by legal entity identifiers shall constitute separate elements within a reference data system as set forth in paragraphs (a), (c)(2), (d), and (e) of this section.

(3) *Reliability.* The legal entity identifier shall be supported by a trusted and auditable method of verifying the identity of the legal entity to which it is assigned, both initially and at appropriate intervals thereafter. The issuer of legal entity identifiers shall maintain minimum reference or identification data sufficient to verify that a user has been correctly identified. Issuance and maintenance of the legal entity identifier, and storage and maintenance of all associated data, shall involve robust quality assurance practices and system safeguards. At a minimum, such system safeguards shall include the system safeguards applied to swap data repositories by part 49 of this chapter.

(4) *Open Source.* The schema for the legal entity identifier shall have an open standard that ensures to the greatest extent practicable that the legal entity identifier is compatible with existing automated systems of financial market infrastructures, market participants, and regulators.

(5) *Extensibility.* The legal entity identifier shall be capable of becoming the single international standard for unique identification of legal entities across the financial sector on a global basis. Therefore, it shall be sufficiently extensible to cover all existing and potential future legal entities of all types that may be counterparties to swap, OTC derivative, or other financial transactions; that may be involved in any aspect of the financial issuance and transactions process; or that may be subject to required due diligence by financial sector entities.

(6) *Persistence.* The legal entity identifier assigned to an entity shall persist despite all corporate events. When a corporate event results in a new entity, the new entity shall receive a new legal entity identifier, while the previous legal entity identifier or identifiers continue to identify the predecessor entity or entities in the record.

(c) *Governance principles for the legal entity identifier.* The legal entity identifier used in all recordkeeping and all swap data reporting required by this part shall conform to the governance principles set forth in paragraphs (c)(1) through (4) of this section.

(1) *International governance.* The issuance of the legal entity identifier used pursuant to this section, and any legal entity identifier utility formed for the purpose of issuing legal entity identifiers that are used pursuant to this section, shall be subject to international supervision as follows:

(i) With respect to operations, by a governance structure that includes the Commission and other financial regulators in any jurisdiction requiring use of the legal entity identifier pursuant to applicable law. The governance structure shall have authority sufficient to ensure, and shall ensure, that issuance and maintenance of the legal entity identifier system adheres on an ongoing basis to the principles set forth in this section.

(ii) With respect to adherence to ISO Standard 17442, by the International Organisation for Standardisation.

(2) *Reference data access.* Access to reference data associated with the legal entity identifier shall enable use of the legal entity identifier as a public good, while respecting applicable law regarding data confidentiality. Accordingly:

(i) Reference data associated with the legal entity identifier that is public under applicable law shall be available publicly and free of charge. Such data shall include, without limitation, level one reference data (i.e., the minimum reference data needed to verify the identity of the legal entity receiving each legal entity identifier), and a current directory of all issued legal entity identifiers.

(ii) Collection and maintenance of, and access to, reference data associated with the legal entity identifier shall comply with applicable laws on data protection and confidentiality.

(3) *Non-profit operation and funding.* Funding of both start-up and ongoing operation of the legal entity identifier system, including, without limitation, any legal entity identifier utility formed for the purpose of issuing legal entity identifiers that are used pursuant to this section, shall be conducted on a non-profit, reasonable cost-recovery basis, and shall be subject to international governance as provided in paragraph (c)(1) of this section.

(4) *Unbundling and non-restricted use.* Issuance of the legal entity identifier shall not be tied to other services, if any, offered by the issuer, and information concerning the issuance process for new legal entity identifiers must be available publicly and free of charge. Restrictions shall not be imposed on use of the legal entity identifier by any person in its own products and services, or on use of the legal entity identifier and associated reference data by any financial regulator. Any intellectual property created as part of the legal entity identifier system shall be treated in a manner consistent with open source principles.

(5) *Commercial advantage prohibition.* The legal entity identifier utility providing legal entity identifiers for use in compliance with this part shall not make any commercial or business use (other than the operation of the utility) of any reference data associated with the legal entity identifier that is not available to the public free of charge. This restriction shall also apply to any entity or person that participates in the utility, that is legally or otherwise affiliated or associated with the utility, or that provides third-party services to the utility or to any component, partner, affiliate, or associate thereof.

(e) *Designation of the legal entity identifier system.* (1) The Commission shall determine, as provided in paragraphs (e)(1)(i) through (iii) of this section, whether a legal entity identifier system that satisfies the requirements set forth in this section is available to provide legal entity identifiers for registered entities and swap counterparties required to comply with this part.

(i) In making this determination, the Commission shall consider, without limitation, the following factors:

(A) Whether the LEI provided by the LEI utility is issued under, and conforms to, *ISO Standard 17442, Legal Entity Identifier (LEI).*

(B) Whether the LEI provided by the LEI utility complies with all of the technical principles set forth in this rule.

(C) Whether the LEI utility complies with all of the governance principles set forth in this rule.

(D) Whether the LEI utility has demonstrated that it in fact can provide LEIs complying with this section for identification of swap counterparties in swap data reporting commencing as of the compliance dates set forth in § 45.5.

(E) The acceptability of the LEI utility to industry participants required to use the LEI in complying with this part.

(ii) In making this determination, the Commission shall consider all candidates meeting the criteria set forth in paragraph (e)(1)(i) of this section, but shall not consider any candidate that does not demonstrate that it in fact can provide LEIs for identification of swap

counterparties in swap data reporting commencing as of the compliance dates set forth in this part.

(iii) The Commission shall make this determination at a time it believes is sufficiently prior to the compliance dates set forth this part to enable issuance of LEIs far enough in advance of those compliance dates to enable compliance with this part.

(2) If the Commission determines pursuant to paragraph (e)(1) of this section that such a legal entity identifier system is available, the Commission shall designate the legal entity identifier system as the provider of legal entity identifiers to be used in recordkeeping and swap data reporting pursuant to this part, by means of a Commission order that is published in the **Federal Register** and on the Web site of the Commission, as soon as practicable after such determination is made. The order shall include notice of this designation, the contact information of the LEI utility, and information concerning the procedure and requirements for obtaining legal entity identifiers.

(3) If the Commission determines pursuant to paragraph (e)(1) of this section that such a legal entity identifier system is not yet available, the Commission shall publish notice of the determination in the **Federal Register** and on the Web site of the Commission, as soon as practicable after the determination is made. If the Commission later determines, pursuant to paragraphs (e)(1)(i) and (ii) of this section, that such a legal entity identifier system has become available, the Commission shall designate the legal entity identifier system as the provider of legal entity identifiers to be used in recordkeeping and swap data reporting pursuant to this part, by means of a Commission order that is published in the **Federal Register** and on the Web site of the Commission, as soon as practicable after such determination is made. The order shall include notice of this designation, the contact information of the LEI utility, and information concerning the procedure and requirements for obtaining legal entity identifiers.

(e) *Reference data reporting.* (1) *Reporting of level one reference data.* Level one reference data for each counterparty to any swap subject to the jurisdiction of the Commission shall be reported, by means of self-registration, third-party registration, or both, into a public level one reference database maintained by the issuer of the legal entity identifier designated by the Commission pursuant to paragraph (d) of this section. Such level one reference data shall be reported at a time sufficient to ensure that the counterparty's legal entity identifier is available for inclusion in recordkeeping and swap data reporting as required by this section. All subsequent changes and corrections to level one reference data previously reported shall be reported to the issuer, by means of self-registration, third-party registration, or both, as soon as technologically practicable following occurrence of any such change or discovery of the need for a correction.

(2) *Reporting of level two reference data.* (i) Level two reference data for each counterparty to any swap subject to the jurisdiction of the Commission, consisting of the identity of the counterparty's ultimate parent, shall be reported, by means of self-registration, third-party registration, or both, into a level two reference database. Where applicable law forbids such reporting, that fact and the citation of the law in question shall be reported in place of the data to which such law applies.

(ii) All non-public level two reference data reported to the level two reference database shall be confidential, non-public, and available only to financial regulators in any jurisdiction requiring use of the legal entity identifier pursuant to applicable law.

(iii) The Commission shall determine the location of the level two reference database by means of a Commission order that is published in the **Federal Register** and on the Web site of the Commission, as soon as practicable after such determination is made. The order shall include notice of the location of the level two reference database, and information concerning the procedure and requirements for reporting level two reference data to the database.

(iv) The obligation to report level two reference data does not apply until the Commission has determined the location of the level two reference database as provided in paragraph (e)(2)(iii) of this section.

(v) After the Commission determines the location of the level two reference database pursuant to paragraph (e)(2)(iii) of this section, required level two reference data shall be reported at a time sufficient to ensure that it is included in the database when the counterparty's legal entity identifier is included in recordkeeping and swap data reporting as required by this section.

(vi) All subsequent changes and corrections to required level two reference data previously reported shall be reported into the level two reference database, by means of self-registration, third-party registration, or both, as soon as technologically practicable following occurrence of any such change or discovery of the need for a correction.

(f) *Use of the legal entity identifier system by registered entities and swap counterparties.* (1) When a legal entity identifier system has been designated by the Commission pursuant to paragraph (e) of this section, each registered entity and swap counterparty shall use the legal entity identifier provided by that system in all recordkeeping and swap data reporting pursuant to this part.

(2) Before a legal entity identifier system has been designated by the Commission, each registered entity and swap counterparty shall use a substitute counterparty identifier created and assigned by a swap data repository in all recordkeeping and swap data reporting pursuant to this part, as follows:

(i) When a swap involving one or more counterparties for which no substitute counterparty identifier has yet been created and assigned is reported to a swap data repository, the swap data repository shall create a substitute counterparty identifier for each such counterparty as provided in paragraph (f)(2)(ii) of this section, and assign the substitute counterparty identifier to that counterparty, as soon as technologically practicable after that swap is first reported to the swap data repository. In lieu of creating a substitute identifier as provided in paragraph (f)(2)(ii), the swap data repository may assign a unique substitute identifier provided by a third party service provider, if such identifier complies with all of the principles for LEIs set forth in this part.

(ii) Each such substitute counterparty identifier created by a swap data repository shall consist of a single data field that contains two components, including:

(A) The unique alphanumeric code assigned to the swap data repository by the Commission for the purpose of identifying the swap data repository; and

(B) An alphanumeric code generated and assigned to that counterparty by the automated systems of the swap data repository, which shall be unique with respect to all such substitute counterparty identifier codes generated and assigned by that swap data repository.

(iii) The swap data repository shall transmit each substitute counterparty identifier thus created to each counterparty to the swap, to each other registered entity associated with the swap, to each registered entity or swap counterparty who has made any report of any swap data to the swap data repository, and to each swap data repository registered with the

Commission, as soon as technologically practicable after creation and assignment of the substitute counterparty identifier.

(iv) Once any swap data repository has created and assigned such a substitute counterparty identifier to a swap counterparty and has transmitted it as required by paragraph (f)(2)(iii) of this section, all registered entities and swap counterparties shall use that substitute counterparty identifier to identify that counterparty in all swap data recordkeeping and reporting, until such time as the Commission designates a legal entity identifier system pursuant to paragraph (e) of this section.

(3) For swaps reported pursuant to this part prior to Commission designation of a legal entity identifier system, after such designation each swap data repository shall map the legal entity identifiers for the counterparties to the substitute counterparty identifiers in the record for each such swap.

(4) Prior to October 15, 2012, if a legal entity identifier system has been designated by the Commission as provided in this section, but a reporting counterparty's automated systems are not yet prepared to include legal entity identifiers in recordkeeping and swap data reporting pursuant to this part, the counterparty shall be excused from complying with paragraph (f)(1) of this section, and shall instead comply with paragraph (f)(2) of this section, until its automated systems are prepared with respect to legal entity identifiers, at which time it must commence compliance with paragraph (f)(1) of this section. This paragraph shall have no effect on or after October 15, 2012.

§ 45.7 Unique product identifiers.

Each swap subject to the jurisdiction of the Commission shall be identified in all recordkeeping and all swap data reporting pursuant to this part by means of a unique product identifier and product classification system as specified in this section. Each swap sufficiently standardized to receive a unique product identifier shall be identified by a unique product identifier. Each swap not sufficiently standardized for this purpose shall be identified by its description using the product classification system.

(a) *Requirements for the unique product identifier and product classification system.* The unique product identifier and product classification system shall identify and describe the swap asset class and the sub-type within that asset class to which the swap belongs, and the underlying product for the swap, with sufficient distinctiveness and specificity to enable the Commission and other financial regulators to fulfill their regulatory responsibilities and to assist in real time reporting of swaps as provided in the Act and part 43 of this chapter. The level of distinctiveness and specificity which the unique product identifier will provide shall be determined separately for each swap asset class.

(b) *Designation of the unique product identifier and product classification system.* (1) The Commission shall determine when a unique product identifier and product classification system that is acceptable to the Commission and satisfies the requirements set forth in this section is available for use in compliance with this section.

(2) When the Commission determines that such a unique product identifier and product classification system is available, the Commission shall designate the unique product identifier and product classification system to be used in recordkeeping and swap data reporting pursuant to this part, by means of a Commission order that is published in the **Federal Register** and on the Web site of the Commission, as soon as practicable after such determination is made. The order shall include notice of this designation, the contact information of the issuer of such unique product identifiers, and information concerning the procedure and requirements for obtaining unique product identifiers and using the product classification system.

(c) *Use of the unique product identifier and product classification system by registered entities and swap counterparties.* (1) When a unique product identifier and product classification system has been designated by the Commission pursuant to paragraph (b) of this section, each registered entity and swap counterparty shall use the unique product identifier and product classification system in all recordkeeping and swap data reporting pursuant to this part.

(2) Before a unique product identifier and product classification system has been designated by the Commission, each registered entity and swap counterparty shall use the internal product identifier or product description used by the swap data repository to which a swap is reported in all recordkeeping and swap data reporting pursuant to this part.

§ 45.8 Determination of which counterparty must report.

The determination of which counterparty is the reporting counterparty for a swap shall be made as provided in this section.

(a) If only one counterparty is a swap dealer, the swap dealer shall be the reporting counterparty.

(b) If neither counterparty is a swap dealer, and only one counterparty is a major swap participant, the major swap participant shall be the reporting counterparty.

(c) If both counterparties are non-SD/MSP counterparties, and only one counterparty is a financial entity as defined in CEA section 2(h)(7)(C), the counterparty that is a financial entity shall be the reporting counterparty.

(d) If both counterparties are swap dealers, or both counterparties are major swap participants, or both counterparties are non-SD/MSP counterparties that are financial entities as defined in CEA section 2(h)(7)(C), or both counterparties are non-SD/MSP counterparties and neither counterparty is a financial entity as defined in CEA section 2(h)(7)(C):

(1) For a swap executed on or pursuant to the rules of a swap execution facility or designated contract market, the counterparties shall agree which counterparty shall be the reporting counterparty. The counterparties shall make this agreement after the swap execution facility or designated contract market notifies the counterparties, as provided in paragraph (h)(2) of this section, that paragraph (d) of this section applies to them, and not later than the end of the first business day following the date of execution of the swap. After this agreement is reached, the reporting counterparty shall report to the swap data repository that it is the reporting counterparty.

(2) For an off-facility swap, the counterparties shall agree as one term of their swap which counterparty shall be the reporting counterparty.

(e) Notwithstanding the provisions of paragraphs (a) through (d) of this section, if both counterparties to a swap are non-SD/MSP counterparties and only one counterparty is a U.S. person, that counterparty shall be the reporting counterparty.

(f) Notwithstanding the provisions of paragraphs (a) through (e) of this section, if neither counterparty to a swap is a U.S. person, but the swap is executed on a swap execution facility or designated contract market or otherwise executed in the United States, or is cleared by a derivatives clearing organization:

(1) For such a swap executed on or pursuant to the rules of a swap execution facility or designated contract market, the counterparties shall agree which counterparty shall be the reporting counterparty. The

counterparties shall make this agreement after the swap execution facility or designated contract market notifies the counterparties, as provided in paragraph (h)(2) of this section, that neither counterparty is a U.S. person, and not later than the end of the first business day following the date of execution of the swap. After this agreement is reached, the reporting counterparty shall report to the swap data repository that it is the reporting counterparty.

(2) For an off-facility swap, the counterparties shall agree as one term of their swap which counterparty shall be the reporting counterparty.

(g) If a reporting counterparty selected pursuant to paragraphs (a) through (f) of this section ceases to be a counterparty to a swap due to an assignment or novation, the reporting counterparty for reporting of required swap continuation data following the assignment or novation shall be selected from the two current counterparties as provided in paragraphs (g)(1) through (4) of this section.

(1) If only one counterparty is a swap dealer, the swap dealer shall be the reporting counterparty and shall fulfill all counterparty reporting obligations.

(2) If neither counterparty is a swap dealer, and only one counterparty is a major swap participant, the major swap participant shall be the reporting counterparty and shall fulfill all counterparty reporting obligations.

(3) If both counterparties are non-SD/MSP counterparties, and only one counterparty is a U.S. person, that counterparty shall be the reporting counterparty and shall fulfill all counterparty reporting obligations.

(4) In all other cases, the counterparty that replaced the previous reporting counterparty by reason of the assignment or novation shall be the reporting counterparty, unless otherwise agreed by the counterparties.

(h) For all swaps executed on or pursuant to the rules of a swap execution facility or designated contract market, the rules of the swap execution facility or designated contract market must require each swap counterparty to provide sufficient information to the swap execution facility or designated contract market to enable the swap execution facility or designated contract market to report all swap creation data as provided in this part.

(1) To achieve this, the rules of the swap execution facility or designated contract market must require each market participant placing an order with respect to any swap traded on the swap execution facility or designated contract market to include in the order, without limitation:

(i) The legal entity identifier of the market participant placing the order, if available.

(ii) A yes/no indication of whether the market participant is a swap dealer with respect to the product with respect to which the order is placed.

(iii) A yes/no indication of whether the market participant is a major swap participant with respect to the product with respect to which the order is placed.

(iv) A yes/no indication of whether the market participant is a financial entity as defined in CEA section (2)(h)(7)(C).

(v) A yes/no indication of whether the market participant is a U.S. person.

(vi) If applicable, an indication that the market participant will elect the clearing requirement exception in CEA section (2)(h)(7) for any swap resulting from the order.

(vii) If the swap will be allocated:

(A) An indication that the swap will be allocated.

(B) The legal entity identifier of the agent.

(C) An indication of whether the swap is a post-allocation swap.

(D) If the swap is a post-allocation swap, the unique swap identifier of the original transaction between the reporting counterparty and the agent.

(2) To achieve this, the swap execution facility or designated contract market must use the information obtained pursuant to paragraph (h)(1) of this section to identify the counterparty that is the reporting counterparty pursuant to the CEA and this section, wherever possible. If the swap execution facility or designated contract market cannot identify the reporting counterparty from the information available to it as specified in paragraph (h) of this section, the swap execution facility or designated contract market shall:

(i) Notify each counterparty, as soon as technologically practicable after execution of the swap, that it cannot identify whether that counterparty is the reporting counterparty, and, if applicable, that neither counterparty is a U.S. person; and

(ii) Transmit to each counterparty the LEI (or substitute identifier as provided in this section) of the other counterparty.

§ 45.9 Third-party facilitation of data reporting.

Registered entities and swap counterparties required by this part to report required swap creation data or required swap continuation data, while remaining fully responsible for reporting as required by this part, may contract with third-party service providers to facilitate reporting.

§ 45.10 Reporting to a single swap data repository.

All swap data for a given swap must be reported to a single swap data repository, which shall be the swap data repository to which the first report of required swap creation data is made pursuant to this part.

(a) *Swaps executed on a swap execution facility or designated contract market.* To ensure that all swap data for a swap executed on or pursuant to the rules of a swap execution facility or designated contract market is reported to a single swap data repository:

(1) The swap execution facility or designated contract market that reports required swap creation data as required by § 45.3 shall report all such data to a single swap data repository. As soon as technologically practicable after execution, the swap execution facility or designated contract market shall transmit to both counterparties to the swap, and to the derivatives clearing organization, if any, that will clear the swap, both:

(i) The identity of the swap data repository to which required swap creation data is reported by the swap execution facility or designated contract market; and

(ii) The unique swap identifier for the swap, created pursuant to § 45.5.

(2) Thereafter, all required swap creation data and all required swap continuation data reported for the swap reported by any registered entity or counterparty shall be reported to that same swap data repository (or to its successor in the event that it ceases to operate, as provided in part 49 of this chapter).

(b) *Off-facility swaps with a swap dealer or major swap participant reporting counterparty.* To ensure that all swap data for such swaps is reported to a single swap data repository:

(1) If the reporting counterparty reports primary economic terms data to a swap data repository as required by § 45.3:

(i) The reporting counterparty shall report primary economic terms data to a single swap data repository.

(ii) As soon as technologically practicable after execution, but no later than as required pursuant to § 45.3, the reporting counterparty shall transmit to the other counterparty to the swap both the identity of the swap data repository to which primary economic terms data is reported by the reporting counterparty, and the unique swap

identifier for the swap created pursuant to § 45.5.

(iii) If the swap will be cleared, the reporting counterparty shall transmit to the derivatives clearing organization at the time the swap is submitted for clearing both the identity of the swap data repository to which primary economic terms data is reported by the reporting counterparty, and the unique swap identifier for the swap created pursuant to § 45.5.

(2) If the reporting counterparty is excused from reporting primary economic terms data as provided in § 45.3(b) or (c):

(i) Paragraph (b)(1) of this section shall not apply.

(ii) At the time the swap is submitted for clearing, the reporting counterparty shall transmit to the derivatives clearing organization the unique swap identifier for the swap created pursuant to § 45.5, and notify the derivatives clearing organization that the reporting counterparty has not reported any required swap creation data for the swap to a swap data repository.

(iii) The derivatives clearing organization shall report all required swap creation data for the swap to a single swap data repository. As soon as technologically practicable after clearing, the derivatives clearing organization shall transmit to both counterparties to the swap the identity of the swap data repository to which required swap creation data is reported by the derivatives clearing organization, and shall transmit to the non-reporting counterparty the unique swap identifier for the swap.

(3) Thereafter, all required swap creation data and all required swap continuation data reported for the swap, by any registered entity or counterparty, shall be reported to the swap data repository to which swap data has been reported pursuant to paragraph (b)(1) or (b)(2) of this section (or to its successor in the event that it ceases to operate, as provided in part 49 of this chapter).

(c) *Off-facility swaps with a non-SD/MSP reporting counterparty.* To ensure that all swap data for such swaps is reported to a single swap data repository:

(1) If the reporting counterparty reports primary economic terms data to a swap data repository as required by § 45.3:

(i) The reporting counterparty shall report primary economic terms data to a single swap data repository.

(ii) As soon as technologically practicable after execution, but no later than as required pursuant to § 45.3, the reporting counterparty shall transmit to the other counterparty to the swap the identity of the swap data repository to which primary economic terms data was reported by the reporting counterparty.

(iii) If the swap will be cleared, the reporting counterparty shall transmit to the derivatives clearing organization at the time the swap is submitted for clearing the identity of the swap data repository to which primary economic terms data was reported by the reporting counterparty.

(2) If the reporting counterparty will be excused from reporting primary economic terms data as provided in § 45.3(b) or (c):

(i) Paragraph (c)(1) of this section shall not apply.

(ii) At the time the swap is submitted for clearing, the reporting counterparty shall notify the derivatives clearing organization that the reporting counterparty has not reported any required swap creation data for the swap to a swap data repository.

(iii) The derivatives clearing organization shall report all required swap creation data for the swap to a single swap data repository. As soon as technologically practicable after clearing, the derivatives clearing organization shall transmit to both counterparties to the swap the identity of the swap data repository to which required swap creation data is reported by the derivatives clearing organization.

(3) The swap data repository to which the swap is reported as provided in paragraph (c) of this section shall transmit the unique swap identifier created pursuant to § 45.5 to both counterparties and to the derivatives clearing organization, if any, as soon as technologically practicable after creation of the unique swap identifier.

(4) Thereafter, all required swap creation data and all required swap continuation data reported for the swap, by any registered entity or counterparty, shall be reported to the swap data repository to which swap data has been reported pursuant to paragraph (c)(1) or (2) of this section (or to its successor in the event that it ceases to operate, as provided in part 49 of this chapter).

§ 45.11 Data reporting for swaps in a swap asset class not accepted by any swap data repository.

(a) Should there be a swap asset class for which no swap data repository registered with the Commission currently accepts swap data, each registered entity or counterparty required by this part to report any required swap creation data or required swap continuation data with respect to a swap in that asset class must report that same data to the Commission.

(b) Data reported to the Commission pursuant to this section shall be reported at times announced by the Commission and in an electronic file in a format acceptable to the Commission.

(c) Delegation of authority to the Chief Information Officer: The Commission hereby delegates to its Chief Information Officer, until the Commission orders otherwise, the authority set forth in paragraph (c) of this section, to be exercised by the Chief Information Officer or by such other employee or employees of the Commission as may be designated from time to time by the Chief Information Officer. The Chief Information Officer may submit to the Commission for its consideration any matter which has been delegated in this paragraph. Nothing in this paragraph prohibits the Commission, at its election, from exercising the authority delegated in this paragraph. The authority delegated to the Chief Information Officer by paragraph (c) of this section shall include:

(1) The authority to determine the manner, format, coding structure, and electronic data transmission standards and procedures acceptable to the Commission for the purposes of paragraphs (a) and (b) of this section.

(2) The authority to determine whether the Commission may permit or require use by reporting entities or counterparties in reporting pursuant to this section of one or more particular data standards (such as FIX, FpML, ISO 20022, or some other standard), in order to accommodate the needs of different communities of users.

(3) The dates and times at which required swap creation data or required swap continuation data shall be reported pursuant to this section.

(d) The Chief Information Officer shall publish from time to time in the **Federal Register** and on the Web site of the Commission the format, data schema, electronic data transmission methods and procedures, and dates and times for reporting acceptable to the Commission with respect to swap data reporting pursuant to this section.

§ 45.12 Voluntary supplemental reporting

(a) For purposes of this section, the term *voluntary, supplemental report* means any report of swap data to a swap data repository that is not required to be made pursuant to this part or any other part in this chapter.

(b) A voluntary, supplemental report may be made only by a counterparty to the swap in connection with which the voluntary, supplemental report is made, or by a third-party service provider acting on behalf of a counterparty to the swap.

(c) A voluntary, supplemental report may be made either to the swap data repository to which all required swap creation data and all required swap continuation data is reported for the swap pursuant to §§ 45.3 and 45.10, or to a different swap data repository.

(d) A voluntary, supplemental report must contain:

(1) An indication that the report is a voluntary, supplemental report.

(2) The unique swap identifier created pursuant to §§ 45.5 and 45.9. Therefore, no voluntary, supplemental report may be made until after the unique swap identifier has been created pursuant to §§ 45.5 and 45.9 and has been transmitted to the counterparty making the voluntary, supplemental report.

(3) The identity of the swap data repository to which all required swap creation data and all required swap continuation data is reported for the swap pursuant to §§ 45.3 and 45.10, if the voluntary supplemental report is made to a different swap data repository.

(4) The legal entity identifier (or substitute identifier) required by § 45.6 for the counterparty making the voluntary, supplemental report.

(5) If applicable, an indication that the voluntary, supplemental report is made pursuant to the laws or regulations of any jurisdiction outside the United States.

(e) If a counterparty that has made a voluntary, supplemental report discovers any errors in the swap data included in the voluntary, supplemental report, the counterparty must report a correction of each such error to the swap data repository to which the voluntary, supplemental report was made, as soon as technologically practicable after discovery of any such error.

§ 45.13 Required data standards.

(a) *Data maintained and furnished to the commission by swap data repositories.* A swap data repository shall maintain all swap data reported to it in a format acceptable to the Commission, and shall transmit all swap data requested by the Commission to the Commission in an electronic file in a format acceptable to the Commission.

(b) *Data reported to swap data repositories.* In reporting swap data to a swap data repository as required by this part, each reporting entity or counterparty shall use the facilities, methods, or data standards provided or required by the swap data repository to which the entity or counterparty reports the data. A swap data repository may permit reporting entities and counterparties to use various facilities, methods, or data standards, provided that its requirements in this regard enable it to meet the requirements of paragraph (a) of this section with respect to maintenance and transmission of swap data.

(c) *Delegation of authority to the Chief Information Officer.* The Commission hereby delegates to its Chief Information Officer, until the Commission orders otherwise, the authority set forth in this paragraph (c), to be exercised by the Chief Information Officer or by such other employee or employees of the Commission as may be designated from time to time by the Chief Information Officer. The Chief Information Officer may submit to the Commission for its consideration any matter which has been delegated in this paragraph (c). Nothing in this paragraph prohibits the Commission, at its election, from exercising the authority delegated in this paragraph. The authority delegated to the Chief Information Officer by this paragraph (c) shall include:

(1) The authority to determine the manner, format, coding structure, and electronic data transmission standards and procedures acceptable to the Commission for the purposes of paragraph (a) of this section.

(2) The authority to determine whether the Commission may permit or require use by reporting entities or counterparties, or by swap data repositories, of one or more particular data standards (such as FIX, FpML, ISO 20022, or some other standard), in order to accommodate the needs of different communities of users, or to enable swap data repositories to comply with paragraph (a) of this section.

(d) The Chief Information Officer shall publish from time to time in the **Federal Register** and on the Web site of the Commission the format, data schema, and electronic data transmission methods and procedures acceptable to the Commission.

§ 45.14 Reporting of errors and omissions in previously reported data.

(a) Each registered entity and swap counterparty required by this part to report swap data to a swap data repository, to any other registered entity or swap counterparty, or to the Commission shall report any errors and omissions in the data so reported. Corrections of errors or omissions shall be reported as soon as technologically practicable after discovery of any such error or omission. With respect to swaps for which required swap continuation data is reported using the snapshot reporting method, reporting counterparties fulfill the requirement to report errors or omissions in state data previously reported by making appropriate corrections in their next daily report of state data as required by this part.

(b) Each counterparty to a swap that is not the reporting counterparty as determined pursuant to § 45.8, and that discovers any error or omission with respect to any swap data reported to a swap data repository for that swap, shall promptly notify the reporting counterparty of each such error or omission. Upon receiving such notice, the reporting counterparty shall report a correction of each such error or omission to the swap data repository as provided in paragraph (a) of this section.

(c) Unless otherwise approved by the Commission, or by the Chief Information Officer pursuant to § 45.13, each registered entity or swap counterparty reporting corrections to errors or omissions in data previously reported as required by this section shall report such corrections in the same format as it reported the erroneous or omitted data. Unless otherwise approved by the Commission, or by the Chief Information Officer pursuant to § 45.13, a swap data repository shall transmit corrections to errors or omission in data previously transmitted to the Commission in the same format as it transmitted the erroneous or omitted data.

BILLING CODE 6351–01–P

Appendix 1 to Part 45—Tables of Minimum Primary Economic Terms Data

EXHIBIT A
Minimum Primary Economic Terms Data
CREDIT SWAPS AND EQUITY SWAPS
(Enter N/A for fields that are not applicable)

Data categories and fields	**Comment**
The Unique Swap Identifier for the swap	As provided in § 45.5. . For cleared swaps between two non-SD/MSP counterparties (for which the SDR will create the USI), if the DCO has not received the USI, the DCO reports the internal identifier assigned to the swap by the automated systems of the DCO upon acceptance of the swap for clearing, in addition to the internal identifiers reported pursuant to § 45.3(d)(2)
The Legal Entity Identifier of the reporting counterparty*	As provided in § 45.6. If no CFTC-designated Legal Entity Identifier for the reporting counterparty* is yet available, enter the internal identifier for the reporting counterparty* used by the swap data repository. If no repository identifier yet exists, the repository fills in this field after creating its identifier
An indication of whether the reporting counterparty* is a swap dealer with respect to the swap	Yes/No
An indication of whether the reporting counterparty* is a major swap participant with respect to the swap	Yes/No
If the reporting counterparty* is not a swap dealer or a major swap participant with respect to the swap, an indication of whether the reporting counterparty* is a financial entity as defined in CEA section 2(h)(7)(C)	Yes/No
An indication of whether the reporting counterparty* is a U.S. person.	Yes/No
An indication that the swap will be allocated	Yes/No
If the swap will be allocated, or is a post-allocation swap, the Legal Entity Identifier of the agent	As provided in § 45.6. If no CFTC-designated Legal Entity Identifier for the agent is yet available, enter the internal identifier for the agent used by the swap data repository. If no repository identifier yet exists, the repository fills in this field after creating its identifier
An indication that the swap is a post-allocation swap	Yes/No
If the swap is a post-allocation swap, the unique swap identifier of the original transaction between the reporting counterparty and the agent	As provided in § 45.5
The Legal Entity Identifier of the non-reporting party**	As provided in § 45.6
If no CFTC-approved Legal Entity Identifier for the non-reporting counterparty** is yet available, the internal identifier for the non-reporting counterparty** used by the swap data repository	If no repository identifier yet exists, the repository fills in this field after creating its identifier

An indication of whether the non-reporting counterparty** is a swap dealer with respect to the swap	Yes/No
An indication of whether the non-reporting counterparty** is a major swap participant with respect to the swap	Yes/No
If the non-reporting counterparty** is not a swap dealer or a major swap participant with respect to the swap, an indication of whether the non-reporting counterparty** is a financial entity as defined in CEA section 2(h)(7)(C)	Yes/No
An indication of whether the non-reporting counterparty** is a U.S. person.	Yes/No
The Unique Product Identifier assigned to the swap	As provided in § 45.7
If no Unique Product Identifier is available for the swap because the swap is not sufficiently standardized, the taxonomic description of the swap pursuant to the CFTC-approved product classification system	
If no CFTC-approved UPI and product classification system is yet available, the internal product identifier or product description used by the swap data repository	
An indication that the swap is a multi-asset swap	Field values: Yes, Not applicable
For a multi-asset class swap, an indication of the primary asset class	Generally, the asset class traded by the desk trading the swap for the reporting counterparty. Field values: credit, equity, FX, rates, other commodity
For a multi-asset class swap, an indication of the secondary asset class(es)	Field values: credit, equity, FX, rates, other commodity
An indication that the swap is a mixed swap	Field values: Yes, Not applicable
For a mixed swap reported to two non-dually-registered swap data repositories, the identity of the other swap data repository (if any) to which the swap is or will be reported	
An indication of the counterparty purchasing protection	Field values: LEI if available, or substitute identifier as above if LEI is not yet available
An indication of the counterparty selling protection	Field values: LEI if available, or substitute identifier as above if LEI is not yet available
Information identifying the reference entity	The entity that is the subject of the protection being purchased and sold in the swap. Field values: LEI if available, or substitute identifier as above if LEI is not yet available, or name
Contract type	E.g., swap, swaption, forward, option, basis swap, index swap, basket swap
Block trade indicator	Indication (Yes/No) of whether the swap qualifies as a block trade or large notional swap. Until the CFTC determines an appropriate minimum block size for the swap asset class involved, pursuant to part 43, enter N/A
Execution timestamp	The date and time of the trade, expressed using Coordinated Universal Time ("UCT")

Execution venue	The swap execution facility or designated contract market on or pursuant to the rules of which the swap was executed. Field values: Identifier (if available) or name of the swap execution facility or designated contract market, or "off-facility" if not so executed
Start date	The date on which the swap starts or goes into effect
Maturity, termination or end date	The date on which the swap expires
The price	E.g., strike price, initial price, spread
The notional amount, and the currency in which the notional amount is expressed	
The amount and currency (or currencies) of any up-front payment	
Payment frequency of the reporting counterparty	A description of the payment stream of the reporting counterparty, e.g., coupon
Payment frequency of the non-reporting counterparty	A description of the payment stream of the non-reporting counterparty, e.g., coupon
Timestamp for submission to swap data repository	Time and date of submission to the swap data repository, expressed using Coordinated Universal Time ("UCT"), as recorded by an automated system where available, or as recorded manually where an automated system is not available
Clearing indicator	Yes/No indication of whether the swap will be cleared by a derivatives clearing organization
Clearing venue	Identifier (if available) or name of the derivatives clearing organization
If the swap will not be cleared, an indication of whether the clearing requirement exception in CEA section (2)(h)(7) was elected	Yes/No
The identity of the counterparty electing the clearing requirement exception in CEA section (2)(h)(7)	Field values: LEI if available, or substitute identifier as above if LEI is not yet available
Indication of collateralization	Is the swap collateralized, and if so to what extent? Field values: Uncollateralized, partially collateralized, one-way collateralized, fully collateralized
Any other term(s) of the swap matched or affirmed by the counterparties in verifying the swap	Use as many fields as required to report each such term

* Applies to counterparty 1 if a swap execution facility or designated contract market reports and does not know which counterparty is the reporting counterparty

** Applies to counterparty 2 if a swap execution facility or designated contract market reports and does not know which counterparty is the non-reporting counterparty

EXHIBIT B **Minimum Primary Economic Terms Data** **FOREIGN EXCHANGE TRANSACTIONS** **(OTHER THAN CROSS-CURRENCY SWAPS)** (Enter N/A for fields that are not applicable)	
Data fields	**Comments**
The Unique Swap Identifier for the swap	As provided in § 45.5. For cleared swaps between two non-SD/MSP counterparties (for which the SDR will create the USI), if the DCO has not received the USI, the DCO reports the internal identifier assigned to the swap by the automated systems of the DCO upon acceptance of the swap for clearing, in addition to the internal identifiers reported pursuant to § 45.3(d)(2)
The Legal Entity Identifier of the reporting counterparty*	As provided in § 45.6. If no CFTC-designated Legal Entity Identifier for the reporting counterparty* is yet available, enter the internal identifier for the reporting counterparty* used by the swap data repository. If no repository identifier yet exists, the repository fills in this field after creating its identifier
An indication of whether the reporting counterparty* is a swap dealer with respect to the swap	Yes/No
An indication of whether the reporting counterparty* is a major swap participant with respect to the swap	Yes/No
If the reporting counterparty* is not a swap dealer or a major swap participant with respect to the swap, an indication of whether the reporting counterparty* is a financial entity as defined in CEA section 2(h)(7)(C)	Yes/No
An indication of whether the reporting counterparty* is a U.S. person	Yes/No
An indication that the swap will be allocated	Yes/No
If the swap will be allocated, or is a post-allocation swap, the Legal Entity Identifier of the agent	As provided in § 45.6. If no CFTC-designated Legal Entity Identifier for the agent is yet available, enter the internal identifier for the agent used by the swap data repository. If no repository identifier yet exists, the repository fills in this field after creating its identifier
An indication that the swap is a post-allocation swap	Yes/No
If the swap is a post-allocation swap, the unique swap identifier of the original transaction between the reporting counterparty and the agent	As provided in § 45.5
The Legal Entity Identifier of the non-reporting party**	As provided in § 45.6

If no CFTC-approved Legal Entity Identifier for the non-reporting counterparty** is yet available, the internal identifier for the non-reporting counterparty** used by the swap data repository	If no repository identifier yet exists, the repository fills in this field after creating its identifier
An indication of whether the non-reporting counterparty** is a swap dealer with respect to the swap	Yes/No
An indication of whether the non-reporting counterparty** is a major swap participant with respect to the swap	Yes/No
If the non-reporting counterparty** is not a swap dealer or a major swap participant with respect to the swap, an indication of whether the non-reporting counterparty** is a financial entity as defined in CEA section 2(h)(7)(C)	Yes/No
An indication of whether the non-reporting counterparty** is a U.S. person.	Yes/No
The Unique Product Identifier assigned to the swap	As provided in § 45.7
If no Unique Product Identifier is available for the swap because the swap is not sufficiently standardized, the taxonomic description of the swap pursuant to the CFTC-approved product classification system	
If no CFTC-approved UPI and product classification system is yet available, the internal product identifier or product description used by the swap data repository	
An indication that the swap is a multi-asset swap	Field values: Yes, Not applicable
For a multi-asset class swap, an indication of the primary asset class	Generally, the asset class traded by the desk trading the swap for the reporting counterparty. Field values: credit, equity, FX, rates, other commodity
For a multi-asset class swap, an indication of the secondary asset class(es)	Field values: credit, equity, FX, rates, other commodity
An indication that the swap is a mixed swap	Field values: Yes, Not applicable
For a mixed swap reported to two non-dually-registered swap data repositories, the identity of the other swap data repository (if any) to which the swap is or will be reported	
Contract type	E.g., forward, non-deliverable forward (NDF), non-deliverable option (NDO), vanilla option, simple exotic option, complex exotic option
Block trade indicator	Indication (Yes/No) of whether the swap qualifies as a block trade or large notional swap. Until the CFTC determines an appropriate minimum block size for the swap asset class involved, pursuant to part 43, enter N/A
Execution timestamp	The date and time of the trade, expressed using Coordinated Universal Time ("UCT")

Execution venue	The swap execution facility or designated contract market on or pursuant to the rules of which the swap was executed. Field values: Identifier (if available) or name of the swap execution facility or designated contract market, or "off-facility" if not so executed
Currency 1	ISO code
Currency 2	ISO code
Notional amount 1	For currency 1
Notional amount 2	For currency 2
Exchange rate	Contractual rate of exchange of the currencies
Delivery type	Physical (deliverable) or cash (non-deliverable)
Settlement or expiration date	Settlement date, or for an option the contract expiration date
Timestamp for submission to swap data repository	Time and date of submission to the swap data repository, expressed using Coordinated Universal Time ("UCT"), as recorded by an automated system where available, or as recorded manually where an automated system is not available
Clearing indicator	Yes/No indication of whether the swap will be cleared by a derivatives clearing organization
Clearing venue	Identifier (if available) or name of the derivatives clearing organization
If the swap will not be cleared, an indication of whether the clearing requirement exception in CEA section (2)(h)(7) was elected	Yes/No
The identity of the counterparty electing the clearing requirement exception in CEA section (2)(h)(7)	Field values: LEI if available, or substitute identifier as above if LEI is not yet available
Indication of collateralization	Is the trade collateralized, and if so to what extent? Field values: Uncollateralized, partially collateralized, one-way collateralized, fully collateralized
Any other term(s) of the trade matched or affirmed by the counterparties in verifying the trade	E.g., for options, premium, premium currency, premium payment date; for non-deliverable trades, settlement currency, valuation (fixing) date; indication of the economic obligations of the counterparties. Use as many fields as required to report each such term

* Applies to counterparty 1 if a swap execution facility or designated contract market reports and does not know which counterparty is the reporting counterparty

** Applies to counterparty 2 if a swap execution facility or designated contract market reports and does not know which counterparty is the non-reporting counterparty

EXHIBIT C **Minimum Primary Economic Terms Data** **INTEREST RATE SWAPS (INCLUDING CROSS-CURRENCY SWAPS)** (Enter N/A for fields that are not applicable)	
Data field	**Comment**
The Unique Swap Identifier for the swap	As provided in § 45.5. For cleared swaps between two non-SD/MSP counterparties (for which the SDR will create the USI), if the DCO has not received the USI, the DCO reports the internal identifier assigned to the swap by the automated systems of the DCO upon acceptance of the swap for clearing, in addition to the internal identifiers reported pursuant to § 45.3(d)(2)
The Legal Entity Identifier of the reporting counterparty*	As provided in § 45.6. If no CFTC-designated Legal Entity Identifier for the reporting counterparty* is yet available, enter the internal identifier for the reporting counterparty* used by the swap data repository. If no repository identifier yet exists, the repository fills in this field after creating its identifier
An indication of whether the reporting counterparty* is a swap dealer with respect to the swap	Yes/No
An indication of whether the reporting counterparty* is a major swap participant with respect to the swap	Yes/No
If the reporting counterparty* is not a swap dealer or a major swap participant with respect to the swap, an indication of whether the reporting counterparty* is a financial entity as defined in CEA section 2(h)(7)(C)	Yes/No
An indication of whether the reporting counterparty* is a U.S. person.	Yes/No
An indication that the swap will be allocated	Yes/No
If the swap will be allocated, or is a post-allocation swap, the Legal Entity Identifier of the agent	As provided in § 45.6. If no CFTC-designated Legal Entity Identifier for the agent is yet available, enter the internal identifier for the agent used by the swap data repository. If no repository identifier yet exists, the repository fills in this field after creating its identifier
An indication that the swap is a post-allocation swap	Yes/No
If the swap is a post-allocation swap, the unique swap identifier of the original transaction between the reporting counterparty and the agent	As provided in § 45.5
The Legal Entity Identifier of the non-reporting counterparty**	As provided in § 45.6

If no CFTC-approved Legal Entity Identifier for the non-reporting counterparty** is yet available, the internal identifier for the non-reporting counterparty** used by the swap data repository	If no repository identifier yet exists, the repository fills in this field after creating its identifier
An indication of whether the non-reporting counterparty** is a swap dealer with respect to the swap	Yes/No
An indication of whether the non-reporting counterparty** is a major swap participant with respect to the swap	Yes/No
If the non-reporting counterparty** is not a swap dealer or a major swap participant with respect to the swap, an indication of whether the non-reporting counterparty** is a financial entity as defined in CEA section 2(h)(7)(C)	Yes/No
An indication of whether the non-reporting counterparty** is a U.S. person.	Yes/No
The Unique Product Identifier assigned to the swap	As provided in § 45.7
If no Unique Product Identifier is available for the swap because the swap is not sufficiently standardized, the taxonomic description of the swap pursuant to the CFTC-approved product classification system	
If no CFTC-approved UPI and product classification system is yet available, the internal product identifier or product description used by the swap data repository	
An indication that the swap is a multi-asset swap	Field values: Yes, Not applicable
For a multi-asset class swap, an indication of the primary asset class	Generally, the asset class traded by the desk trading the swap for the reporting counterparty. Field values: credit, equity, FX, rates, other commodity
For a multi-asset class swap, an indication of the secondary asset class(es)	Field values: credit, equity, FX, rates, other commodity
An indication that the swap is a mixed swap	Field values: Yes, Not applicable
For a mixed swap reported to two non-dually-registered swap data repositories, the identity of the other swap data repository (if any) to which the swap is or will be reported	
Contract type	E.g., swap, swaption, option, basis swap, index swap
Block trade indicator	Indication (Yes/No) of whether the swap qualifies as a block trade or large notional swap. Until the CFTC determines an appropriate minimum block size for the swap asset class involved, pursuant to part 43, enter N/A
Execution timestamp	The date and time of the trade, expressed using Coordinated Universal Time ("UCT")

Execution venue	The swap execution facility or designated contract market on or pursuant to the rules of which the swap was executed. Field values: Identifier (if available) or name of the swap execution facility or designated contract market, or "off-facility" if not so executed
Start date	The date on which the swap starts or goes into effect
Maturity, termination or end date	The date on which the swap expires or ends
Day count convention	
Notional amount (leg 1)	The current active notional amount
Notional currency (leg 1)	ISO code
Notional amount (leg 2)	The current active notional amount
Notional currency (leg 2)	ISO code
Payer (fixed rate)	Is the reporting party a fixed rate payer? Yes/No/Not applicable
Payer (floating rate leg 1)	If two floating legs, the payer for leg 1
Payer (floating rate leg 2)	If two floating legs, the payer for leg 2
Direction	For swaps: whether the principal is paying or receiving the fixed rate. For float-to-float and fixed-to-fixed swaps: indicate N/A. For non-swap instruments and swaptions: indicate the instrument that was bought or sold.
Option type	E.g., put, call, straddle
Fixed rate	
Fixed rate day count fraction	E.g., actual 360
Floating rate payment frequency	
Floating rate reset frequency	
Floating rate index name/rate period	E.g., USD-Libor-BBA
Timestamp for submission to swap data repository	Time and date of submission to the swap data repository, expressed using Coordinated Universal Time ("UCT"), as recorded by an automated system where available, or as recorded manually where an automated system is not available
Clearing indicator	Yes/No indication of whether the swap will be cleared by a derivatives clearing organization
Clearing venue	Identifier (if available) or name of the derivatives clearing organization
If the swap will not be cleared, an indication of whether the clearing requirement exception in CEA section (2)(h)(7) was elected	Yes/No
The identity of the counterparty electing the clearing requirement exception in CEA section (2)(h)(7)	Field values: LEI if available, or substitute identifier as above if LEI is not yet available
Indication of collateralization	Is the swap collateralized, and if so to what extent? Field values: Uncollateralized, partially collateralized, one-way collateralized, fully collateralized
Any other term(s) of the swap matched or affirmed by the counterparties in verifying the swap	E.g., early termination option clause. Use as many fields as required to report each such term

* Applies to counterparty 1 if a swap execution facility or designated contract market reports and does not know which counterparty is the reporting counterparty

** Applies to counterparty 2 if a swap execution facility or designated contract market reports and does not know which counterparty is the non-reporting counterparty

EXHIBIT D **Minimum Primary Economic Terms Data** **OTHER COMMODITY SWAPS** (Enter N/A for fields that are not applicable)	
Data field	**Comment**
The Unique Swap Identifier for the swap	As provided in § 45.5. For cleared swaps between two non-SD/MSP counterparties (for which the SDR will create the USI), if the DCO has not received the USI, the DCO reports the internal identifier assigned to the swap by the automated systems of the DCO upon acceptance of the swap for clearing, in addition to the internal identifiers reported pursuant to § 45.3(d)(2)
The Legal Entity Identifier of the reporting counterparty*	As provided in § 45.6. If no CFTC-designated Legal Entity Identifier for the reporting counterparty* is yet available, enter the internal identifier for the reporting counterparty* used by the swap data repository. If no repository identifier yet exists, the repository fills in this field after creating its identifier
An indication of whether the reporting counterparty* is a swap dealer with respect to the swap	Yes/No
An indication of whether the reporting counterparty* is a major swap participant with respect to the swap	Yes/No
If the reporting counterparty* is not a swap dealer or a major swap participant with respect to the swap, an indication of whether the reporting counterparty* is a financial entity as defined in CEA section 2(h)(7)(C)	Yes/No
An indication of whether the reporting counterparty* is a U.S. person.	Yes/No
An indication that the swap will be allocated	Yes/No
If the swap will be allocated, or is a post-allocation swap, the Legal Entity Identifier of the agent	As provided in § 45.6. If no CFTC-designated Legal Entity Identifier for the agent is yet available, enter the internal identifier for the agent used by the swap data repository. If no repository identifier yet exists, the repository fills in this field after creating its identifier
An indication that the swap is a post-allocation swap	Yes/No
If the swap is a post-allocation swap, the unique swap identifier of the original transaction between the reporting counterparty and the agent	As provided in § 45.5
The Legal Entity Identifier of the non-reporting party**	As provided in § 45.6

If no CFTC-approved Legal Entity Identifier for the non-reporting counterparty** is yet available, the internal identifier for the non-reporting counterparty** used by the swap data repository	If no repository identifier yet exists, the repository fills in this field after creating its identifier
An indication of whether the non-reporting counterparty** is a swap dealer with respect to the swap	Yes/No
An indication of whether the non-reporting counterparty** is a major swap participant with respect to the swap	Yes/No
If the non-reporting counterparty** is not a swap dealer or a major swap participant with respect to the swap, an indication of whether the non-reporting counterparty** is a financial entity as defined in CEA section 2(h)(7)(C)	Yes/No
An indication of whether the non-reporting counterparty** is a U.S. person.	Yes/No
The Unique Product Identifier assigned to the swap	As provided in § 45.7
If no Unique Product Identifier is available for the swap because the swap is not sufficiently standardized, the taxonomic description of the swap pursuant to the CFTC-approved product classification system	
If no CFTC-approved UPI and product classification system is yet available, the internal product identifier or product description used by the swap data repository	
An indication that the swap is a multi-asset swap	Field values: Yes, Not applicable
For a multi-asset class swap, an indication of the primary asset class	Generally, the asset class traded by the desk trading the swap for the reporting counterparty. Field values: credit, equity, FX, rates, other commodity
For a multi-asset class swap, an indication of the secondary asset class(es)	Field values: credit, equity, FX, rates, other commodity
An indication that the swap is a mixed swap	Field values: Yes, Not applicable
For a mixed swap reported to two non-dually-registered swap data repositories, the identity of the other swap data repository (if any) to which the swap is or will be reported	
Contract type	E.g., swap, swaption, option, basis swap, index swap
Block trade indicator	Indication (Yes/No) of whether the swap qualifies as a "block trade" or "large notional off-facility swap" as defined in part 43 of the CFTC's regulations. Until the CFTC determines an appropriate minimum block size for the swap asset class involved, pursuant to part 43, enter N/A

Execution timestamp	The date and time of the trade, expressed using Coordinated Universal Time ("UCT"), as recorded by an automated system where available, or as recorded manually where an automated system is not available
Execution venue	The swap execution facility or designated contract market on or pursuant to the rules of which the swap was executed. Field values: Identifier (if available) or name of the swap execution facility or designated contract market, or "off-facility" if not so executed
Timestamp for submission to swap data repository	Time and date of submission to the swap data repository, expressed using Coordinated Universal Time ("UCT"), as recorded by an automated system where available, or as recorded manually where an automated system is not available
Start date	The date on which the swap commences or goes into effect (e.g., in physical oil, the pricing start date)
Maturity, termination, or end date	The date on which the swap expires or ends (e.g., in physical oil, the pricing end date)
Buyer	The counterparty purchasing the product: e.g., the payer of the fixed price (for a swap), or the payer of the floating price on the underlying swap (for a put swaption), or the payer of the fixed price on the underlying swap (for a call swaption). Field values: LEI if available, or substitute identifier as above if LEI is not yet available
Seller	The counterparty offering the product: e.g., the payer of the floating price (for a swap), the payer of the fixed price on the underlying swap (for a put swaption), or the payer of the floating price on the underlying swap (for a call swaption). Field values: LEI if available, or substitute identifier as above if LEI is not yet available
Quantity unit	The unit of measure applicable for the quantity on the swap. E.g., barrels, bushels, gallons, pounds, tons
Quantity	The amount of the commodity (the number of quantity units) quoted on the swap
Quantity frequency	The rate at which the quantity is quoted on the swap. E.g., hourly, daily, weekly, monthly
Total quantity	The quantity of the commodity for the entire term of the swap
Settlement method	Physical delivery or cash
Price	The price of the swap. For options, the strike price
Price unit	The unit of measure applicable for the price of the swap
Price currency	ISO code

Buyer pay index	The published price as paid by the buyer (if applicable). For swaptions, applies to the underlying swap
Buyer pay averaging method	The averaging method used to calculate the index of the buyer pay index. For swaptions, applies to the underlying swap
Seller pay index	The published price as paid by the seller (if applicable). For swaptions, applies to the underlying swap
Seller pay averaging method	The averaging method used to calculate the index of the seller pay index. For swaptions, applies to the underlying swap
Grade	If applicable, the grade of the commodity to be delivered, e.g., the grade of oil or refined product
Option type	Descriptor for the type of option transaction. E.g., put, call, straddle
Option style	E.g., American, European, European Daily, European Monthly, Asian
Option premium	The total amount paid by the option buyer
Hours from through	For electric power, the hours of the day for which the swap is effective
Hours from through time zone	For electric power, the time zone prevailing for the hours during which electricity is transmitted
Days of week	For electric power, the profile applicable for the delivery of power
Load type	For electric power, the load profile for the delivery of power
Clearing indicator	Yes/No indication of whether the swap will be cleared by a derivatives clearing organization
Clearing venue	Identifier (if available) or name of the derivatives clearing organization
If the swap will not be cleared, an indication of whether the clearing requirement exception in CEA section (2)(h)(7) was elected	Yes/No
The identity of the counterparty electing the clearing requirement exception in CEA section (2)(h)(7)	Field values: LEI if available, or substitute identifier as above if LEI is not yet available
Indication of collateralization	Is the swap collateralized, and if so to what extent? Field values: Uncollateralized, partially collateralized, one-way collateralized, fully collateralized
Any other term(s) of the swap matched or affirmed by the counterparties in verifying the swap	Use as many fields as required to report each such term

* Applies to counterparty 1 if a swap execution facility or designated contract market reports and does not know which counterparty is the reporting counterparty

** Applies to counterparty 2 if a swap execution facility or designated contract market reports and does not know which counterparty is the non-reporting counterparty

BILLING CODE 6351–01–C

Issued in Washington, DC, on December 20, 2011, by the Commission.

David A. Stawick,

Secretary of the Commission.

Appendices To Swap Data Recordkeeping and Reporting Requirements—Commission Voting Summary and Statements of Commissioners

Note: The following appendices will not appear in the Code of Federal Regulations

Appendix 1—Commission Voting Summary

On this matter, Chairman Gensler and Commissioners Sommers, Chilton, O'Malia and Wetjen voted in the affirmative; no Commissioner voted in the negative.

Appendix 2—Statement of Chairman Gary Gensler

I support the final rule establishing swap data recordkeeping and reporting requirements for registered entities and counterparties involved in swaps transactions. The final rule will ensure that complete, timely, and accurate data on all swaps is available to the Commodity Futures Trading Commission and other regulators.

The final rule requires that data be consistently maintained and reported to swap data repositories (SDRs) by swap execution facilities, designated contract markets, derivatives clearing organizations, swap dealers, major swap participants, and other swap counterparties. It requires reporting when the transaction is executed and over the lifetime of the swap.

The rule has a streamlined data reporting regime—the entities with the easiest, fastest, and cheapest access to the data will report to SDRs. It also extends and phases in reporting deadlines, particularly for counterparties that are not swap dealers or major swap participants.

The rule's Legal Entity Identifier, Unique Swap Identifier and Unique Product Identifier regimes will be crucial regulatory tools for linking data together across counterparties, asset classes, repositories, and transactions. They also will improve risk management, operational efficiency, and data processing for market participants. The rule phases in the start of compliance by both asset class and counterparty type.

[FR Doc. 2011–33199 Filed 1–12–12; 8:45 am]

BILLING CODE 6351–01–P

Reader Aids

Federal Register

Vol. 77, No. 9

Friday, January 13, 2012

CUSTOMER SERVICE AND INFORMATION

Federal Register/Code of Federal Regulations	
General Information, indexes and other finding aids	**202–741–6000**
Laws	**741–6000**
Presidential Documents	
Executive orders and proclamations	**741–6000**
The United States Government Manual	**741–6000**
Other Services	
Electronic and on-line services (voice)	**741–6020**
Privacy Act Compilation	**741–6064**
Public Laws Update Service (numbers, dates, etc.)	**741–6043**
TTY for the deaf-and-hard-of-hearing	**741–6086**

ELECTRONIC RESEARCH

World Wide Web

Full text of the daily Federal Register, CFR and other publications is located at: **www.fdsys.gov.**

Federal Register information and research tools, including Public Inspection List, indexes, and links to GPO Access are located at: **www.ofr.gov.**

E-mail

FEDREGTOC-L (Federal Register Table of Contents LISTSERV) is an open e-mail service that provides subscribers with a digital form of the Federal Register Table of Contents. The digital form of the Federal Register Table of Contents includes HTML and PDF links to the full text of each document.

To join or leave, go to **http://listserv.access.gpo.gov** and select *Online mailing list archives, FEDREGTOC-L, Join or leave the list (or change settings);* then follow the instructions.

PENS (Public Law Electronic Notification Service) is an e-mail service that notifies subscribers of recently enacted laws.

To subscribe, go to **http://listserv.gsa.gov/archives/publaws-l.html** and select *Join or leave the list (or change settings);* then follow the instructions.

FEDREGTOC-L and **PENS** are mailing lists only. We cannot respond to specific inquiries.

Reference questions. Send questions and comments about the Federal Register system to: **fedreg.info@nara.gov**

The Federal Register staff cannot interpret specific documents or regulations.

Reminders. Effective January 1, 2009, the Reminders, including Rules Going Into Effect and Comments Due Next Week, no longer appear in the Reader Aids section of the Federal Register. This information can be found online at **http://www.regulations.gov.**

CFR Checklist. Effective January 1, 2009, the CFR Checklist no longer appears in the Federal Register. This information can be found online at **http://bookstore.gpo.gov/.**

FEDERAL REGISTER PAGES AND DATE, JANUARY

1–212	3
213–418	4
419–728	5
729–1008	6
1009–1386	9
1387–1590	10
1591–1856	11
1857–2010	12
2011–2224	13

CFR PARTS AFFECTED DURING JANUARY

At the end of each month the Office of the Federal Register publishes separately a List of CFR Sections Affected (LSA), which lists parts and sections affected by documents published since the revision date of each title.

3 CFR

Proclamations:
8768 209
8769 211
8770 407
8771 413
8772 1007

6 CFR

5 1387

7 CFR

Proposed Rules:
205 ..... 1980, 1996
253 1642

8 CFR

1003 2011
1292 2011

Proposed Rules:
212 1040

9 CFR

92 1388
93 1388
94 1388
96 1388
98 1388

10 CFR

431 1591

Proposed Rules:
50 441
52 441
100 441
430 1649

12 CFR

Proposed Rules:
44 23
248 23
252 594
351 23

13 CFR

124 1857
125 1857
126 1857
127 1857

14 CFR

25 ..... 1614, 1618
33 2015
39 ..... 1, 3, 729, 731, 1009, 1622, 1624, 1626
71 ..... 5, 6, 1012
97 ..... 1013, 1015
117 330
119 330
121 330
135 1629

Proposed Rules:
39 ..... 1043, 1654
71 ..... 770, 771, 1428, 1429, 1656
1260 1657

15 CFR

740 1017
742 1017
774 1017

Proposed Rules:
801 772
806 772
807 772

16 CFR

Proposed Rules:
303 234
305 234

17 CFR

43 1182
45 2136

Proposed Rules:
230 24
255 23

20 CFR

411 1862

21 CFR

530 735
606 7
610 7
640 7

Proposed Rules:
10 25

22 CFR

228 1396

24 CFR

Proposed Rules:
203 2024

27 CFR

Proposed Rules:
9 2027

29 CFR

1915 18
4022 2015

30 CFR

585 1019

Proposed Rules:
920 1430

31 CFR

1 1632
351 213
359 213
363 213
501 1864

590.....1864
Proposed Rules:
150.....35

32 CFR

222.....745

33 CFR

117...419, 420, 421, 423, 1405, 1406, 1407
165.....1020, 1023, 1025, 1407, 1870, 2019
Proposed Rules:
165.....1431

37 CFR

Proposed Rules:
1.....442, 448, 982
3.....982
11.....457

38 CFR

21.....1872

40 CFR

52.....745, 1027, 1411, 1414, 1417, 1873
80.....462, 1320
180.....745, 1633
Proposed Rules:
9.....960
51.....1130
52.....1892, 1894, 1895
60.....1130
61.....1130
63.....960, 1130, 1268
65.....960
80.....700
85.....2028
86.....2028
98.....1434
600.....2028

42 CFR

63.....556
410.....217, 227
411.....217
414.....227
415.....227
416.....217
419.....217
423.....1877
489.....217
495.....217, 227
Proposed Rules:
37.....1360

44 CFR

64.....1883
65.....423, 425, 1884, 1887

45 CFR

160.....1556
162.....1556
1355.....896
1356.....896
Proposed Rules:
1355.....467

46 CFR

1.....232
10.....232
11.....232
12.....232
13.....232
14.....232
15.....232
Proposed Rules:
515.....1658

47 CFR

20.....1637
54.....1637
64.....1039
Proposed Rules:
76.....468
90.....1661

48 CFR

Ch. 1.....182, 205
1.....197, 1640
2.....183, 187
4.....183, 187, 204
5.....189
6.....189
7.....183, 187
8.....183, 189, 194, 204, 1889
9.....183, 187, 197, 1640
11.....189
12.....194, 197, 1640, 1889
13.....187, 189
15.....204
16.....189, 194, 1889
17.....183
18.....183, 187, 189
19.....204, 1889
22.....204
23.....204
25.....187
26.....187
28.....204
31.....202
35.....183
36.....189
38.....1889
41.....183
42.....197, 204, 1640
52.....187, 197, 202, 204, 1640, 1889
501.....749
539.....749
552.....749
1552.....427

49 CFR

173.....429
391.....1889
571.....751
Proposed Rules:
238.....154
239.....154
523.....2028
531.....2028
533.....2028
536.....2028
537.....2028

50 CFR

17.....431
648.....2022
679.....438
Proposed Rules:
17.....45, 666, 1900
218.....842
622.....1045, 1908, 1910
648.....52
665.....66

LIST OF PUBLIC LAWS

This is the final list of public bills from the first session of the 112th Congress which have become Federal laws. It may be used in conjunction with ''P L U S'' (Public Laws Update Service) on 202–741–6043. This list is also available online at *http://www.archives.gov/federal-register/laws*.

The text of laws is not published in the **Federal Register** but may be ordered in ''slip law'' (individual pamphlet) form from the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402 (phone, 202–512–1808). The text will also be made available on the Internet from GPO's Federal Digital System (FDsys) at *http://www.gpo.gov/fdsys*. Some laws may not yet be available.

H.R. 1540/P.L. 112–81

National Defense Authorization Act for Fiscal Year 2012 (Dec. 31, 2011; 125 Stat. 1298)

H.R. 515/P.L. 112–82

Belarus Democracy and Human Rights Act of 2011 (Jan. 3, 2012; 125 Stat. 1863)

H.R. 789/P.L. 112–83

To designate the facility of the United States Postal Service located at 20 Main Street in Little Ferry, New Jersey, as the ''Sergeant Matthew J. Fenton Post Office''. (Jan. 3, 2012; 125 Stat. 1869)

H.R. 1059/P.L. 112–84

To protect the safety of judges by extending the authority of the Judicial Conference to redact sensitive information contained in their financial disclosure reports, and for other purposes. (Jan. 3, 2012; 125 Stat. 1870)

H.R. 1264/P.L. 112–85

To designate the property between the United States Federal Courthouse and the Ed Jones Building located at 109 South Highland Avenue in Jackson, Tennessee, as the ''M.D. Anderson Plaza'' and to authorize the placement of a historical/identification marker on the grounds recognizing the achievements and philanthropy of M.S. Anderson. (Jan. 3, 2012; 125 Stat. 1871)

H.R. 1801/P.L. 112–86

Risk-Based Security Screening for Members of the Armed Forces Act (Jan. 3, 2012; 125 Stat. 1874)

H.R. 1892/P.L. 112–87

Intelligence Authorization Act for Fiscal Year 2012 (Jan. 3, 2012; 125 Stat. 1876)

H.R. 2056/P.L. 112–88

To instruct the Inspector General of the Federal Deposit Insurance Corporation to study the impact of insured depository institution failures, and for other purposes. (Jan. 3, 2012; 125 Stat. 1899)

H.R. 2422/P.L. 112–89

To designate the facility of the United States Postal Service located at 45 Bay Street, Suite 2, in Staten Island, New York, as the ''Sergeant Angel Mendez Post Office''. (Jan. 3, 2012; 125 Stat. 1903)

H.R. 2845/P.L. 112–90

Pipeline Safety, Regulatory Certainty, and Job Creation Act of 2011 (Jan. 3, 2012; 125 Stat. 1904)

Last List December 30, 2011

Public Laws Electronic Notification Service (PENS)

PENS is a free electronic mail notification service of newly enacted public laws. To subscribe, go to *http://listserv.gsa.gov/archives/publaws-l.html*

Note: This service is strictly for E-mail notification of new laws. The text of laws is not available through this service. **PENS** cannot respond to specific inquiries sent to this address.